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.*).

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.