

Proposal 14-02
Amends Supreme Court Rules 303, 308, 315 and 318
Offered by the Chicago Bar Association

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

(a) Time; Filing; Transmission of Copy.

(1) 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 posttrial 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 postjudgment 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 postjudgment motions. 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). A notice of appeal filed after the court announces a decision, but before the entry of the judgment or order, is treated as filed on the date of and after the entry of the judgment or order. The notice of appeal may be filed by any party or by any attorney representing the party appealing, regardless of whether that attorney has filed an appearance in the circuit court case being appealed.

(2) When a timely postjudgment 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 postjudgment motion, or before the final disposition of any separate claim, becomes effective when the order disposing of said motion or claim is entered. A party intending to challenge an order disposing of any postjudgment motion or separate claim, or a judgment amended upon such motion, must file a notice of appeal, or an amended notice of appeal within 30 days of the entry of said order or amended judgment, but where a postjudgment motion is denied, an appeal from the judgment is deemed to include an appeal from the denial of the postjudgment motion. No request for reconsideration of a ruling on a postjudgment motion will toll the running of the time within which a notice of appeal must be filed under this rule.

(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 postjudgment 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)(5) 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) A notice of appeal filed pursuant to Rule 302(a)(1) from a judgment of a circuit court holding unconstitutional a statute of the United States or of this state shall have appended thereto a copy of the court’s findings made in compliance with Rule 18.

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

(5) 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 308. Certified Questions

(a) Requests. When the trial court, in making an interlocutory order not otherwise appealable, finds that the order involves a question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, the court shall so state in writing, identifying the question of law involved. Such a statement may be made at the time of the entry of the order or thereafter on the court's own motion or on motion of any party. The Appellate Court may thereupon in its discretion allow an appeal from the order.

(b) How Sought. The appeal will be sought by filing an application for leave to appeal with the clerk of the Appellate Court within 14 days after the entry of the order in the trial court or the making of the prescribed statement by the trial court, whichever is later. An original and three copies of the application shall be filed.

(c) Application; Answer. The application shall contain a statement of the facts necessary to an understanding of the question of law determined by the order of the trial court; a statement of the question itself; and a statement of the reasons why a substantial basis exists for a difference of opinion on the question and why an immediate appeal may materially advance the termination of the litigation. The application shall be accompanied by an original supporting record (Rule 328), containing the order appealed from and other parts of the trial court record necessary for the determination of the application for permission to appeal. Within ~~14~~ 21 days after the due date of the application, an adverse party may file an answer in opposition, with copies in the number required for the application, together with an original of a supplementary supporting record containing any additional parts of the record the adverse party desires to have considered by the Appellate Court. The application and answer shall be submitted without oral argument unless otherwise ordered.

(d) Record; Briefs. If leave to appeal is allowed, any party may request that an additional record on appeal be prepared as provided in Rule 321 *et seq.*, or the court may order the appellant to file the record, which shall be filed within 35 days of the date on which such leave was allowed. The appellant shall file a brief in the reviewing court within the same 35 days. Otherwise the schedule and requirements for briefs shall be as provided in Rules 341 through 344. If the reviewing court so orders, an abstract shall be prepared and filed as provided in Rule 342.

(e) Stay. The application for permission to appeal or the granting thereof shall not stay proceedings in the trial court unless the trial court or the Appellate Court or a judge thereof shall so order.

Rule 315. Leave to Appeal From the Appellate Court to the Supreme Court

(a) Petition for Leave to Appeal; Grounds. Except as provided below for appeals from the Illinois Workers' Compensation Commission division of the Appellate Court, a petition for leave to appeal to the Supreme Court from the Appellate Court may be filed by any party, including the State, in any case not appealable from the Appellate Court as a matter of right. Whether such a petition will be granted is a matter of sound judicial discretion. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered: the general importance of the question presented; the existence of a conflict between the decision sought to be reviewed and a decision of the Supreme Court, or of another division of the Appellate Court; and the need for the exercise of the Supreme Court's supervisory authority; ~~and the final or interlocutory character of the judgment sought to be reviewed.~~

No petition for leave to appeal from a judgment of the five-judge panel of the Appellate Court designated to hear and decide cases involving review of Illinois Workers' Compensation Commission orders shall be filed, unless two or more judges of that panel join in a statement that the case in question involves a substantial question which warrants consideration by the Supreme Court. A motion asking that such a statement be filed may be filed as a prayer for alternative relief in a petition for rehearing, but must, in any event, be filed within the time allowed for filing a petition for rehearing.

(b) Time.

(1) **Published Decisions.** Unless a timely petition for rehearing is filed in the Appellate Court, a party seeking leave to appeal must file the petition for leave in the Supreme Court within 35 days after the entry of such judgment. If a timely petition for rehearing is filed, the party seeking review must file the petition for leave to appeal within 35 days after the entry of the order denying the petition for rehearing. If a petition is granted, the petition for leave to appeal must be filed within 35 days of the entry of the judgment on rehearing. The Supreme Court, or a judge thereof, on motion, may extend the time for petitioning for leave to appeal, but such motions are not favored and will be allowed only in the most extreme and compelling circumstances.

(2) **Rule 23 Orders.** The time for filing a petition for leave to appeal a Rule 23 order shall be the same as for published opinions, except that if the party who prevailed on an issue in the appellate court timely files a motion to publish a Rule 23 order pursuant to Rule 23(f), and if the motion is granted, a nonmoving party may file a petition for leave to appeal within 35 days after the filing of the published opinion. The filing of a Rule 23(f) publication motion shall not invalidate a previously filed petition for leave to appeal.

(c) Contents. The petition for leave to appeal shall contain, in the following order:

(1) a prayer for leave to appeal;

(2) a statement of the date upon which the judgment was entered; whether a petition for rehearing was filed and, if so, the date of the denial of the petition or the date of the judgment on rehearing;

(3) a statement of the points relied upon in asking the Supreme Court to review the judgment of the Appellate Court;

(4) a fair and accurate statement of the facts, which shall contain the facts necessary to an understanding of the case, without argument or comment, with appropriate references to the pages of the record on appeal, *e.g.*, R. C7 or R. 7, or to the pages of the abstract, if one has been filed, *e.g.*, A. 7. Exhibits may be cited by references to pages of the record on appeal, or of the abstract, or by exhibit number followed by the page number within the exhibit, *e.g.*, Pl. Ex. 1, p. 6;

(5) a short argument (including appropriate authorities) stating why review by the Supreme Court is warranted and why the decision of the Appellate Court should be reversed or modified; and

(6) an appendix which shall include a copy of the opinion or order of the Appellate Court and any documents from the record which are deemed necessary to the consideration of the petition.

(d) Format; Service; Filing. The petition shall otherwise be prepared, duplicated, served, and filed in accordance with the requirements for briefs as set forth in Rules 341 through 343, except that it shall be limited to 20 pages excluding only the appendix.

(e) Records; Abstracts. If an abstract has been filed in the Appellate Court, the petitioner shall file two or, if available, eight copies thereof in the Supreme Court, and for that purpose the clerk of the Appellate Court, when requested, shall release to the petitioner any available copies thereof. The clerk of the Supreme Court shall send notice of the filing of the petition to the clerk of the Appellate Court, who, upon request of the clerk of the Supreme Court made either before or after the petition is acted upon and at the expense of the petitioner, shall transmit to the clerk of the Supreme Court the record on appeal that was filed in the Appellate Court and a certified copy of the Appellate Court record. If leave to appeal is not granted, any certified papers and, to the extent available, copies of abstracts shall be returned forthwith to the clerk of the Appellate Court.

(f) Answer. The respondent need not but may file an answer, with proof of service, within ~~14~~ 21 days after the expiration of the time for the filing of the petition, or within such further time as the Supreme Court or a judge thereof may grant within such ~~14~~ 21-day period. An answer shall set forth reasons why the petition should not be granted, and shall conform, to the extent appropriate, to the form specified in this rule for the petition, omitting the items (1), (2), (3), (4) and (6) set forth in paragraph (c) except to the extent that correction of the petition is considered necessary. The answer shall be prepared, duplicated, served, and filed in accordance with the requirements for briefs except that it shall be limited to 20 pages excluding only the appendix. No reply to the answer shall be filed. If the respondent does not file an answer or otherwise

appear but wants notice of the disposition of the petition for leave to appeal, a letter requesting such notice should be directed to the clerk in Springfield.

(g) Abstracts; Transmittal of Trial Court Record if Petition Is Granted. If the petition is granted, and to the extent that copies have not already been filed, the appellant shall file 20 copies of the abstract, as filed in the Appellate Court, within the time for the filing of his or her brief. If no abstract was filed in the Appellate Court, but the Supreme Court so orders, an abstract shall be prepared and filed in accordance with Rule 342. Upon the request of any party made at any time before oral argument or upon direction of the Supreme Court, the clerk of the Appellate Court, at the expense of the petitioner, shall transmit to the Supreme Court the record on appeal that was filed in the Appellate Court and the Appellate Court record, if not already filed in the Supreme Court.

(h) Briefs. If leave to appeal is allowed, the appellant may allow his or her petition for leave to appeal to stand as the brief of appellant, or may file a brief in lieu of or supplemental thereto. Within 14 days after the date on which leave to appeal was allowed, appellant shall serve on all counsel of record a notice of election to allow the petition for leave to appeal to stand as the brief of appellant, or to file an additional brief, and within the same time shall file a copy of the notice with the clerk of the Supreme Court. If appellant elects to allow the petition for leave to appeal to stand as his or her brief, appellant shall file with the notice a complete table of contents, with page references, of the record on appeal and a statement of the applicable standard of review for each issue, with citation to authority, in accordance with Rule 341(h)(3). If appellant elects to file an additional brief, it shall be filed within 35 days from the date on which leave to appeal was allowed. Motions to extend the time for filing an additional brief are not favored and will be allowed only in the most extreme and compelling circumstances.

The appellee may allow his or her answer to the petition for leave to appeal to stand as the brief of appellee, or may file a brief in lieu of or supplemental thereto. If the appellant has elected to allow the petition for leave to appeal to stand as the brief of appellant, within 14 days after the due date of appellant's notice the appellee shall serve on all counsel of record a notice of election to let the answer stand as the brief of appellee, or to file an additional brief, and within the same time shall file a copy of the notice with the clerk of the Supreme Court. If the appellee elects to file an additional brief, such brief shall be filed within 35 days of the due date of appellant's notice of election to let the petition for leave to appeal stand as the brief of appellant.

If the appellant has elected to file an additional brief, within 14 days after the due date of appellant's brief the appellee shall serve on all counsel of record a notice of election to let his or her answer stand as the brief of appellee, or to file an additional brief, and within the same time shall file a copy of the notice with the clerk of the Supreme Court. If appellee elects to file an additional brief it shall be filed within 35 days of the due date of appellant's brief.

If an appellee files a brief, the appellant may file a reply brief within 14 days of the due date of appellee's brief. If the brief of appellee contains arguments in support of cross-relief, the appellant's arguments in opposition shall be included in the reply brief and the appellee may file a reply brief confined strictly to those arguments within 14 days of the due date of appellant's

reply brief. If the brief of the appellee contains arguments in support of cross-relief, the cover of the brief shall be captioned: “Brief of Appellee. Cross-Relief Requested.”

Briefs, pleadings and other documents filed with the Supreme Court in cases covered by this rule shall, to the extent appropriate, conform to Rules 341 through 343.

In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

(i) Child custody cases. A petition for leave to appeal in a child custody case, as defined in Rule 311, and any notice, motion, or pleading related thereto, shall include the following statement in bold type on the top of the front page: **THIS APPEAL INVOLVES A QUESTION OF CHILD CUSTODY, ADOPTION, TERMINATION OF PARENTAL RIGHTS OR OTHER MATTER AFFECTING THE BEST INTERESTS OF A CHILD.**

(j) Delinquent minor cases. A petition for leave to appeal in a delinquent minor case, as provided for in Rule 660A, and any notice, motion, or pleadings related thereto, shall include the following statement in bold type on the top of the front page: **THIS APPEAL INVOLVES A DELINQUENT MINOR PROCEEDING UNDER THE JUVENILE COURT ACT.**

(k) Oral Argument. Oral argument may be requested as provided in Rule 352(a).

Rule 318. General Rules Governing All Appeals from the Appellate Court to the Supreme Court

(a) Relief to Other Parties. In all appeals, by whatever method, from the Appellate Court to the Supreme Court, any appellee, respondent, or coparty may seek and obtain any relief warranted by the record on appeal without having filed a separate petition for leave to appeal or notice of cross-appeal or separate appeal.

(b) Interlocutory Review. ~~The review of cases at an interlocutory stage is not favored, and a~~ failure to seek review when the Appellate Court's disposition of the case is not final does not constitute a waiver of the right to present any issue in the appropriate court thereafter.

(c) Appellate Court Briefs. If it is important for the Supreme Court to know the contentions of any party in the Appellate Court, copies of the pertinent Appellate Court briefs certified by the clerk of that court may be filed in the Supreme Court.

(d) Fees. In appeals taken from the Appellate Court, the clerk of that court is entitled to receive from the party appealing only the fees allowed by law for his certificate and copy of proceedings had in the Appellate Court and the reasonable cost of sending the record from the clerk's office, either by mail or express, to the clerk of the Supreme Court.