

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

Order entered March 20, 2009.

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

Effective immediately, Supreme Court Rules 307 and 606 and Illinois Rules of Professional Conduct Rule 1.15 are amended, as follows.

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;
- (7) determining issues raised in proceedings to exercise the right of eminent domain under section ~~7-104 of the Code of Civil Procedure~~ 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 Rule 606

Rule 606. Perfection of Appeal

(a) How Perfected. In cases in which a death sentence is imposed, an appeal is automatically perfected without any action by the defendant or his counsel. In other cases appeals shall be perfected by filing a notice of appeal with the clerk of the trial court. The notice may be signed by the appellant or his attorney. If the defendant so requests in open court at the time he is advised of his right to appeal or subsequently in writing, the clerk of the trial court shall prepare, sign, and file forthwith a notice of appeal for the defendant. No step in the perfection of the appeal other than the filing of the notice of appeal is jurisdictional.

(b) Time. Except as provided in Rule 604(d), 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 motion directed against the judgment is timely filed, within 30 days after the entry of the order disposing of the motion. When a timely posttrial or postsentencing motion directed against the judgment has been filed by counsel or by defendant, if not represented by counsel, any notice of appeal filed before the entry of the order disposing of all pending postjudgment motions shall have no effect and shall be stricken by the trial court. Upon striking the notice of appeal, the trial court shall forward to the appellate court within 5 days a copy of the order striking the notice of appeal, showing by whom it was filed and the date on which it was filed. This rule applies whether the timely postjudgment motion was filed before or after the date on which the notice of appeal was filed. A new notice of appeal must be filed within 30 days following the entry of the order disposing of all timely postjudgment motions. Within 5 days of its being so filed a copy of the notice of appeal or an amendment of the notice of appeal shall be transmitted by the clerk of the circuit

court to the clerk of the court to which the appeal is taken. Except as provided in paragraph (c) below, and in Rule 604(d), no appeal may be taken from a trial court to a reviewing court after the expiration of 30 days from the entry of the order or judgment from which the appeal is taken. The clerk of the appellate court shall notify any party whose appeal has been dismissed under this rule.

(c) Extension of Time in Certain Circumstances. On motion supported by a showing of reasonable excuse for failing to file a notice of appeal on time filed in the reviewing court within 30 days of the expiration of the time for filing the notice of appeal, or on motion supported by a showing by affidavit that there is merit to the appeal and that the failure to file a notice of appeal on time was not due to appellant's culpable negligence, filed in the reviewing court within six months of the expiration of the time for filing the notice of appeal, in either case accompanied by the proposed 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.

(d) Form of Notice of Appeal. The notice of appeal shall be substantially in the following form:

In the Circuit Court of the _____ Judicial Circuit,
_____ County, Illinois.
(or In the Circuit Court of Cook County)

THE PEOPLE OF THE STATE OF ILLINOIS,

v.

No. _____

Notice of Appeal

An appeal is taken from the order or judgment described below.

(1) Court to which appeal is taken: _____

(2) Name of appellant and address to which notices shall be sent.

Name: _____

Address: _____

(3) Name and address of appellant's attorney on appeal.

Name: _____

Address: _____

If appellant is indigent and has no attorney, does he want one appointed?

(4) Date of judgment or order: _____

(5) Offense of which convicted: _____

(6) Sentence: _____

(7) If appeal is not from a conviction, nature of order appealed from: _____

(8) If the appeal is from a judgment of a circuit court holding unconstitutional a statute of the United States or of this state, a copy of the court's findings made in compliance with Rule 18 shall be appended to the notice of appeal.

(Signed) _____
(May be signed by appellant, attorney
for appellant, or clerk of circuit court.)

The notice of appeal may be amended as provided in Rule 303(b)(45).

* * *

Amended October 21, 1969, effective January 1, 1970; amended effective July 1, 1971, July 1, 1975, and February 17, 1977; amended July 15, 1979, effective October 15, 1979; amended April 27, 1984, effective July 1, 1984; amended August 27, 1999, effective immediately; amended October 22, 1999, effective December 1, 1999; amended December 13, 2005, effective immediately; amended July 27, 2006, effective September 1, 2006; amended March 20, 2009, effective immediately.

Amended Rule 1.15

Rule 1.15. Safekeeping Property

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account or accounts maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of seven years after termination of the representation.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of property in which both the lawyer and another person claim interests, the property shall be kept separate by the lawyer until there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall

be kept separate by the lawyer until the dispute is resolved.

(d) All nominal or short-term funds of clients or third persons held by a lawyer or law firm, including advances for costs and expenses, and funds belonging in part to a client or third person and in part presently or potentially to the lawyer or law firm, shall be deposited in one or more pooled interest- or dividend-bearing trust accounts, hereinafter “IOLTA accounts,” established with an eligible financial institution selected by a lawyer or law firm in the exercise of ordinary prudence, and with the Lawyers Trust Fund of Illinois designated as income beneficiary. Each IOLTA account shall comply with the following provisions:

(1) Each lawyer or law firm in receipt of nominal or short-term client funds shall establish one or more IOLTA accounts with an eligible financial institution authorized by federal or state law to do business in the state of Illinois. An eligible financial institution is a bank or a savings bank insured by the Federal Deposit Insurance Corporation or an open-end investment company registered with the Security and Exchange Commission, which offers IOLTA accounts within the requirements of this rule as administered by the Lawyers Trust Fund of Illinois.

(2) Eligible institutions shall maintain IOLTA accounts that pay the highest interest rate or dividend available from the institution to its non-IOLTA account customers when IOLTA accounts meet or exceed the same minimum balance or other account eligibility guidelines, if any. In determining the highest interest rate or dividend generally available from the institution to its non-IOLTA accounts, eligible institutions may consider factors, in addition to the IOLTA account balance, customarily considered by the institution when setting interest rates or dividends for its customers, provided that such factors do not discriminate between IOLTA accounts and accounts of non-IOLTA customers, and that these factors do not include that the account is an IOLTA account.

(3) An IOLTA account that meets the highest comparable rate- or dividend-standard set forth in (d)(2) must use one of the identified account options as an IOLTA account, or pay the equivalent yield on an existing IOLTA account in lieu of using the highest-yield bank product:

(a) a checking account paying preferred interest rates, such as money market or indexed rates, or any other suitable interest-bearing deposit account offered by the eligible institution to its non-IOLTA customers.

(b) for accounts with balances of \$100,000 or more, a business checking account with automated investment feature, such as an overnight sweep and investment in repurchase agreements fully collateralized by U.S. Government securities as defined in (f).

(c) for accounts with balances of \$100,000 or more, an open-end money market fund with, or tied to, check-writing capacity solely invested in or fully collateralized by U.S. Government securities.

(4) As an alternative to the account options in (3), the financial institution may pay a “safe harbor” yield equal to 70% of the Federal Funds Target Rate or

1.0%, whichever is higher.

(5) A lawyer or law firm may maintain funds belonging to the lawyer or law firm in the IOLTA account to meet minimum balance requirements and to pay bank charges.

(6) Each lawyer or law firm shall direct the eligible financial institution to remit monthly earnings on the IOLTA account directly to the Lawyers Trust Fund of Illinois. For each individual IOLTA account, the eligible financial institution shall provide: a statement transmitted with each remittance showing the name of the lawyer or law firm directing that the remittance be sent; the account number; the remittance period; the rate of interest applied; the account balance on which the interest was calculated, the reasonable service fee(s) if any; the gross earnings for the remittance period; and the net amount of earnings remitted. Remittances shall be sent to the Lawyers Trust Fund electronically unless otherwise agreed. Fees in excess of the earnings accrued on an individual IOLTA account for any month shall not be taken from earnings accrued on other IOLTA accounts or from the principal of the account.

(7) Each lawyer or law firm shall deposit into such interest-bearing trust accounts all clients' funds which are nominal in amount or are expected to be held for a short period of time.

(8) The decision as to whether funds are nominal in amount or are expected to be held for a short period of time rests exclusively in the sound judgment of the lawyer or law firm, and no charge of ethical impropriety or other breach of professional conduct shall attend a lawyer's or law firm's judgment on what is nominal or short term.

(e) Ordinarily, in determining the type of account into which to deposit particular funds for a client or third person, a lawyer or a law firm shall take into consideration the following factors:

(1) the amount of interest which the funds would earn during the period they are expected to be held and the likelihood of delay in the relevant transaction or proceeding;

(2) the cost of establishing and administering the account, including the cost of the lawyer's services;

(3) the capability of the financial institution, through subaccounting, to calculate and pay interest earned by each client's funds, net of any transaction costs, to the individual client.

(f) Definitions

(1) "IOLTA account" means an interest- or dividend-bearing trust account benefiting the Lawyers Trust Fund of Illinois, established in an eligible institution for the deposit of nominal or short-term funds of clients or third persons as defined in (d) and from which funds may be withdrawn upon request as soon as permitted by law.

(2) "Open-end money market fund" is a fund of an open-end investment company that must hold itself out as a money market fund as defined by

applicable federal statutes and regulations under the Investment Act of 1940, and, at the time of the investment, have total assets of at least \$250 million.

(3) “U.S. Government securities” refers to U.S. Treasury obligations and obligations issued or guaranteed as to principal and interest or any AAA-rated United States agency or instrumentality thereof. A daily overnight financial repurchase agreement (“repo”) may be established only with an institution that is deemed to be “well capitalized” or “adequately capitalized” as defined by applicable federal statutes and regulations.

(4) “Safe harbor” is a yield that if paid by the financial institution on IOLTA accounts shall be deemed as a comparable return in compliance with this rule. Such yield shall be calculated as 70% of the Federal Funds Target Rate as reported in the Wall Street Journal on the first business day of the calendar month.

(5) “Allowable reasonable fees” for IOLTA accounts are per check charges, per deposit charges, a fee in lieu of a minimum balance, federal deposit insurance fees, automated investment (“sweep”) fees, and a reasonable maintenance fee, if those fees are charged on comparable bank accounts maintained by non-IOLTA depositors. All other fees are the responsibility of, and may be charged to, the lawyer or law firm maintaining the IOLTA account.

(g) In the closing of a real estate transaction, a lawyer’s disbursement of funds deposited but not collected shall not violate his or her duty pursuant to this Rule 1.15 if, prior to the closing, the lawyer has established a segregated Real Estate Funds Account (REFA) maintained solely for the receipt and disbursement of such funds, has deposited such funds into a REFA, and:

(1) is acting as a closing agent pursuant to an insured closing letter for a title insurance company licensed in the State of Illinois and uses for such funds a segregated REFA maintained solely for such title insurance business; or

(2) has met the “good-funds” requirements. The good-funds requirements shall be met if the bank in which the REFA was established has agreed in a writing directed to the lawyer to honor all disbursement orders drawn on that REFA for all transactions up to a specified dollar amount not less than the total amount being deposited in good funds. Good funds shall include only the following forms of deposits: (a) a certified check, (b) a check issued by the State of Illinois, the United States, or a political subdivision of the State of Illinois or the United States, (c) a cashier’s check, teller’s check, bank money order, or official bank check drawn on or issued by a financial institution insured by the Federal Deposit Insurance Corporation or a comparable agency of the federal or state government, (d) a check drawn on the trust account of any lawyer or real estate broker licensed under the laws of any state, (e) a personal check or checks in an aggregate amount not exceeding \$5,000 per closing if the lawyer making the deposit has reasonable and prudent grounds to believe that the deposit will be irrevocably credited to the REFA, (f) a check drawn on the account of or issued

by a lender approved by the United States Department of Housing and Urban Development as either a supervised or a nonsupervised mortgagee as defined in 24 C.F.R. §202.2, (g) a check from a title insurance company licensed in the State of Illinois, or from a title insurance agent of the title insurance company, provided that the title insurance company has guaranteed the funds of that title insurance agent. Without limiting the rights of the lawyer against any person, it shall be the responsibility of the disbursing lawyer to reimburse the trust account for such funds that are not collected and for any fees, charges and interest assessed by the paying bank on account of such funds being uncollected.

Adopted February 8, 1990, effective August 1, 1990; amended July 18, 1990, effective August 1, 1990; amended April 1, 1998, effective immediately; amended October 1, 1998, effective immediately; amended December 1, 1998, effective immediately; amended January 25, 2007, effective June 1, 2007; amended March 20, 2009, effective immediately.