

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered February 26, 2010.

(Deleted material is struck through and new material is underscored.)

Effective immediately, Supreme Court Rules 304, 306, 306A, 307, 308, 311, 315, and 901 are amended as follows.

Amended Rule 304

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 judgment entered pursuant to the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/101 et seq.) or 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.

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.

Amended Rule 306

Rule 306. Appeals From Orders of the Circuit Court Granting New Trials and Granting or Denying Certain Motions 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 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; or

(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).

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). ~~The procedure for petitions for leave to appeal orders under paragraph (a)(5) shall be as provided in this paragraph (b). The procedure for petitions for leave to appeal other orders under paragraph (a) shall be provided in paragraphs (c) through (i).~~

(1) *Petition; Service; Record.* Unless another form is ordered by the Appellate Court, review of an order affecting the care and custody of an unemancipated minor as authorized in paragraph (a)(5) shall be by petition filed in the Appellate Court. ~~A notice of interlocutory appeal substantially conforming to the notice of appeal in other cases shall also be filed within the time allowed by this paragraph for filing the petition.~~ The petition shall be in writing and shall state the relief requested and the grounds for the relief requested. An appropriate supporting record shall accompany the petition, which shall include ~~the~~

~~notice of interlocutory appeal~~, 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 ~~five business~~ 14 days of the entry or denial of the order from which review is being sought, with proof of personal service or facsimile service as provided in Rule 11. A copy of 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.* The petitioner may file a memorandum, not exceeding 15 typewritten pages, with the petition. The respondent or any other party or person entitled to be heard in the case may file, with proof of personal service or facsimile 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 typewritten pages.

(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. ~~If the petition is allowed, the court may order the filing of such additional material from the trial court and the parties as may be necessary to a full determination of the case.~~

(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 copies of 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 Clerk of the Appellate Court on or before the due date of the brief.

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

(e) (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. An original and three copies of the petition (or original and five copies in workers' compensation cases arising under Rule 22(g)) 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.

~~(d)~~ (2) *Answer.* Any other party may file an original and three copies of an answer (or original and five copies in workers' compensation cases arising under Rule 22(g)) 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.

~~(e)~~ (3) *Appendix to Petition; Abstract.* The petition shall include, as an appendix, a copy of the order appealed from, and of 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). If the Appellate Court orders that an abstract of the record be filed, it shall be in the form set forth in Rule 342(b) and shall be filed within the time fixed in the order.

~~(f)~~ (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.

~~(g)~~ (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 require the petitioner to file an appropriate bond. Within 48 hours after the granting of the petition, the clerk shall send notice thereof to the clerk of the circuit court.

~~(h)~~ (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.

~~(i)~~ (7) *Briefs.* A party may allow his or her petition or answer to stand as his or her brief or may file a further 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 Clerk of the Appellate Court on or before the due date of the brief and supply the court with the requisite number of briefs required by Rule 341(e). If the appellant elects to file a further brief, it must be filed within 35 days from the date on which leave to appeal was granted. The appellant's brief, and other briefs if filed, 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

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.

Amended Rule 306A

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).

Amended Rule 307

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 ~~cases~~ 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 paragraph (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. The record must be filed in the Appellate Court within the same 30 days unless the time for filing the record is extended by the Appellate Court or any judge thereof.

(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 record begins to run from the day the motion is denied or from the last day for action thereon.

(c) Time for Briefs and Abstract if an Abstract Is Required. 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 record on appeal. Within 7 days from the date appellant’s brief is filed, the appellee shall file his brief 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. If the Appellate Court so orders, an abstract shall be prepared and filed as provided in Rule 342.

(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, within the same time for filing the petition. The petition shall be in writing, state the relief requested and the grounds for the relief requested, and shall be filed in the Appellate Court, with proof of personal service or facsimile 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 typewritten pages 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 service or facsimile 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 personally served upon the respondent. The respondent's memorandum may not exceed 15 typewritten pages and must also be personally served upon the petitioner.

(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 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 Rule 308

Rule 308. ~~Interlocutory Appeals by Permission~~ Certified Questions

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

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

(c) Application; Answer. The application shall contain a statement of the facts necessary to an understanding of the question of law determined by the order of the trial court; a statement of the question itself; and a statement of the reasons why a substantial basis exists for a difference of

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

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

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

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 Rule 311

Rule 311. Accelerated Docket

(a) Mandatory Accelerated Disposition of Child Custody Appeals.
The expedited procedures in this subpart shall apply to appeals from final orders in child custody cases and to interlocutory appeals in child custody cases 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 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 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.

(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 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. 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 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 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 motion 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 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 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) *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.

(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.

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.

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.

Amended Rule 315

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

* * *

(i) Child custody cases. A petition for leave to appeal in a child custody case, as defined in Rule ~~306A~~ 311, and any notice, motion, or pleading related thereto, shall include the following statement in bold type on the top of the front page: THIS APPEAL INVOLVES A QUESTION OF

CHILD CUSTODY, ADOPTION, TERMINATION OF PARENTAL RIGHTS OR OTHER MATTER AFFECTING THE BEST INTERESTS OF A CHILD.

* * *

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 Rule 901

Rule 901. General Rules

(a) Expedited Hearings. Child custody proceedings shall be scheduled and heard on an expedited basis. Hearings in child custody proceedings shall be held in strict compliance with applicable deadlines established by statute or by this article.

(b) Setting of Hearings. Hearings in child custody proceedings shall be set for specific times. At each hearing, the next hearing shall be scheduled and the parties shall be notified of the date and time of the next hearing. Hearings rescheduled following a continuance shall be set for the earliest possible date.

(c) Continuances. Parties, witnesses and counsel shall be held accountable for attending hearings in child custody proceedings. Continuances shall not be granted in child custody proceedings except for

good cause shown and may be granted if the continuance is consistent with the health, safety and best interests of the child. The party requesting the continuance and the reasons for the continuance shall be documented in the record.

(d) In any child custody proceeding taken under advisement by the trial court, the trial judge shall render its decision as soon as possible but not later than 60 days after the completion of the trial or hearing.

(e) Appeals. Appeals from orders entered in child custody proceedings shall be pursuant to the applicable civil appeals rules. All such proceedings shall be expedited according to Rule 311(a).

Adopted February 10, 2006, effective July 1, 2006; amended February 26, 2010, effective immediately.