

**Proposal 04-02  
(P.R. 0120)**

**Offered by the Illinois State Bar Association and the Appellate Lawyers Association**

**New Rule 274. Multiple Final Orders and Post-Judgment Motions.**

A party may make only one post-judgment motion directed at a judgment order that is otherwise final. If a final judgment order is modified pursuant to a post-judgment motion, or if a different final judgment or order is subsequently entered, any party affected by the order may make one post-judgment motion directed at the superseding judgment or order. Until disposed, each timely post-judgment motion shall toll the finality and appealability of the judgment or order at which it is directed. The pendency of a Rule 137 claim does not affect the time in which post-judgment motions directed at final underlying judgments or orders must be filed. A post-judgment motion directed at a final order on a Rule 137 claim is also subject to this rule.

Committee Comments

New Rule 274 clarifies the status of successive (superseding) final judgments, and of post-judgment motions directed at each final judgment, allowing one such motion per party per final judgment. Rule 274 further clarifies that a timely post-judgment motion directed at any final judgment, including a later superseding judgment, tolls the appeal time. See Rule 303. Rule 274 codifies *Gibson v. Belvidere Nat'l Bank and Trust Co.*, 326 Ill. App. 3d 45, 759 N.E.2d 991 (2d Dist. 2002) *leave to appeal denied*, 198 Ill.2d 614 (2002). Rule 274 also clarifies that Rule 137 proceedings do not affect the post-judgment motion procedures on the underlying substantive judgments in the case.

**Rule 303. Appeals from Final Judgments of the Circuit Court in Civil Cases**

**(a) Time; Filing; Transmission of Copy.**

(1) Except as provided in paragraph (b) below, the notice of appeal must be filed with the clerk of the circuit court within 30 days after the entry of the final judgment appealed from, or, if a timely post-trial motion directed against the judgment is filed, whether in a jury or a nonjury case, within 30 days after the entry of the order disposing of the last pending post-judgment motion directed against that judgment or order, irrespective of whether the circuit court had entered a series

of final orders that were modified pursuant to post-judgment motions. For the purposes of this Rule, a Rule 137 motion is not a post-judgment motion. A judgment or order is not final and appealable while a Rule 137 claim remains pending unless the court enters a finding pursuant to Rule 304(a).

(2) When a timely post-judgment motion has been filed by any party, whether in a jury case or a nonjury case, a notice of appeal filed before the entry of the order disposing of the last pending post-judgment motion shall have no effect and shall be withdrawn by the party who filed it, by moving for dismissal pursuant to Rule 309. This is so whether the timely post-judgment motion was filed before or after the date on which the notice of appeal was filed. A new notice of appeal must be filed within the prescribed time measured from the entry of the order disposing of the post-judgment motion, as provided in subparagraph (a)(1) of this rule. No request for reconsideration of a ruling on a post-judgment motion will toll the running of the time within which a notice of appeal must be filed under this rule. A party who filed a premature notice of appeal will not be required to pay a filing fee for a future appeal in the same case if, at the time of filing the future appeal, the party presents the receipt for the fee paid for filing the premature notice of appeal and a copy of the circuit court order dismissing the premature appeal.

(3) If a timely notice of appeal is filed and served by a party, any other party, within 10 days after service upon him or her, or within 30 days from the entry of the judgment or order being appealed, or within 30 days of the entry of the order disposing of the last pending post-judgment motion, whichever is later, may join in the appeal, appeal separately, or cross-appeal by filing a notice of appeal, indicating which type of appeal is being taken.

(4) Within five days after the filing of a notice of appeal, or an amendment of a notice of appeal filed in the circuit court pursuant to subparagraph (b) ~~(c)~~(4) of this rule, the clerk of the circuit court shall transmit to the clerk of the court to which the appeal is being taken a copy of the notice of appeal or of the amendment.

**(b) Form and Contents of Notice of Appeal.**

(1) The notice of appeal shall be captioned as follows:

(i) At the top shall appear the statement “Appeal to the \_\_\_\_\_ Court,” naming the court to which the appeal is taken, and below this shall be the statement “From the Circuit Court of \_\_\_\_\_,” naming the court from

which the appeal is taken.

(ii) It shall bear the title of the case, naming and designating the parties in the same manner as in the circuit court and adding the further designation “appellant” or “appellee,” *e.g.*, “Plaintiff-Appellee.”

(iii) It shall be designated “Notice of Appeal,” “Joining Prior Appeal,” “Separate Appeal,” or “Cross-Appeal,” as appropriate.

(2) It shall specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court.

(3) It shall contain the signature and address of each appellant or appellant’s attorney.

(4) The notice of appeal may be amended without leave of court within the original 30-day period to file the notice as set forth in paragraph (a) above. Thereafter it may be amended only on motion, in the reviewing court, pursuant to paragraph (d) of this rule. Amendments relate back to the time of the filing of the notice of appeal.

**(c) Service of Notice of Appeal.** The party filing the notice of appeal or an amendment as of right, shall, within 7 days, file a notice of filing with the reviewing court and serve a copy of the notice of appeal upon every other party and upon any other person or officer entitled by law to notice. Proof of service, as provided by Rule 12, shall be filed with the notice.

**(d) Extension of Time in Certain Circumstances.** On motion supported by a showing of reasonable excuse for failure to file a notice of appeal on time, accompanied by the proposed notice of appeal and the filing fee, filed in the reviewing court within 30 days after expiration of the time for filing a notice of appeal, the reviewing court may grant leave to appeal and order the clerk to transmit the notice of appeal to the trial court for filing. If the reviewing court allows leave to file a late notice of appeal, any other party may, within 10 days of the order allowing the filing of the late notice, join in the appeal separately or cross-appeal as set forth in Rule 303(a)(3).

**(e) Docketing.** Upon receipt of the copy of the notice of appeal transmitted to the reviewing court pursuant to paragraph (a) of this rule, or receipt of a motion for leave to appeal under paragraph (d) of this rule, the clerk of the reviewing court shall enter the appeal upon the docket.

## **Rule 304. Appeals from Final Judgments That Do Not Dispose of an Entire Proceeding**

### **(a) Judgments As To Fewer Than All Parties or Claims-Necessity for Special Finding.**

If multiple parties or multiple claims for relief are involved in an action, an appeal may be taken from a final judgment as to one or more but fewer than all of the parties or claims only if the trial court has made an express written finding that there is no just reason for delaying either enforcement or appeal or both. Such a finding may be made at the time of the entry of the judgment or thereafter on the court's own motion or on motion of any party. The time for filing a notice of appeal shall be as provided in Rule 303. In computing the time provided in Rule 303 for filing the notice of appeal, the entry of the required finding shall be treated as the date of the entry of final judgment. In the absence of such a finding, any judgment that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties is not enforceable or appealable and is subject to revision at any time before the entry of a judgment adjudicating all the claims, rights, and liabilities of all the parties.

**(b) Judgments and Orders Appealable Without Special Finding.** The following judgments and orders are appealable without the finding required for appeals under paragraph (a) of this rule:

(1) A judgment or order entered in the administration of an estate, guardianship, or similar proceeding which finally determines a right or status of a party.

(2) A judgment or order entered in the administration of a receivership, rehabilitation, liquidation, or other similar proceeding which finally determines a right or status of a party and which is not appealable under Rule 307(a).

(3) A judgment or order granting or denying any of the relief prayed in a petition under section 2-1401 of the Code of Civil Procedure.

(4) A final judgment or order entered in a proceeding under section 2-1402 of the Code of Civil Procedure.

(5) An order finding a person or entity in contempt of court which imposes a monetary or other penalty.

The time in which a notice of appeal may be filed from a judgment or order appealable under this Rule 304(b) shall be as provided in Rule 303.