ARTICLE III. CIVIL APPEALS RULES

PART A. APPEALS FROM THE CIRCUIT COURT

Rule 301. Method of Review

Every final judgment of a circuit court in a civil case is appealable as of right. The appeal is initiated by filing a notice of appeal. No other step is jurisdictional. An appeal is a continuation of the proceeding.

Amended December 17, 1993, effective February 1, 1994.

Committee Comments
(Revised July 1, 1971)

This rule, adopted pursuant to the authority given the Supreme Court by the judicial article effective January 1, 1964, former article VI, section 7, present article VI, section 16, prescribes the method of review of final judgments. The rule was primarily based upon and replaced former sections 74, 76(2), and 80 of the Civil Practice Act. The next to last sentence of the rule was intended to incorporate and restate the provisions of the last two sentences of former section 74(1).

Supersedure of statutory provisions relating to appeals is covered by Rule 1.

Commentary
(December 17, 1993)

The last two sentences concerning a writ of error have been deleted because they are outdated. The notice of appeal preserves for review all judgments and orders specified therein.

Rule 302. Direct Appeals to the Supreme Court

(a) Cases Directly Appealable. Appeals from final judgments of circuit courts shall be taken directly to the Supreme Court (1) in cases in which a statute of the United States or of this state has been held invalid, and (2) in proceedings commenced under Rule 21~~(c)~~(d) of this court. For purposes of this rule, invalidity does not include a determination that a statute of this state is preempted by federal law.

(b) Cases in Which the Public Interest Requires Expeditious Determination. After the filing of the notice of appeal to the Appellate Court in a case in which the public interest requires prompt adjudication by the Supreme Court, the Supreme Court or a justice thereof may order that the appeal be taken directly to it. Upon the entry of such an order any documents already filed in the Appellate Court shall be transmitted by the clerk of that court to the clerk of the Supreme Court. From that point the case shall proceed in all respects as though the appeal had been taken directly to the Supreme Court.

(c) Summary Disposition.

(1) The Supreme Court, after the briefs have been filed, may dispose of any case without oral argument or opinion if no substantial question is presented or if jurisdiction is lacking.

(2) The Supreme Court, on its own motion or upon the motion of a party, before or after any brief has been

filed or oral argument held, may summarily vacate and remand a judgment of the circuit court for noncompliance with Rule 18. Such vacatur shall not constitute a determination on the merits of the constitutional question presented.

Amended effective July 1, 1971. (An amendment of June 29, 1978, was to have abolished direct appeals in proceedings to review orders of the Industrial Commission. The amendment was to have been effective January 1, 1979. On December 1, 1978, the effective date of the amendment was postponed until July 1, 1979. On June 1, 1979, the amendment was rescinded.) Amended August 9, 1983, effective October 1, 1983; amended February 1, 1984, effective February 1, 1984, with Justice Moran dissenting (see *Yellow Cab Co. v. Jones* (1985), 108 Ill. 2d 330, 342); amended July 27, 2006, effective September 1, 2006; amended October 4, 2011, effective immediately.

Committee Comment
(July 27, 2006)

The amendment to Rule 302(c) recognizes that the Supreme Court may summarily vacate and remand any circuit court judgment that fails to comply with Rule 18.

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

(a) Time; Filing; Transmission of Notice of Appeal~~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)(4-5) of this rule, the clerk of the circuit court shall file the notice of appeal or of the amendment with the clerk of the court to which the appeal is being

taken.~~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 name~~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.

Amended effective January 12, 1967; amended effective January 1, 1970; amended October 21, 1969, effective January 1, 1970; amended effective July 1, 1971; amended effective September 1, 1974; amended October 1, 1976, effective November 15, 1976; amended July 30, 1979, effective October 15, 1979; amended August 9, 1983, effective October 1, 1983; amended April 27, 1984, effective July 1, 1984; amended December 17, 1993, effective February 1, 1994; corrected March 18, 2005, effective immediately; amended October 14, 2005, effective January 1, 2006; amended July 27, 2006, effective September 1, 2006; amended March 16, 2007, effective May 1, 2007; amended May 30, 2008, effective immediately; corrected June 4, 2008, effective immediately; amended Dec. 11, 2014, eff. Jan. 1, 2015; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(March 16, 2007)

Rule 303(a)(2) is intended to address concerns raised in cases such as *John G. Phillips & Assoc. v. Brown,* 197 Ill. 2d 337 (2001). Subparagraph (a)(2) protects the rights of an appellant who has filed a "premature" notice of appeal by making the notice of appeal effective when the order denying a postjudgment motion or resolving a still-pending separate claim is entered. See Fed. R. App. P. 4(a)(4)(B)(i), (a)(4)(B)(ii). The question whether a particular "claim" is a separate claim for purposes of Rule 304(a) is often a difficult one. See *Dewan v. Ford Motor Co.*, 343 Ill. App. 3d 1062 (2003); *In re Marriage of King,* 208 Ill. 2d 332 (2003); *Marsh v. Evangelical Covenant Church of Hinsdale*, 138 Ill. 2d 458 (1990); *Physicians Insurance Exchange v. Jennings*, 316 Ill. App. 3d 443 (2000); *F.H. Prince & Co., Inc. v. Towers Financial Corp.,* 266 Ill. App. 3d 977 (1994); *Servio v. Paul Roberts Auto Sales, Inc.,* 211 Ill. App. 3d 751 (1991). Subparagraph (a)(2) protects the appellant who files a notice of appeal prior to the resolution of a still-pending claim that is determined to be a separate claim under Rule 304(a). Note that under subparagraph (a)(2), there is no need to file a second notice of appeal where the postjudgment order simply denies the appellant's postjudgment motion. However, where the postjudgment order grants new or different relief than the judgment itself, or resolves a separate claim, a second notice of appeal is necessary to preserve an appeal from such order.

Rule 303A. Expedited and Confidential Proceedings Under the Parental Notification of Abortion Act

(a) Entry of Judgment in the Circuit Court. Upon the filing of a petition in the circuit court for judicial waiver of notice under the Parental Notification of Abortion Act, the circuit court shall rule and issue written findings of fact and conclusions of law within 48 hours of the time that the petition is filed with weekends and holidays excluded, except that the 48-hour limitation may be extended at the request of the minor or incompetent person. The court shall endeavor to rule at the conclusion of any hearing on the petition, but in any event shall rule within 48 hours of the filing of the petition, weekends and holidays excluded, except that the time period for ruling may be extended at the request of the minor or the incompetent person. If the decision is not rendered immediately following a hearing, then the petitioner shall be responsible for contacting the clerk of the court for notification of the decision. All notifications pursuant to this procedure may be informal and shall be confidential. If the court fails to rule within the 48-hour period and an extension is not requested, then the petition shall be deemed to have been granted and the notice requirement shall be waived. A decision denying a judicial waiver of notice is a final and appealable order, which is appealable in the manner provided in the following paragraphs of this rule.

(b) Review to the Appellate Court as a Matter of Right. In accordance with the provisions of this rule, a minor or incompetent person shall be entitled to an appeal to the Appellate Court as a matter of right when the circuit court denies her a waiver of notice under the Parental Notification of Abortion Act.

(c) Review in the Appellate Court. Review of the denial of a waiver of notice under the Parental Notice of Abortion Act shall be by petition filed in the Appellate Court. The petition shall state the relief requested and the grounds for the relief requested and be filed within two days, weekends and holidays excluded, of entry of the denial from which review is being sought, except that the two-day period may be extended at the request of the minor or incompetent person. An appropriate supporting record shall accompany the petition, including a record of proceedings, the petition filed in the circuit court, the decision of the circuit court, including the specific findings of fact and legal conclusions supporting the decision, and any other supporting documents or matters of record necessary to the petition. The supporting record must be authenticated by the certificate of the circuit court clerk or by the affidavit of the attorney or party filing it.

(d) Appointment of Counsel. The Appellate Court shall appoint counsel to assist the petitioner if she so requests.

(e) Statement of Facts and Memoranda of Law. The minor or incompetent petitioner may file a brief

statement of facts and memorandum of law supporting her petition, which together shall not exceed 15 pages or, alternatively, 4,500 words and which also must be filed within two days, excluding weekends and holidays, of the entry of the order being appealed under paragraph (a) of this Rule.

(f) Confidentiality. All proceedings under this rule shall be confidential. The petitioner shall be identified in the petition and any supporting memorandum in the method provided under Rule 660(c), as in appeals in cases arising under the Juvenile Court Act. Alternatively, the petitioner may use a pseudonym if she so requests. All documents relating to proceedings shall be impounded and sealed subject to review only by the minor, her attorney and guardian *ad litem*, the respective judges and their staffs charged with reviewing the case and the respective court clerks and their staffs. After entry of an order by the Appellate Court, the clerk of the Appellate Court shall review the proceedings. If leave to appeal is not sought by the petitioner, the clerk of the Appellate Court shall seal the record on appeal before returning it to the clerk of the circuit court. Any appellate court file shall also be sealed. If leave to appeal to the Supreme Court is sought, the petition for leave to appeal and all supporting documents shall identify the petitioner in manner provided under Rule 660(c). The file in the Supreme Court shall also be sealed and impounded following the decision of the Supreme Court. All notifications of court rulings under this rule may be informal and shall be confidential.

(g) Time for Decision; No Oral Argument. After the petitioner has filed the petition for review in the Appellate Court, along with a supporting record and any memorandum, the Appellate Court shall consider, decide the petition and issue a confidential order within three days, excluding weekends and holidays. The petitioner shall be responsible for contacting the clerk of the Appellate Court for notification of the decision. Oral argument on the petition will not be heard.

(h) Supreme Court Review. If the Appellate Court affirms the denial of a waiver of notice, the petitioner may file a petition for leave to appeal with the Supreme Court within two days, excluding weekends and holidays, of the Appellate Court's decision to affirm the denial of a waiver of notice, except that the two-day period may be extended at the request of the minor or incompetent person. The petition for leave to appeal to the Supreme Court shall contain (1) a statement of issues presented for review and how those issues were decided by the circuit and appellate courts, (2) a brief statement explaining the reason for appeal to the Supreme Court, (3) any memorandum and statement of facts presented to the appellate court, and (4) the written orders of the circuit and appellate courts. The Supreme Court shall decide whether to allow leave to appeal within three days, excluding weekends and holidays, of the filing of the leave to appeal. In deciding whether to allow leave to appeal, the Supreme Court's discretion shall be guided by the criteria listed in Rule 315(a). The confidentiality of the proceedings shall be maintained in the manner described in paragraph (f) of this rule. If leave to appeal is allowed, the petitioner must then file the record from the proceedings in the circuit court with the clerk of the Supreme Court within two days, excluding weekends and holidays, of the date that leave to appeal is allowed, except that the two day period may be extended at the request of the minor or incompetent person. Oral argument in the case will not be heard. The Supreme Court shall then issue a confidential written decision within five days, excluding weekends and holidays, of the date it allowed the petition for leave to appeal. The Supreme Court shall render its decision based on the record from the circuit court, and the petition for leave to appeal and any supporting documentation filed in conjunction with the petition for leave to appeal. The petitioner shall be responsible for contacting the clerk of the Supreme Court for notification of any decisions made by the Supreme Court on either the petition for leave to appeal or the ultimate disposition of the case by the Supreme Court. All notifications of court rulings under this rule may be informal and shall be confidential.

Adopted September 20, 2006, effective immediately; amended June 22, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

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.

(6) A custody or allocation of parental responsibilities judgment or modification of such judgment entered pursuant to the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/101 *et seq.*) or Illinois Parentage Act of 2015 (750 ILCS 46/101 *et seq.*). ~~section 14 of the Illinois Parentage Act of 1984 (750 ILCS 45/14); or a modification of custody entered pursuant to section 610 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/610) or section 16 of the Illinois Parentage Act of 1984 (750 ILCS 45/16).~~

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.

Amended October 21, 1969, effective January 1, 1970; amended May 28, 1982, effective July 1, 1982; amended April 27, 1984, effective July 1, 1984; amended November 21, 1988, effective January 1, 1989; amended December 17, 1993, effective February 1, 1994; amended October 14, 2005, effective January 1, 2006; amended February 26, 2010, effective immediately; amended Mar. 8, 2016, eff. immediately.

Committee Comments

(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 *et seq.*), has changed the terms "Custody," "Visitation" (as to parents) and "Removal" to "Allocation of Parental Responsibilities," "Parenting Time" and "Relocation." These rules are being amended

to reflect those changes. The rules utilize both "custody" and "allocation of parental responsibilities" in recognition that some legislative enactments covered by the rules utilize the term "custody" while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term "allocation of parental responsibilities." The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Committee Comments
(Revised September 1988)

Paragraph (a)

Paragraph (a) of this rule was adopted as Rule 304, effective January 1, 1967, to supplant former paragraph (2) of section 50 of the Civil Practice Act without change of substance but with some amplification. The supplanted statutory provision, originally adopted in 1955 (Laws of 1955, p. 2238, §1) to provide an easy method of determining when certain orders were appealable (and which orders had to be appealed at the peril of the loss of a later right of appeal), proved to be anything but easy. Because this statutory paragraph was the subject of many judicial decisions (see 1965 Supplement to Historical and Practice Notes, S.H. Ill. Ann. Stats., ch. 110, par. 50), the committee concluded that it was unwise to amend the language in any substantial fashion. In moving the provision to the rules, the committee revised the language slightly, however, to emphasize the fact that it is not the court's finding that makes the judgment final, but it is the court's finding that makes this kind of a final judgment appealable. This did not change the law. The second and third sentences, which were new in 1967, codified existing practice.

Rule 304(a) was amended in 1988 to cure the defect that compelled the Supreme Court, in *Elg v. Whittington* (1987), 119 Ill. 2d 344, to hold that the filing of post-trial motions in the trial court do not toll the time for filing a notice of appeal under Rule 304, as it does under Rule 303. This amendment clarifies Rule 304 and makes it clear that the time for filing a notice of appeal under Rule 304 is governed by the provisions of Rule 303 and that the date on which the trial court enters its written finding that there is no just reason for delaying enforcement or appeal shall be treated as the date of the entry of final judgment for purposes of calculating when the notice of appeal must be filed.

Paragraph (b)

Paragraph (b), added in 1969, lists several kinds of judgments and orders that have been appealable without a finding that there is no just reason for delaying enforcement or appeal even though they may not dispose of the entire proceeding in which they have been entered or to which they may be related. This paragraph is intended to be declaratory of existing law and, in certain instances, to remove any doubt or room for argument as to whether the finding provided for in paragraph (a) may be necessary. It is not the intention of the committee to eliminate or restrict appeals from judgments or orders heretofore appealable.

Subparagraph (1) applies to orders that are final in character although entered in comprehensive proceedings that include other matters. Examples are an order admitting or refusing to admit a will to probate, appointing or removing an executor, or allowing or disallowing a claim.

In 1984 paragraph (b)(1) was amended to eliminate the reference to "conservatorship," inasmuch as the office of conservator has been eliminated.

Subparagraph (2) is comparable in scope to subparagraph (1) but excepts orders that are appealable as interlocutory orders under Rule 307. Examples of orders covered by subparagraph (2) are an order allowing or disallowing a claim and an order for the payment of fees.

Subparagraph (3) is derived from paragraph (6) of section 72 of the Civil Practice Act (Ill. Rev. Stat. 1967, ch. 110, par. 72(6)), which deals with relief from judgments after 30 days.

Subparagraph (4) is derived from paragraph (7) of section 73 of the Civil Practice Act (Ill. Rev. Stat. 1967, ch. 110, par. 73(7)), which deals with supplementary proceedings.

Judgments imposing sanctions for contempt of court are not included in the listing in paragraph (b), because a contempt proceeding is "an original special proceeding, collateral to, and independent of, the case in which the contempt arises," and a judgment imposing a fine or sentence of imprisonment for contempt is therefore final and appealable. (*People ex rel. General Motors Corp. v. Bua* (1967), 37 Ill. 2d 180, 191, 226 N.E.2d 6, 13.) The judgment thus disposes of the entire independent contempt proceeding.

Commentary
(December 17, 1993)

Paragraph (a) is amended to clarify that the trial court's order does not have to make reference to both the enforceability and the appealability of a judgment to render that judgment appealable. See *In re Application of Du Page County Collector* (1992), 152 Ill. 2d 545.

Contempt orders are added to the list of judgments appealable under paragraph (b) without a special finding. This change reflects current practice. See *People ex rel. Scott v. Silverstein* (1981), 87 Ill. 2d 167.

Committee Comments
(February 26, 2010)

Paragraph (b)

The term "custody judgment" comes from section 610 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/610), where it is used to refer to the trial court's permanent determination of custody entered incident to the dissolution of marriage, as distinguished from any temporary or interim orders of custody entered pursuant to section 603 of the Act (750 ILCS 5/603) and any orders modifying child custody subsequent to the dissolution of a marriage pursuant to section 610 of the Act (750 ILCS 5/610). The Illinois Parentage Act of 1984 also uses the term "judgment" to refer to the order which resolves custody of the subject child. See 750 ILCS 45/14.

Subparagraph (b)(6) is adopted pursuant to the authority given to the Illinois Supreme Court by article VI, sections 6 and 16, of the Illinois Constitution of 1970. The intent behind the addition of subparagraph (b)(6) was to supercede the supreme court's decision in *In re Marriage of Leopando*, 96 Ill. 2d 114, 119 (1983). In *Leopando*, the court held that the dissolution of marriage comprises a single, indivisible claim and that, therefore, a child custody determination cannot be severed from the rest of the dissolution of the marriage and appealed on its own under Rule 304(a). Now, a child custody judgment, even when it is entered prior to the resolution of other matters involved in the dissolution proceeding such as property distribution and support, shall be treated as a distinct claim and shall be appealable without a special finding. A custody judgment entered pursuant to section 14 of the Illinois Parentage Act of 1984 shall also be appealable without a special finding. The goal of this amendment is to promote stability for affected families by providing a means to obtain swifter resolution of child custody matters.

Rule 305. Stay of Judgments Pending Appeal

(a) Stay of Enforcement of Money Judgments. The enforcement of a judgment for money only, or any portion of a judgment which is for money, shall be stayed if a timely notice of appeal is filed and an appeal bond or other form of security, including, but not limited to, letters of credit, escrow agreements, and certificates of deposit, is presented to, approved by and filed with the court within the time for filing the notice of appeal or within any extension of time granted under paragraph (c) of this rule. Notice of the presentment of the bond or other form of security shall be given by the judgment debtor to all parties. The bond or other form of security ordinarily shall be in an amount sufficient to cover the amount of the judgment

and costs plus interest reasonably anticipated to accrue during the pendency of the appeal. If a form of security other than an appeal bond is presented, the appellant shall have the burden of demonstrating the adequacy of such other security. If the court, after weighing all the relevant circumstances, including the amount of the judgment, anticipated interest and costs, the availability and cost of a bond or other form of security, the assets of the judgment debtor and of the judgment debtor's insurers and indemnitors, if any, and any other factors the court may deem relevant, determines that a bond or other form of security in the amount of the judgment plus anticipated interest and costs is not reasonably available to the judgment debtor, the court may approve a bond or other form of security in the maximum amount reasonably available to the judgment debtor. In the event that the court approves a bond or other form of security in an amount less than the amount of the judgment plus anticipated interest and costs, the court shall impose additional conditions on the judgment debtor to prevent dissipation or diversion of the judgment debtor's assets during the appeal.

(b) Stays of Enforcements of Nonmoney Judgments and Other Appealable Orders. Except in cases provided for in paragraph (e) of this rule, on notice and motion, and an opportunity for opposing parties to be heard, the court may also stay the enforcement of any judgment, other than a judgment, or portion of a judgment, for money, or the enforcement, force and effect of appealable interlocutory orders or any other appealable judicial or administrative order. The stay shall be conditioned upon such terms as are just. A bond or other form of security may be required in any case, and shall be required to protect an appellee's interest in property.

(c) Extensions of Time. On motion made within the time for filing the notice of appeal or within any extension granted pursuant to this paragraph, the time for the filing and approval of the bond or other form of security may be extended by the circuit court or by the reviewing court or a judge thereof, but the extensions of time granted by the circuit court may not aggregate more than 45 days unless the parties stipulate otherwise. A motion in the reviewing court for any extension of time for the filing and approval of the bond or other form of security in the circuit court must be supported by affidavit and accompanied by a supporting record (Rule 328), if the record on appeal has not been filed.

(d) Stays by the Reviewing Court. Except in cases provided for in paragraph (e) of this rule, application for a stay ordinarily must be made in the first instance to the circuit court. A motion for a stay may be made to the reviewing court, or to a judge thereof, but such a motion must show that application to the circuit court is not practical, or that the circuit court has denied an application or has failed to afford the relief that the applicant has requested, and must be accompanied by suggestions in support of the motion and a supporting record (Rule 328), if the record on appeal has not been filed. If a stay is granted by the reviewing court or a judge thereof, the clerk shall notify the parties and transmit the certified order granting the stay to the clerk of the circuit court or administrative agency ~~a certified copy of the order granting the stay~~.

(e) Automatic Stay Pending Appeal of Termination of Parental Rights.

(1) An order terminating the parental rights of any person that is entered in a proceeding initiated under the Juvenile Court Act of 1987 shall be automatically stayed for 60 days after entry of the order of termination. If notice of appeal is filed with respect to the termination order within the 60 days, the automatic stay shall continue until the appeal is complete or the stay is lifted by the reviewing court. If notice of appeal is not filed within the 60 days, the automatic stay shall expire.

(2) The automatic stay under this rule shall stay the termination order to the extent that it would permit entry of an order of adoption without the parent's consent or surrender, and shall also operate to stay the termination order with respect to any power granted to a person or agency to consent to an adoption. In all other respects the termination order shall be unaffected. For the purposes of proceedings under the Adoption Act, a person appealing the termination of his or her rights shall be treated as a person whose parental rights have been terminated, except as provided in the first sentence of this paragraph. Neither the appeal nor the automatic stay of the termination order shall affect the trial court's continuing jurisdiction over the care, custody, visitation and support of the child, and a guardian of the child may take any authorized action other than consenting to the child's adoption.

(3) No bond shall be required with respect to a stay of adoption pending appeal of termination of

parental rights.

(4)(A) A party to the Juvenile Court Act proceeding in which a termination order was entered or a party to an adoption proceeding delayed by the effect of this rule may file a motion with the reviewing court to lift the automatic stay of a termination order. The stay of an order terminating parental rights may be lifted when it is clearly in the best interests of the child on motion or by the court *sua sponte*.

(B) Motions to lift an automatic stay must be accompanied by suggestions in support of the motion and shall be served on all parties to the Juvenile Court Act proceeding and the parties to any related Adoption Act proceeding, if known. If the movant is a party to an adoption proceeding, the motion must include the caption and case number of the adoption proceeding and identify the court in which the action is pending.

(C) Motions to lift an automatic stay must be accompanied by a supporting record as provided in Rule 328. If the movant was not a party to the Juvenile Court Act proceeding and is unable to provide the supporting record, a decision on the motion shall be deferred until after the record on appeal is filed.

(D) If a stay is lifted by the reviewing court or a judge thereof, the clerk shall notify the parties and transmit the certified order lifting the stay to the clerk of the trial court ~~a certified copy of the order lifting the stay~~. In the case of a motion filed by a party to an adoption proceeding, the clerk shall also ~~send a certified copy of the~~ transmit the certified order lifting the stay to the trial judge in the adoption proceeding.

(f) When Notice of Appeal Is Amended. If a notice of appeal is amended to specify parts of the judgment not specified in the original notice of appeal, the stay of the judgment described in the original notice of appeal does not extend to any added part of the judgment, but a stay of the added part may be obtained under the same conditions and by the same procedure set forth above.

(g) Condition of the Bond. If an appeal is from a judgment for money, the condition of the bond or other form of security shall be for the prosecution of the appeal and the payment of the judgment, interest, and costs in case the judgment is affirmed or the appeal dismissed unless other terms are approved by the court as provided in paragraph (a) above, except that the bond of an executor or administrator shall be conditioned upon payment in due course of administration and that the bond of a guardian for a minor or a person under legal disability shall be conditioned on payment as the guardian has funds therefor. In all other cases, the condition shall be fixed with reference to the character of the judgment.

(h) Changing the Amount, Terms, and Security of the Bond or Other Form of Security After the Appeal is Docketed. After the case is docketed in the reviewing court, that court or a judge thereof upon motion may, consistent with the provisions of paragraph (a) above, change the amount, terms or security of the bond or other form of security, whether fixed by it or by the circuit court, and failure to comply with the order of the reviewing court or judge shall terminate the stay.

(i) Appeals by Public Agencies. If an appeal is prosecuted by a public, municipal, governmental, or quasi-municipal corporation, or by a public officer in that person's official capacity for the benefit of the public, the circuit court, or the reviewing court or a judge thereof, may stay the judgment pending appeal without requiring that any bond or other form of security be given.

(j) Insurance Policy as Bond. The filing of an insurance policy pursuant to section 392.1 of the Illinois Insurance Code (215 ILCS 5/392.1 (West 1992)) shall be considered the filing of a bond for purposes of this rule.

(k) Failure to Obtain Stay; Effect on Interests in Property. If a stay is not perfected within the time for filing the notice of appeal, or within any extension of time granted under subparagraph (c) of this rule, the reversal or modification of the judgment does not affect the right, title, or interest of any person who is not a party to the action in or to any real or personal property that is acquired after the judgment becomes final and before the judgment is stayed; nor shall the reversal or modification affect any right of any person who is not a party to the action under or by virtue of any certificate of sale issued pursuant to a sale based on the judgment and before the judgment is stayed. This paragraph applies even if the appellant is a minor or a person under legal disability or under duress at the time the judgment becomes final.

(l) Land Trust Bond. The filing of a bond or other form of security by a beneficiary under a land trust where the land trust is a party shall be considered filing of a bond for purposes of this rule.

(m) Filing with the Circuit Court Clerk. All original appeal bonds or other forms of security, whether approved by the circuit court or the reviewing court, shall be filed with the clerk of the circuit court in which the case was filed.

Amended October 21, 1969, effective January 1, 1970, and amended effective July 1, 1971; amended September 20, 1979, effective October 15, 1979; amended January 5, 1981, effective February 1, 1981; amended May 28, 1982, effective July 1, 1982; amended December 17, 1993, effective February 1, 1994; amended December 5, 2003, effective January 1, 2004; amended June 15, 2004, effective July 1, 2004; amended June 22, 2017, eff. July 1, 2017.

Commentary
(June 15, 2004)

Paragraph (a)

The amendment is designed to preserve the right of appeal. The traditional method of securing a judgment is to require an appeal bond in the amount of the judgment plus anticipated interest and costs. In recent years, changes in the insurance market have made appeal bonds costly in many cases and unavailable in some cases. When an alternative type of security (*e.g.*, letters of credit, escrow agreement, certificate of deposit) offers comparable assurance of payment at lower cost, requiring an appeal bond needlessly increases the cost of appeal. When seeking to file a form of security other than an appeal bond, it is the judgment debtor's burden to demonstrate that the other form of security is an adequate substitute.

It is anticipated that the amount of the bond or other form of security will normally be in an amount sufficient to cover the judgment, interest, and costs. In some limited instances, however, the appeal bond requirement may be so onerous that it creates an artificial barrier to appeal, forcing a party to settle a case or declare bankruptcy. See, *e.g., Price v. Philip Morris, Inc.*, 341 Ill. App. 3d 941 (2003), *vacated by supervisory order* No. 96644 (September 16, 2003). Thus, the amended rule gives the court discretion in a money judgment case to approve a bond or other form of security that covers less than the entire amount of the judgment plus anticipated interest and costs. This does not lessen the judgment debtor's obligation on the judgment, but simply allows the judgment debtor to obtain a stay of execution on the judgment pending appeal. In such a case, the last sentence of the amended rule makes clear that appropriate conditions shall be imposed to prevent the judgment debtor from dissipating assets that would otherwise be available for payment of the judgment if the appeal is unsuccessful. Thus, depending on the circumstances, a business may be precluded from selling or otherwise disposing of any of its assets outside the ordinary course of its business, or an individual might be prohibited from spending any sums other than are required for ordinary living expenses.

Paragraph (b)

This paragraph has been amended to clarify that it is inapplicable to appeals from judgments for money.

Paragraph (g)

This paragraph has been amended to be consistent with the provisions of paragraph (a) permitting, under certain circumstances, the filing of an appeal bond or other form of security in an amount less than the full amount of the judgment plus anticipated interest and costs.

Paragraph (h)

This paragraph has been amended to clarify that a motion to change the terms or the amount of the bond

must be consistent with the provisions of paragraph (a).

Paragraph (m)

This paragraph has been added because the appellate court clerks may not have appropriate facilities for keeping original bonds or other forms of security.

Commentary
(December 17, 1993)

This rule has been reorganized to provide greater clarity to the practice of obtaining a stay of the trial court judgment. Paragraph (a) makes clear that the bond in a money judgment case must be sufficient to cover the entire amount of the judgment, interest and costs.

A certified copy of the reviewing court stay order transmitted to the trial court or administrative agency is substituted for the antiquated reviewing court clerk certificate, and the clerk's authority to approve security is removed.

Rule 306. Interlocutory Appeals by Permission.

(a) Orders Appealable by Petition. A party may petition for leave to appeal to the Appellate Court from the following orders of the trial court:

(1) from an order of the circuit court granting a new trial;

(2) from an order of the circuit court allowing or denying a motion to dismiss on the grounds of *forum non conveniens*, or from an order of the circuit court allowing or denying a motion to transfer a case to another county within this State on such grounds;

(3) from an order of the circuit court denying a motion to dismiss on the grounds that the defendant has done nothing which would subject defendant to the jurisdiction of the Illinois courts;

(4) from an order of the circuit court granting or denying a motion for a transfer of venue based on the assertion that the defendant is not a resident of the county in which the action was commenced, and no other legitimate basis for venue in that county has been offered by the plaintiff;

(5) from interlocutory orders affecting the care and custody of or the allocation of parental responsibilities for unemancipated minors or the relocation (formerly known as removal) of unemancipated minors, if the appeal of such orders is not otherwise specifically provided for elsewhere in these rules;

(6) from an order of the circuit court which remands the proceeding for a hearing *de novo* before an administrative agency;

(7) from an order of the circuit court granting a motion to disqualify the attorney for any party;

(8) from an order of the circuit court denying or granting certification of a class action under section 2–802 of the Code of Civil Procedure (735 ILCS 5/2-802); or

(9) from an order of the circuit court denying a motion to dispose under the Citizen Participation Act (735 ILCS 110/1 *et seq.*)

If the petition for leave to appeal an order granting a new trial is granted, all rulings of the trial court on the posttrial motions are before the reviewing court without the necessity of a cross-petition.

(b) Procedure for Petitions Under Subparagraph (a)(5).

(1) *Petition; Service; Record*. Unless another form is ordered by the Appellate Court, review of an order affecting the care and custody of or the allocation of parental responsibilities for an unemancipated minor or the relocation of unemancipated minors as authorized in paragraph (a)(5) shall be by petition filed in the Appellate Court. The petition shall state the relief requested and the grounds for the relief requested. An appropriate supporting record shall accompany the petition, which shall include the order appealed from or the proposed order, and any supporting documents or matters of record necessary to the petition. The supporting record must be authenticated by the certificate of the clerk of the trial court or by the affidavit of the attorney or party filing it. The petition, supporting record and the petitioner's legal memorandum, if any, shall be filed in the Appellate Court within 14 days of the entry or denial of the order from which review is being sought, with proof of personal or e-mail service as provided in Rule 11. The petition for leave to appeal must also be served upon the trial court judge who entered the order from which leave to appeal is sought.

(2) *Legal Memoranda*. With the petition, the petitioner may file a memorandum, not exceeding 15 pages or, alternatively, 4,500 words. The respondent or any other party or person entitled to be heard in the case may file, with proof of personal or e-mail service as provided in Rule 11, a responding memorandum within five business days following service of the petition and petitioner's memorandum. A memorandum by the respondent or other party may not exceed 15 pages or, alternatively, 4,500 words.

(3) *Replies; Extensions of Time*. Except by order of court, no replies will be allowed and no extension of time will be allowed.

(4) *Variations by Order of Court*. The Appellate Court may, if it deems it appropriate, order a different schedule, or order that no memoranda be filed, or order that other materials need not be filed.

(5) *Procedure if Leave to Appeal Is Granted*. If leave to appeal is granted, the circuit court and the opposing parties shall be served with the order granting leave to appeal. All proceedings shall then be subject to the expedited procedures set forth in Rule 311(a). A party may allow his or her petition or answer to stand as his or her brief or may elect to file a new brief. In order to allow a petition or answer to stand as a brief, the party must notify the other parties and the ~~C~~clerk of the Appellate Court on or before the due date of the brief.

(c) Procedure for All Other Petitions Under This Rule.

(1) *Petition*. The petition shall contain a statement of the facts of the case, supported by reference to the supporting record, and of the grounds for the appeal. The petition shall be filed in the Appellate Court in accordance with the requirements for briefs within 30 days after the entry of the order. A supporting record conforming to the requirements of Rule 328 shall be filed with the petition.

(2) *Answer.* Any other party may file an answer within 21 days of the filing of the petition, together with a supplementary supporting record conforming to Rule 328 consisting of any additional parts of the record the party desires to have considered by the Appellate Court. No reply will be received except by leave of court or a judge thereof.

(3) *Appendix to Petition.* The petition shall include, as an appendix, the order appealed from, and any opinion, memorandum, or findings of fact entered by the trial judge, and a table of contents of the record on appeal in the form provided in Rule 342(a).

(4) *Extensions of Time.* The above time limits may be extended by the reviewing court or a judge thereof upon notice and motion, accompanied by an affidavit showing good cause, filed before expiration of the original or extended time.

(5) *Stay; Notice of Allowance of Petition.* If the petition is granted, the proceedings in the trial court are stayed. Upon good cause shown, the Appellate Court or a judge thereof may vacate or modify the stay, and may require the petitioner to file an appropriate bond. Within 48 hours after the granting of the petition, the ~~a~~Appellate ~~c~~Court clerk shall notify the clerk of the circuit court.

(6) *Additional Record.* If leave to appeal is allowed, any party to the appeal may request that additional portions of the 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 filing of an additional record shall not affect the time for filing briefs under this rule.

(7) *Briefs.* A party may allow his or her petition or answer to stand as his or her brief or may file a brief in lieu of or in addition thereto. If a party elects to allow a petition or answer to stand as a brief, he or she must notify the other parties and the ~~C~~clerk of the Appellate Court on or before the due date of the brief. If the appellant elects to file a brief, it must be filed within 35 days from the date on which leave to appeal was granted. All briefs shall conform to the schedule and requirements as provided in Rules 341 through 343. Oral argument may be requested as provided in Rule 352(a).

Amended October 21, 1969, effective January 1, 1970, and amended effective September 1, 1974; amended July 30, 1979, effective October 15, 1979; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended June 15, 1982, effective July 1, 1982; amended August 9, 1983, effective October 1, 1983; amended September 16, 1983, effective October 1, 1983; amended December 17, 1993, effective February 1, 1994; amended March 26, 1996, effective immediately; amended December 31, 2002, effective January 1, 2003; amended December 5, 2003, effective January 1, 2004; amended May 24, 2006, effective September 1, 2006; amended February 26, 2010, effective immediately; amended February 16, 2011, effective immediately; amended May 29, 2014, eff. July 1, 2014; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended Mar. 8, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended June 28, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Committee Comment
(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 *et seq.*), has changed the terms "Custody," "Visitation" (as to parents) and "Removal" to "Allocation of Parental Responsibilities," "Parenting Time" and "Relocation." These rules are being amended to reflect those changes. The rules utilize both "custody" and "allocation of parental responsibilities" in recognition that some legislative enactments covered by the rules utilize the term "custody" while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term "allocation of parental responsibilities." The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Committee Comment
(May 29, 2014)

Subparagraph (c)(5)

In exceptional circumstances or by agreement of the parties, it may be appropriate for the parties to continue with certain aspects of the case (such as discovery, for example), provided that such continuation does not interfere with appellate review or otherwise offend the notions of substantial justice. If the stay is vacated or modified, the trial court remains (as with any interlocutory appeal) restrained from entering an order which interferes with the appellate review, such as modifying the trial court order that is the subject of the appeal.

Committee Comments
(February 26, 2010)

In 2010, this rule was reorganized and renumbered for the sake of clarity. No substantive changes were made in this revision.

Paragraph (b)

Paragraph (b) was added to Rule 306 in 2004 to provide a special, expedited procedure to be followed in petitioning for leave to appeal from interlocutory orders affecting the care and custody of unemancipated minors. This procedure applies only to petitions for leave to appeal filed pursuant to subparagraph (a)(5) of this rule. The goal of this special procedure is to provide a faster means for achieving permanency for not only abused or neglected children, but also children whose custody is at issue in dissolution of marriage, adoption, and other proceedings.

Paragraph (c)

Paragraph (c) sets forth the procedures to be followed in petitioning for leave to appeal pursuant to any subparagraph of paragraph (a) except subparagraph (a)(5).

Subparagraph (c)(1)

This subparagraph was amended in 1979 to reflect changes in Rule 321 that eliminated the requirement that a praecipe for the record be filed.

Subparagraph (c)(2)

Subparagraph (c)(2) permits answers to the petition to be filed within 21 days after the due date of the petition instead of "within 15 days after the petition is served upon him." They are not required to be printed as formerly, but may also be otherwise duplicated as are briefs. Former Rule 30 was silent as to a reply. Subparagraph (c)(2) provides that there shall be no reply except by leave.

Subparagraph (c)(3)

As originally promulgated, and as amended in 1974, this subparagraph provided that "excerpts from record" or an abstract should be filed. This represented a change from former Rule 30, which required the filing of a printed abstract of record. It was amended in 1979 to delete reference to "excerpts from record" to reflect the changes made in that year to provide for the hearing of most appeals on the original record, thus dispensing with the reproduction of "excerpts" from the record, and with an abstract as well, unless the court orders that one must be prepared. See the committee comments to Rule 342.

Subparagraph (c)(4)

Subparagraph (c)(4) is a general provision for extensions of time and does not change the practice in existence at the time of the adoption of the rule. In 1982, this subparagraph was reworded but not changed in substance.

Subparagraph (c)(5)

Subparagraph (c)(5) provides that the granting of the appeal from an order allowing a new trial *ipso facto* operates as a stay. The former rule required the giving of some kind of a bond to make a stay effective. A bond is not always appropriate. Subparagraph (c)(5) requires a bond only after a showing of good cause.

Subparagraph (c)(6)

As originally adopted Rule 343 provided that in cases in which a reviewing court grants leave to appeal, or allows an appeal as a matter of right, the appellant must file his brief within 35 days of the order allowing the appeal, and that in cases in which a party allows his petition for leave to appeal or his answer to such a petition to stand as his brief, he must notify the other parties and the clerk of the reviewing court. These provisions were applicable to all cases in which leave to appeal was required, whether to the Appellate Court

or the Supreme Court. Rules 306(c)(6), 308(d), and 315(g) provided for the briefing schedule by cross-reference to Rule 343. In 1974, Rule 315(g), dealing with briefs in appeals to the Supreme Court from the Appellate Court, was amended to provide in detail for the filing of briefs, leaving the general language in Rule 343(a) relating to the filing of the appellant's brief in cases taken on motion for leave to appeal applicable only to appeals under Rules 306 and 308, and the provision for notice of intention to let the petition or answer stand as a brief applicable only to appeals under Rule 306. In the interest of clarity these provisions were placed in Rules 306(c)(6) and 308(d) and the general language deleted from Rule 343(a). This represents no change in practice. The briefing schedule after the due date of the appellant's brief (35 days for the appellee's brief and 14 days for a reply brief) remains governed by Rule 343(a).

Subparagraph (c)(7)

Former Rule 30 provided that after allowance of the appeal and the filing of the stay bond, "The case is then pending on appeal." This obvious fact was omitted from Rule 306 as unnecessary. Subparagraph (c)(7) does provide that if the appeal is granted oral argument may be requested as provided in Rule 352.

Committee Comments
(Revised September 1983)

This rule replaced former Rule 30, which was in effect from January 1, 1964, to December 31, 1966, and which in turn was derived from former section 77(2) of the Civil Practice Act, repealed effective January 1, 1964 (Laws of 1963, p. 2691, § 2). The Judicial Article of the new Illinois constitution (art. VI, § 6) contains substantially the same language on interlocutory appeals that appeared in the 1964 Judicial Amendment, and authorizes this rule in the following language:

"The Supreme Court may provide by rule for appeals to the Appellate Court from other than final judgments of the Circuit Courts."

Paragraph (a)

Paragraph (a), as originally adopted, made no change in the prior rule except to permit the petition to be duplicated in the same manner as a brief (see Rule 344) instead of always being printed. The petition is to be filed within 30 days, subject to an extension of time under paragraph (e).

Paragraph (a) was amended in 1969 by adding subparagraph (2), denominating as subparagraph (1) what was formerly entire paragraph (a), and making appropriate changes in the headings. Subparagraph (2), together with Rule 366(b)(2)(v), also added in 1969, abrogates the ruling in *Keen v. Davis*, 108 Ill. App. 2d 55, 63-64 (5th Dist. 1969), denying reviewability, on appeal from an order allowing a new trial, of questions raised by other rulings of the trial court on the post-trial motion. Revised Rule 366(b)(2)(v) makes it clear that the absence of a final judgment is not a bar to review of all the rulings of the trial court on the post-trial motions. See the Committee Comments to that rule.

In 1982, paragraph (a)(1) was amended by adding subparagraphs (i), (ii), (iii), and (iv), expanding the instances in which appeals could be sought in the appellate court. Also in 1982, subparagraph (a)(2) was amended to make it clear that post-trial motions are before the reviewing court without the necessity of filing a cross-appeal only when the appellate court has granted a petition for leave to appeal an order granting a new trial.

In 1983, paragraph (a)(1)(ii) was amended to permit a party to seek leave to appeal from a circuit court order allowing or denying a motion to transfer a case to another county within Illinois on the grounds of *forum non conveniens*. See *Torres v. Walsh* (1983), 97 Ill. 2d 338; *Mesa v. Chicago & North Western Transportation Co.* (1933), 97 Ill. 2d 356.

Paragraph (b)

Paragraph (b) was amended in 1979 to reflect changes in Rule 321 that eliminated the requirement that a

praecipe for record be filed.

Paragraph (c)

Paragraph (c) permits answers to the petition to be filed within 21 days after the due date of the petition instead of "within 15 days after the petition is served upon him." They are not required to be printed as formerly, but may also be otherwise duplicated as are briefs. Former Rule 30 was silent as to a reply. Paragraph (c) provides that there shall be no reply except by leave.

Paragraph (d)

As originally promulgated, and as amended in 1974, paragraph (d) provided that "excerpts from record" or an abstract should be filed. This represented a change from former Rule 30, which required the filing of a printed abstract of record. It was amended in 1979 to delete reference to "excerpts from record" to reflect the changes made in that year to provide for the hearing of most appeals on the original record, thus dispensing with the reproduction of "excerpts" from the record, and with an abstract as well, unless the court orders that one must be prepared. See the committee comments to Rule 342.

Paragraph (e)

Paragraph (e) is a general provision for extensions of time and does not change the practice in existence at the time of the adoption of the rule. In 1982, this paragraph was reworded but not changed in substance.

Paragraph (f)

Paragraph (f) provides that the granting of the appeal from an order allowing a new trial *ipso facto* operates as a stay. The former rule required the giving of some kind of a bond to make a stay effective. A bond is not always appropriate. Paragraph (f) requires a bond only after a showing of good cause.

Paragraph (g)

As originally adopted Rule 343 provided that in cases in which a reviewing court grants leave to appeal, or allows an appeal as a matter of right, the appellant must file his brief within 35 days of the order allowing the appeal, and that in cases in which a party allows his petition for leave to appeal or his answer to such a petition to stand as his brief, he must notify the other parties and the clerk of the reviewing court. These provisions were applicable to all cases in which leave to appeal was required, whether to the Appellate Court or the Supreme Court. Rules 306(g), 308(d), and 315(g) provided for the briefing schedule by cross-reference to Rule 343. In 1974, Rule 315(g), dealing with briefs in appeals to the Supreme Court from the Appellate Court, was amended to provide in detail for the filing of briefs, leaving the general language in Rule 343(a) relating to the filing of the appellant's brief in cases taken on motion for leave to appeal applicable only to appeals under Rules 306 and 308, and the provision for notice of intention to let the petition or answer stand as a brief applicable only to appeals under Rule 306. In the interest of clarity these provisions were placed in Rules 306(g) and 308(d) and the general language deleted from Rule 343(a). This represents no change in practice. The briefing schedule after the due date of the appellant's brief (35 days for the appellee's brief and 14 days for a reply brief) remains governed by Rule 343(a).

Paragraph (h)

Former Rule 30 provided that after allowance of the appeal and the filing of the stay bond, "The case is then pending on appeal." This obvious fact was omitted from Rule 306 as unnecessary. Paragraph (h) does provide that if the appeal is granted oral argument may be requested as provided in Rule 352.

Rule 306A. Reserved. ~~Expedited Appeals in Child Custody Cases~~

~~(a) The expedited procedures in this rule shall apply in the following child custody cases: (1) initial final child custody orders, (2) orders modifying child custody where a change of custody has been granted, (3) final orders of adoption and (4) final orders terminating parental rights. If the appeal is taken from a judgment or order affecting other matters, such as support, property issues or decisions affecting the rights of persons other than the child, the reviewing court may handle all pending issues using the expedited procedures in this rule, unless doing so will delay decision on the child custody appeal. In any other child custody cases in which the best interests of the child is involved including orders of visitation, guardianship standing to pursue custody and interim orders of custody, a party may file a petition in accordance with the rules seeking leave to appeal. Upon granting of the petition by the appellate court, all said proceedings shall be subject to procedures set forth in this rule.~~

~~(b) The notice of appeal, docketing statement, briefs and all other notices, motions and pleadings filed by any party in relation to an appeal involving child custody 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.~~

~~(c) In addition to the service required by Rule 303(c), a party filing notice of appeal in a child custody case shall, within seven days, serve copies of the same on the trial judge who entered the judgment or order appealed and the office of the chief judge of the circuit in which the judgment or order on appeal was entered.~~

~~(d) On receipt of the notice of appeal in a child custody case, the trial judge shall set a status hearing within 30 days of the date of filing of the notice of appeal to determine the status of the case, including payments of required fees to the clerk of the circuit court and court reporting personnel as defined in Rule 46 for the preparation of the transcript of proceedings, and take any action necessary to expedite preparation of the record on appeal and the transcript of the proceedings. The trial court shall have continuing jurisdiction for the purpose of enforcing the rules for preparation of the record and transcript. The trial court may request the assistance of the chief judge to resolve filing delays, and the chief judge shall assign or reassign the court reporting personnel's work as necessary to ensure compliance with the filing deadlines.~~

~~(e) The record on appeal and the transcript of proceedings in a child custody case shall be filed no later than 35 days after the filing of the notice of appeal. Any request for extension of the time for filing shall be accompanied by an affidavit of the court clerk or court reporting personnel stating the reason for the delay, and shall be served on the trial judge and the chief judge of the circuit. Lack of advance payment shall not be a reason for noncompliance with filing deadlines for the record or transcript. Any subsequent request for continuance shall be made to the appellate court by written notice and motion to all parties in accordance with rules.~~

~~(f) Except for good cause shown, the appellate court shall issue its decision within 150 days after the filing of the notice of appeal.~~

~~(g) The appellate court of each district shall by administrative order or rule adopt mandatory procedures to ensure completion of child custody appeals within the time specified in paragraph (f). The order or rule may include provisions regarding the use of memoranda in lieu of briefs, expedited schedules and deadlines, provisions for the separation of child custody issues from other issues on appeal and any other procedures~~

~~necessary to a fair and timely disposition of the case. The clerk of the appellate court shall be responsible for seeing that the accelerated docket is maintained and for advising the court of any noncompliance with the rules of the court concerning timely filing.~~

~~(h) Requests for continuance are disfavored and shall be granted only for compelling circumstances. The appellate court may require personal appearance by the attorney or party requesting the continuance as provided by local rule.~~

~~(i) This rule shall apply to all orders in which a notice of appeal is filed after its effective date.~~

Adopted December 5, 2003, effective January 1, 2004; effective date stayed December 31, 2003; stay lifted and rule amended March 31, 2004, effective July 1, 2004; amended March 18, 2005, effective immediately; amended December 13, 2005, effective immediately; reserved February 26, 2010, effective immediately.

Comment

(February 26, 2010)

In 2010, Rule 306A was reserved and its provisions, as modified, were incorporated into Rule 311(a).

Rule 307. Interlocutory Appeals as of Right

(a) Orders Appealable; Time. An appeal may be taken to the Appellate Court from an interlocutory order of court:

(1) granting, modifying, refusing, dissolving, or refusing to dissolve or modify an injunction;

(2) appointing or refusing to appoint a receiver or sequestrator;

(3) giving or refusing to give other or further powers or property to a receiver or sequestrator already appointed;

(4) placing or refusing to place a mortgagee in possession of mortgaged premises;

(5) appointing or refusing to appoint a receiver, liquidator, rehabilitator, or other similar officer for a bank, savings and loan association, currency exchange, insurance company, or other financial institution, or granting or refusing to grant custody of the institution or requiring turnover of any of its assets;

(6) terminating parental rights or granting, denying or revoking temporary commitment in adoption proceedings commenced pursuant to section 5 of the Adoption Act (750 ILCS 50/5);

(7) determining issues raised in proceedings to exercise the right of eminent domain under section 20-5-10 of the Eminent Domain Act, but the procedure for appeal and stay shall be as provided in that section.

Except as provided in paragraphs (b) and (d), the appeal must be perfected within 30 days from the entry of the interlocutory order by filing a notice of appeal designated "Notice of Interlocutory Appeal" conforming substantially to the notice of appeal in other cases. A Rule 328 supporting record must be filed in the Appellate Court within the same 30 days unless the time for filing the Rule 328 supporting record is extended by the Appellate Court or any judge thereof. A Rule 328 supporting record shall not be filed in cases arising under the Juvenile Court Act where an order terminating parental rights has been entered. In those cases, a

Rule 323 record shall be filed.

(b) Motion to Vacate. If an interlocutory order is entered on *ex parte* application, the party intending to take an appeal therefrom shall first present, on notice, a motion to the trial court to vacate the order. An appeal may be taken if the motion is denied, or if the court does not act thereon within 7 days after its presentation. The 30 days allowed for taking an appeal and filing the Rule 328 supporting record begins to run from the day the motion is denied or from the last day for action thereon.

(c) Time for Briefs. Unless the Appellate Court orders a different schedule or orders that no briefs be filed, the schedule for filing briefs shall be as follows: The brief of appellant shall be filed in the Appellate Court, with proof of service, within 7 days from the filing of the Rule 328 supporting record. Within 7 days from the date appellant's brief is filed, the appellee shall file his brief and any supplemental Rule 328 supporting record in the Appellate Court with proof of service. Within 7 days from the date appellee's brief is filed, appellant may serve and file a reply brief. The briefs shall otherwise conform to the requirements of Rules 341 through 344.

(d) Appeals of Temporary Restraining Orders; Time; Memoranda.

(1) *Petition; Service; Record.* Unless another form is ordered by the Appellate Court, review of the granting or denial of a temporary restraining order or an order modifying, dissolving, or refusing to dissolve or modify a temporary restraining order as authorized in paragraph (a) shall be by petition filed in the Appellate Court, but notice of interlocutory appeal as provided in paragraph (a) shall also be filed in the circuit court, within the same time for filing the petition. The petition shall state the relief requested and the grounds for the relief requested, and shall be filed in the Appellate Court, with proof of personal or e-mail service as provided in Rule 11, within two days of the entry or denial of the order from which review is being sought. An appropriate supporting record shall accompany the petition, which shall include the notice of interlocutory appeal, the temporary restraining order or the proposed temporary restraining order, the complaint, the motion requesting the granting of the temporary restraining order, and any supporting documents or matters of record necessary to the petition. The supporting record must be authenticated by the certificate of the clerk of the trial court or by the affidavit of the attorney or party filing it.

(2) *Legal Memoranda.* The petitioner may file a memorandum supporting the petition which shall not exceed 15 pages or, alternatively, 4,500 words and which must also be filed within two days of the entry of the order that is being appealed under paragraph 1 of this section. The respondent shall file, with proof of personal or e-mail service as provided in Rule 11, any responding memorandum within two days following the filing of the petition, supporting record, and any memorandum which must be served upon the respondent personally or by e-mail. The respondent's memorandum may not exceed 15 pages or, alternatively, 4,500 words and must also be served upon the petitioner personally or by e-mail.

(3) *Replies; Extensions of Time.* Except by order of court, no replies will be allowed and no extension of time will be allowed.

(4) *Time for Decision; Oral Argument.* After the petitioner has filed the petition, supporting record, and any memorandum and the time for filing any responding memorandum has expired, the Appellate Court shall consider and decide the petition within five business days thereafter. Oral argument on the petition will not be heard.

(5) *Variations by Order of Court.* The Appellate Court may, if it deems it appropriate, order a different schedule, or order that no memoranda be filed, or order the other materials need not be filed.

Amended October 21, 1969, effective January 1, 1970; amended July 30, 1979, effective October 15, 1979; amended May 28, 1982, effective July 1, 1982; amended November 21, 1988, effective January 1, 1989; amended June 19, 1989, effective August 1, 1989; amended December 17, 1993, effective February 1, 1994; amended December 1, 1995, effective immediately; amended July 6, 2000, effective immediately; amended November 27, 2002, effective January 1, 2003; amendment of November 27, 2002, vacated December 31, 2002; amended March 20, 2009, effective immediately; amended February 26, 2010, effective immediately; amended Dec. 9, 2015, eff.

Jan. 1, 2016; amended Oct. 6, 2016, eff. Nov. 1, 2016; amended June 22, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Committee Comments
(Revised 1979)

This rule replaced former Rule 31, effective January 1, 1964, and in effect until January 1, 1967. That rule supplanted former section 78 of the Civil Practice Act, repealed effective January 1, 1964 (Laws of 1963, p. 2691, §1), section 7 of the 1964 judicial article (now section 6 of new article VI) having given the Supreme Court power to provide by rule for interlocutory appeals to the Appellate Court. The word "order" is substituted for "order or decree" throughout the rule, without change of meaning. (See Rule 2.)

Stays pending appeal are governed by Rule 305.

Paragraph (a)

Paragraph (a) provides for a designation−"Notice of Interlocutory Appeal"−on the notice of appeal, and continues the theory that the filing of the notice of appeal and not the filing of a bond perfects the appeal. The paragraph was amended in 1969 by adding items (5) through (7) to the list of appealable interlocutory orders. The amendment carries out the policy of covering all interlocutory appeals in the Supreme Court rules, as contemplated by section 7 of the 1964 judicial article (now section 6 of new article VI). The procedure provided in the Eminent Domain Act for appeal and stay in quick-take cases (Ill. Rev. Stat. 1967, ch. 47, par. 2.2(b)) is incorporated by reference in item (7), in lieu of detailed coverage of these matters in the rules, because of the peculiar problems in an appeal of this kind and its relationship to the condemnation proceeding as a whole.

Paragraph (a) was amended in 1979 to reflect changes in Rule 321 that eliminated the requirement that a praecipe for record be filed.

Paragraph (b)

Paragraph (b) is the same as former Rule 31(2) with slight verbal changes.

Paragraph (c)

Paragraph (c), establishing the briefing schedule as 7 days for appellant, 7 days for appellee, and 7 days for the reply brief, all dating from the filing of the record and the filing of the preceding brief (instead of from the due dates thereof), replaces the schedules in Rule 5 of the First District Appellate Court and Rule 23 of the other appellate districts (former Uniform Appellate Court Rule 23). The paragraph gives the court the right to order a different briefing schedule, or to dispense with briefs altogether. Until 1979, it was generally required that an abstract of the record or a reproduction of excerpts from the record be filed in the reviewing court in addition to the record and the briefs. Paragraph (d) provided that where the appellant elected to file excerpts from the record instead of an abstract the excerpts had to be filed within 7 days after the filing of the reply brief. The rules were amended in 1979 to provide that unless the Appellate Court orders that an abstract be prepared and filed, all cases will be heard on the original record and the briefs, the appellant's brief to include an appendix described in Rule 342. Appropriate changes were made in Rule 307(c) to reflect this change in the practice.

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 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 a complete ~~an additional~~ record on appeal be filed ~~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.

Amended effective September 1, 1974; amended July 30, 1979, effective October 15, 1979; amended December 17, 1993, effective February 1, 1994; amended February 26, 2010, effective immediately; amended Dec. 11, 2014, eff. Jan. 1, 2015; amended Oct. 15, 2015, eff. Jan. 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Committee Comments (Revised 1979)

This rule was new in 1967. Prior to that time appeals from interlocutory orders had been permitted in Illinois only in a few specified classes of cases. (See former Rule 31 and its predecessor, former section 78 of the Civil Practice Act (Ill. Rev. Stat. 1961, ch. 110, par. 78).) This was also generally true in the Federal courts. In 1958, however, Congress adopted what is now 28 U.S.C. § 1292(b), which permits an interlocutory appeal from other than final orders when the trial court "shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that immediate appeal from the order may materially advance the ultimate termination of the litigation." The court of appeals may then "in its discretion" permit the appeal to be taken. Thus, this type of interlocutory appeal is allowed when both the trial and appellate courts agree that an appeal will expedite the disposition of the litigation, and also that there is a substantial question of law to be decided. The appellate courts themselves can insure that this authority to allow interlocutory appeals is not abused. This power has been sparingly exercised in the Federal courts, but it has proved valuable.

This rule establishes a similar procedure for Illinois. One change from the Federal rule is to eliminate the requirement that the question raised be a "controlling" one. The meaning of "controlling" has not been clear, despite many cases on the point. and experience has shown that sometimes an important question of law that

only arguably could be said to be controlling should be heard on appeal without awaiting final judgment.

The 1964 judicial article authorized the Supreme Court to provide by rule for appeals to the Appellate Court of other than final judgments of the circuit court. Arguably, however, it made no provision for rules permitting direct appeal to the Supreme Court except in the case of final judgments. Accordingly, Rule 308 was made applicable only to appeals to the Appellate Court, but it permits the Appellate Court to allow interlocutory appeals in classes of cases in which the *final* judgment is appealable only to the Supreme Court. Though the reference to "final judgments" in section 5 of the 1964 judicial article was not carried forward into article VI, section 4 of the new constitution, direct appeals to the Supreme Court remain limited to appeals from final judgments. See Rule 302.

Normally the interlocutory appeal will not stay proceedings in the trial court. The case may proceed in that court unless the trial court or the Appellate Court or a judge thereof otherwise orders. This will discourage an attempt to take an interlocutory appeal with a motive of delay.

In 1974, paragraph (b) was amended to substitute the word "application" appearing in the last sentence of the paragraph for the word "petition" to make the terminology uniform. At the same time paragraph (d) was amended to insert the clause "the appellant shall file his brief in the reviewing court within 35 days of the date on which such leave was allowed." This requirement formerly appeared in Rule 343(a). See the committee comments to Rule 306, paragraph (g).

Until 1979, paragraph (d) provided that, if appeal were allowed, "[e]xcerpts from record or an abstract shall be prepared and filed as provided in Rule 342." In that year Rule 342 was amended to eliminate altogether the practice of duplicating and filing excerpts from the record and to provide that no abstract shall be filed unless by order of the reviewing court. Accordingly, paragraph (d) was amended to reflect this change. See the committee comments to Rule 342.

Rule 309. Dismissal of Appeals by the Trial Court

Before the record on appeal is filed in the reviewing court, the trial court may dismiss the appeal of any party (1) on motion of that party or (2) on stipulation of the parties. ~~A copy of the~~ The order of dismissal entered by ~~filed in~~ the trial court shall be forwarded by the clerk to the reviewing court within 5 days after the entry of such order.

Amended July 30, 1979, and September 20, 1979, effective October 15, 1979; amended January 5, 1981, effective February 1, 1981; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised January 5, 1981)

This rule is based upon former Rule 36(1)(e). The provision permitting the trial court to dismiss on motion of the appealing party was new in 1969. The last sentence was added in 1979 in view of the change in the practice in that year calling for immediate docketing of the appeal in the reviewing court upon receipt of the copy of the notice of appeal transmitted by the clerk of the circuit court. (See the committee comments to paragraph (f) of Rule 303.) For the same reasons the first sentence was amended in 1981 to limit the power of

the circuit court to dismiss to the period before the record on appeal is filed, rather than the period before the case is docketed, as provided in the original text.

Rule 310. Prehearing Conference in the Appellate Court

In an appeal pending in the Appellate Court, the court or a judge thereof, on its own motion or on the request of a party, may order a prehearing conference to consider the simplification of the issues and any other matters that may aid in the disposition of the appeal. Unless otherwise agreed by the parties, a judge who will not participate in the decision of the case shall preside at the conference. The judge may enter an order which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of counsel. The order controls the subsequent course of the proceeding, unless modified to prevent manifest injustice.

Effective July 1, 1971; amended September 8, 1975, effective October 1, 1975; amended June 19, 1989, effective August 1, 1989.

Committee Comments
(July 1, 1971)

This rule is based upon Rule 33 of the Federal Rules of Appellate Procedure. The provision that a judge who will not participate in the decision of the case shall preside at the conference does not appear in the Federal rule.

Rule 310.1. Appellate Settlement Conference Program

(a) Program Purpose and Goals. The purpose of the Appellate Settlement Conference Program (Program) is to provide an alternative means for resolving certain civil appeals in the Illinois Appellate Court. The Program is intended to give parties to an appeal an opportunity and forum to discuss their case, simplify and/or limit the issues, negotiate settlement, and consider any matters that may aid in disposition of the appeal or resolution of the action or proceeding.

The Supreme Court may authorize appellate districts to undertake and conduct settlement conference programs. Such programs shall be provided at no additional court costs to the parties beyond the appellate filing fees as established by the Supreme Court.

(b) Applicability. Only civil appeals are eligible for assignment to the Program. However, appeals from judgments or orders entered in the following types of proceedings or actions are ineligible for inclusion in the Program: juvenile court proceedings, adoption proceedings, paternity proceedings, actions where the custody of or allocation of parental responsibilities for a minor is the sole issue, actions where the mental capacity of a party is at issue, contempt, petitions for extraordinary relief such as *mandamus*, petitions for writs of *habeas corpus*, actions for judicial review of decisions of the Illinois Workers' Compensation Commission, and election contests. Also ineligible are appeals from a judgment or order imposing sanctions upon a litigant or attorney or incarcerating a party.

(c) Local Rules.

(1) Each appellate district conducting a settlement conference program shall adopt local rules for the conduct of such a program. Local rules are to be consistent with the provisions of this rule. Prior to the establishment of a settlement conference program, the presiding judge of the appellate district, or the chairman of the executive committee in the case of the First District, shall submit to the Supreme Court for its review and approval, through its Administrative Office, rules governing the operation of the district's program.

(2) At a minimum, the rules adopted by an appellate district conducting a settlement conference program shall address:

(i) Actions eligible for inclusion in the program consistent with paragraph (b) of this rule;

(ii) Appointment, qualifications and compensation of the mediators;

(iii) Selection of cases for referral to a mediator consistent with paragraphs (e) and (f) of this rule;

(iv) Scheduling of the mediation conferences;

(v) Conduct of the conference and role of the appellate mediator;

(vi) Absence of a party at the conference and sanctions;

(vii) Termination and report of mediation conference;

(viii) Finalization of agreement;

(ix) Confidentiality;

(x) Mechanism for reporting to the Supreme Court on the settlement conference program.

(d) Administration. The Program shall be administered in each appellate district by a mediation committee consisting of two or more judges appointed under that district's rules governing operation of the Program. The mediation committee may be assisted in its duties by a settlement administrator, who may be the clerk of court. The clerk may also be a member of the mediation committee.

(e) Case Selection. Cases may be selected for the Program as follows:

(1) *Settlement Status Report.* Any party may file with the clerk of the court in the district in which the case was filed a "Settlement Status Report." Each appellate district may decide whether the filing of a "Settlement Status Report" shall be mandatory or voluntary. Notice of the filing of a "Settlement Status Report," along with a copy of same, shall be served upon all parties in accordance with the provisions of Supreme Court Rule 11.

(2) *Motions for Assignment to the Settlement Conference Program*. On his or her own motion or on motion of any party, the presiding judge of the appellate district to which a case is assigned, or the presiding judge of the division to which a case is assigned in the case of the First District, may with the approval of the judge to whom the case has been assigned for dispositional purposes, if any, recommend to the mediation committee that a civil appeal be assigned to the Program. Upon receipt of the "Settlement Status Report" or recommendation from a presiding judge, the mediation committee shall evaluate the case to determine if the case is eligible for assignment to the Program. If no objection is filed, and the case is otherwise eligible, an order shall be entered which assigns the case to the Program, transfers it to a settlement docket, and stays the filing of the record and/or briefs pending further order of court.

(f) Objection to Assignment. Any party to an appeal may object to the case being assigned to the Program. Such objections shall be in accordance with the local rules of the appellate district in which the case was filed. Upon receipt of any such objection, the settlement administrator shall send a written notice to all parties and the appellate mediator, informing them that an objection has been received and that the case will be removed from the Program.

(g) Dismissal; Agreement to Narrow Issues.

(1) If the settlement conference results in the settlement of the case and the parties agree to dismiss the appeal, an order dismissing the appeal shall be entered in the manner specified by the rules for that particular district.

(2) If the settlement conference does not result in settlement but the parties agree to narrow the issues on appeal, an order shall be prepared reciting the agreed terms. The order entered shall be binding upon the parties unless modified by subsequent order of the court. An order shall be entered removing the case from the Program, reassigning the case, and reestablishing the filing of the record and/or briefing schedule.

(h) Confidentiality. The settlement conference and all documents prepared by the parties, the appellate mediator, and the settlement administrator shall be confidential. No transcript or recording shall be made of any settlement conference and no mention of the settlement discussions shall be made in any brief filed with this court or in oral argument. Except for orders entered by the appellate court of the district in which the appeal was filed and written stipulations and agreements entered into by the parties, documents prepared by the parties and received by the appellate mediator or the settlement administrator as part of the Program shall not be filed of record with the clerk of the appellate court of that district and, upon dismissal of the case or its removal from the Program, whichever is first to occur, shall be destroyed by the settlement administrator.

(i) Sanctions. Failure of the parties or their authorized representatives to participate in a settlement conference in good faith, failure to attend a regularly scheduled settlement conference, or failure to comply with the rules applicable to settlement conferences adopted by the district in which the case was filed may subject a party to the imposition of sanctions under Supreme Court Rule 375.

(j) Statistical Reporting. The settlement administrator shall maintain statistics as to the number and type of cases which are (1) considered by the mediation committee for inclusion in the Program, (2) assigned to the Program, (3) removed from the program on the objection of a party, (4) removed from the Program without any settlement having been reached, (5) dismissed by agreement of the parties while assigned to the Program, and (6) removed from the Program after the entry of an order narrowing the issues on appeal. The settlement administrator shall report such statistics to the mediation committee in accordance with the local rules in his or her appellate district and annually to the Director of the Administrative Office of the Illinois Courts.

Adopted October 29, 2004, effective January 1, 2005; amended Mar. 8, 2016, eff. immediately.

Committee Comments
(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 *et seq.*), has changed the terms “Custody,” “Visitation” (as to parents) and “Removal” to “Allocation of Parental Responsibilities,” “Parenting Time” and “Relocation.” These rules are being amended to reflect those changes. The rules utilize both “custody” and “allocation of parental responsibilities" in recognition that some legislative enactments covered by the rules utilize the term “custody” while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term “allocation of parental responsibilities.” The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Rule 311. Accelerated Docket

(a) Mandatory Accelerated Disposition of Child Custody or Allocation of Parental Responsibilities or Relocation of Unemancipated Minors Appeals. The expedited procedures in this subpart shall apply to

allocation of parental responsibilities cases or decisions allowing or denying relocation (formerly known as removal) of unemancipated minors and to interlocutory appeals in child custody or allocation of parental responsibilities cases or decisions allowing or denying relocation (formerly known as removal) of unemancipated minors from which leave to appeal has been granted pursuant to Rule 306(a)(5). If the appeal is taken from a judgment or order affecting other matters, such as support, property issues or decisions affecting the rights of persons other than the child, the reviewing court may handle all pending issues using the expedited procedures in this rule, unless doing so will delay decision on the child custody or allocation of parental responsibilities or the relocation of the unemancipated minors appeal.

(1) *Special Caption*. The notice of appeal or petition for leave to appeal, docketing statement, briefs and all other notices, motions and pleadings filed by any party in relation to an appeal involving child custody or allocation of parental responsibilities or decisions allowing or denying relocation of unemancipated minors shall include the following statement in bold type on the top of the front page: ~~THIS APPEAL INVOLVES A QUESTION OF CHILD CUSTODY, ALLOCATION OF PARENTAL RESPONSIBILITIES, ADOPTION, TERMINATION OF PARENTAL RIGHTS OR OTHER MATTER AFFECTING THE BEST INTERESTS OF A CHILD.~~ **THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 311(a).**

(2) *Service Upon the Circuit Court*. In addition to the service required by Rule 303(c), a party filing notice of appeal in a child custody or allocation of parental responsibilities case shall, within seven days, serve the notice of appeal~~copies of the same~~ on the trial judge who entered the judgment or order appealed and the office of the chief judge of the circuit in which the judgment or order on appeal was entered. Where leave to appeal has been granted pursuant to Rule 306(a)(5), the appellant shall, within seven days, serve ~~copies of~~ the order granting leave to appeal upon the trial judge who entered the judgment or order appealed from and the office of the chief judge of the circuit in which the judgment or order on appeal was entered.

(3) *Status Hearing in Circuit Court*. On receipt of the notice of appeal or order granting leave to appeal under Rule 306(a)(5) in a child custody or allocation of parental responsibilities case, the trial judge shall set a status hearing within 30 days of the date of filing of the notice of appeal or order granting leave to appeal to determine the status of the case, including payments of required fees to the clerk of the circuit court and court reporting personnel as defined in Rule 46 for the preparation of the transcript of proceedings, and take any action necessary to expedite preparation of the record on appeal and the transcript of the proceedings. The trial court shall have continuing jurisdiction for the purpose of enforcing the rules for preparation of the record and transcript. The trial court may request the assistance of the chief judge to resolve filing delays, and the chief judge shall assign or reassign the court reporting personnel's work as necessary to ensure compliance with the filing deadlines.

(4) *Record*. The record on appeal and the transcript of proceedings in a child custody or allocation of parental responsibilities case shall be filed no later than 35 days after the filing of the notice of appeal or granting of leave to appeal pursuant to Rule 306(a)(5). Any request for extension of the time for filing shall be accompanied by an affidavit of the court clerk or court reporting personnel stating the reason for the delay, and shall be served on the trial judge and the chief judge of the circuit. Lack of advance payment shall not be a reason for noncompliance with filing deadlines for the record or transcript. Any subsequent request for continuance shall be made to the appellate court ~~by written notice and~~ on motion with notice to all parties in accordance with rules.

(5) *Deadline for Decision*. Except for good cause shown, the appellate court shall issue its decision within 150 days after the filing of the notice of appeal or granting of leave to appeal pursuant to Rule 306(a)(5).

(6) *Local Rules*. The appellate court of each district shall by administrative order or rule adopt mandatory procedures to ensure completion of child custody or allocation of parental responsibilities appeals within the time specified in paragraph (5). The order or rule may include provisions regarding the use of memoranda in lieu of briefs, ~~expedited schedules and deadlines,~~ provisions for the separation of child custody or allocation of parental responsibilities issues from other issues on appeal, and any other

procedures necessary to a fair and timely disposition of the case. The clerk of the appellate court shall be responsible for seeing that the accelerated docket is maintained and for advising the court of any noncompliance with the rules of the court concerning timely filing.

(7) *Briefing Schedule*. The brief of the appellant or memorandum in lieu of a formal brief is due 21 days after filing of the record on appeal in the ~~A~~appellate ~~C~~court. The brief of the appellee or memorandum in lieu of a formal brief is due 21 days from the due date of the appellant's brief. Any reply brief or memorandum in lieu of a formal brief is due 7 days from the due date of the appellee's brief. In the case of a cross-appeal, the cross-reply brief or memorandum in lieu of a formal brief is due 7 days from the due date of the reply brief.

(8)~~(7)~~ *Continuances Disfavored*. Requests for continuance are disfavored and shall be granted only for compelling circumstances. The appellate court may require personal appearance by the attorney or party requesting the continuance ~~as provided by local rule~~.

(9) ~~(8)~~ *Effective Date*. This rule shall apply to all orders in which a notice of appeal is filed after its effective date.

(b) Discretionary Acceleration of Other Appeals. Any time after the docketing statement is filed in the reviewing court, the court, on its own motion, or on the motion of any party, for good cause shown, may place the case on an accelerated docket. The motion shall be supported by an affidavit stating reasons why the appeal should be expedited. If warranted by the circumstances, the court may enter an order accepting a supporting record prepared pursuant to Rule 328, consisting of those lower court pleadings, reports of proceedings or other materials that will fully present the issues. In its discretion the court may accept memoranda in lieu of formal briefs. The court may then enter an order setting forth an expedited schedule for the disposition of the appeal.

(1) *Special Caption.* The notice of appeal or petition for leave to appeal, docketing statement, and all other notices, motions, and pleadings filed by any party in relation to an appeal where the reviewing court, for good cause shown, has placed the case on an accelerated docket shall include the following statement in bold type on the top of the front page:

THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION SPECIFICALLY ORDERED UNDER RULE 311(b) BY THE REVIEWING COURT.

Adopted June 15, 1982, effective July 1, 1982; amended June 19, 1989, effective August 1, 1989; amended December 17, 1993, effective February 1, 1994; amended February 26, 2010, effective immediately; amended Mar. 8, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended June 28, 2017, eff. July 1, 2017.

Committee Comments
(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 et seq.), has changed the terms "Custody," "Visitation" (as to parents) and "Removal" to "Allocation of Parental Responsibilities," "Parenting Time" and "Relocation." These rules are being amended to reflect those changes. The rules utilize both "custody" and "allocation of parental responsibilities" in recognition that some legislative enactments covered by the rules utilize the term "custody" while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term "allocation of parental responsibilities." The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Committee Comments
(August 1, 1989)

Amended in 1989 to give the Appellate Court discretion, for good cause shown, to order cases to an accelerated docket on its own motion or on the motion of a party, rather than requiring that all parties agree to such action.

Committee Comments
(February 26, 2010)

Paragraph (a)

Paragraph (a) was originally enacted as Rule 306A in 2004 to expedite the resolution of appeals affecting the care and custody of children. In 2010, Rule 306A was moved to paragraph (a) of this rule. The purpose of this amendment was to streamline the wording of the rule and facilitate its use. The amendment was also intended to clarify that the rule addresses only the procedures to be followed in order to expedite disposition of child custody appeals. Importantly, this rule does not confer any new appeal rights or affect finality for purposes of appellate jurisdiction. The appealability of any order affecting child custody is governed principally by Rules 301, 304, 303, and 306. The expedited procedures set forth in paragraph (a) apply to all child custody appeals, whether they have been taken from final orders appealable as of right or interlocutory orders from which the court has granted leave to appeal. The goal of paragraph (a) remains to promote stability for not only abused and neglected children, but also children whose custody is an issue in dissolution of marriage, adoption, and other proceedings, by mandating swifter disposition of these appeals.

Paragraph (b)

Paragraph (b) encompasses the pre-2010 amendment version of Rule 311, which permits the expedited resolution of any appeal upon the request of any party and at the discretion of the appellate court.

Rule 312. Docketing Statement

(a) Appellant's Docketing Statement. All appellants, including cross-appellants and separate appellants, whether as a matter of right or as a matter of the court's discretion, shall file a docketing statement with the clerk of the reviewing court.

(1) In the case of an appeal as of right, the appellant shall file the statement within 14 days after filing the notice of appeal or petition for review of an administrative order or the date upon which a motion to file late notice of appeal is allowed.

(2) In the case of a discretionary appeal pursuant to Rule 306 or Rule 308, the statement shall be due at the time that the appellant files his or her Rule 306 petition or Rule 308 application.

(3) In cases of appeal pursuant to Rule 307(a), the docketing statement shall be filed within 7 days from the filing of the notice of appeal.

(b) Filing Fee and Attachments. The docketing statement shall be accompanied by the required reviewing court filing fee if it has not been previously paid. The docketing statement shall be accompanied by any written requests to the circuit clerk or court reporting personnel as defined in Rule 46 for preparation of their respective portions of the record on appeal and be served on all parties to the case with proof of service attached. Within 7 days thereafter, appellee, if it is deemed necessary, may file a short responsive statement

with the clerk of the reviewing court with proof of service on all parties.

The docketing statement shall be prepared by utilizing or substantially adopting the appearance and content of the form provided in the Article III Forms Appendix.~~form and contents of the docketing statement shall be as follows:~~

~~Docket Number in the Reviewing Court~~

~~Case Title (Complete)) Appeal from _____ County~~
~~_____) Circuit Number _____~~
~~_____) Trial Judge _____~~
~~_____) Date of Notice of Appeal _____~~
~~_____) Date of Judgment _____~~
~~_____) Date of Postjudgment Motion Order~~
~~_____~~
~~_____) Supreme court rule which confers jurisdiction~~
~~upon the reviewing court _____~~

~~DOCKETING STATEMENT~~
~~(Civil)~~

~~1. Is this a cross-appeal, separate appeal, joining in a prior appeal, or related to another appeal which is curr~~
~~If so, state the docket number(s) of the other appeal(s):~~
~~_____~~

~~2. If any party is a corporation or association, identify any affiliate, subsidiary, or parent group:~~
~~_____~~

~~3. Full name and complete address of appellant(s) filing this statement:~~
~~Name: _____~~

Address: _____

Telephone: _____

Email address: _____

*use additional page if multiple appellants.

Counsel on Appeal for appellant(s) filing this statement:

Name: _____ ARDC # _____

Address: _____

Telephone: _____

Email address: _____

Fax: _____

4. Full name and complete address of appellee(s): (Use additional page for multiple appellees.)

Name: _____

Address : _____

Telephone: _____

Counsel on Appeal for appellee(s): (Use additional page for multiple appellees.)

Name: _____

Address: _____

Telephone: _____

Email address: _____

Fax: _____

5. Court reporting personnel: (If more space is needed, use other side.)

Name: _____

Address: _____

Telephone: _____

Email address: _____

6. Is this appeal from a final order in a matter involving child custody or allocation of parental responsibility

Yes: _____ No: _____

*If yes, this docketing statement, briefs and all other notices, motions and pleadings filed by any party shall

THIS APPEAL INVOLVES A QUESTION OF CHILD CUSTODY, ALLOCATION OF PARENTAL

7. State the general issues proposed to be raised (failure to include an issue in this statement will not result i

_____

_____

~~As ___ attorney for the appellant ____ *Pro Se* appellant, I hereby certify that on the ___ day of _____~~

~~_____ _____ _____~~

~~Date Appellant's Attorney *Pro Se* Appellant~~

~~In lieu of court reporting personnel's signature I have attached the written request to the court reporting per~~

~~_____ _____ _____~~

~~Date Appellant's Attorney *Pro Se* Appellant~~

~~I hereby acknowledge receipt of an order for the preparation of a report of proceedings.~~

~~_____ _____~~

~~Date Court Reporting Personnel or Supervisor~~

~~*If the other parties of record are numerous, they may be listed on a separate page instead of in the caption.~~

Adopted December 17, 1993, effective February 1, 1994; amended December 13, 2005, effective immediately; corrected February 10, 2006, effective immediately; amended Dec. 12, 2012, eff. Jan. 1, 2013; amended Jan. 17, 2013, eff. immediately; amended Mar. 8, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 *et seq.*), has changed the terms "Custody," "Visitation" (as to parents) and "Removal" to "Allocation of Parental Responsibilities," "Parenting Time" and "Relocation." These rules are being amended to reflect those changes. The rules utilize both "custody" and "allocation of parental responsibilities" in recognition that some legislative enactments covered by the rules utilize the term "custody" while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term "allocation of parental responsibilities." The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Rule 313. Fees in the Reviewing Court

(a) Docket Fees. Unless excused by law, in all cases docketed in the reviewing court all appellants or petitioners shall pay a filing fee of $50.00, and all other parties upon entry of appearance or filing any documentpaper shall pay a fee of $30.00. ~~fee.~~ Any non-party in a case filing any paper, including a motion for leave to file a brief *amicus curiae* pursuant to Rule 345, shall pay a fee of $30. ~~fee.~~

(b) Document Request Fees.~~Copy fees.~~ The clerks of the reviewing courts shall charge a fee of 25 cents per page for providing documents filed~~making copies of papers~~ in their respective offices, except that the clerks shall furnish ~~without cost copies of~~ opinions or orders to parties in interest or their attorneys of record

without cost.~~and, in~~ In furtherance of the public interest, the clerk may furnish ~~without cost copies of~~ opinions or orders to other individuals or entities without cost. The fee shall apply to both physical paper output and electronic delivery of documents.

The clerks may allow a requestor to use personal equipment, ~~shall charge no fee for copies of papers made, with the clerk's prior permission, using personal equipment~~ such as a portable scanner or camera, to obtain scans or images of filed documents and shall charge no fee for such access. When considering such requests, the clerk shall determine whether the equipment is likely to cause damage to the documents~~papers~~ and whether the equipment and/or request will interfere with the clerk's office operations. Automatic feed features or stack feeders are not permitted.

(c) Certificate and Seal. The fee for each official certificate and seal is $5.

(d) Law License. In the Supreme Court, the fee for preparing a law license, certifying it with the seal, administering the oath, and transcribing the name on the roll of attorneys is $50. The fee for a replacement law license shall be $25.

(e) Attorney Certificates of Good Standing. In the Supreme Court, the fee for an attorney certificate of good standing shall be $15. If multiple certificates for the same attorney~~copies~~ are requested, each additional certificate shall be $5.

Adopted December 17, 1993, effective February 1, 1994; amended Jan. 23, 2014, eff. Jan. 1, 2015; amended Dec. 7, 2015, eff. July 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Commentary
(December 17, 1993)

Because the authority for collecting reviewing court fees is contained in statutory provisions (see 30 ILCS 220/12 (West 1992); 705 ILCS 25/3 (West 1992)), a fee rule is provided for informational purposes.

Rule 314. Reserved

PART B. APPEALS FROM THE APPELLATE COURT TO THE SUPREME COURT

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; 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 ~~a~~Appellate ~~c~~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, in the format as set forth in the Standards and Requirements for Electronic Filing the Record on Appeal.

(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 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, 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~~,~~ or, alternatively, ~~7,000~~ 6,000 words, excluding only the appendix.

(e) Records. The clerk of the Supreme Court shall transmit 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, shall transmit to the clerk of the Supreme Court the record on appeal that was filed in

the Appellate Court and the certified Appellate Court record.

(f) Answer. The respondent need not but may file an answer, with proof of service, within 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 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, served, and filed in accordance with the requirements for briefs except that it shall be limited to 20 pages~~,~~ or, alternatively, ~~7,000~~ 6,000 words, 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 request for such notice should be submitted to the clerk in Springfield.

(g) Transmittal of Trial Court Record if Petition Is Granted. If the petition is granted, upon notice from the clerk of the Supreme Court the clerk of the Appellate Court shall transmit to the Supreme Court the record on appeal that was filed in the Appellate Court and the Appellate Court record, unless 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. 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 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. 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 a brief, and within the same time shall file the notice with the clerk of the Supreme Court. If the appellee elects to file a 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 or allocation of parental

responsibilities or relocation of emancipated minors 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 MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 311(a).**

(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).

Amended effective November 30, 1972; amended effective September 1, 1974; amended October 1, 1976, effective November 15, 1976; amended September 29, 1978, effective November 1, 1978; amended July 30, 1979, effective October 15, 1979; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended February 1, 1984, effective February 1, 1984, with Justice Moran dissenting (see *Yellow Cab Co. v. Jones* (1985), 108 Ill. 2d 330, 342); amended April 27, 1984, effective July 1, 1984; amended February 21, 1986, effective August 1, 1986; amended February 27, 1987, effective April 1, 1987; amended April 7, 1993, effective June 1, 1993; amended December 17, 1993, effective February 1, 1994; amended September 23, 1996, effective immediately; amended September 22, 1997, effective October 1, 1997; amended March 19, 2003, effective May 1, 2003; amended December 5, 2003, effective immediately; amended October 15, 2004, effective January 1, 2005; amended February 10, 2006, effective July 1, 2006; amended May 24, 2006, effective September 1, 2006; amended August 15, 2006, effective immediately; amended October 2, 2006, effective immediately; amended September 25, 2007, effective October 15, 2007; amended February 26, 2010, effective immediately; amended Mar. 15, 2013, eff. May 1, 2013; amended May 23, 2013, eff. July 1, 2013; amended Dec. 11, 2014, eff. Jan. 1, 2015; amended Mar. 15, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended June 28, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Committee Comments
(February 10, 2006)

Paragraph (b) is amended to dispense with the requirement of filing an affidavit of intent to file a petition for leave to appeal or a certificate of intent to file a petition for leave to appeal. This amendment is consistent with the public policy of this state as evinced by the Code of Civil Procedure, which favors resolution on the merits: "This Act shall be liberally construed, to the end that controversies may be speedily and finally determined according to the substantive rights of the parties." 735 ILCS 5/1-106.

The amendment also addresses the concerns addressed in *A.J. Maggio Co. v. Willis*, 197 Ill. 2d 397 (2001), *Roth v. Illinois Farmers Insurance Co.*, 202 Ill. 2d 490 (2002), and *Wauconda Fire Prevention District v. Stonewall Orchards, LLP*, 214 Ill. 2d 417 (2005), all of which dealt with the rather unclear requirements of Rule 315, which had been amended in 1993 to require the filing of an affidavit of intent within 21 days in order to have 35 days in which to file a petition for leave to appeal.

Paragraph (b) is further amended to separate the provision on the time for filing a petition for leave to appeal, which remains in paragraph (b), from the provision on the content of the petition, which becomes a new paragraph (c). The subsequent paragraphs are relettered accordingly.

Paragraph (b) is also amended to allow a party that may not have sought Supreme Court review of an adverse disposition under Rule 23(b) or (c) the opportunity to seek review of that disposition after the Appellate Court grants a motion to publish it.

Rule 316. Appeals from Appellate Court to Supreme Court on Certificate

Appeals from the Appellate Court shall lie to the Supreme Court upon the certification by the Appellate Court that a case decided by it involves a question of such importance that it should be decided by the Supreme Court. Application for a certificate of importance may be included in a petition for rehearing or may be made by filing ~~four copies of~~ a petition, clearly setting forth the grounds relied upon, with the clerk of the Appellate Court within 35 days after the entry of the judgment appealed from if no petition for rehearing is filed or, if a petition for rehearing is filed, within 14 days after the denial of the petition or the entry of the judgment on rehearing. An application for a certificate of importance does not extend the time for filing a petition for leave to appeal to the Supreme Court.

When the Appellate Court has granted a certificate of importance, the clerk of that court shall transmit to the clerk of the Supreme Court the record on appeal that was filed in the Appellate Court, with thea ~~a~~ certified ~~copy of the~~ Appellate Court record and opinions appended thereto, and the certificate of importance of the Appellate Court. The Appellate Court may require bond as a condition of granting a certificate of importance. The record shall be transmitted to the office of the clerk of the Supreme Court not later than 14 days from the date the certificate of importance is granted. Briefs shall be filed as provided in Rules 341 through 344. The appellant's brief shall contain ~~a copy of~~ the Appellate Court opinion. ~~If an abstract was filed in the Appellate Court, 20 copies of the abstract shall be filed with the briefs, or if the Supreme Court so orders an abstract shall be prepared and filed in accordance with Rule 342.~~

Amended July 30, 1979, effective October 15, 1979; amended December 17, 1993, effective February 1, 1994; amended December 6, 2006, effective immediately; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised 1979)

This rule providing for appeal by certificate of importance from the Appellate Court is former Rule 32(2) without change in substance except that the time for filing is slightly changed. It is measured in multiples of 7 days and the periods run from the date the judgment is entered. The revision makes it clear that application for a certificate of importance may be included in a petition for rehearing or may be filed separately within the time specified. It is important to notice, however, that the application does not extend the time for petitioning the Supreme Court to grant leave to appeal as a matter of discretion. It may therefore be more convenient and prudent, if a petition for rehearing is to be filed, to join the application for certificate of importance with the petition for rehearing.

In 1979, Rule 342 was amended to provide that, with the exception of stated documents (see Rule 342(a)), no portions of the record shall be reproduced, and that, absent an order of the reviewing court, no abstract shall be prepared and filed. The last sentence of Rule 316 was amended to reflect this change in the practice. See the committee comments to Rule 342.

Commentary
(December 17, 1993)

It is well established that typewritten documents are accepted for filing in the reviewing courts and that professionally printed documents are not necessary.

The rule is amended to be consistent with the time frame of Rule 315(b).

Rule 317. Appeals from the Appellate Court to the Supreme Court as of Right

Appeals from the Appellate Court shall lie to the Supreme Court as a matter of right in cases in which a statute of the United States or of this state has been held invalid or in which a question under the Constitution of the United States or of this state arises for the first time in and as a result of the action of the Appellate Court. The appeal shall be initiated by filing a petition in the form prescribed by Rule 315, except that the petition shall be entitled "Petition for Appeal as a Matter of Right." Item (1) of the petition shall state that the appeal is taken as a matter of right and item (5) shall contain argument as to why appeal to the Supreme Court lies as a matter of right. In other respects the procedure is governed by Rule 315. If leave to appeal is to be sought in the alternative, the request therefor must be included in the same petition, and item (1) thereof shall include an alternative prayer for leave to appeal, and item (5) the argument as to why in the alternative leave to appeal should be allowed as a matter of sound judicial discretion. When both appeal as a matter of right and leave to appeal are sought, both requests will be disposed of by a single order. If the court allows the petition, briefs~~, and abstracts in cases in which they are required~~, shall be filed as provided in the case of appeal by leave under Rule 315.

Amended June 26, 1970, effective July 1, 1970; amended July 30, 1979, effective October 15, 1979 ; amended February 10, 2006, effective July 1, 2006; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised 1979)

This rule provides, in the language of the Constitution (art. VI, §4 (c)), for appeals as of right from the Appellate Court in cases in which ``a question under the Constitution of the United States or of this State arises for the first time in and as a result of the action of the Appellate Court." The procedure in such cases will be similar to that provided in Rule 315 for petitions for leave to appeal, except that the petition need only contain argument as to why appeal lies to the Supreme Court as a matter of right. Prior to the adoption of this rule effective January 1, 1967, such appeals were taken by notice of appeal. (See former Rule 32(3).) The experience of the Supreme Court was that this procedure was often invoked improperly, a fact which the court would not usually discover until full briefs on the merits were filed and the case was scheduled for oral argument. The time of counsel and of the court is saved by giving the court an opportunity to determine this preliminary question on the basis of a petition filed in advance.

The rule was amended in June 1970 (a) to make mandatory the provision that if leave to appeal is to be sought in the alternative to appeal as of right, the requests for both alternatives are to appear in the same petition, and (b) to provide expressly that if there are requests for both an appeal as of right and an appeal by leave, the court will dispose of both requests in a single order.

In 1979, Rule 342 was amended to provide that, with the exception of stated documents (see Rule 342(a)), no portions of the record shall be reproduced, and that, absent an order of the reviewing court, no abstract shall be prepared and filed. The last sentence of Rule 317 was amended to reflect this change in the practice. See the committee comments to Rule 342.

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 or these Rules. ~~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.~~

Amended December 17, 1993, effective February 1, 1994; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

This rule is taken without major change from former Rules 32(1), 32(4), 32(5) and 39(2). Paragraph (c) differs from the last mentioned rule in that it dispenses with the need for obtaining leave of the Supreme Court in order to have briefs in the Appellate Court certified to the Supreme Court. In addition it deletes the requirement of former Rule 39 that the Appellate Court briefs shall be filed only "if it is important to know the position taken by any party in the Appellate Court."

Rules 319-320. Reserved

PART C. RECORD ON APPEAL

Rule 321. Contents of the Record on Appeal

The record on appeal shall consist of the judgment appealed from, the notice of appeal, and the entire original common law record, unless the parties stipulate for, or the trial court, after notice and hearing, or the reviewing court, orders less. The common law record includes every document filed and judgment and order entered in the cause and any documentary exhibits offered and filed by any party. Upon motion the reviewing court may order that other exhibits be included in the record. The record on appeal shall also include any report of proceedings prepared in accordance with Rule 323. There is no distinction between the common law record and the report of proceedings for the purpose of determining what is properly before the reviewing court.

Amended July 30, 1979, effective October 15, 1979; amended December 17, 1993, effective February 1, 1994.

Committee Comments

(Revised 1979)

As originally adopted Rule 321 provided that the record on appeal consisted of "the judgment appealed from, the notice of appeal, and other parts of the trial court record designated in the praecipes." (36 Ill. 2d R. 321.)

Rule 322 set forth the procedure for the filing of praecipes by the parties designating the parts of the record to be included. In 1979 Rule 321 was amended to provide that unless the parties stipulate for less or the trial or reviewing court orders less, the entire original common law trial record will be transmitted to the reviewing court. Reference to praecipes was deleted, and Rule 322 was abrogated.

While Rule 321, as amended, permits the trial or the reviewing court, or the parties by stipulation, to order that less than the "entire original common law trial court record" be transmitted to the reviewing court, it makes it plain that such portions of the entire trial record as are transmitted should be original papers, and this is underscored by the deletion in Rule 324 of the provision permitting the trial or reviewing court to order otherwise, and the deletion in Rule 331 of the phrase "unless the record contains no original papers."

Commentary

(December 17, 1993)

This rule is amended to describe the contents of the common law record, including any documentary exhibits in the trial court, and to provide that the reviewing court upon motion may order that other exhibits, including physical exhibits and evidence, be included in the record on appeal.

Rule 322. Reserved

Former Rule 322 was repealed July 30, 1979, effective October 15, 1979.

Rule 323. Report of Proceedings

(a) Contents; Preparation. A report of proceedings may include evidence, oral rulings of the trial judge, a brief statement of the trial judge of the reasons for his decision, and any other proceedings that the party submitting it desires to have incorporated in the record on appeal. The report of proceedings shall include all the evidence pertinent to the issues on appeal. ~~There shall be only a single report of proceedings if more than one appeal is taken.~~

Within the time for filing the docketing statement under Rule 312 the appellant shall make a written request to the court reporting personnel as defined in Rule 46 to prepare a transcript of the proceedings that appellant wishes included in the report of proceedings. Within 7 days after service on the appellee of the docketing statement and ~~a copy of~~ the request for transcript the appellee may serve on the appellant a designation of additional portions of the proceedings that the appellee deems necessary for inclusion in the report of proceedings. Within 7 days after service of such designation the appellant shall request the court reporting personnel to include the portions of the proceedings so designated or make a motion in the trial court for an order that such portions not be included unless the cost is advanced by the appellee.

The entire expense of incorporating unnecessary and immaterial matter in the report of proceedings may be assessed by the reviewing court as costs against the party who designated that matter, irrespective of how the appeal is decided.

(b) Certification and Filing. Court reporting personnel who transcribes a report of proceedings shall certify to its accuracy and shall notify all parties that the report of proceedings has been completed and filed with the clerk of the circuit court. The report of proceedings shall be taken as true and correct unless shown

to be otherwise and corrected in the manner permitted by Rule 329 for the record on appeal.

The court reporting personnel shall electronically file the reports of proceedings in searchable PDF format to the circuit court clerk within 49 days after the filing of the notice of appeal. There shall be a separate, transcribed, dated, and numbered PDF file for each report of proceedings. Reports of proceedings shall be clearly labeled on the first page with the date of the hearing or court proceeding, the type of proceeding, trial court case number, case caption, and the name of the presiding judge. ~~is ready for filing. A report of proceedings may be filed without further certification if, within 14 days of the date on which notice of its completion was sent to the parties, no party has objected, citing alleged inaccuracies involving matters of substance. If objections are noted, the report of proceedings shall be submitted, upon notice given by the party seeking certification, to the judge before whom the proceedings occurred or the judge's successor (or if that is impossible because of the judge's absence or sickness or other disability, then, to any other judge of the court) for the judge's certificate of correctness of those items the accuracy of which has been disputed by any party, and shall be filed, duly certified, in the trial court within 49 days after the filing of the notice of appeal. If, however, the parties so stipulate, a report of proceedings may be filed without certification.~~

(c) Procedure If No Verbatim Transcript Is Available (Bystander's Report). If no verbatim transcript of the evidence of proceedings is obtainable the appellant may prepare a proposed report of proceedings from the best available sources, including recollection. In any trial court, a party may request from the court official any ~~audiotape, videotape or other~~ recording of the proceedings. The court official or any person who prepared and kept, in accordance with these rules, any recording ~~audiotape, videotape, or other report~~ of the proceedings shall produce ~~a copy of~~ such recording ~~materials~~ to be provided at the party's expense. Such recording ~~material~~ may be transcribed for use in preparation of a bystander's report. The proposed report shall be served on all parties within 28 days after the notice of appeal is filed. Within 14 days after service of the proposed report of proceedings, any other party may serve proposed amendments or an alternative proposed report of proceedings. Within 7 days thereafter, the appellant shall, upon notice, present the proposed report or reports and any proposed amendments to the trial court for settlement and approval. The court, holding hearings if necessary, shall promptly settle, certify, and order filed an accurate report of proceedings. Absent stipulation, only the report of proceedings so certified shall be included in the record on appeal.

(d) Agreed Statement of Facts. The parties by written stipulation may agree upon a statement of facts material to the controversy and file it without certification in lieu of and within the time for filing a report of proceedings.

(e) Extension of Time. The reviewing court or any judge thereof may extend the time for filing, in the trial court, the report of proceedings or agreed statement of facts or for serving a proposed report of proceedings, on notice and motion filed in the reviewing court before the expiration of the original or extended time, or on notice and motion filed within 35 days thereafter. Motions for extensions of time shall be supported by an affidavit showing the necessity for extension, and motions made after expiration of the original or extended time shall be further supported by a showing of reasonable excuse for failure to file the motion earlier. ~~A copy of any~~ Any motion for extension of time shall be served on the clerk preparing the record on appeal.

Amended October 21, 1969, effective January 1, 1970; amended effective July 1, 1971; amended July 30, 1979, effective October 15, 1979; amended January 5, 1981, effective February 1, 1981; amended February 19, 1982, effective April 1, 1982; amended October 25, 1990, effective November 1, 1990; amended December 17, 1993, effective February 1, 1994; amended September 23, 1996, effective immediately; amended December 13, 2005, effective immediately; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised February 1982)

This rule is based upon former Rules 36(1)(c) and (d), and 36-1(3)(c), as they existed before 1967, with

certain provisions added to make the paragraph a complete statement as to the contents of the report of proceedings and the procedure for having it approved and filed.

Paragraph (a)

Paragraph (a), as originally adopted, was based upon former Rule 36(1)(c). The provision that the report of proceedings shall include "all the evidence pertinent to the issues on appeal" was new. The second paragraph was added in 1979 and is designed to assure early settlement of the contents of the report of proceedings. Formerly the failure of the appellant to order necessary parts of the proceedings transcribed and included would not be apparent until the report of proceedings was presented to the trial judge for certification, which, under paragraph (b), could take place late in the 49-day period allowed for the filing of the report of proceedings. The new provision, patterned in part on Rule 10(b) of the Federal Rules of Appellate Procedure, gives the appellee early notice of any omissions and avoids the alternatives of late motions for extension of time and over designation out of an abundance of caution, the first productive of unnecessary delay in the hearing of the appeal and the second unnecessary expense. See the committee comments to Rule 330.

Paragraph (b)

Paragraph (b) is also derived from former Rule 36(1)(c). The 49-day (instead of 50-day) time period follows the principle of multiples of seven. The words "in the trial court" were inserted in 1969 to state the existing practice. (See Rule 608(b).) In 1967, paragraph (b) was amended to provide for stipulations dispensing with the necessity of certification. The last sentence of this paragraph, added in 1969, is based upon Federal Rule of Appellate Procedure 11(a).

Paragraph (c)

Paragraph (c) is taken from former Rule 36-1(3)(c), which was included by the Illinois Supreme Court in Rule 36-1 as a part of the "expeditious and inexpensive" appeal procedure instituted May 18, 1964, in appeals from cases assignable to magistrates. The comments of the Illinois Supreme Court Rules Committee to Rule 36-1 (53 Ill. B.J. 18 (1964)) indicate the common-law background of the procedure outlined in this paragraph. The changes in substance in the revised paragraph are the deletion of the requirement that the trial court settle and certify the report and order it filed within 14 days after presentation in favor of an admonition that it do so "promptly," and the insertion of the words "holding hearings if necessary" in the last sentence to make explicit what was implied in the former rule. In 1971, the time within which the appellant's proposed report of proceedings must be served was increased from 7 to 14 days and the last sentence of the paragraph was added to make it explicit that after a report of proceedings has been settled or agreed upon, only that report is to be included in the record on appeal.

Paragraph (d)

Paragraph (d) is a simplified version of former Rule 36-1(d). If the parties agree upon a statement of facts, it is filed in lieu of the report of proceedings and the time requirements for the report of proceedings apply. The words "without certification" were added in 1971.

Paragraph (e)

Paragraph (e) is derived from the final paragraph of former Rule 36(1)(c). The main point of the 1981 amendment is to place the sole authority for granting extensions of time under this rule in the reviewing court. The rule contains a "safety valve" which did not appear in the former rule, allowing the court to extend the time on motion filed within 35 days after the expiration of the time for filing the report of proceedings, supported by a showing of reasonable excuse. The former rule allowed no relief, however compelling the circumstances, once the time period had expired. The last sentence, as amended in 1981, also contains a

requirement that any motion for extension of time be supported by a showing of necessity. This is in line with the general policy of deciding cases on appeal expeditiously; unnecessary delay is not favored. In 1971, paragraph (e) was amended to make it explicit that the reviewing court may extend the time for serving a proposed report of proceedings under paragraph (c) as well as for filing the report of proceedings. This amendment is consonant with other amendments made in 1979 placing in the reviewing court the general supervision of the progress of the appeal. See the committee comments to Rule 303(f).

Commentary
(December 17, 1993)

Paragraph (a) is amended to require that the appellant's written request for preparation of the report of proceedings be made within the applicable time for filing the docketing statement under new Rule 312. Previously the request was to be made within 14 days of the filing of the notice of appeal regardless of whether the appeal was direct or interlocutory in nature. The requirement that appellant serve notice of the request upon all parties is now contained in Rule 312. The provision for assessment of costs of incorporating unnecessary matters was taken from former Rule 330.

Paragraph (c), as amended, now contains the appellation "Bystander's Report," clarifies that the proposed report of proceedings shall be served on all parties, and reallocates the times for preparing and serving the proposed report and any proposed amendments or alternative report, without lengthening the overall time for the procedure.

Rule 324. Preparation and Certification by the Circuit Clerk of the Record on Appeal

The clerk of the trial court or administrative agency 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, and the record shall comply with the Standards and Requirements for Electronic Filing the Record on Appeal. ~~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 prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article III Forms Appendix.~~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 include~~accept for inclusion~~ in the record or a supplemental to the record under Rule 329 ~~an original or a copy of~~ any filing that carries a ~~filing~~file stamp of the clerk of the circuit court without any need for further authentication. Notice of filing must be ~~given~~transmitted 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

Amended October 21, 1969, effective January 1, 1970; amended July 30, 1979, effective October 15, 1979; amended July 1, 1985, effective August 1, 1985; amended April 10, 1987, effective August 1, 1987; amended December 17, 1993, effective February 1, 1994; amended May 30, 2008, effective immediately; amended Oct. 15, 2015, eff. Jan. 1, 2016; amended Oct. 6, 2016, eff. Nov. 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised July 30, 1979)

This rule was based in part on former Rules 36(1)(b) and (2)(a), and was in part new in 1967. As originally adopted, it provided in part that "[u]nless otherwise ordered by the trial or reviewing court, the original papers in the trial court record shall be used and copies need not be furnished by the parties." Thus the use of the original papers was permissive, though the contemplation was that in most instances original papers would be used. In 1979 this provision was deleted and Rule 321 was amended to provide that the record on appeal shall consist of the "entire original trial court record," unless the parties stipulate for or the trial or reviewing court orders "less." See the committee comments to Rule 321.

Commentary
(December 17, 1993)

This rule is amended to explain more specifically the manner in which the record on appeal shall be prepared. The circuit clerk now is required to provide the reviewing court with an inventory of exhibits, and the rule establishes a 250-page limit per volume of record to make the record easier to use.

Rule 325. Transmission of Record on Appeal ~~or Certificate in Lieu of Record~~

Upon payment of the ~~estimated~~ prescribed fee for preparation of the record on appeal, ~~and estimated transportation costs,~~ the clerk shall file~~transmit~~ the record with~~to~~ the reviewing court. ~~or, upon request, deliver it to the appellant for transmission. At the request of any party, to facilitate work on the appeal, the clerk of the trial court shall deliver to the reviewing court a certificate that the record has been prepared and certified in the form required for transmission to the reviewing court. The timely filing of the certificate in the reviewing court shall be considered the filing of the record on appeal. The certificate in lieu of record shall be in the following form:~~

~~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.)

CERTIFICATE IN LIEU OF RECORD

I, _____, clerk of the circuit court in said county and State and keeper of the records, files, and seal of the court, do hereby certify that the record on appeal in the above-captioned matter has been prepared and certified in the form required for transmission to the reviewing court.

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

~~I further certify that the record on appeal has this date been delivered to~~

_____
_____
_____
_____

~~I do further certify that this certificate in lieu of record pursuant to Supreme Court Rule 325 issued out of my office this _____ day of _____, 20__.~~

_____

_____
_____

~~Clerk of the Circuit Court~~

Amended October 21, 1969, effective January 1, 1970; amended July 1, 1985, effective August 1, 1985; amended April 10, 1987, effective August 1, 1987; amended December 17, 1993, effective February 1, 1994; amended May 30, 2008, effective immediately; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised October 21, 1969)

This rule, based on former Rules 36(2)(c) and 36-1(4), with some additions and changes, recognizes the existing practice of transmission of the record to the reviewing court by a party and affirmatively requires the clerk to deliver the record to the appellant for transmission upon request and payment of the prescribed fee. If such a request is not made but the fee is paid, the clerk is to transmit the record himself. The procedure provided for in the second and third sentence of this rule for filing a certificate in lieu of the record was initiated in 1964 by former Rule 36-1(4) for cases assignable to magistrates. The new procedure eliminates the wasteful and time-consuming step of sending the record to the reviewing court and then immediately having it sent back to the appellant, who normally needs it to prepare the excerpts from record or abstract and his brief. The requirement of filing the record can be met under the new rule by the filing of the certificate obtained from the clerk of the trial court. The appellant can then retain the record on appeal and either file it with his brief or, as will often be convenient, turn it over to the appellee for the latter's use during the writing of his brief. Rule 326 requires that the record be delivered to the reviewing court at the time the reply brief is due or earlier if the reviewing court so orders.

The requirement that a copy of the notice of appeal be sent to the clerk of the reviewing court with the certificate, added in 1969, is for the convenience of the clerk. Failure to comply, or late compliance, with this requirement would not affect the timeliness of the filing of the certificate.

Commentary
(December 17, 1993)

Rule 325 is amended to require the clerk of the circuit court to deliver the certificate in lieu of record directly to the reviewing court for filing, which is consistent with the circuit clerk's responsibility of delivering the record to the reviewing court. Previously, the certificate was delivered to appellant, who then had the responsibility of filing it with the reviewing court, a circuitous procedure. The provision that a copy of the notice of appeal be sent to the reviewing court with the certificate is eliminated as unnecessary because the reviewing court already would have received the notice of appeal under Rules 303 or 307.

Rule 326. Time for Filing Record on Appeal

Except as provided in Rules 306, 307, 308 and 335, the record on appeal ~~or certificate in lieu thereof~~ shall be filed in the reviewing court within 63 days after the filing of the notice of appeal, or the last notice of appeal if more than one appeal is taken, or, if the time for filing a report of proceedings has been extended, within 14 days after the expiration of the extended time. ~~If a certificate is filed in lieu of the record, the appellant, or the trial court clerk at appellant's request, shall deliver the record to the reviewing court at the time the reply brief is due or earlier if the reviewing court so orders.~~ 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. The movant shall serve ~~a copy of~~ any motion for extension of time on the clerk preparing the record on appeal.

Amended October 21, 1969, effective January 1, 1970; amended December 17, 1993, effective February 1, 1994; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised October 1969)

This rule is based on former Rules 36(2)(d) and (e). Provision is made for the certificate procedure. Time periods are in multiples of seven. The 35-day "safety-valve" provision is similar to the one applicable to the report of proceedings in Rule 323(e).

The insertion in 1969 of the words "or the last notice of appeal if more than one appeal is taken" in the first sentence is based upon Federal Rule of Appellate Procedure 11(a). The 1969 amendment to the rule also requires the delivery of the record to the reviewing court at the time the reply brief is due rather than 14 days thereafter, as formerly.

Rule 327. Notice of Filing Record

Upon the filing of the record on appeal ~~or the certificate in lieu of record, whichever occurs first~~, the clerk of the reviewing court shall provide notice of filing to all parties to the appeal.

Amended October 21, 1969, effective January 1, 1970; amended July 30, 1979, effective October 15, 1979; amended July 1, 1985, effective August 1, 1985; amended December 17, 1993, effective February 1, 1994; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

(Revised July 1, 1985)

This rule requires that upon filing the record on appeal in the reviewing court the appellant shall serve notice of the filing on the other parties to the appeal and send a copy of the notice to the reviewing court. This notice is important because the briefing schedule is framed in terms of the due date of the briefs rather than the date of service of each successive brief, and the due date of the first brief is marked in terms of the date on which the record is filed. Until 1979, it was provided in this rule that after the filing of the record and the payment of the prescribed fee the case should be docketed and that the notice include the docket number. These provisions were eliminated in that year because of the provision in amended Rule 303(f) for the docketing of the appeal at an earlier stage of the proceedings. (See the committee comments to Rule 303(f).) Notice of the docket number is no longer required because it will appear on the docketing statement served under Rule 303(g).

The 1985 change is intended to make the automated record-keeping system in the appellate and supreme courts operate more smoothly.

Commentary
(December 17, 1993)

This amendment simplifies and clarifies the notification process by requiring the clerk of the reviewing court to give notice of the filing of the record on appeal or certificate in lieu of record to all parties.

Rule 328. Supporting Record

Any party seeking relief from the reviewing court before the record on appeal is filed shall file an ~~with his or her~~ application or petition with an appropriate supporting record containing enough of the trial court record to show an appealable order or judgment, a timely filed and served notice of appeal (if required for appellate jurisdiction), and any other matter necessary to the application made. The supporting record must be authenticated by the certificate of the clerk of the trial court or by the affidavit of the attorney or party filing it.

The supporting record shall bear the ~~a cover page with a~~ caption of the appeal~~. The cover page shall~~ and be clearly labelled "Supporting Record." The pagination ~~numbering of volumes and pages~~ of the supporting record shall conform to the requirements of Rule 324 and the Standards and Requirements for Electronic Filing the Record on Appeal.

Adopted December 17, 1993, effective February 1, 1994; amended June 22, 2017, eff. July 1, 2017.

Commentary
(December 17, 1993)

The new rule on supporting record is an adaptation of former Rule 328, "Short Record," which was repealed in 1979 and incorporated into Rule 361. This rule provides the requirements for a uniform, limited supporting record, which a party is required to file in various situations under a number of different rules.

Rule 329. Supplemental to the Record on Appeal

The record on appeal shall be taken as true and correct unless shown to be otherwise and corrected in a manner permitted by this rule. Material omissions or inaccuracies or improper authentication may be corrected by stipulation of the parties or by the trial court, either before or after the record is transmitted to the reviewing court, or by the reviewing court or a judge thereof. Any controversy as to whether the record accurately discloses what occurred in the trial court shall be submitted to and settled by that court and the record made to conform to the truth. If the record is insufficient to present fully and fairly the questions involved, the requisite portions may be supplied at the cost of the appellant. If necessary, a supplemental to the record may be certified and transmitted. The clerk of the circuit court shall prepare a bound and certified supplemental to the record which shall be filed in the reviewing court upon order issued pursuant to motion.

Amended May 28, 1982, effective July 1, 1982; amended October 14, 2005, effective January 1, 2006; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised May 1982)

This rule is a comprehensive provision covering amendment of the record on appeal, correction of improper authentication, and the settling of any questions concerning whether the record conforms to the truth. It contains portions of former Rules 36(3) and (4). Under this sweeping provision, it will be possible to supply omissions, correct inaccuracies or improper authentication, or settle any controversy as to whether the record on appeal accurately discloses what occurred at the trial by the procedure that will most appropriately solve the particular problem. In view of the liberal terms of this paragraph, the rather elaborate provisions of former Rule 36(4), requiring that a claim as to improper authentication be raised by motion before or at the time of the filing of the brief of the party making the claim, were eliminated as no longer necessary. Unless there is some real prejudice involved, there will be no incentive for claiming improper authentication.

Rule 329 was amended in 1982 to permit a single judge of the reviewing court to correct the record.

Rule 330. Captions in Reviewing Courts

(a) Any document, other than a brief (see Rule 341(b)) or a preprinted form, filed in a reviewing court shall contain a caption that includes:

(1) the number of the case in the reviewing court;

(2) the name of the reviewing court, with identification of district and division, where applicable;

(3) the name of the case as it appeared in the trial court, except that the status of each party in the reviewing court shall also be indicated (*e.g.*, plaintiff-appellant). In the case of an action for direct review in the appellate court of a final administrative decision, the parties shall be designated as petitioner(s) and respondent(s) (see Rule 335);

(4) the name of the court (or agency) from which the case was brought and the docket number in that court (or agency), and when applicable in the Supreme Court, the name of the court (or agency) where the case originated and the docket number in that court (or agency);

(5) the name of the trial judge entering the judgment to be reviewed; and

(6) the title of the document.

(b) In all appeals filed from proceedings under the Mental Health and Developmental Disabilities Code, the Mental Health and Developmental Disabilities Confidentiality Act, or from actions for collection of fees for mental health services, the recipient of services shall be identified by first name and last initial or by initials only. The preferred method is first name and last initial. The alternative method of initials only is to be used when, due to an unusual first name or spelling, the preferred method would create a substantial risk of revealing the recipient's identity. The name of the involved recipient of services shall not appear on any documents filed with the Appellate Court or any subsequent court.

Adopted December 17, 1993, effective February 1, 1994; amended October 1, 2001, effective immediately; amended June 22, 2017, eff. July 1, 2017.

Commentary

This rule has been added to encourage uniformity and requires the use of complete captions on virtually all documents filed in the reviewing court.

Paragraph (b) was added effective October 1, 2001, to help protect the identities of recipients of mental health services. The amendment requires that only their first name and last initial, or their initials, appear on documents filed with the Appellate Court or any subsequent court. The requirement covers the parties' briefs, motions, and other similar papers. The amendment does not require deletion of names from the trial record in preparing the record on appeal, nor does it address the means by which the Appellate Court or a subsequent court maintains the confidentiality of documents appearing in the record.

Rule 331. Return of Record on Appeal

Any paper or physical components of the~~The~~ record on appeal shall be returned by the clerk of the reviewing court to the clerk of the trial court after the final decision of the reviewing court.

Amended July 30, 1979, effective October 15, 1979; amended June 22, 2017, eff. July 1, 2017.

Committee Comment
(Revised 1979)

As originally adopted this rule provided that the record should be returned "unless the record contains no original papers." It was thought at the time that while the record normally would consist primarily of original papers, there would be occasions when the trial court would order otherwise or because in the county in which the trial court sat it was considered desirable to keep original papers available for title searches. In 1979, Rule 321 was amended to provide that the record on appeal shall consist of the entire original common law trial record, unless the parties stipulate for less or the trial or reviewing court orders "less." Thus there

will be no case in which the record contains no original papers and the phrase quoted above was deleted.

Rules 332-334. Reserved

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. Unless another time period is provided specifically by the law authorizing review, the petition for review shall be filed in the Appellate Court within 35 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 prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article III Forms Appendix ~~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],~~[1] ~~[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 an ~~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~~ The record shall be filed with the Appellate Court and~~. 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 and the Standards and Requirements for Electronic Filing the Record on Appeal.

(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. Any paper or physical components of the~~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.

Effective July 1, 1971; amended May 28, 1982, effective July 1, 1982; amended April 27, 1984, effective July 1, 1984; amended December 17, 1993, effective February 1, 1994; amended Oct. 15, 2015, eff. Jan. 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

(Revised December 17, 1993)

The General Assembly has provided by law that a final order of the Pollution Control Board (415 ILCS 5/41 (West 1992)), a judgment concerning disclosure of campaign contributions and expenditures from the State Board of Elections (10 ILCS 5/9-22 (West 1992)), a final order of the Illinois State Labor Relations Board, Illinois Local Labor Relations Board (5 ILCS 315/11 (West 1992)) or the Illinois Educational Labor Relations Board (115 ILCS 5/16 (West 1992)), a decision from the Illinois Human Rights Commission (775 ILCS 5/8-111 (West 1992)), any order or decision of the Illinois Commerce Commission (220 ILCS 5/10-201 (West 1992)), final orders of the Illinois Gaming Board (230 ILCS 10/17.1 (West 1992)), final decisions of the Property Tax Appeal Board where a change in assessed valuation of $300,000 or more was sought (35 ILCS 205/111.4 (West 1992 Supp.)) and a certain initial license issuance by the Director of the Department of Nuclear Safety and in connection therewith certain determinations of the Low-Level Radioactive Waste Disposal Facility Siting Commission (420 ILCS 20/18 (West 1992)) may be appealed directly to the Appellate Court.

Rule 335 prescribes the procedure for the review of orders of any agency which the legislature has assigned to the Appellate Court.

The rule is based upon the procedures followed under the Administrative Review Act, the Illinois rules governing appeals, and the Federal Rules of Appellate Procedure which relate to review of administrative orders by an appellate court. The orders of many Federal agencies have long been directly reviewed by the United States Courts of Appeals.

Only a few provisions of the rule require comment.

Since the petition for review serves the function of the notice of appeal, and nothing else, it should in form be as simple as the notice of appeal, as it is in the Federal practice. The statement of the questions to be presented for review is left to the appellant's brief as in other appeals and for the same reasons.

The Illinois practice of permitting parties before the administrative agency to become parties before the Appellate Court merely on filing of a notice of appearance is preferable to the Federal practice of requiring a motion to intervene.

Under both Illinois and Federal appellate practice and under the Illinois Administrative Review Act the entire record before the agency is the record before the reviewing court, wherever that record may be at any particular time. The rule is designed to insure that the record will be available to the parties when needed for the preparation of briefs, as under present Rule 325 for ordinary appeals, and to the reviewing court when it is needed there. Any portions of the record not already filed in the Appellate Court shall be transmitted thereto on request of the court, the agency, or any party. Since the report of the proceedings before the administrative agency will normally have been transcribed and be available by the time of the administrative decision, a shorter period for filing the record is allowed than in other Illinois appeals. This also conforms to the public interest in expediting review of these cases.

In 1984 subparagraph (d) was amended to require that the agency should arrange, prepare, bind, and certify the record, as near as possible, in the way the record on appeal must be prepared under Rule 324.

Commentary
(December 17, 1993)

Paragraph (h) is included to indicate that petitions for enforcement of labor board orders may be brought in the Appellate Court (see *Central City Education Association v. Illinois Educational Labor Relations Board* (1992), 149 Ill. 2d 496) and are treated as motions before the reviewing court without the need for formal briefing.

Rules 336-340. Reserved

PART D. BRIEFS

Rule 341. Briefs

(a) Form of Briefs. Briefs shall be submitted in clear, black text on white pages, each measuring 8½ by 11 inches. The text must be double-spaced; however, headings may be single-spaced. Margins must be at least 1½ inch on the left side and 1 inch on the other three sides. Each page shall be numbered within the bottom margin. Quotations of two or more lines in length may be single-spaced; however, lengthy quotations are not favored and should be included only where they will aid the court's comprehension of the argument. Footnotes are discouraged but, if used, may be single-spaced.

Typeface must be 12-point or larger throughout the document, including quoted material and any footnotes. Condensed type is prohibited.

(b) Length of Briefs.

(1) Length Limitation. The brief of appellant and brief of appellee shall each be limited to 50 pages, and the reply brief to 20 pages. Alternatively, the brief of appellant and brief of appellee shall each be limited to no more than 15,000 words~~,~~ and the reply brief to ~~7,000~~ 6,000 words. This limitation excludes pages and words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a). Cross-appellants and cross-appellees shall each be allowed an additional 30 pages~~,~~ or, alternatively, ~~8,400~~ 9,000 words, and the cross-appellant's reply brief shall not exceed 20 pages~~,~~ or, alternatively, ~~7,000~~ 6,000 words.

(2) Motions. Motions to file a brief in excess of the length limitation of this rule are not favored. Such a motion shall be filed not less than 10 days before the brief is due or not less than 5 days before a reply brief is due and shall state the excess number of pages or words requested and the specific grounds establishing the necessity for excess pages or words. The motion shall be supported by affidavit or verification by certification under Section 1-109 of the Code of Civil Procedure of the attorney or self-represented litigant. Any affidavit shall be sworn to before a person who has authority under the law to administer oaths.

(c) Certificate of Compliance. The attorney or self-represented litigant shall submit with the brief his or her signed certification that the brief complies with the form and length requirements of paragraphs (a) and (b) of this rule, as follows:

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is ___ pages or words.

(d) Covers. The cover of the brief shall contain: the number of the case in the reviewing court and the name of that court; the name of the court or administrative agency from which the case was brought; the name of the case as it appeared in the lower tribunal, except that the status of each party in the reviewing court shall also be indicated (*e.g.*, plaintiff-appellant); the name of the trial judge entering the judgment to be reviewed; and the individual names and addresses of the attorneys and their law firm (or of the party if the party has no attorney) filing the brief shall also be stated.

The colors of the covers of the documents, whether electronic or paper, shall be: appellant's brief or petition, white; appellee's brief or answer, light blue; appellant's reply brief, light yellow; reply brief of appellee, light red; petition for rehearing, light green; answer to petition for rehearing, tan; and reply on

rehearing, orange. If a separate appendix is filed, the cover shall be the same color as that of the brief which it accompanies.

(e) Duplicate Copies and Proof of Service. Electronically filed briefs shall be considered the official original. A court of review may, in its electronic filing procedures, require duplicate paper copies bearing the court's electronic file stamp. Such copies shall be printed one-sided and securely bound on the left side in a manner that does not obstruct the text. Such copies shall be received by the clerk within five days of the electronic notification generated upon acceptance of an electronically filed document.

The brief shall be served upon each other party to the appeal represented by separate counsel. Proof of service shall be filed with all briefs.

(f) References to Parties. In the brief the parties shall be referred to as in the trial court, *e.g.*, plaintiff and defendant, omitting the words appellant and appellee and petitioner and respondent, or by using actual names or descriptive terms such as "the employee," "the injured person," "the taxpayer," "the railroad," etc.

In all appeals involving juveniles filed from proceedings under the Juvenile Court Act or the Adoption Act, and in all appeals under the Mental Health and Developmental Disabilities Code, the Mental Health and Developmental Disabilities Confidentiality Act, or from actions for collection of fees for mental health services, the respective juvenile or recipient of mental-health services shall be identified by first name and last initial or by initials only.

The preferred method is the first name and last initial. The alternative method of initials only is to be used when, due to an unusual first name or spelling, the preferred method would create a substantial risk of revealing the individual's identity. The name of the involved juvenile or recipient of services shall not appear in the brief.

(g) Citations. Citations shall be made as provided in Rule 6.

(h) Appellant's Brief. The appellant's brief shall contain the following parts in the order named:

(1) A summary statement, entitled "Points and Authorities," of the points argued and the authorities cited in the Argument. This shall consist of the headings of the points and subpoints as in the Argument, with the citation under each heading of the authorities relied upon or distinguished, and a reference to the page of the brief on which each heading and each authority appear. Cases shall be cited as near as may be in the order of their importance.

(2) An introductory paragraph stating (i) the nature of the action and of the judgment appealed from and whether the judgment is based upon the verdict of a jury, and (ii) whether any question is raised on the pleadings and, if so, the nature of the question.

Illustration:

"This action was brought to recover damages occasioned by the alleged negligence of the defendant in driving his automobile. The jury rendered a verdict for the plaintiff upon which the court entered the judgment from which this appeal is taken. No questions are raised on the pleadings."

(3) A statement of the issue or issues presented for review, without detail or citation of authorities.

Illustration:

Issue Presented for Review:

"Whether the plaintiff was guilty of contributory negligence as a matter of law."

[or]

"Whether the trial court ruled correctly on certain objections to evidence."

[or]

"Whether the jury was improperly instructed."

The appellant must include a concise statement of the applicable standard of review for each issue, with citation to authority, either in the discussion of the issue in the argument or under a separate heading placed before the discussion in the argument.

(4) A statement of jurisdiction:

(i) In a case appealed to the Supreme Court directly from the trial court or as a matter of right from the Appellate Court, a brief statement under the heading "Jurisdiction" of the jurisdictional grounds for the appeal to the Supreme Court.

(ii) In a case appealed to the Appellate Court, a brief, but precise statement or explanation under the heading "Jurisdiction" of the basis for appeal including the supreme court rule or other law which confers jurisdiction upon the reviewing court; the facts of the case which bring it within this rule or other law; and the date that the order being appealed was entered and any other facts which are necessary to demonstrate that the appeal is timely. In appeals from a judgment as to all the claims and all the parties, the statement shall demonstrate the disposition of all claims and all parties. All facts recited in this statement shall be supported by page references to the record on appeal.

(5) In a case involving the construction or validity of a statute, constitutional provision, treaty, ordinance, or regulation, the pertinent parts of the provision verbatim, with a citation of the place where it may be found, all under an appropriate heading, such as "Statutes Involved." If the provision involved is lengthy, its citation alone will suffice at this point, and its pertinent text shall be set forth in an appendix.

(6) Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal in the format as set forth in the Standards and Requirements for Electronic Filing the Record on Appeal.

(7) Argument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on. Evidence shall not be copied at length, but reference shall be made to the pages of the record on appeal where evidence may be found. Citation of numerous authorities in support of the same point is not favored. Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.

(8) A short conclusion stating the precise relief sought, followed by the names of counsel as on the cover.

(9) An appendix as required by Rule 342.

(i) Briefs of Appellee and Other Parties. The brief for the appellee and other parties shall conform to the foregoing requirements, except that items (2), (3), (4), (5), (6), and (9) of paragraph (h) of this rule need not be included except to the extent that the presentation by the appellant is deemed unsatisfactory.

(j) Reply Brief. The reply brief, if any, shall be confined strictly to replying to arguments presented in the brief of the appellee and need contain only Argument.

(k) Supplemental Brief on Leave to Appeal. A party allowing a petition for leave to appeal or for appeal as a matter of right or an answer thereto to stand as his or her main brief, may file a supplemental brief, so entitled, containing additional material, and omitting any of the items set forth in paragraph (h) of this rule to the extent that they are adequately covered in the petition or answer. The Points and Authorities in the supplemental brief need relate only to the contents of that brief.

Amended October 21, 1969, effective January 1, 1970; amended July 30, 1979, effective October 15, 1979; amended January 5, 1981, effective February 1, 1981; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended April 27, 1984, and May 16, 1984, effective July 1, 1984; amended April 10, 1987, effective August 1, 1987; amended May 21, 1987, effective August 1, 1987; amended June 12, 1987, effective immediately; amended May 18, 1988, effective August 1, 1988; amended January 20, 1993, effective immediately; amended December 17, 1993, effective February 1, 1994; amended May 20, 1997,

effective July 1, 1997; amended April 11, 2001, effective immediately; amended October 1, 2001, effective immediately; amended May 24, 2006, effective September 1, 2006; amended March 16, 2007, effective immediately; amended June 4, 2008, effective July 1, 2008; amended Feb. 6, 2013, eff. immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended June 22, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Committee Comments
(revised Sept. 15, 2017)

This rule was based upon former Supreme Court Rule 39, effective until January 1, 1967, which in turn was based upon former Uniform (and later Second, Third, Fourth, and Fifth District) Appellate Court Rule 7. There were no major changes.

Paragraph (a)

This paragraph deals with the length of briefs and the use of footnotes. It is derived from the second, third, and fourth sentences of former Rule 39(1). Three printed pages will normally contain approximately as many words as four unprinted pages, so the length limitations are substantially the same for printed and unprinted briefs.

The provision that footnotes are to be in the same size type as required for the text of the brief was deleted. Footnotes are to be used sparingly. Rule 344(b) prescribes 10-point type on 11-point slugs, instead of the 11-point type used in the body. This use of smaller type is conventional in the printing of legal texts, law reviews, the opinions of the Supreme Court of the United States, and other comparable materials. It is believed that the limited use of this slightly smaller type will not impose a burden on the courts.

In 1984 subsection (a) was amended to reduce from 75 to 50 the number of pages allowed to be in a printed brief and from 100 to 75 the number allowed in a brief that is not printed, and excludes from that page limitation those matters which are required by Rule 342(a) to be appended thereto.

Paragraph (b)

This is a revision of former Rule 40(1). The alternative word limitation for determining the maximum length of briefs is based on a uniform assumption of 300 words per page.

Paragraph (c)

This paragraph is derived in part from the first sentence of former Rule 39(1), except that it recognizes certain existing practices not permitted by the former rule if it was read literally. One is the use of the designations "appellant" and "appellee," together with the designation of the party in the trial court, in the title of the case appearing in the caption. The other is that the parties may be referred to by actual names or descriptive terms instead of as plaintiff or defendant, which in many instances is desirable to avoid confusion.

The paragraph was amended effective October 1, 2001, to help protect the identities of recipients of mental health services. The amendment requires that only their first name and last initial, or their initials, appear on documents filed with the Appellate Court or any subsequent court. The requirement covers the parties' briefs, motions, and other similar papers. The amendment does not require deletion of names from the trial record in preparing the record on appeal, nor does it address the means by which the Appellate Court or a subsequent court maintains the confidentiality of documents appearing in the record.

Paragraph (d)

Effective January 20, 1993, the requirements applicable to citations to cases, textbooks and statutes were placed in Rule 6, which is applicable to all documents filed in court, including briefs.

Paragraph (e)

Paragraph (e) is a substantial revision of portions of former Rule 39.

In 1981 the subparagraphs were restructured to make "Points and Authorities" the first part of the brief, so that it might act as a table of contents.

Subparagraph (1) is based upon the first three sentences of the paragraph designated II of former Rule 39(1). The revised provision specifically relates the Points and Authorities to the Argument. The same headings of the points and subpoints are to be used both here and in the Argument. The former provision that the three cases most relied on shall be cited first under each point was deleted in favor of the last sentence of subparagraph (e), which provides for ranking cases "as near as may be in the order of their importance."

The "introductory paragraph" provided for in subparagraph (2) will ordinarily not be captioned as such in the brief. As the illustration shows, the introductory paragraph is for the purpose of informing the court of the general area of the law in which the case falls, whether there was a jury trial, and whether there is a pleading question and if so what it is. The practice of many lawyers was to include in the statement of "The Nature of the Action" called for by the former rule much more detail than the courts wanted at this place in the brief.

The former requirement that "The Nature of the Case" include a statement of the party's "theory of the case" also produced much more detail than the rule contemplated.

Subparagraph (3) substitutes for the "theory of the case" a statement of "the issue or issues presented for review." Again, the court does not want detail at this point in the brief, as the illustration in the rule following this subparagraph attempts to make clear. The statement of the issue presented for review is not to be an elaborately framed legal question. Its purpose is to give the court a general idea of what the case is about. The court is not ready at this stage to appreciate the details. It should be noticed, for example, that the first alternative illustration of a statement of the issue presented for review does not state what conduct it is that one of the parties contends is contributory negligence as a matter of law. The second alternative does not describe the objections or the evidence to which they relate. The third alternative does not describe the instruction of which the complaint is made.

Subparagraph (4) is in part based upon former Rule 28-1, B. A similar provision appears in the rules of the Supreme Court of the United States. (Rule 40, 1(b).) In cases appealed to the Illinois Supreme Court as of right, it is important that the court be satisfied at the outset that jurisdiction exists. (See the comments to Rule 302.)

Subparagraph (4)(ii) was expanded effective February 1, 1994, to provide more comprehensive examples of what must be included in the statement demonstrating jurisdiction in the Appellate Court.

Subparagraph (5) is a combination of the third paragraph of former Rule 39(1) and paragraph 1(c) of Rule 40 of the rules of the Supreme Court of the United States.

Subparagraph (6) was based upon the paragraph numbered III of former Rule 39(1). The provision with respect to the citation of exhibits was new, as were the illustrations as to the form of the citations to the record. This subparagraph was amended in 1979 to delete reference to the preparation of excerpts from record to reflect the amendment of Rule 342 to eliminate the preparation and duplication of excerpts from the record except for the inclusion of copies of stated documents as an appendix to the brief, and to eliminate the preparation and filing of an abstract except on order of the reviewing court. (See Rule 342(a).) Because the elimination of excerpts and an abstract in most cases lends added importance to the accuracy and fairness with which the facts are stated in the brief, the first sentence of the subparagraph was amended to emphasize this point. A similar amendment was made to Rule 315(b)(4). See the committee comments to Rule 342.

Subparagraph (7) is a revision of the paragraph numbered IV of former Rule 39(1). The description of what the Argument is to contain is somewhat amplified. The provision admonishing against citation of numerous authorities was new. The limitation of the Argument to points made and cases cited in the Points and Authorities is no longer appropriate, since the Points and Authorities is to be derived from the Argument. The former provision that a point "made but not argued may be considered waived" was changed to the affirmative statement of the last sentence of the paragraph that failure to argue results in waiver and, further, that a point that has not been argued shall not be raised subsequently.

Subparagraph (8), requiring a short conclusion stating the precise relief sought, was new. It is customary to

include a conclusion in a brief, but the relief sought is not always stated in the conclusion. This provision requires the party to end his brief by telling the court what relief he wants.

Paragraph (f)

The predecessor of this paragraph is the second paragraph following the paragraph numbered IV in former Rule 39(1). The new provision is simplified. The requirement that the appellee's brief state the propositions relied upon to sustain the judgment "as far as practicable, in the same order as the points of appellant" was not brought forward into the present rule. When the nature of the subject matter permits, counsel will normally follow the order established by his opponent in the interest of making his brief as convenient as possible for the court to use. Sometimes effective advocacy requires that a different order be adopted. In the opinion of the committee it is not possible to regulate this matter by rule.

Paragraph (g)

Paragraph (g) is the last paragraph of former Rule 39(1), without change of substance.

Paragraph (h)

Paragraph (h) as it appeared in the revised rules effective January 1, 1967, was deleted in October 1969, as unnecessary in light of paragraph (b) of Rule 343, adopted at that time.

What is now paragraph (h) was paragraph (i) of the revision adopted effective January 1, 1967, and was new at that time, although it provides specifically for a practice that was often employed under the former rules. This paragraph makes clear the extent to which the requirements of Rule 341 apply to a supplemental brief filed in supplement of, rather than in lieu of, a petition for leave to appeal or an answer that party has allowed to stand as his main brief.

Rule 342. Appendix to the Brief~~; Abstract~~

~~**(a) Appendix to the Brief.**~~ The appellant's brief shall include, as an appendix, a table of contents to the appendix, ~~a copy of~~ the judgment appealed from, any opinion, memorandum, or findings of fact filed or entered by the trial judge or by any administrative agency or its officers, any pleadings or other materials from the record thatwhich are the basis of the appeal or pertinent to it, the notice of appeal, and a complete table of contents, with page references, of the record on appeal. The table shall state:

(1) the nature of each document, order, or exhibit, *e.g.*, complaint, judgment, notice of appeal, will, trust deed, contract, and the like;

(2) in the case of pleadings, motions, notices of appeal, orders, and judgments, the date of filing or entry; and

(3) the names of all witnesses and the pages on which their direct examination, cross examination, and redirect examination begin.

In addition, in cases involving proceedings to review orders of the Illinois Workers' Compensation Commission, the appellant's brief shall also include as part of the appendix ~~copies of~~ decisions of the arbitrator and the Commission.

The appellee's brief may include in a supplementary appendix other materials from the record that~~which~~ also are the basis of the appeal or are essential to any understanding of the issues raised in the appeal.

The pages of the appendix shall be numbered consecutively with the letter "A" preceding the number of each page. If an appendix would expand the size of the PDF comprising the combined brief and appendix to greater than 150 megabytes, it may be filed as a separate PDF and labeled "Separate Appendix."~~is voluminous, it may be bound separately from the brief and labeled "Separate Appendix."~~

~~**(b) Abstract.** No abstract of the record on appeal shall be filed unless the reviewing court orders that one shall be filed, in which event the appellant shall file the abstract with the brief and the following provisions shall be applicable:~~

~~(1) The abstract shall refer to the pages of the record by numerals on the margin.~~

~~(2) It shall be preceded by a table of contents conforming with the requirements of paragraph (a) above, except that the page references to items included in the abstract shall be to abstract pages, and page references to the record pages of omitted items shall be prefixed by "R" (*e.g.*, R ____).~~

~~(3) If the record contains the evidence it shall be condensed in narrative form so as to present clearly and concisely its substance. Actual quotations may be used in lieu of a narrative for any portion of the evidence.~~

~~(4) Matters in the record on appeal not necessary for a full understanding of the question presented for decision shall not be abstracted.~~

~~(5) The abstract will be taken as sufficient unless the appellee files an additional abstract with his brief.~~

~~**(c) Cases Brought to Supreme Court from Appellate Court.** In cases brought to the Supreme Court from the Appellate Court, copies of any abstract filed in the Appellate Court shall be filed in the Supreme Court without change. Upon request and to the extent practicable, the clerk of the Appellate Court shall provide the appellant with the copies of any abstract filed in that court for transmission to the Supreme Court as a part of the 20 copies required to be filed with the brief in the Supreme Court.~~

~~**(d) Entire Record Available.** The entire record on appeal, whether or not abstracted, is available to the reviewing court for examination or reference. Omission of any relevant portion of the record from the abstract shall not prejudice a party unless the reviewing court finds that there has been no good-faith effort to comply with this rule.~~

~~**(e) Costs.** The actual and reasonable cost of producing an abstract required by the reviewing court to be filed, or additional abstract proved by affidavit satisfactory to the clerk of the reviewing court, shall be taxed as costs in the case; but the cost of including unnecessary matter in the abstract or additional abstract may be disallowed as costs.~~

Amended October 21, 1969, effective January 1, 1970; amended July 30, 1979, effective October 15, 1979; amended June 1, 1984, effective July 1, 1984; amended May 18, 1988, effective August 1, 1988; amended December 17, 1993, effective February 1, 1994; amended October 15, 2004, effective January 1, 2005; amended June 22, 2017, eff. July 1, 2017.

Commentary
(December 17, 1993)

A separate table of contents to the appendix is added as a requirement under paragraph (a). The rule also provides that all pages of the appendix must be numbered to permit easy reference.

Committee Comments
(Revised June 1, 1984)

Rule 342 was substantially rewritten in 1979. Prior to 1964 it was required that the appellant prepare and

file an abstract of the record on appeal. In that year former Rule 36-1 was adopted (29 Ill. 2d R. 36-1), giving the appellant in appeals referable to magistrates the option of substituting for the abstract excerpts from the record, containing the judgment or order appealed from, the notice of appeal, and "the parts of the record deemed essential for the judges of the reviewing court to read in order to decide the issues presented" (29 Ill. 2d R. 36-1(8)). Provision was made for an exchange of designations of items to be included in the excerpts, the excerpts to be filed by the appellant no later than 14 days after the due date of the appellee's brief. At the time it was thought that reproduction of the actual pages from the record was at once less time consuming, and therefore less expensive, than the preparation of a narrative statement, and also more accurate. Rule 342, effective January 1, 1967, extended the provision for the filing of excerpts from record to cover all appeals. Extensive amendments were adopted effective January 1, 1970.

As revised in 1979, Rule 342 requires that the appellant include in its brief an appendix containing a copy of the judgment appealed from, any opinion, memorandum, or findings of fact filed or entered by the trial judge, the notice of appeal, and a table of contents of the record (paragraph (a)). Otherwise it is not required that any parts of the record be duplicated. All reference to excerpts of record were therefore deleted. The contemplation is that in most instances the appeal will be heard on the original papers. It is provided, however, that the reviewing court may order that an abstract be prepared and filed. Therefore the provisions of the rule governing the contents, form, and filing of an abstract are retained. Appropriate changes were made in other rules that included reference to the preparation and filing of excerpts from the record. (See Rules 306, 307, 308, 317, 344, 607, and 612.) Since in most cases there will no longer be either abstract or excerpts, the duty of the parties to make a fair and accurate statement of the facts in their briefs, always important, has become even more so, and this duty has been emphasized by amendment to Rules 315(b)(4) and 341(e)(6).

In 1984 subparagraph (a) was amended to require that copies of the decisions of both the arbitrator and the Commission be included in the appendix in all cases involving proceedings to review orders of the Industrial Commission.

Rule 343. Times for Filing and Serving Briefs

(a) Time. Except as provided in subparagraph (b) below and elsewhere in these rules (see Rules 306, 307, 308, 315, and 317), the brief of the appellant shall be filed in the reviewing court within 35 days from the filing of the record on appeal. Within 35 days from the due date of the appellant's brief, or in the case of multiple appellants, the latest due date of any appellant's brief, the appellee shall file his or her brief in the reviewing court. Within 14 days from the due date of the appellee's brief, or in the case of multiple appellees, the latest due date of any appellee's brief, the appellant may file a reply brief.

(b) Cross-Appeals and Separate Appeals. Unless otherwise ordered by the reviewing court or a judge thereof, briefs of cross-appellants and separate appellants shall be filed as follows:

(1) *Cross-Appeals.* A cross-appellant shall file a single brief as appellee and cross-appellant at the time his or her brief as appellee is due; the appellant's answer to the arguments on the cross-appeal shall be included in appellant's reply brief, which shall be filed within 35 days from the due date of the single brief filed by the cross-appellant; and the cross-appellant may file a reply brief confined strictly to replying to those arguments raised on the cross-appeal within 14 days after the due date of the appellant's reply brief.

(2) *Separate Appeals.* A separate appellant shall follow the same briefing schedule as prescribed for the appellant. All appellees shall file their briefs within 35 days of the due date of appellants' briefs. Any replies may be filed within 14 days of the due date of appellees' briefs.

(c) Extending or Shortening Time. The reviewing court or a judge thereof, *sua sponte* or upon the motion of a party supported by affidavit or verification by certification under section 1–109 of the Code of Civil

Procedure showing a good cause, may extend or shorten the time of any party to file a brief. (See Rule 361.)

Amended October 21, 1969, effective January 1, 1970; amended effective September 1, 1974; amended December 17, 1993, effective February 1, 1994; amended May 24, 2006, effective September 1, 2006; amended March 26, 2008, effective July 1, 2008.

Committee Comments
(March 26, 2008)

Paragraph (b)(1) was amended to make clear that the appellant has 35 days from the due date of the single brief filed by the cross-appellant to file a reply brief that includes the appellant's answer to the arguments on the cross-appeal rather than the 14 days generally allowed for filing reply briefs set forth in paragraph (a). This amendment makes no substantive change to this rule.

Commentary
(December 17, 1993)

Paragraph (a) has been modified to make clear that only one brief need be filed when responding to multiple briefs of opponents filed at separate times.

Paragraph (b)(2) has been changed to eliminate the former practice of automatic staggering of the briefing schedule in cases involving separate appeals.

Committee Comments
(Revised September 1, 1974)

This rule, governing the times for filing and serving briefs in all reviewing courts, is based in part upon former Supreme Court Rules 41(2) and (4) and Second, Third, Fourth, and Fifth District (and earlier Uniform) Appellate Court Rule 9. The provision in the former rule that if a brief or abstract was not filed within the time prescribed the appeal would be dismissed on the call of the docket was omitted as both too strict and unnecessary. The court has the inherent power to dismiss an appeal for any breach of its rules, although a less drastic remedy would normally suffice. In the rare instances in which a brief of an appellant is inexcusably not filed on time, the court can exercise this power without any provision in the rule specifically authorizing it to do so.

The committee recommended 35 days as the time period for the main briefs best calculated to fit the requirements of the bar and the reviewing courts. The committee recognized the importance of providing a long enough period to permit the preparation of a brief in the ordinary case without the necessity of an extension of time and a short enough period to permit prompt disposition of the business of the reviewing courts. Five weeks would seem to be a realistic compromise. The time for filing the reply brief was fixed at 14 days, consistent with the multiples-of-seven policy.

The rule establishes the time for filing briefs in all cases on appeal from final judgments of the circuit court, whether to the Appellate Court (Rules 303 and 304), or directly to the Supreme Court (Rule 302). It applies to appeals from orders of the circuit court granting a new trial (Rule 306) and to interlocutory appeals by permission (Rule 308), subject to the provisions in those rules measuring the 35 days allowed for the filing of the appellant's brief from the date of the order allowing the appeal, rather than from the filing of the record on appeal. Rule 307 provides for a special, shorter timetable for the filing of briefs in interlocutory appeals as of right. Appeals from the Appellate Court to the Supreme Court on certificate (Rule 316) are governed by Rule 343, but appeals from the Appellate Court to the Supreme Court on petition for leave to appeal (Rule 315) or petition for appeal as a matter of right (Rule 316) are governed by the provisions of Rule 315(g), which sets

forth the timetable for filing briefs in such cases. Paragraph (c) of Rule 343 is applicable to all appeals.

In 1969 former paragraph (b) was relettered (c) and present paragraph (b) was inserted to provide the bar with explicit directions as to the briefs on cross-appeals and separate appeals.

The rule was amended in 1974 to delete material referring to appeals on petition for leave to appeal. This material was placed in Rules 306, 308, and 315. As part of the same amendment the words "with proof of service" were deleted and Rule 344(a) amended to set forth the requirement of filing proof of service.

Rule 344. Reserved

Former Rule 344 was repealed and reserved May 24, 2006, effective September 1, 2006.

Rule 345. Briefs Amicus Curiae

(a) Leave or Request of Court Necessary. A brief *amicus curiae* may be filed only by leave of the court or of a judge thereof, or at the request of the court. A motion for leave must be accompanied by the proposed brief and shall state the interest of the applicant and explain how an *amicus* brief will assist the court.

(b) Forms; Conditions; Time. A brief of an *amicus curiae* shall follow the form prescribed for the brief of an appellee, shall identify the amicus as such on the cover of the brief, and shall conform to any conditions imposed by the court. Unless the court or a judge thereof specifies otherwise, it shall be filed on or before the due date of the initial brief of the party whose position it supports. The color of the cover shall be the same as that of the party's brief whose position it supports.

(c) Oral Argument. *Amicus curiae* will not be allowed to argue orally.

Amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended December 17, 1993, effective February 1, 1994, amended December 6, 2005, effective immediately; amended September 20, 2010, effective immediately.

Rules 346-350. Reserved

PART E. ORAL ARGUMENT

Rule 351. Sequence and Manner of Calling Cases for Oral Argument

Cases in the reviewing court shall be numbered in the order in which they are docketed. They shall be called for argument or submitted without argument in the sequence and manner provided by the administrative orders of the court. The clerk shall give counsel advance notice as to when the case is to be argued, the amount of time for oral argument, and the requirement of advance registration, if any. The hour set shall be as definite as the business of the court permits. Counsel shall acknowledge receipt of the notice of oral argument and advise the clerk if they intend to argue.

Amended December 17, 1993, effective February 1, 1994.

Committee Comments

This rule replaces former Rule 42. Applicable to all reviewing courts, it leaves each court free to provide by administrative orders for the sequence and manner of calling cases for oral argument. The provision as to the

notice to be given by the clerk to counsel is new. The last sentence is also new. If the business of the court permits it to set arguments for two or more starting times during the day, there will be a substantial saving of time and expense to counsel and parties.

Rule 352. Conduct of Oral Arguments

(a) Request; Waiver; Dispensing With Oral Argument. A party shall request oral argument by stating at the bottom of the cover page of his or her brief that oral argument is requested. If the party has elected to allow a petition for leave to appeal or answer to stand as the party's brief, the party may file a request for oral argument, with proof of service upon opposing parties. This request shall be filed within the time that the party could have filed a further brief., ~~or, if the party has allowed a petition for leave to appeal or answer to stand as his or her brief, by mailing to the clerk and to opposing parties, within the time in which the party could have filed a further brief, a notice requesting oral argument.~~ If any party so requests, all other parties may argue without an additional request.

No party may argue unless that party has filed a brief as required by the rules and paid any fee required by law. A party who has requested oral argument and who thereafter determines to waive oral argument shall promptly notify the clerk and all other parties. Any other party who has filed a brief without requesting oral argument may then request oral argument upon prompt notice to the clerk and all other parties.

After the briefs have been filed, the court may dispose of any case without oral argument if no substantial question is presented, but this power should be exercised sparingly.

(b) Length. Unless the court otherwise orders, each side shall be allowed not to exceed 20 minutes for its main argument. In all cases, the appellant shall have not to exceed an additional 10 minutes strictly confined to rebuttal. If only one side argues, the argument shall not exceed 15 minutes. The court may grant additional time on motion filed in advance of the date fixed for hearing if it appears that additional time is necessary for the adequate presentation of the case. A party is not obliged to use all of the time allowed, and the court may terminate the argument whenever in its judgment further argument is unnecessary.

(c) Reading Prohibited. Reading at length from the record, briefs, or authorities cited will not be permitted.

(d) Divided Arguments. No more than two counsel will be heard from each side except by leave of court, which will be granted when there are several parties on the same side with diverse interests. Divided arguments are not favored and care shall be taken to avoid duplication of arguments.

(e) Multiple Parties. If a case involves appeals by more than one party the sequence of oral argument shall be as the parties agree or as the court directs.

(f) Limitation on Briefs and Memoranda. No brief or memorandum shall be filed after the due date of the reply brief or after oral argument except by leave of court or a judge thereof.

(g) When Oral Argument Not Requested. If a case is submitted to the court without request for oral argument, it shall be decided on the briefs unless the court orders oral argument.

Amended effective July 1, 1975; amended May 28, 1982, effective July 1, 1982; amended June 19, 1989, effective August 1, 1989; amended August 18, 1989, effective September 1, 1989; amended December 17, 1993, effective February 1, 1994; amended Feb. 6, 2013, eff. immediately; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised July 1, 1975)

This rule is based upon former Supreme Court Rule 43. See also former Second, Third, Fourth, and Fifth District (and earlier Uniform) Appellate Court Rule 13(4).

Paragraph (a)

Paragraph (a) is based largely upon the first paragraph of former Rule 43. The last two sentences are new; the former provision did not require notice of an election to waive oral argument, but provided that if a party appeared at the argument and the other party failed to appear, the party who appeared could argue anyway. The new provision, stated in the last two sentences of the paragraph, requires prompt notice of waiver and a prompt notice by the opposite party if he desires oral argument.

The last paragraph was added in 1975. As to the length of argument, see comment to paragraph (b).

Paragraph (b)

This paragraph is based in part upon the second paragraph of former Rule 43. The provision for requesting additional time by motion filed in advance of the date fixed for hearing is new. The final sentence, which reminds counsel that he need not use all the time allowed and which provides that the court may terminate the argument whenever in its judgment further argument is unnecessary, is also new.

Paragraph (a) limits the power of the court to deny permission to argue orally to cases in which it is determined that no substantial question is presented, and cautions that the power to dispense with oral argument is to be used sparingly. Paragraph (b), on the other hand, leaves the court free to limit the length of the argument in advance, as well as to terminate it once it has begun. when argument is to be limited in advance, ordinarily counsel should be notified reasonably in advance of the date set for argument.

Paragraph (c)

This provision is taken from Second, Third, Fourth, and Fifth District (and earlier Uniform) Appellate Court Rule 13(4), second paragraph, last sentence.

Paragraph (d)

This paragraph is based upon the first sentence of the third paragraph of former Rule 43 and paragraph 4 of Rule 44 of the rules of the Supreme Court of the United States.

Paragraph (e)

This paragraph is new.

Paragraph (f)

This paragraph is derived from the second sentence of former Supreme Court Rule 43 (which did not provide for the filing of another brief upon leave of court or a judge thereof) and the last paragraph of former Second, Third, Fourth, and Fifth District (and earlier Uniform) Appellate Court Rule 13(4).

Paragraph (g)

This paragraph is new.

Rules 353-360. Reserved

PART F. OTHER PROVISIONS

Rule 361. Motions in Reviewing Court

(a) Content of Motions; Supporting Record; Other Supporting Documents~~Papers~~. Unless another form is elsewhere prescribed by these rules, an application for an order or other relief shall be made by filing a motion. Motions shall be in writing and shall state the relief sought and the grounds therefor. If the record has not been filed the movant shall file with the motion an appropriate supporting record (Rule 328). When the motion is based on facts that do not appear of record it shall be supported by affidavit or verification by certification pursuant to section 1-109 of the Code of Civil Procedure. Any affidavit shall be sworn to before a person who has authority under the law to administer oaths. Argument not contained in the motion may be made in a supporting memorandum.

If counsel has conferred with opposing counsel and opposing counsel has no objection to the motion, that fact should be stated in the motion in order to allow the court to rule upon the motion without waiting until the time for filing responses has expired~~passed~~.

(b) Filing; Proposed Order; Responses~~In Appellate Court; In Supreme Court While in Session.~~ ~~If the motion is filed in the Appellate Court, or in the Supreme Court while in session, the~~The motion shall be served, presented, and filed as follows:

(1) The motion, together with proof of service, shall be filed with the clerk. See Rule 11 regarding manner of serving documents and Rule 12 regarding proof of service. Service and filing will be excused only in case of necessity.

(2) A proposed order phrased in the alternative (*e.g.*, "Allowed" or "Denied") shall be submitted with each motion and shall be served upon all counsel of record. No motion shall be accepted by the clerk unless accompanied by such a proposed order.

(3) Responses to a motion shall be in writing and be filed, with proof of service, within 5 days after personal~~,~~ or e-mail ~~or facsimile~~ service of the motion, or 10 days after mailing of the motion if service is by mail, or 10 days after delivery to a third-party commercial carrier if service is by delivery to a third-party commercial carrier, or within such further time as the court or a judge thereof may allow. Except by order of court, replies to responses will not be allowed and oral arguments on motions will not be heard.

~~(3) Motions, supporting papers, and responses filed in the Supreme Court shall consist of an original and one copy and in the Appellate Court an original and three copies (in workers' compensation cases arising under Rule 22(g) an original and five copies). A proposed order phrased in the alternative (e.g., "Allowed" or "Denied") shall be submitted with each motion, and a copy shall be served upon all counsel of record. A copy of the style of such orders may be obtained from the clerk's office. No motion shall be accepted by the clerk unless accompanied by such a proposed order.~~

(c) Additional Requirement in~~In~~ Supreme Court ~~While Not in Session~~.

(1) If a rule provides that relief may be granted "by the court or a justice thereof," the motion shall be directed to only one justice. ~~Such a motion shall be directed~~ The clerk shall direct the motion to the justice of the judicial district involved or, in Cook County, to the justice designated to hear motions. ~~For the second, third, fourth, and fifth judicial districts, the original motion and one copy shall be filed with the clerk in Springfield, together with a proof of service and a proposed order in compliance with paragraph (b)(3).~~ The response to a motion shall also be directed to the justice within the time provided in paragraph (b)(3).~~(2), and the original and one copy shall be filed with the clerk in Springfield. For the first judicial district (Cook County), the motion and one copy, together with a proof of service and a proposed order, shall be filed with the clerk in the Chicago satellite office. The deputy clerk will direct the motion to the justice designated to hear motions. Responses to a motion shall be filed with the clerk in the Chicago satellite office within the time provided in paragraph (b)(2).~~

(2) If the motion seeks relief that under these rules requires action by the full court, ~~and the case arises from the second, third, fourth, or fifth judicial district,~~ the movant shall file the motion in accordance with paragraph (b)(1).~~original and eight copies with the clerk in Springfield.~~ Responses to a motion ~~and eight copies~~ shall be filed with the clerk ~~in Springfield~~ within the time provided in paragraph (b)(3)~~(2)~~ or, if applicable, within the time provided in Rule 381 or 383. ~~If the case arises from the first~~

~~judicial district (Cook County), the movant shall file an original and eight copies with the clerk in the Chicago satellite office. Responses to a motion and eight copies shall be filed with the clerk in Chicago within the time provided in paragraph (b)(2) or, if applicable, within the time provided in Rule 381 or 383. Regardless of district, a proof of service in the form required in the preceding shall accompany the motion.~~

(d) When Acted Upon. Except in extraordinary circumstances, or where opposing counsel has indicated no objections, no motion will be acted upon until the time for filing responses has expired.

(e) Corrections. The clerk is authorized to make corrections in any document of a party to any pending case upon receipt of written request from that party together with proof that a copy of the request has been transmitted to all other parties.

(f) Motions for Extensions of Time. Motions for extensions of time shall be supported by affidavit or verification by certification under section 1-109 of the Code of Civil Procedure of counsel or the party showing the number of previous extensions granted and the reason for each extension. Any affidavit shall be sworn to before a person who has authority under the law to administer oaths.

(g) Emergency Motions and Bail Motions. Each District of the Appellate Court shall promulgate and publish rules setting forth the procedure for emergency motions, including notice requirements. Subject to the rules of each District, an emergency motion must specify the nature of the emergency and the grounds for the specific relief requested. Except in the most extreme and compelling circumstances, a motion for an extension of time will not be considered an emergency. Motions regarding bail in criminal cases or bonds in civil and criminal cases shall be considered emergency motions if so designated by the movant.

(h) Dispositive Motions.

(1) Dispositive motions in the Appellate Court should be ruled upon promptly after the filing of the objection to the motion, if any. A dispositive motion may be taken with the case where the court cannot resolve the motion without consideration of the full record on appeal and full briefing of the merits.

(2) For purposes of this Rule 361(h), "dispositive motion" means any motion challenging the Appellate Court's jurisdiction or raising any other issue that could result in the dismissal of any portion of an appeal or cross appeal without a decision on the merits of that portion of the appeal or cross-appeal.

(3) A dispositive motion shall include:

(a) a discussion of the facts and issues on appeal sufficient to enable the court to consider the dispositive motion;

(b) a discussion of the facts and law supporting the dismissal of the appeal or cross-appeal or portion thereof prior to a determination of the appeal on the merits;

(c) a discussion of the relationship, if any, of the purported dispositive issue to the other issues on appeal;

(d) an appropriate supporting record containing (i) if the record on appeal has not yet been filed, the parts of the trial court record necessary to support the dispositive motion; and (ii) if necessary, any evidence of relevant matters not of record in accordance with Rule 361(a).

(4) An objection to a dispositive motion shall address each of the required portions of the motion, and if the record on appeal has not yet been filed, shall include any parts of the trial court record not submitted by the movant that is necessary to oppose the motion, and may include evidence of relevant matters not of record in accordance with Rule 361(a).

(5) The Appellate Court may order additional briefing, record submissions, or oral argument as it deems appropriate.

Amended September 29, 1978, effective November 1, 1978; amended July 30, 1979, effective October 15, 1979; amended January 5, 1981, effective February 1, 1981; amended May 28, 1982, effective July 1, 1982; amended June 15, 1982, effective July 1, 1982; amended August 9, 1983, effective October 1, 1983; amended August 30, 1983, effective October 1, 1983; amended February 27, 1987, effective April 1, 1987; amended December 17,

1993, effective February 1, 1994; amended October 1, 1998, effective immediately; amended May 25, 2001, effective immediately; amended October 14, 2005, effective January 1, 2006; amended May 24, 2006, effective September 1, 2006; amended December 29, 2009, effective immediately; amended March 14, 2014, effective immediately; amended Dec 11, 2014, eff. Jan. 1, 2015; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(January 1, 2006)

Paragraph (h) was added effective January 1, 2006, to address the concerns of the bench and bar with respect to dispositive motions in the Appellate Court. Where a straightforward dispositive issue exists, such as an easily determinable lack of appellate jurisdiction, taking the motion with the case delays the final resolution of the case and greatly increases the burden on all parties by forcing them unnecessarily to brief and argue the merits of the appeal. Paragraph (h) requires that dispositive motions provide the necessary context, including those portions of the record that are necessary to resolve the motion. Where such context is provided, the rule provides that the court should resolve the dispositive motion "promptly after the filing of the objection, if any."

Committee Comments
(Revised May 1982)

Rule 361 replaced former section 86.1 of the Civil Practice Act, former Supreme Court Rule 49, former Rule 3 of the First District Appellate Court, and former Rule 5 of the other districts (earlier Uniform Appellate Court Rule 5). It applies to motions in all reviewing courts. Except for the provisions as to time, the rule made no substantial change in the preexisting practice. The argument in support of a motion, if not set forth in the motion itself, is to be submitted in a memorandum in support of the motion, rather than in a document entitled "suggestions." The time provisions are designed to insure that the other parties have an opportunity to file objections. The number of copies of documents conforms to former requirements in the Supreme Court and all Appellate Court districts except the First District, which required an original and two copies. The additional copy gives the clerk one for his file. Paragraph (f) was new.

Paragraph (g) was added in 1978, extending to civil cases a requirement formerly appearing in Rule 610(3) (58 Ill. 2d R. 610(3)), applicable only to criminal appeals.

Two clarifying changes were made in 1979. The first sentence of paragraph (a) was added to make it explicit that, unless otherwise provided for, all applications for relief are to be made by motion, and the provisions of former Rule 328, abrogated in 1979, were in substance transferred to paragraph (a) of this rule, where they appear as the third sentence. The "short record" under the former practice is called a "supporting record" in recognition of the fact that such a record serves the sole purpose of supporting the motion and not as a basis for docketing an appeal as the "short record" was under Rule 327 before its amendment in 1979.

In 1981, paragraph (c) was amended to require that copies of motions directed to a justice when the court is not in session must be sent to the other justices at their district chambers whenever the motion seeks relief that will require action by the full court. In 1982, it was amended to clarify this requirement.

Commentary
(December 17, 1993)

The rule has been reorganized and nonsubstantive additions are made. Reference to the former motion call practice of the Supreme Court in the First District has been deleted.

Rule 362. Amendment of Pleadings and Process in the Reviewing Courts

(a) Application. Any party who seeks on appeal to amend his or her pleadings or the process in the record on appeal shall present a ~~written application therefor,~~ motion, consistent with Rule 361,supported by affidavit. No motion~~application~~ shall be submitted~~presented~~ until the record on appeal is on file.

(b) Showing Necessary. The motion~~application,~~ and the affidavit in support thereof~~,~~ must show the amendment to be necessary, that no prejudice will result to the adverse party if the amendment sought is permitted, and that the issues sought to be raised by the amendment are supported by the facts in the record on appeal. The amended pleading or process shall be ~~presented~~submitted with the motion.~~application.~~

(c) Service. A copy of the motion~~application~~ and affidavit in support thereof must be served upon the other parties and proof of service filed at the time the motion~~application~~ and affidavit are filed.

(d) Objections. The opposing party shall have five days in which to file objections, service of which shall be made upon the movant~~applicant~~, and proof of service filed with the clerk of the reviewing court.

(e) Time. No motion~~application~~ for amendment of pleadings or process will be considered if made after the cause has been submitted for decision.

(f) On Court's Own Motion. The reviewing court may, of its own motion, before or after submission of the case for decision, order amendment to be made.

Amended December 17, 1993, effective February 1, 1994; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

This is former Rule 50 without change of substance.

Rule 363. Inspection of Original Exhibits on Appeal

Whenever, in the opinion of the reviewing court, an inspection of an original exhibit not in the record on appeal is important to a correct decision of the appeal, the court may enter an order for its transmission, safekeeping, and return. The clerk of the reviewing court will receive the exhibit and hold it subject to the order.

Amended December 17, 1993, effective February 1, 1994.

Committee Comments

This is former Rule 51, but specifically limited to original *exhibits*; the former language was "original paper."

Commentary
(December 17, 1993)

The rule is changed to reflect that the reviewing court, rather than the trial court, is responsible for securing exhibits the reviewing court may wish to examine on appeal.

Rule 364. Privacy Protection for Documents Filed in Courts of Review.

(a) Applicability.

(1) Any document, including exhibits, containing personal identifiers shall not be filed with a court of review except as provided in paragraph (c). ~~This rule applies to paper and electronic filings.~~

(2) This rule does not apply to documents in cases filed confidentially or to any document filed under seal.

(b) Personal identifiers, for purposes of this rule, are defined as follows:

(1) Social Security and individual taxpayer-identification numbers;

(2) driver's license and state identification card numbers;

(3) financial account numbers;

(4) debit and credit card numbers; and

(5) for a juvenile or recipient of mental health services involved in a proceeding referenced in Rule 341(f), the name of the individual.

(c) The filing of a document containing personal identifiers is permissible if redacted~~, by using the letter "x" in place of each omitted digit or character, and shall~~ to only include:

(1) the last four digits of the Social Security or individual taxpayer-identification number;

(2) the last four digits of the driver's license or state identification card number;

(3) the last four digits of the financial account number;

(4) the last four digits of the debit and credit card number; and

(5) in appeals filed from proceedings referenced in Rule 341(f), rather than redaction, the respective juvenile or recipient of mental health services shall be identified by first name and last initial, except that initials only shall be used when, due to an unusual first name or spelling, using the first name and last initial would create a substantial risk of revealing the individual's identity.

(d) When the filing of personal identifiers is required by law, ordered by the court, or otherwise necessary to effect disposition of a matter, the party filing the document shall file a ~~form in substantial compliance with the appended~~ "Notice ~~O~~of Confidential Information Within Court Filing," prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article III Forms Appendix.~~along with the number of copies required for motions pursuant to Rule 361.~~ Proof of service, as provided by Rule 12, shall be filed with the notice. The notice shall contain the personal identifiers in issue, and shall be filed under seal by the clerk immediately upon filing. Thereafter, the notice and any attachments thereto shall remain under seal and not available for public access, except as the court or a justice thereof may order.

After the notice containing the personal identifier has been filed under seal, subsequent documents filed in the case shall include only redacted personal identifiers and, if necessary, appropriate reference to the sealed document containing the personal identifier.

If any of the personal identifiers in the sealed filing subsequently requires amendment or updating, the responsible party shall file the amended or additional information by filing an amended ~~a separate~~ "Notice ~~O~~of Confidential Information Within Court Filing." ~~form.~~

(e) The clerk of the reviewing court is not required to review documents or exhibits for compliance with this rule.

(f) If a document or exhibit is filed containing personal identifiers, a party or any other person whose information has been included may file a motion pursuant to Rule 361 requesting that the court order redaction or the proper designation pursuant to this rule. The motion shall be filed under seal, and the clerk of the reviewing court shall remove the document or exhibit containing the personal identifier from public access pending the court's ruling on the motion. A motion requesting redaction or the proper designation pursuant to this rule shall have attached a copy of the redacted version of the document. If the court or a judge thereof allows the motion, the clerk shall retain the unredacted copy under seal and the redacted copy shall become available for public access.

Appendix

Case Number in the Reviewing Court

Name of Reviewing Court (Include Appellate District, if applicable)

Case Title (Complete)) Appeal from Circuit Court of _____ County

) Lower Court Case No.

) Trial Judge

NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING

Pursuant to Illinois Supreme Court Rule 364(d), the filer of a document containing personal identifiers required by law, ordered by the court, or otherwise necessary to effect disposition of a matter shall, at the time of such filing, include this confidential information form which identifies the personal identifier redacted from such filing pursuant to Rule 364(d), and which will be redacted from future filings to protect the subject personal identifier. **This personal identifier information will not be available to the public and this document will be sealed by the clerk of the reviewing court.**

Party/Individual Information:

1. Name: _____

Address: _____

_____

Phone: _____

SSN: _____

Other personal identifiers as defined in Rule 364(b), to the extent applicable:

2. Name: _____

Address: _____

_____

Phone: _____

SSN: _____

Other personal identifier information as defined in Rule 364(b), to the extent applicable:

_____

(Attach additional pages, if necessary.)

Adopted Dec. 3, 2015, eff. July 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Rule 365. Appeal to Wrong Court

If a case is appealed to either the Supreme Court or the Appellate Court, or the wrong district of the Appellate Court, which should have been appealed to a different court, the case shall be transferred to the proper court, and the clerk shall transmit the record on appeal and all other documents~~papers~~ filed in the case, with the order of transfer, to the clerk of the proper court. That clerk shall file the record and other documents~~papers~~ upon receiving them, without charging an additional filing fee, and the case shall then proceed as if it had been appealed to the proper court in the first instance. Any bond executed in such a transferred case is binding on the parties thereto with the same force and effect as if given in a case appealed directly to the court to which the case is transferred.

Amended December 17, 1993, effective February 1, 1994; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

Paragraph (a) is former Rule 28-1(D), which belongs here rather than in the rule relating to direct appeals to the Supreme Court. Paragraph (b) is section 86 of the Civil Practice Act, which covers the same ground as former Rule 47.

Commentary
(December 17, 1993)

Paragraph (a) concerning collateral attack and waiver is deleted because it is an outdated vestige of practice under Illinois' former Constitution.

This rule is expanded to permit limited, intra-district transfers when appeals are docketed in the wrong appellate court district.

Rule 366. Powers of Reviewing Court; Scope of Review and Procedure; Lien of Judgment

(a) Powers. In all appeals the reviewing court may, in its discretion, and on such terms as it deems just,

(1) exercise all or any of the powers of amendment of the trial court;

(2) allow substitution of parties by reason of marriage, death, bankruptcy, assignment, or any other cause, allow new parties to be added or parties to be dropped, or allow parties to be rearranged as appellants or appellees, on such reasonable notice as it may require;

(3) order or permit the record to be amended by correcting errors or by adding matters that should have been included;

(4) draw inferences of fact; and

(5) enter any judgment and make any order that ought to have been given or made, and make any other and further orders and grant any relief, including a remandment, a partial reversal, the order of a partial new trial, the entry of a remittitur, or the enforcement of a judgment, that the case may require.

(b) Scope of Review

(1) *General*

(i) *Error of Law.* Any error of law affecting the judgment or order appealed from may be brought up for review.

(ii) *Error of Fact.* Any error of fact, in that the judgment or order appealed from is not sustained by the evidence or is against the weight of the evidence, may be brought up for review.

(2) *Scope and Procedure on Review in Jury Cases.* In jury cases the following rules govern:

(i) *Instructions.* No party may raise on appeal the failure to give an instruction unless the party shall have tendered it.

(ii) *Remittitur.* Consenting to a remittitur as a condition to the denial of a new trial does not preclude the consenting party from asserting on appeal that the amount of the verdict was proper. No cross-appeal is required.

(iii) *Post-Trial Motion.* A party may not urge as error on review of the ruling on the party's post-trial motion any point, ground, or relief not specified in the motion.

(iv) *Review of Conditional Rulings on Post-Trial Motion.* The reviewing court, if it determines to reverse an unconditional ruling of the trial court on a post-trial motion, may review and determine any conditional rulings made by the trial court on other questions raised by the motion. No cross-appeal is required.

(3) *Scope and Procedure on Review in Nonjury Cases.* In non-jury cases the following rules govern:

(i) *Special Findings and Motions Unnecessary.* No special findings of fact, certificate of evidence, propositions of law, motion for a finding, or demurrer to the evidence is necessary to support the judgment or as a basis for review. The sufficiency of the evidence to support the judgment is subject to review without formal action to preserve the question.

(ii) *Post-Judgment Motions.* Neither the filing of nor the failure to file a post-judgment motion limits the scope of review.

(iii) *Procedure When Judgment at Close of Plaintiffs Case is Reversed.* If a judgment entered in favor of the defendant pursuant to a motion for a finding or judgment at the close of plaintiff's case is reversed on appeal, the case shall be remanded with directions to proceed as though the motion had been denied by the trial court or waived.

(c) Lien of Judgment. If the reviewing court enters final judgment and orders its enforcement, a certificate or certified copy of the judgment may be filed in the office of the recorder of deeds of any county in which real estate of the judgment debtor is situated and, in case of registered land, a memorial thereof entered upon the register of the last certificate of the title to be affected, and the judgment shall thereupon have the same force and effect as a lien upon the real estate, as if the judgment had been originally rendered by a court in that county.

Amended October 21, 1969, effective January 1, 1970; amended May 28, 1982, effective July 1, 1982; amended December 17, 1993, effective February 1, 1994.

Committee Comments
(Revised July 1, 1971)

As adopted effective January 1, 1967, this rule was former section 92 of the Civil Practice Act, as amended in 1965 (Ill. Rev. Stat. 1965, ch. 110, par. 92), without change of substance. The last sentence of former section 92(3)(b) and section 89 of the Civil Practice Act provided in substance that if in a nonjury law case the Appellate Court found a material fact contrary to the finding of the trial court, the Appellate Court's finding was conclusive on the Supreme Court. The provisions were repealed by the General Assembly in 1965 because they were in conflict with the broad appellate powers conferred on the Supreme Court by the judicial article. Laws of 1965, p. 2543, §§1, 2.

Paragraph (b)

Subparagraph (1) was paragraph (b) in the 1967 revision. The words "in any civil case" were deleted from new paragraph (i) in 1969 as unnecessary.

Subparagraphs (2) and (3) were added in 1969. They are taken from the provisions in the Civil Practice Act on scope of review and related procedure in jury and nonjury cases, mentioned below.

Subparagraphs (2)(i), (ii) and (iii) are taken from sections 67(3), 68.1(7), and 68.1(2) of the Civil Practice Act (Ill. Rev. Stat. 1969, ch. 110, pars. 67(3), 68.1(7), and 68.1(2)), respectively, without change of substance. Subparagraph 2(iv) is based on section 68.1(6) of the Act.

Subparagraph (2)(v) is new. It abrogates the ruling in *Keen v. Davis*, 108 Ill. App. 2d 55, 63-64 (5th Dist. 1969), denying reviewability, on the appeal from an order allowing a new trial, of questions raised by other rulings of the trial court on the post-trial motion. Once the appeal is allowed, the whole case is before the reviewing court, and efficient judicial administration is advanced by disposing of all questions presented by the record. See also Rule 306(a)(2).

Subparagraph (3)(i) combines paragraphs (3) and (4) of section 64 of the Civil Practice Act (Ill. Rev. Stat. 1967, ch. 110, pars. 64(3), (4)) without change in substance.

Subparagraphs (3)(ii) and (iii) are, respectively, the last sentence of section 68.3(1) and the last sentence of section 64(5) of the Civil Practice Act (Ill. Rev. Stat. 1969, ch. 110, pars. 68.3(1), 64(5)) without change of substance.

Commentary
(December 17, 1993)

Paragraph (b)(2)(v) is deleted because Rule 306 contains a substantively identical provision.

Rule 367. Rehearing in Reviewing Court

(a) Time; Length. A petition for rehearing may be filed within 21 days after the filing of the judgment, unless on motion the time is shortened or enlarged by the court or a judge thereof. Motions to extend the time for petitioning for rehearing are not favored and will be allowed only in the most extreme and compelling circumstances. Unless authorized by the court or a judge thereof, the petition shall be limited to 27 pages~~,~~ or, alternatively, ~~8,000~~ 8,100 words, and in either case be supported by a certificate of compliance in accordance with Rule 341(c).

(b) Contents. The petition shall state briefly the points claimed to have been overlooked or misapprehended by the court, with proper reference to the particular portion of the record and brief relied upon, and with authorities and argument, concisely stated in support of the points. Reargument of the case

shall not be made in the petition.

(c) Form and Service. For the petition and any answer or reply (see paragraph (d)), the form, cover, and service shall conform to the requirements for briefs (see Rule 341), including the submission of duplicate paper copies, if required.

(d) Answer; Reply; Oral Argument. No answer to a petition for rehearing will be received unless requested by the court or unless the petition is granted. No substantive change in the relief granted or denied by the reviewing court may be made on denial of rehearing unless an answer has been requested. If the petition is granted or if an answer is requested, the opposing party shall have 21 days from the request or the granting of the rehearing to answer the petition, and petitioner shall have 14 days after the due date of the answer within which to file a reply. Unless authorized by the court or a judge thereof, the answer shall be limited to 27 pages~~,~~ or, alternatively, ~~8,000~~ 8,100 words, the reply shall be limited to 10 pages~~,~~ or, alternatively, ~~3,500~~ 3,000 words, and each must be supported by a certificate of compliance in accordance with Rule 341(c). The petition shall be served on opposing counsel and proof of service filed with the clerk. The briefs of the parties, the petition for rehearing, the answer, and the reply shall stand as briefs on the rehearing. Oral argument will be permitted only if ordered by the court on its own motion.

(e) Limitation on Petitions in Appellate Court. When the Appellate Court has acted upon a petition for rehearing and entered judgment on rehearing no further petitions for rehearing shall be filed in that court.

Amended October 1, 1976, effective November 15, 1976; amended February 19, 1982, effective April 1, 1982; amended April 10, 1987; amended June 12, 1987, effective August 1, 1987; amended December 17, 1993, effective February 1, 1994; amended October 14, 2005, effective January 1, 2006; amended May 24, 2006, effective September 1, 2006; amended December 29, 2009, effective immediately; amended Dec. 11, 2014, eff. Jan. 1, 2015; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended Mar. 8, 2016, eff. immediately; amended Aug. 15, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Commentary
(December 17, 1993)

The rule is modified to reflect that all types of reviewing court dispositions are subject to the rehearing procedures and time limits (see *Woodson v. Chicago Board of Education* (1993), 154 Ill. 2d 391).

Committee Comments
(Revised February 1982)

This rule is based upon former Rule 44.

Paragraph (a)

As adopted in 1967, paragraph (a) changed the time limit provided in former Rule 44 to 21 days in accordance with the general principle that time periods should be multiples of seven days. The flat prohibition against extensions of time appearing in former Rule 44 was removed in favor of a statement that extensions were not favored. In 1976, the paragraph was amended to strengthen the language disfavoring extensions of time.

(Paragraph (b)

This paragraph is the second and third sentences of former Rule 41(1) without change of substance.

Paragraph (c)

This paragraph was derived from a part of the first sentence of former Rule 44(1) and the third sentence of paragraph (2) of that rule. There was no change of substance until 1982, when the rule was reworded to

specifically require that the parties furnish the Reporter of Decisions a copy of any rehearing petition or any motion seeking to change the time for filing a rehearing petition.

Paragraph (d)

This paragraph is based primarily upon former Rule 44(3). It does not change the preexisting practice.

Paragraph (e)

This new provision is applicable only to the Appellate Court. When that court has twice considered a case, once initially and a second time on rehearing, there would seem to be no need for further consideration, especially when there is a higher court from which relief can be sought. See Rules 315(b), 316, and 317 as to the date from which the time for seeking Supreme Court review begins to run.

Rule 368. Issuance, Stay, and Recall of Mandates from Reviewing Court

(a) Issuance; Stay on Petition for Rehearing. The clerk of the reviewing court shall transmit to the circuit court the mandate of the reviewing court, with notice to the parties, not earlier than ~~21~~ 35 days after the entry of judgment unless the court orders otherwise. The timely filing of a petition for rehearing will stay the mandate until disposition of the petition unless otherwise ordered by the court. If the petition is denied, the mandate ~~may~~ shall issue ~~7~~ not earlier than 35 days after entry of the order denying the petition unless the court upon motion orders the time shortened or enlarged.

(b) Stay When Review by Supreme Court Is Sought. In cases in which an injunction has been modified or set aside by the Appellate Court, that court's mandate may be stayed only upon order of that court, the Supreme Court or a judge of either court. In all other cases, the mandate is stayed automatically if, before it may issue, a party who is entitled to seek review by the Supreme Court ~~either files in the Appellate Court an affidavit, which may be executed by the party or by the party's attorney, that the party in good faith intends to seek such review or~~ files a petition in the Supreme Court for such review. The stay is effective until the expiration of the time to seek review, and, if review is timely sought, until disposition of the case by the Supreme Court. The Supreme Court, the Appellate Court, or a judge of either court may, upon motion, order otherwise or stay the mandate upon just terms.

(c) Stay or Recall by Order. The Appellate Court, the Supreme Court, or a judge of either court may, upon just terms, stay the issuance of or recall any mandate of the Appellate Court until the time for seeking review by the Supreme Court expires, or if review is timely sought, until it is granted or refused, or if review is granted, until final disposition of the case by the Supreme Court. The stay may apply to any judgment entered or standing affirmed in any court pursuant to the mandate of the Appellate Court. In cases in which review by the Supreme Court of the United States may be sought, the court whose decision is sought to be reviewed or a judge thereof, and in any event the Supreme Court of Illinois or a judge thereof, may stay or recall the mandate, as may be appropriate.

Amended December 17, 1993, effective February 1, 1994; amended February 10, 2006, effective July 1, 2006.

Committee Comments

This rule is principally derived from section 82(4) of the Civil Practice Act and former Supreme Court Rule 45, Rule 10 of the First Appellate District, and Rule 16 of the other appellate districts (earlier Uniform Appellate Court Rule 16). The rule is made the same for the supreme and appellate courts.

Paragraph (a)

Paragraph (a) enlarges the minimum time for issuance of a mandate from 15 to 21 days, but reduces the time after denial of rehearing from 10 to 7 days in the Appellate Court and, in the Supreme Court, from the period until the end of the term, or 15 days if the denial was during vacation, to 7 days. There is no good reason for delay after rehearing is denied. Issuance of the mandate in the Supreme Court is no longer tied in to the close of the term of court. The mandate is to be issued automatically by the clerk of the reviewing court.

Paragraph (b)

Paragraph (b) removes from the automatic stay provision of the superseded Appellate Court rules (Rule 10 of the First District, Rule 16 of the other districts) cases in which the Appellate Court sets aside or modifies an injunction. The committee believes that in view of the nature and gravity of injunctive relief it is wrong to provide for the automatic continuance of an injunction that presumptively was erroneously issued, in whole or in part, and that such an injunction should be continued in effect only if one of the reviewing courts or a judge thereof determines that it should be.

The provision of the former rules for an automatic stay in other cases (unless the Supreme or Appellate Court or a judge of either otherwise orders) is retained. The affidavit filed to obtain the automatic stay may be that of the party or his attorney, and need not be executed by both as under the former rules.

Paragraph (c)

Paragraph (c) simplifies section 82(4) of the Civil Practice Act to make it clear that the Supreme Court, the Appellate Court, or a judge of either, when appropriate, has discretion to grant a stay upon just terms until final disposition of the case, whether by the Illinois Supreme Court or the Supreme Court of the United States.

Rule 369. Filing of Mandate in Circuit Court and Proceedings Thereafter

(a) Filing of Mandate. The clerk of the circuit court shall file the mandate promptly upon receiving it.

(b) Dismissal or Affirmance. When the reviewing court dismisses the appeal or affirms the judgment and the mandate is filed in the circuit court, enforcement of the judgment may be had and other proceedings may be conducted as if no appeal had been taken.

(c) Remandment. When the reviewing court remands the case for a new trial or hearing and the mandate is filed in the circuit court, the case shall be reinstated therein upon 10 days' notice to the adverse party.

Amended May 28, 1982, effective July 1, 1982.

Committee Comments

This rule is a revision of and supersedes section 88 of the Civil Practice Act. Change here has been made in

light of the provision in Rule 368 for automatic issuance of the mandate.

Rule 370. Process in Reviewing Court

(a) Form. The form of process in reviewing courts shall be, as near as may be, similar to process issued by the circuit court and may be prescribed by administrative orders of the reviewing courts.

(b) Execution and Return. Process in reviewing courts shall be executed and returned in the same manner as process in the circuit court is executed and returned unless the court orders otherwise.

Committee Comments

This rule is a revision of section 91 of the Civil Practice Act and former Rule 2(5). The provision for the prescribing of the form of process by administrative orders of the reviewing courts is new, but should result in no change in practice.

Rule 371. Reserved

Former Rule 371 was repealed December 17, 1993, effective February 1, 1994.

Rule 372. Removing Records from Reviewing Court

(a) Work on Appeal. Prior to the due date of the reply brief, any party to the appeal may, for the purpose of work on the appeal, request, in writing, the clerk of the reviewing court to transmit any paper or physical components of the record on appeal to the clerk of the trial court or to the party's attorney. The clerk shall comply with the request, without the necessity of obtaining an order of court, by sending the paper or physical components of the record to the clerk of the trial court or the attorney, charges collect. Upon receiving the paper or physical components of the record on appeal, the clerk of the trial court or the attorney is responsible for its safekeeping and shall return the record components to the clerk of the reviewing court by prepaid mail or express not later than the day upon which the reply brief is due. The parties may unbind any paper components of the record for the purpose of photocopying, but the party responsible for unbinding the record must restore it to its original condition.

(b) Other. Except as otherwise provided in this rule, no paper or physical components of the record shall be taken from the files of the reviewing court except on leave granted by the court, or a judge thereof. The clerk shall report promptly to the Court every violation of this rule.

Amended January 5, 1981, effective February 1, 1981; amended December 17, 1993, effective February 1, 1994; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised January 5, 1981)

This is substantially former Supreme Court Rule 54 and Rule 20 of the Second, Third, Fourth and Fifth Appellate Court Districts, made applicable to all reviewing courts. A change permits the clerk to transmit the record directly to the attorney who will be using it, and not merely to the clerk of the trial court, who would

then in normal course let the attorney have it. For many years prior to the adoption of this rule the clerk of the Appellate Court for the First District was authorized to permit temporary withdrawal of the record by attorneys who needed to use it in preparing their briefs and abstracts. The bar did not abuse this privilege.

With the elimination of "excerpts from record" in 1979, paragraph (a) of Rule 372 was amended in 1981 to substitute the due date of the reply brief for the due date of the excerpts from record as a base for the time limit imposed on requests under the paragraph. Since under the prior practice both the reply brief and the excerpts from record were due 14 days after the due date of the appellee's brief, the 1981 amendment does not effect a change in the practice.

Rule 373.

Date of Filing ~~Papers~~ in Reviewing Court.~~; Certificate or Affidavit of Mailing~~

Unless received after the due date, the time of filing records, briefs or other documents~~papers~~ required to be filed within a specified time will be the date on which they are actually received by the clerk of the reviewing court. If received after the due date, the time of mailing~~, or the time of delivery to a third-party commercial carrier for delivery to the clerk within three business days,~~ by an incarcerated, self-represented litigant shall be deemed the time of filing. Proof of mailing ~~or delivery to a third-party commercial carrier~~ shall be as provided in Rule 12~~(b)(3) or, in the case of mailing by a *pro se* petitioner from a correctional institution, as provided in subpart (b)(4) of Rule 12~~. This rule also applies to a motion directed against the judgment and to the notice of appeal filed in the trial court.

Amended January 5, 1981, effective February 1, 1981; amended July 1, 1985, effective August 1, 1985; amended December 17, 1993, effective February 1, 1994; amended December 29, 2009, effective immediately; amended September 19, 2014, eff. immediately; amended Oct. 6, 2016, eff. Nov. 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised July 1, 1985)

Rule 373 was new in 1967. It was designed to make it unnecessary for counsel to make sure that briefs and other papers mailed before the filing date actually reach the reviewing court within the time limit. Receipt of the paper in the clerk's office a day or two later will not delay the appeal. As originally adopted the rule provided that the time of mailing might be evidenced by the post mark affixed by a United States Post Office. Because of problems with the legibility of post marks, and delay in affixing them in some cases, the rule was amended in 1981 to provide for the use of affidavits of mailing or United States Postal Service certificates of mailing.

The 1985 amendment regarding the recording of a filing date was intended to simplify record keeping in the appellate and supreme courts.

Commentary
(December 17, 1993)

The rule is revised to make the method of proof of mailing consistent with practice under Rule 12.

Reference to the notice of appeal coming within the scope of the rule is a reflection of existing law (see *Harrisburg-Raleigh Airport Authority v. Department of Revenue* (1989), 126 Ill. 2d 326).

Committee Comments
(December 29, 2009)

The rules on service and filing have been revised to provide for sending documents via third-party commercial carrier. Under these rules, the term "delivery" refers to all the carrier's standard pick-up methods, such as dropping a package in a UPS or FedEx box or with a UPS or FedEx contractor.

Rule 374. Costs in the Reviewing Courts

(a) Except as otherwise provided by law, if an appeal is dismissed, costs shall be taxed against the appellant unless otherwise agreed by the parties or excused by the court for good cause shown; if a judgment is affirmed, costs shall be taxed against the appellant unless excused by the court for good cause shown; if a judgment is reversed, costs shall be taxed against the appellee unless excused by the court for good cause shown; if a judgment is affirmed or reversed in part or is vacated, costs shall be allowed only as ordered by the court.

(b) The following costs are taxable:

(1) filing fees paid to the clerk of the reviewing court;

(2) appearance fees in the reviewing court;

(3) the fee paid to the clerk of the trial court (but not to court reporter) for preparing the record for appeal; and

~~(4) the actual and reasonable costs of printing or otherwise producing necessary copies of an abstract requested by the reviewing court pursuant to Rule 342 (however, the clerk of the reviewing court will not tax costs for unnecessary matters included in the abstracts, nor will the clerk allow costs for additional abstract without order of court); and~~

(4)~~(5)~~ the actual and reasonable cost of printing~~,~~ or otherwise producing duplicate paper ~~necessary~~ copies of documents~~briefs~~ authorized by these rules (the cost of including unnecessary matters or arguments may be disallowed as costs).

(c) An appellant or an appellee, as the case may be, who desires costs to be taxed, shall state them in an itemized and verified bill of costs which should be filed with the clerk of the reviewing court, with proof of service, within 14 days after rehearing is denied or barred. Any objections to the bill of costs must be filed within 10 days after service of the bill of costs, unless the time is extended by the court. If objections are filed to the bill of costs, the clerk of the reviewing court will refer said bill and objections to the court for disposition. If no objections are filed to the bill of costs, the clerk of the reviewing court shall tax the costs.

(d) Costs pursuant to this rule shall not be taxed against any public, municipal, governmental, or quasi-municipal corporation, or against any public officer in that person's official capacity for the benefit of the public.

Adopted February 19, 1982, effective April 1, 1982; amended December 17, 1993, effective February 1, 1994; amended June 22, 2017, eff. July 1, 2017.

Rule 375. Failure to Comply With Rules; Frivolous Appeals--Sanctions

(a) Failure to Comply With Appeals Rules. If after reasonable notice and an opportunity to respond, a party or an attorney for a party or parties is determined to have wilfully failed to comply with the appeal rules,

appropriate sanctions may be imposed upon such a party or attorney for the failure to comply with these rules. Appropriate sanctions for violations of this section may include an order that a party be barred from presenting a claim or defense relating to any issue to which refusal or failure to comply with the rules relates, or that judgment be entered on that issue as to the other party, or that a dismissal of a party's appeal as to that issue be entered, or that any portion of a party's brief relating to that issue be stricken. Additionally, sanctions involving an order to pay a fine, where appropriate, may also be ordered against any party or attorney for a party or parties.

(b) Appeal or Other Action Not Taken in Good Faith; Frivolous Appeals or Other Actions. If, after consideration of an appeal or other action pursued in a reviewing court, it is determined that the appeal or other action itself is frivolous, or that an appeal or other action was not taken in good faith, for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, or the manner of prosecuting or defending the appeal or other action is for such purpose, an appropriate sanction may be imposed upon any party or the attorney or attorneys of the party or parties. An appeal or other action will be deemed frivolous where it is not reasonably well grounded in fact and not warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law. An appeal or other action will be deemed to have been taken or prosecuted for an improper purpose where the primary purpose of the appeal or other action is to delay, harass, or cause needless expense.

Appropriate sanctions for violation of this section may include an order to pay to the other party or parties damages, the reasonable costs of the appeal or other action, and any other expenses necessarily incurred by the filing of the appeal or other action, including reasonable attorney fees.

A reviewing court may impose a sanction upon a party or an attorney for a party upon the motion of another party or parties, or on the reviewing court's own initiative where the court deems it appropriate. If the reviewing court initiates the sanction, it shall require the party or attorney, or both, to show cause why such a sanction should not be imposed before imposing the sanction. Where a sanction is imposed, the reviewing court will set forth the reasons and basis for the sanction in its opinion or in a separate written order.

Adopted June 19, 1989, effective August 1, 1989; amended December 17, 1993, effective February 1, 1994.

Committee Comments

(August 1, 1989)

Paragraph (a) is intended to cover those situations where a party or his attorney or both fail to comply with the appeals rules. The sanctions under this paragraph are intended to apply in those circumstances where the party or attorney wilfully fails to comply with the rules. No sanction is intended to be imposed under this paragraph for an inadvertent violation of the appeals rules. No formal hearing process is envisioned before a sanction will be imposed; rather, any sanction imposed will be by a procedure summary in nature and will not involve the formalities required in procedures for citations of contempt of court. (See *People v. Waldron* (1986), 114 Ill. 2d 295.) However, the sanctions imposed under this paragraph are only those that would be typically inherently available to a reviewing court in enforcing its rules, and the imposition of small fines similar to those imposed for petty offenses. (See old section of Title 18 of the United States Code, Crimes & Criminal Procedure, 18 U.S.C. §1 (1982) (repealed October 30, 1984); Pub. L. 98--596, §8, 98 Stat. 3138 (1984); see also Ill. Rev. Stat. 1987, ch. 38, par. 1005--5--1; Ill. Rev. Stat. 1987, ch. 24, pars. 1--2--1, 1--2--1.1.) Furthermore, before any sanction is imposed, a party and/or attorney will receive notice of the violation and a reasonable opportunity to correct it.

Paragraph (b) is derived from the current appellate Rule 38 of the Federal Rules of Appellate Procedure, section 1912 of the Judicial Code (28 U.S.C. §1912) and section 1927 of the Judicial Code (28 U.S.C. §1927). It is also similar to the requirements set forth in Rule 7--102 of the Illinois Code of Professional Responsibility

and Rule 3.1 of the ABA Model Rules of Professional Conduct, and adopts a modified version of Federal Rule 11. Moreover, appeals courts have been recognized to have inherent authority to impose sanctions for taking a frivolous appeal or for abusive tactics in the conduct of the appeal. See *Roadway Express Inc. v. Piper* (1980), 447 U.S. 752, 65 L. Ed. 2d 488, 100 S. Ct. 2455.

However, this paragraph relates not only to frivolous appeals, *i.e.*, those without merit and no chance of success, but also to appeals which are conducted in a frivolous manner, *i.e.*, those whose primary purpose is to delay enforcement of the judgment, to cause a party to incur unnecessary expense, or which are generally prosecuted in bad faith. The determination that the appeal is frivolous or the conduct is improper is based on an objective standard of conduct, *viz.*, an appeal will be found to be frivolous if a reasonable prudent attorney would not in good faith have brought such an appeal, or the appeal conduct will be found to be improper if a reasonable prudent attorney would not have engaged in such conduct. If an appeal is found to be frivolous, or the conduct improper, the subjective nature of the conduct is then important to determine the appropriate nature and amount of the sanction. A party or attorney will be given notice before any sanction is imposed, either by the motion of an aggrieved party or by a rule to show cause issued by the court. A party or attorney who is a subject of a proposed sanction where the proposed sanction is initiated by the court is entitled to respond before any sanction is imposed. If a sanction is imposed, as noted, the court in its opinion or in a separate written order will provide a statement of reasons or basis for the imposed sanction.

Under paragraph (b), a penal fine may be imposed if the conduct in a particular case also constitutes a violation of the civil appeals rules as set forth in paragraph (a) above.

Commentary

(December 17, 1993)

The rule has been modified to make clear that any action pursued in the reviewing court is subject to sanctions if the conduct constitutes a violation of the rule.

Rules 376-380. Reserved

PART G. ORIGINAL ACTIONS IN SUPREME COURT

Rule 381. Original Actions in the Supreme Court Pursuant to Article VI, Section 4(a), of the Constitution

(a) Motion for Leave to File; Only Issues of Law Considered. Proceedings in the supreme court in original actions in cases relating to revenue, *mandamus*, prohibition, or *habeas corpus*, and as may be necessary to the complete determination of any case on review, shall be instituted by filing a motion, supported by explanatory suggestions, for leave to file a complaint seeking appropriate relief. Only issues of law will be considered. The proposed complaint shall be sworn to and shall contain or have attached to it the lower court records or other pertinent material that will fully present the issues of law. ~~If the motion is filed when the court is not in session and the case arises from the second, third, fourth, or fifth judicial district, the movant shall file the original and eight copies with the clerk in Springfield. If the case arises from the first judicial district (Cook County), the movant shall file the original motion and eight copies with the clerk in the~~

~~Chicago satellite office.~~

(b) Service of Process. The~~A copy of the~~ motion, together with the proposed complaint, shall be served upon the other party or parties, including the nominal party or parties, and proof of service shall be filed at the time the motion is filed.

(c) Judge a Nominal Party. In an original action to review a judge's judicial act the judge is a nominal party, only, in the proceeding, and need not respond to the motion or complaint unless instructed to do so by the court. The judge's failure to do so will not admit any allegation. Counsel for the prevailing party may file any appropriate documents~~papers~~ for that party but shall not file any document~~paper~~ in the name of the judge.

(d) Objections to Motion. The respondent shall have 7 days after personal~~,~~ or e-mail ~~or facsimile~~ service of the motion, or 14 days after mailing of the motion if service is by mail, or 14 days after delivery to a third-party commercial carrier if service is by delivery to a third-party commercial carrier, or within such further time as the court or a judge thereof may allow to file any objections to the motion, and service shall be made upon the movant and proof of service filed with the clerk of the court. Oral argument on the motion shall be permitted as the court may allow.

(e) Briefs. If the motion is allowed, briefs conforming to the requirements of Rules 341 through 344 shall be filed in support of the pleadings, within the time fixed by the court on motion of any party or on its own motion. On notice to the court and the other party or parties, the plaintiff or defendant may allow ~~his or her~~ the original filing ~~papers~~ to stand as ~~his or her~~ the brief without order of court.

Amended effective May 27, 1969, and July 1, 1971; amended January 5, 1981, effective February 1, 1981; amended February 19, 1982, effective April 1, 1982; amended February 27, 1987, effective April 1, 1987; amended December 17, 1993, effective February 1, 1994; amended March 1, 2001, effective immediately; amended December 29, 2009, effective immediately; amended March 14, 2014, effective immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(Revised January 5, 1981)

Paragraphs (a), (b) and (c)

Prior to the adoption of the Constitution of 1970, the original-jurisdiction rule necessarily was concerned with the only original-jurisdiction cases authorized by the Constitution of 1870, which were limited to actions relating to revenue, mandamus, prohibition and habeas corpus. The new constitution vests original and exclusive jurisdiction in the Supreme Court in other classes of cases in which factual issues might arise. Rule 381 would be inappropriate for such cases. Paragraph (a) has, therefore, been modified to limit Rule 381 to the traditional original actions to which it has previously applied, which are now covered by article VI, section 4(a), of the 1970 Constitution. A new Rule 382 provides for cases arising by virtue of the new mandatory exclusive original jurisdiction vested in the Supreme Court by articles IV and V of the 1970 Constitution.

The procedure in original actions was unchanged in substance by this rule, as adopted effective January 1, 1967, though it is spelled out in more detail than it was in former Rule 46, which governed until that date. Effective January 1, 1964, the paragraph of the former rule requiring original proceedings relating to the revenue to be brought at least 20 days before the first day of the term, unless the cause is continued, was deleted as unnecessary. Matters relating to the closing of the issues, the briefing schedule, and the holding of an oral argument are left to the discretion of the Supreme Court.

Paragraph (a) was amended in 1981 to add the penultimate sentence, requiring that when the motion is filed when the court is not in session, a copy shall be sent to each of the justices at his district chambers. See the committee comments to Rule 361(c).

Paragraph (d)

Paragraph (d) was added to Rule 381 in May, 1969, to protect the judge whose action is being reviewed from becoming personally involved as a party in litigation in which his role is solely judicial. The amendment makes it unnecessary for the judge to choose between the alternatives of retaining counsel of his own or being represented by counsel for the successful party. "A judge will thus be guarded from engaging in ex parte discussions with counsel or aligning himself even temporarily with one side in pending litigation." *Rapp v. VanDensen* (3d Cir. 1965), 350 F.2d 806, 813. See also *General Tire & Rubber Co. v. Watkins* (4th Cir. 1966), 363 F.2d 87, 89. See also Rule 21 of the Federal Rules of Appellate Procedure.

Rule 382. Original Actions in the Supreme Court Pursuant to Article IV, Section 3, and Article V, Section 6(d), of the Constitution

(a) Institution of proceedings. Proceedings in the Supreme Court when the court has original and exclusive jurisdiction under article IV, section 3, and article V, section 6(d), of the Constitution, which relate to redistricting of the General Assembly and to the ability of the Governor to serve or resume office, shall be instituted by filing a motion for leave to file a complaint, which motion shall be accompanied by the complaint and a brief in support of the motion. The complaint may be supported by affidavits or other pertinent documents.

(b) Subsequent Procedure. Thereafter the case shall proceed in the manner ordered by the court. Whenever appropriate, and subject to order of the court, the rules governing cases in the circuit court shall serve as a guide to the procedure to be followed. The court may dispose of the case on the documents~~papers~~ filed or may order further briefing or may order oral argument on the motion for leave to file or on the complaint or on the pleadings or on the pleadings supplemented by pertinent documentary evidence, or may call for additional evidence and for briefs and argument after such evidence has been received. If the court determines that disputed issues of material fact must be resolved on the basis of oral testimony, it may appoint a judge or retired judge of any Illinois court to take testimony and to report his findings of fact and recommendations to the Supreme Court.

(c) Briefs, Pleadings, and Other Documents. 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 344.

Effective July 1, 1971; amended December 17, 1993, effective February 1, 1994; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(July 1, 1971)

This rule is based in part upon Rule 381 and in part upon Rule 9 of the United States Supreme Court Rules and the practice thereunder, which enables that court to deal with original cases involving factual issues requiring the taking of evidence. The object is to give the court complete flexibility as to the procedure to be followed, depending upon the circumstances of the particular case. The procedures most likely to be employed, which have been employed by the United States Supreme Court, are specifically described because of the unfamiliarity of some of such procedures in prior Illinois practice.

The defendant need take no action until the Supreme Court indicates what is appropriate. If the court deems the complaint obviously insufficient on its face, it may dispose of the case without calling the defendant to do anything. It may request the defendant to file either an answer to the complaint or a brief, in

part depending on whether factual issues are presented. Because of the constitutional prohibition against "fee officers in the judicial system" (art. VI, §14), the evidence must be taken by an active or retired judge, who will be already receiving a State salary, rather than by a master.

Rule 383. Motions for Supervisory Orders

(a) A motion requesting the exercise of the Supreme Court's supervisory authority shall be supported by explanatory suggestions and shall contain or have attached to it the lower court records or other pertinent material that will fully present the issues, authenticated as required by Rule 328.

(b) The~~A copy of the~~ motion, explanatory suggestions, and all supporting documents~~papers~~ must be served upon the other parties, including the nominal party or parties, and proof of service filed at the time the motion is filed.

(c) A person whose act is the subject of this proceeding shall be designated as a respondent. A respondent need not respond to the motion unless instructed to do so by the court, and failure to respond will not admit any of the allegations contained in the motion. The prevailing party or parties below shall file appropriate documents~~papers~~ for that respondent but shall not file any document~~paper~~ in the name of the respondent.

(d) The prevailing party below shall have 7 days after personal~~,~~ or e-mail ~~or facsimile~~ service of the motion, or 14 days after mailing of the motion if service is by mail, or 14 days after delivery of the motion to a third-party commercial carrier if service is by delivery to a third-party commercial carrier, or within such further time as the court or a judge thereof may allow, to file any objections to the motion, and service shall be made upon the movant and proof of service filed with the clerk of the court.

(e) Illegible documents shall not be filed. ~~copies of papers shall not be received. If the motion is filed when the court is not in session and the case arises from the second, third, fourth, or fifth judicial district, the movant shall file the original and eight copies with the clerk in Springfield. If the case arises from the first judicial district (Cook County), the movant shall file the original motion and eight copies with the clerk in the Chicago satellite office.~~

(f) Oral argument shall be permitted only if requested by the court.

Adopted August 9, 1983, effective October 1, 1983; amended February 27, 1987, effective April 1, 1987; amended December 17, 1993, effective February 1, 1994; amended March 1, 2001, effective immediately; amended December 29, 2009, effective immediately; amended February 10, 2014, effective immediately; amended March 14, 2014, effective immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

This procedure is intended to discourage a practice which has developed since 1971 by which parties petition for leave to file a petition for *mandamus* or, *in the alternative*, for a supervisory order, in cases in which *mandamus* would be an inappropriate remedy.

Rule 384. Proceedings for the Transfer and Consolidation of Multicircuit Actions

(a) Motion to Consolidate—Transfer. When civil actions involving one or more common questions of fact or law are pending in different judicial circuits, and the Ssupreme Ceourt determines that consolidation would serve the convenience of the parties and witnesses and would promote the just and efficient conduct of such actions, the Ssupreme Ceourt may, on its own motion or on the motion of any party filed with the Ssupreme Ceourt, transfer all such actions to one judicial circuit for consolidated pretrial, trial, or post-trial proceedings.

(b) Pretrial Consolidation—Remandment. Unless the action is terminated or unless otherwise ordered by the Ssupreme Ceourt, an action transferred for pretrial proceedings only shall, at or before the conclusion of those pretrial proceedings, be remanded to the circuit from which it was transferred. However, the Ssupreme Ceourt may, on its own initiative or at the request of the transferee circuit court, separate any claim, cross-claim, counterclaim or third-party claim and remand such claims at any time.

(c) Procedure.

(1) *General*. Except as otherwise provided hereafter, procedures for processing motions for consolidation filed under this rule shall, to the extent feasible, follow the procedures set forth in Rule 383, "Motions for Supervisory Orders."

(2) *Notice to Clerks*. A party filing a motion to consolidate shall file ~~a copy of~~ such motion with the clerk of the circuit court of each circuit in which the actions to be consolidated are pending, and shall include an appendix to such motion specifying the county in which each such case is pending and the names and file numbers of all cases to be consolidated.

(3) *Notice to Parties*. Service on other parties shall be as provided in Rule 383(b).

(4) *Oral Argument*. If the Ssupreme Ceourt requests oral argument on the motion to consolidate, the clerk of the Ssupreme Ceourt shall so notify the clerk of each affected circuit court and the attorney(s) for each affected party.

(5) *Procedures–Orders to Consolidate*. If the Ssupreme Ceourt grants a motion to consolidate or if the Ssupreme Ceourt initiates a consolidation of cases at the circuit court level, the clerk of the Ssupreme Ceourt shall transmit~~send a copy of~~ the court's order to the clerk of each affected circuit court and to the attorney(s) for each affected party. The clerks of the circuit courts from which a transfer is ordered shall promptly certify and transfer to the clerk of the circuit court to which the transfer is ordered all documents~~papers~~ in the affected cases and in this and all other respects the cases shall be treated as if there had been an intrastate transfer on the grounds of *forum non conveniens*. See Rule 187(c).

Adopted Oct. 25, 1990, eff. Nov. 1, 1990; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

This rule is new and is based upon Title 28, section 1407, of the United States Code, which establishes the procedure in the Federal courts for the transfer of civil actions involving one or more common questions of fact, pending in different districts, to one district for coordination or consolidated pretrial proceedings. This new rule provides for similar procedures in Illinois for the transfer of related cases pending in different judicial circuits within the State. The rule, however, not only covers cases involving common questions of fact, but includes cases which involve common questions of law as well. Additionally, this rule, unlike 28 U.S.C. §1407, also provides for the transfer of the related cases, where appropriate, for trial or post-trial proceedings and not just for transfers for pretrial proceedings.

Another major departure from the Federal procedures set forth in section 1407 is that transfers in Illinois will be made by the supreme court and not a judicial panel. This was considered required by the Illinois Constitution (Ill. Const. 1970, art. VI, §4) and is more consistent with current Illinois practice. In an attempt to adhere to current Illinois practice, the rule provides that, to the extent feasible, motions processed under

the new rule shall follow the procedures set forth in Rule 383, "Motions for Supervisory Orders." Further, where a transfer is ordered by the supreme court the clerks of the courts affected shall treat the case as if there had been an intrastate transfer on the grounds of *forum non conveniens* under Rule 187(c).

Section (c)(2) is new and does not have a counterpart in Rule 383. Section (c)(2) requires a party filing a motion to consolidate to also file a copy of the motion and an appendix specifying the county in which each case is pending and the names and file numbers of all the cases consolidated, with the clerk of the circuit court, where the asserted related actions are pending. Also, in section (c)(4), this rule specifically directs the clerk of the supreme court to notify the clerks of the affected circuits and the parties if the supreme court requests oral argument. This is also the case under section (c)(5) of the rule where the supreme court grants a motion to consolidate, the supreme court clerk again is directed to notify the affected circuit court clerks and the parties.

Rules 385-400. Reserved

Article III Forms Appendix

~~*If the other parties of record are numerous, they may be listed on a separate page instead of in the caption.~~