

Proposal 14-07
Amends Supreme Court Rules 308, 324, and 335
Offered by the Chicago Bar Association

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 ~~44~~ 30 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 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 324. Preparation and Certification by the Circuit Clerk of the Record on Appeal

The clerk of the trial court shall prepare, bind, and certify the record on appeal. The record shall be arranged in three sections: the common law record, the report of proceedings, and the trial exhibits. The common law record and report of proceedings shall be in chronological order. Beginning with the common law record, each separately bound volume of the common law record and report of proceedings shall be numbered consecutively. All pages of the common law record shall be numbered consecutively with the letter "C" preceding the number of each page. All pages of the report of proceedings shall be numbered consecutively by volume. In lieu of renumbering the pages of exhibits, a list of exhibit numbers shall be provided. No bound volume of the record shall exceed 250 pages, and each volume shall be securely bound. There shall be only one record on appeal even if more than one appeal is taken. The certificate shall be in the form prescribed below, and a copy shall be delivered to appellant at the time the record is forwarded to the reviewing court. The clerk shall accept for inclusion in the record any pleading that carries an original filing stamp of the clerk of the circuit court. Notice of filing must be given to all parties of record.

Appeal to the _____ Court of Illinois

_____ District

From the Circuit Court of the _____ Judicial Circuit

_____ County, Illinois

[Names of all plaintiffs,

including intervening plaintiffs]

Circuit Court No. _____

v.

Trial Judge _____

Reviewing Court No. _____

[Names of all defendants,

including intervening or

impleaded defendants]

(The designations of appellant, appellee, cross-appellant, and cross-appellee may be added to follow the trial court designations. If not all plaintiffs or all defendants are appellants or appellees, the names of those who are should be included parenthetically just below the title.)

CERTIFICATION OF RECORD

The record has been prepared and certified in the form required for transmission to the reviewing court. It consists of:

_____ volume/s of Common Law Record

_____ volume/s of Report of Proceedings

_____ volume/s or description of Exhibits

(Here set forth a detailed table of contents of the record on appeal.)

Kindly acknowledge receipt of this record on the attached copy of this letter.

I do further certify that this certification of the record pursuant to Supreme Court Rule 324 issued out of my office this _____ day of _____, 20__.

Clerk of the Circuit Court

cc: _____

Appellant's Attorney

Address

City, State & Zip

Received this above record this ____ day of _____, 20__.

Clerk of the Reviewing Court

Rule 335. Direct Review of Administrative Orders by the Appellate Court

The procedure for a statutory direct review of orders of an administrative agency by the Appellate Court shall be as follows:

(a) The Petition for Review. The petition for review shall be filed in the Appellate Court within 30 days from the date that a copy of the order or decision sought to be reviewed was served upon the party affected by any order or decision of the administrative agency, and shall specify the parties seeking review and shall designate the respondent and the order or part thereof to be reviewed. The agency and all other parties of record shall be named respondents. The form of the petition shall be as follows:

IN THE APPELLATE COURT OF ILLINOIS

FOR THE _____ DISTRICT

[Name of Petitioner],

Petitioner,

v. Petition for Review

[Names of Agency and Other of Order of the

Parties of Record],

[Name of Agency]

Respondent. And Docket Number

[Name of Petitioner] hereby petitions the court for review of the order [or part of the order] of the [name of agency] which [describe the order or part as to which review is sought] entered on _____, 19 ____

Attorney for Petitioner

Address:

(b) Service. The petitioner shall serve the petition for review on the agency and on all other parties of record to the proceeding before the agency in the manner prescribed for serving and proving service of a notice of appeal in Rule 303(c).

(c) Other Parties. If any respondent other than the agency wishes to participate in the proceeding in the Appellate Court, that respondent shall file a written appearance, and those who do shall be parties in the Appellate Court.

(d) The Record. The entire record before the administrative agency shall be the record on review unless the agency and the petitioner stipulate to omit portions. Omitted portions shall be transmitted to the Appellate Court at any time on the request of the agency, the petitioner or any other party, which request shall be served on all parties, or on order of the court. Either the original or a certified copy of the record shall be filed with the Appellate Court. As near as may be possible, the record shall contain, be arranged, prepared, bound, numbered and certified as required for the record on appeal under Rules 321 through 325.

(e) Time for Filing Record.

(1) The agency shall file the record or the certificate described in subparagraph (2) within 35 days after the filing of the petition for review. Extensions of time for filing the record or certificate may be granted by the reviewing court or a judge thereof on motion made before the expiration of the original or extended time or on motion filed within 35 days thereafter supported by a showing of reasonable excuse for failure to file the motion earlier.

(2) In lieu of filing the record within the time specified in subparagraph (1), the agency may, for the purpose of aiding the parties in preparation of briefs, excerpts or abstracts, file with the reviewing court a certificate that the record has been prepared and is available in the form prescribed by paragraph (d). The timely filing of the certificate in the reviewing court shall be considered the filing of the record.

(3) If a certificate is filed in lieu of the record, the record shall be filed no later than the date upon which the reply brief is due or earlier if the reviewing court so orders.

(f) Time for Filing Briefs. The time for filing briefs specified in Rule 343 begins to run from the day the record or the certificate in lieu thereof is filed.

(g) Stay. Application for a stay of a decision or order of an agency pending direct review in the Appellate Court shall ordinarily be made in the first instance to the agency. A motion for stay may be made to the Appellate Court or to a judge thereof, but the motion shall show that application has been made to the agency and denied, with the reasons, if any, given by it for denial, or that application to the agency for the relief sought was not practicable. The motion shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute the motion shall be supported by affidavit. With the motion shall be filed such parts of the record as are relevant to the relief sought. Reasonable notice of the motion shall be

given to all parties to the proceeding in the Appellate Court. The court may condition relief under this rule upon the filing of a bond or other appropriate security.

(h) In any proceeding for the review of a decision by the Illinois State Labor Relations Board, the Illinois Local Labor Relations Board, or the Illinois Educational Labor Relations Board, a cross-petition for enforcement may be filed by the Board in accordance with the procedures set forth in Rule 361 governing motion practice in the Appellate Court, except that no proposed order shall be submitted.

(i) Application of other Rules and Administrative Review Law.

(1) Insofar as appropriate, the provisions of Rules 301 through 373 (except for Rule 326) are applicable to proceedings under this rule. As used in any applicable rule, the term "appellant" includes a petitioner and the term "appellee" includes a respondent in proceedings to review or enforce agency orders.

(2) Sections 3--101, 3--108(c), 3--109, 3--110, and 3--111 of the Code of Civil Procedure are applicable to proceedings to review orders of the agency. The Appellate Court has all of the powers which are vested in the circuit court by the above enumerated sections.

(j) Return of the Record on Appeal. The record on appeal shall be returned by the clerk of the reviewing court to the clerk of the administrative agency after the final decision of the reviewing court.