M.R. 3140

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered December 9, 2015.

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

Effective January 1, 2016, Illinois Supreme Court Rules 11, 12, 101, 107, 131, 291, 306, 307, 341, 367, 381 and 383 are amended, as follows.

Amended Rule 11

Rule 11. Manner of Serving Documents Other Than Process and Complaint on Parties Not in Default in the Trial and Reviewing Courts

(a) On Whom Made. If a party is represented by an attorney of record, service shall be made upon the attorney. Otherwise service shall be made upon the party.

(b) Method. Documents shall be served ~~as follows~~ by any one of the following alternative methods:

(1) ~~by delivering~~ *Personal Service.* Delivering them to the attorney or party personally;

(2) ~~by leaving~~ *Delivery to Attorney's Office or Unrepresented Party's Residence.* Leaving them in the office of the attorney with the attorney's clerk, or with a person in charge of the office; or if a party is not represented by counsel, by leaving them at the party's residence with a family member of the age of 13 years or upwards;

(3) ~~by depositing~~ *United States Mail.* Depositing them in a United States post office or post office box, enclosed in an envelope, plainly addressed to the attorney at the attorney's business address, or to the party at the party's business address or residence, with postage fully prepaid; ~~or~~

(4) ~~by delivering~~ *Third-Party Commercial Carrier.* Delivering them to a third-party commercial carrier—including deposit in the carrier's pick-up box or drop off with the carrier's designated contractor—enclosed in a package, plainly addressed to the attorney at the attorney's business address, or to the party at the party's business address or residence, with delivery charge fully prepaid; ~~or~~

(5) ~~by transmitting~~ *Facsimile Transmission.* Transmitting them via facsimile machine to the office of the attorney or party, who has consented to receiving service by facsimile transmission. Briefs filed in reviewing courts shall not be served by facsimile transmission~~.~~;

(i) A party or attorney electing to serve pleadings by facsimile must include on the certificate of service transmitted the telephone number of the sender's facsimile transmitting device. Use of service by facsimile shall be deemed consent by that party or attorney to receive service by facsimile transmission. Any party may rescind consent of

service by facsimile transmission in a case by filing with the court and serving a notice on all parties or their attorneys who have filed appearances that facsimile service will not be accepted. A party or attorney who has rescinded consent to service by facsimile transmission in a case may not serve another party or attorney by facsimile transmission in that case.

(ii) Each page of notices and documents transmitted by facsimile pursuant to this rule should bear the circuit court number, the title of the document, and the page number.

~~(6) by transmitting them via e-mail to the designated e-mail address of record for the attorney or party if the attorney or party consented to e-mail service. The listing of a designated e-mail address on documents or the use of e-mail service shall be deemed consent by that party or attorney to receive e-mail service. Any party may rescind consent of e-mail service in a case by serving a notice on all parties or the attorneys of record. A party or attorney who has rescinded consent to e-mail service in a case may not serve another party or attorney by e-mail in that case; or~~

(6) *E-mail Transmission.* Transmitting them via e-mail to all primary and secondary e-mail addresses of record designated by the attorney or unrepresented party in conformance with Rule 131 (d); or

(7) *Electronic In-box.* Transmission through a service provider that provides an electronic in-box for those parties registered to use the service.

(c) Multiple Parties or Attorneys. In cases in which there are two or more plaintiffs or defendants who appear by different attorneys, service of all documents shall be made on the attorney for each of the parties. If one attorney appears for several parties, that attorney is entitled to only one copy of any document served upon the attorney by the opposite side. When more than one attorney appears for a party, service of a copy upon one of them is sufficient.

~~**(d) Mandatory E-Mail Service.** The use of e-mail service is mandatory if a local circuit adopts mandatory e-filing pursuant to Illinois Supreme Court Electronic Filing Standards.~~

(d) E-mail Address. An attorney must include on the appearance and on all pleadings filed in court an e-mail address to which documents may be served in conformance with Rule 131(d).

(e) Limited Scope Appearance. After an attorney files a Notice of Limited Scope Appearance in accordance with Rule 13(c)(6), service of all documents shall be made on both the attorney and the party represented on a limited scope basis until: (1) the court enters an order allowing the attorney to withdraw under Rule 13(c) or (2) the attorney's representation automatically terminates under Rule 13(c)(7)(ii).

Amended April 8, 1980, effective May 15, 1980; amended April 10, 1987, effective August 1, 1987; amended October 30, 1992, effective November 15, 1992; amended December 29, 2009, effective immediately; amended Oct. 24, 2012, effective Jan. 1, 2013; amended Dec. 21, 2012, eff. Jan. 1, 2013; amended June 14, 2013, eff. July 1, 2013; amended Dec. 9, 2015, eff. Jan. 1, 2016.

Committee Comment

(December 9, 2016)

In amending Rule 11 to provide for e-mail service, the Committee considered whether

special additional rules should apply to documents served by e-mail, e.g., specified file formats, scan resolutions, electronic file size limitations, etc. The Committee rejected such requirements in favor of an approach which provides flexibility to adapt to evolving technology and developing practice. The Committee further anticipates good faith cooperation by practitioners. For example, if an attorney serves a motion in a format which cannot be read by the recipient, the Committee expects the recipient to contact the sender to request an alternative electronic format or a paper copy.

Committee Comment

(December 21, 2012)

New subparagraphs (b)(6) and (7) were created to allow for service of documents electronically. The amendments facilitate electronic communications among the court, parties, and counsel and complement the expansion of e-filing in the trial courts. However, electronic service may not be appropriate in all instances. For example, absent a secure method for electronic service of documents, other service options should be used for cases or documents filed confidentially.

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.

Amended Rule 12

Rule 12. Proof of Service in the Trial and Reviewing Courts; Effective Date of Service

(a) Filing. When service of a document is required, proof of service shall be filed with the clerk.

(b) Manner of Proof. Service is proved:

(1) by written acknowledgment signed by the person served;

(2) in case of service by personal delivery, by certificate of the attorney, or affidavit of a person, other than an attorney, who made delivery;

(3) in case of service by mail or by delivery to a third-party commercial carrier, by certificate of the attorney, or affidavit of a person other than the attorney, who deposited the document in the mail or delivered the document to a third-party commercial carrier, stating the time and place of mailing or delivery, the complete address which appeared on the envelope or package, and the fact that proper postage or the delivery charge was prepaid; or

(4) in case of service by mail by a *pro se* petitioner from a correctional institution, by affidavit, or by certification as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109 (West 2012)) of the person who deposited the document in the institutional

mail, stating the time and place of deposit and the complete address to which the document was to be delivered;

(5) in case of service by facsimile transmission, by certificate of the attorney or affidavit of a person other than the attorney, who transmitted the document via facsimile machine, stating the time and place of transmission, the telephone number to which the transmission was sent, and the number of pages transmitted.

(6) in case of service by e-mail, by certificate of the attorney or affidavit of a person other than the attorney who transmitted the document via e-mail, stating the time and place of transmission to a designated e-mail address of record.

(c) Effective Date of Service by Mail. Service by mail is complete four days after mailing.

(d) Effective Date of Service by Delivery to Third-Party Commercial Carrier. Service by delivery to a third-party commercial carrier is complete on the third business day after delivery of the package to the third-party carrier.

(e) Effective Date of Service by Facsimile Transmission. Service by facsimile machine is complete on the first court day following transmission.

(f) Effective Date of Service by E-mail. Service by e-mail is complete on the first court day following transmission.

(g) Effective Date of Service by Electronic In-box. Service by electronic in-box under Rule 11(b)(7) is complete on the first court day following transmission.

Amended effective July 1, 1971, and July 1, 1975; amended October 30, 1992, effective November 15, 1992; amended December 29, 2009, effective immediately; amended Dec. 21, 2012, eff. Jan. 1, 2013; amended Jan. 4, 2013, eff. immediately; amended September 19, 2014, eff. immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016.

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.

Amended Rule 101

Rule 101. Summons and Original Process-Form and Issuance

(a) General. The summons shall be issued under the seal of the court, tested in the name of the clerk, and signed with his name. It shall be dated on the date it is issued, shall be directed to each defendant, and shall bear the ~~address and telephone number of the plaintiff or his attorney, and if service or notices of motions or filings by facsimile transmission will be accepted, the telephone number of the facsimile machine of the plaintiff or his~~ information required by Rule 131(d) for the plaintiff's attorney or the plaintiff if not represented by an attorney.

(b) Summons Requiring Appearance on Specified Day.

(1) In an action for money not in excess of $50,000, exclusive of interest and costs, or in any action subject to mandatory arbitration where local rule prescribes a specific date for appearance, the summons shall require each defendant to appear on a day specified in the summons not less than 21 or more than 40 days after the issuance of the summons (see Rule 181(b)), and shall be in substantially the following form:

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

A.B., C.D., *etc.*
(naming all plaintiffs),
Plaintiffs,
v.

No. _____
Amount Claimed _____

H.J., K.L. *etc.*,
(naming all defendants),
Defendants

SUMMONS

To each defendant:

You are hereby summoned and required to appear before this court at _____ at _____ o'clock _____ M., on _____20__, to answer the complaint in this case, a copy of which is hereto attached. If you fail to do so, a judgment by default may be entered against you for the relief asked in the complaint.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.

Witness _____

(Seal of Court)

_____

Clerk of Court

Plaintiff's Attorney (or plaintiff, if he is not represented by attorney)
_____

Address_____
Telephone No. _____
Facsimile Telephone No. _____
E-mail Address_____

(If service by facsimile transmission will be accepted, the telephone number of the plaintiff or plaintiff's attorney's facsimile machine is additionally required.)

Date of service _____, 20__ (to be inserted by officer on copy left with defendant or other person).

NOTICE TO DEFENDANTS

[Here simple and specific instructions, conforming to local practice, shall be set out outlining procedure for appearance and trial of the type of case covered by the summons.]

(2) In any action for forcible detainer or for recovery of possession of tangible personal property, the summons shall be in the same form, but shall require each defendant to appear on a day specified in the summons not less than seven or more than 40 days after the issuance of summons.

(3) If service is to be made under section 2-208 of the Code of Civil Procedure the return day shall be not less than 40 days or more than 60 days after the issuance of summons, and no default shall be taken until the expiration of 30 days after service.

(c) Summons in Certain Other Cases in Which Specific Date for Appearance is Required. In all proceedings in which the form of process is not otherwise prescribed and in which a specific date for appearance is required by statute or by rules of court, the form of summons shall conform as nearly as may be to the form set forth in paragraph (b) hereof.

(d) Summons Requiring Appearance Within 30 Days After Service. In all other cases the summons shall require each defendant to file his answer or otherwise file his appearance within 30 days after service, exclusive of the day of service (see Rule 181(a)), and shall be in substantially the following form:

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

A.B., C.D., *etc*.
(naming all plaintiffs),
Plaintiffs,
v. No. _____

H.J., K.L. *etc*.,
(naming all defendants),
Defendants

SUMMONS

To each defendant:

You are summoned and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, in the office of the clerk of this court within 30 days after service of this summons, not counting the day of service. If you fail to do so, a judgment by default may be entered against you for the relief asked in the complaint.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.

Witness _____

(Seal of Court)

_____

Clerk of Court

Plaintiff's Attorney (or plaintiff, if he is not represented by attorney)
_____

Address_____
Telephone No. _____
Facsimile Telephone No. _____
E-mail Address_____

(If service by facsimile transmission will be accepted, the telephone number of the plaintiff or plaintiff's attorney's facsimile machine is additionally required.)

Date of service _____, 20__ (to be inserted by officer on copy left with defendant or other person).

(e) Summons in Cases under the Illinois Marriage and Dissolution of Marriage Act. In all proceedings under the Illinois Marriage and Dissolution of Marriage Act, the summons shall include a notice on its reverse side referring to a dissolution action stay being in effect on service of summons, and shall state that any person who fails to obey a dissolution action stay may be subject to punishment for contempt, and shall include language:

(1) restraining both parties from physically abusing, harassing, intimidating, striking, or interfering with the personal liberty of the other party or the minor children of either party; and

(2) restraining both parties from removing any minor child of either party from the State of Illinois or from concealing any such child from the other party, without the consent of the other party or an order of the court.

(f) Waiver of Service of Summons. In all cases in which a plaintiff notifies a defendant of the commencement of an action and requests that the defendant waive service of summons under section 2-213 of the Code of Civil Procedure, the request shall be in writing in the following form:

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

A.B., C.D., *etc.*
(naming all plaintiffs),
Plaintiffs,

No. _____

v. Amount Claimed _____

H.J., K.L., *etc*.
(naming all defendants),
Defendants

Notice and Acknowledgment of Receipt of Summons and Complaint

NOTICE

To: (Insert the name and address of the person to be served)

The enclosed summons and complaint are served pursuant to section 2-213 of the

Code of Civil Procedure.

You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within _____* days.

You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return the form to the sender within ____* days, you (or the party on whose behalf you are being served) may be served a summons and complaint in any other manner permitted by law.

If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within ____** days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this notice and acknowledgment of receipt of summons and complaint will have been mailed on _____. (Insert Date)

Signature _____

Date of Signature _____

ACKNOWLEDGMENT OF RECEIPT OF
SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above-captioned matter at (inset address).

PRINT or TYPE Name _____

Relationship to Entity/Authority to Receive Service of Process

_____

(Not Applicable if you are the named Defendant or Respondent)

Signature _____

Date of Signature _____

*(To be completed by the person sending the notice.) Date for return of waiver must be at least 30 days from the date on which the request is sent, or 60 days if the defendant is addressed outside the United States.

**(To be completed by the person sending the notice.) Date for answering complaint must be at least 60 days from the date on which the request is sent, or 90 days if the defendant is addressed outside the United States.

(g) Use of Wrong Form of Summons. The use of the wrong form of summons shall not affect the jurisdiction of the court.

Amended effective August 3, 1970, July 1, 1971, and September 1, 1974; amended May 28, 1982, effective July 1, 1982; amended October 30, 1992, effective November 15, 1992; amended January 20, 1993, effective immediately; amended December 30, 1993, effective January 1, 1994; amended February 1, 1996, effective immediately; amended May 30, 2008, effective immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016.

Committee Comments
(Revised September 1, 1974)

As adopted in 1967, Rule 101 was derived from former Rule 2, with changes in paragraph (b). Paragraph (b) was inserted in former Rule 2, effective January 1, 1964, to provide, for relatively small cases, the form of summons that had been in use in the Municipal Court of Chicago prior to that date. In cases up to $10,000, the time was changed to not less than 21 or more than 40 days. Effective August 3, 1970, the $10,000 limit was changed to $15,000. The appearance day in small claims is covered by Rule 283.

The appearance day in forcible entry and detainer cases was left at not less than seven or more than 40 days. To conform the practice to the requirements of notice in actions seeking restoration of property wrongfully detained, set forth by the Supreme Court of the United States in *Fuentes v. Shevin* (1972), 407 U.S. 67, subparagraph (b)(2) of the rule was amended in 1974 to provide for a summons in such cases returnable on a day specified in the summons, not less than seven or more than 40 days from issuance, as in forcible entry and detainer cases. Under the rule as amended, independent of the statutory remedy of replevin, a party seeking return of personal property may proceed in an action in the nature of an action in detinue at common law, and serve process in the manner provided.

Subparagraph (b)(3), added to former Rule 2 in 1964 and carried forward into Rule 101 in 1967, set 40 days as the return day on service made under section 16 of the Civil Practice Act. Effective July 1, 1971, this provision was amended to substitute for "40 days" the somewhat more flexible provision "not less than 40 days or more than 60 days."

The provision of paragraph (b) of this rule permitting specific instructions under the heading "Notice to Defendant" has probably not been adequately implemented by the judges of the trial courts. It is the committee's view that the summons should give as much specific information to the defendant as possible. For instance, the particular court room number and place of holding court ought to be given. Instructions regarding the method of entering an appearance and a statement whether an answer must be filed with the appearance, or the date for filing an answer after an appearance, can be stated in the "Notice to Defendant." Rule 181, relating to appearance, expressly recognizes that the "Notice to Defendant" under Rule 101(b) is controlling.

In 1974, paragraph (d) was amended to insert in the specimen summons reference to the fact that a copy of the complaint is attached, thus conforming the language of the summons under paragraph (d) in this respect to the language in the summons under paragraph (b).

Amended Rule 107

Rule 107. Notice of Hearing for an Order of Replevin

(a) Form of Notice. A notice for an order of replevin (see 735 ILCS 5/19-105) 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, Illinois)

A.B., C.D., *etc*. (naming all plaintiffs),
Plaintiffs,
v. No. _____
H.J., K.L., *etc*. (naming all defendants),
Defendants

To each defendant:

You are hereby notified that on _____, 20_____, a complaint, a copy of which is attached, was filed in the above court seeking an order of replevin. Pursuant to law a hearing will be held to determine whether such an order shall be entered in this case. If you wish to contest the entry of such order, you must appear at this hearing at _____, at _____ o'clock ____ M., on _____, 20__.

_____
Attorney for the Plaintiff

Address_____
Telephone No._____
Facsimile Telephone No. N~~umber~~_____
E-mail Address_____

(If service by facsimile transmission will be accepted, the telephone number of the plaintiff or plaintiff's attorney's facsimile machine is required.)

(b) Service. Notice of the hearing shall be served not less than five days prior to the hearing in accordance with sections 2-202 through 2-205 of the Code of Civil Procedure, or by mail in the manner prescribed in Rule 284.

Effective September 1, 1974; amended May 28, 1982, effective July 1, 1982; amended October 30, 1992, effective November 15, 1992; amended May 30, 2008, effective immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016.

Committee Comments

In 1973, the Illinois Replevin Act (Ill. Rev. Stat. 1973, ch. 119) was amended to provide for a notice and hearing prior to the issuance of the writ in conformity with the decision of the United States Supreme Court in *Fuentes v. Shevin* (1972), 407 U.S. 67. Section 4(a) of the statute, as amended, provides that five days' notice of a hearing on the question of the issuance of a writ of replevin be given "in the manner required by Rule of the Supreme Court." Rule 107 provides the form and manner of service of such notice.

Amended Rule 131

Rule 131. Form of Documents ~~Papers~~

(a) Legibility. All documents and copies thereof for filing and service shall be legibly written, typewritten, printed, or otherwise duplicated. The clerk shall not file any which do not conform to this rule.

(b) Titles. All documents shall be entitled in the court and cause, and the plaintiff's name shall be placed first.

(c) Multiple Parties. In cases in which there are two or more plaintiffs or two or more defendants, it is sufficient in entitling documents, except a summons, to name the first-named plaintiff and the first-named defendant with the usual indication of other parties, provided there be added the official number of the cause.

(d) Name, Address, Telephone Number, Facsimile Number and E-mail Address. ~~of Responsible Attorney or Attorneys.~~

(1) Attorneys. All documents filed or served in any cause ~~or served~~ by an attorney upon ~~the opposite~~ another party shall bear the attorney's name, business address, ~~and telephone number of the responsible attorney or attorneys and the law firm filing the same, or the mailing address~~ e-mail address, and telephone number ~~of the party who appears in his own proper person. If the responsible~~ The attorney ~~or attorneys or the party who appears in his own proper person~~ must designate a primary e-mail address and may designate no more than two secondary e-mail addresses.

(2) Unrepresented Parties. All documents filed or served in any cause by an unrepresented party upon another party shall bear the unrepresented party's mailing address and telephone number. Additionally, an unrepresented party may designate a single e-mail address to which service may be directed under Rule 11(b)(6). If an unrepresented party does not designate an e-mail address, then service upon and by that party must be made by a method specified in Rule 11 other than e-mail transmission under Rule 11(b)(6).

(3) All parties. If the attorney or unrepresented party will accept service by facsimile transmission ~~or via e-mail~~, then the document shall also bear the statement "Service ~~[~~by facsimile transmission ~~] [via e-mail]~~ will be accepted at [facsimile telephone number] ~~[e-mail address]~~."

Amended February 19, 1982, effective April 1, 1982; amended October 30, 1992, effective November 15, 1992; amended Dec. 21, 2012, eff. Jan. 1, 2013; amended Jan. 4, 2013, eff. immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016.

Committee Comments

(Revised February 1982)

In 1982 the rule, which was former Rule 6 without change of substance, was amended to require that all papers filed or served had to bear the name, as well as the address and telephone number, of the responsible attorney or attorneys and law firm filing them.

Amended Rule 291

Rule 291. Proceedings Under the Administrative Review Law

a) Form of Summons. The summons in proceedings under the Administrative Review Law shall be drawn in substantially the following form:

In the Circuit Court of the _____ Judicial Circuit

_____ County, Illinois

(Or, In the Circuit Court of Cook County, Illinois)

A.B., C.D., *etc*. (naming all plaintiffs),

Plaintiffs,

v. No. _____

First the Agency appealed from, and the defendants, and parties not appealing,

Defendants.

To each of the above-named defendants:

You are hereby summoned and required to file an answer in this case or otherwise file your appearance in the office of the clerk of this court within 35 days after the date of this summons.

This summons is served upon you by registered or certified mail pursuant to the provisions of the Administrative Review Law.

Witness _____, 20 ____

(Seal of Court) _____

Clerk of Court

Plaintiff's Attorney (or plaintiff, if he is not represented by attorney)_____

Address_____

Telephone No. _____

Facsimile Telephone No. _____

E-Mail Address_____

(If service by facsimile transmission will be accepted, the telephone number of the plaintiff or plaintiff's attorney's facsimile machine is additionally required.)

b) Service. The clerk shall promptly serve each defendant by mailing a copy of the summons by registered or certified mail as provided in the Administrative Review Law. Not later than 5 days after the mailing of copies of the summons, the clerk shall file a certificate showing that he served the defendants by registered or certified mail pursuant to the provisions of the Administrative Review Law.

(c) Appearance. The defendant shall appear not later than 35 days after the date the summons bears.

(d) Other Rules Applicable. Rules 181(b), 182(b), 183, and 184 shall apply to proceedings under the Administrative Review Law.

(e) Record on Appeal. The original copy of the answer of the administrative agency, consisting of the record of proceedings (including the evidence and exhibits, if any) had before the administrative agency, shall be incorporated in the record on appeal unless the parties stipulate to less, or the trial court after notice and hearing, or the reviewing court, orders less.

Amended July 30, 1979, effective October 15, 1979; amended May 28, 1982, effective July 1, 1982; amended April 27, 1984, effective July 1, 1984; amended October 30, 1992, effective November 15, 1992; amended May 30, 2008, effective immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016.

Committee Comments

(Revised April 27, 1984)

As originally adopted, Rule 291 carried forward the provisions of former Rule 71 without substantial change. Paragraphs (a) through (d) remain as originally adopted. In 1979, paragraph (e) was amended in four respects. First, language was added to make it clear that the exhibits, as well as any other "evidence," constitute a part of the record of proceedings had before the administrative agency. Second, it was provided that the parties may stipulate for inclusion in the record on appeal of less than the full record of proceedings. Third, it was provided that, if the trial court orders less, it must do so after notice and hearing. Fourth, it was provided that the reviewing court, without notice and hearing, may order less.

Section 3-105 of the Code of Civil Procedure was amended, effective July 13, 1982, and, in 1984, paragraph (b) of this rule was amended to allow service of summons by certified mail, as well as registered mail.

Amended Rule 306

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 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); 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 an unemancipated minor as authorized in paragraph (a)(5) shall be by petition filed in the Appellate Court. 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 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 ~~service~~, e-mail 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~~, e-mail 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.

(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.

(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.

(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.

(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.

(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 clerk shall send notice thereof to 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 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; amended February 16, 2011, effective immediately; amended May 29, 2014, eff. July 1, 2014; amended Dec. 9, 2015, eff. Jan. 1, 2016.

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.

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 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~~, e-mail 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~~, e-mail 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 Dec. 9, 2015, eff. Jan. 1, 2016.

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) 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.

Amended Rule 341

Rule 341. Briefs

(a) Form of Briefs. Briefs shall be produced in clear, black print on white, opaque, unglazed paper, 8½ by 11 inches, and paginated. Only one side of the paper may be used. 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. Briefs shall be safely and securely bound on the left side in a manner that does not obscure the text. 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.

Documents may be produced by a word-processing system, typewritten, or commercially printed, and reproduced by any process that provides clear copies consistent with the requirements of this rule. Typeface must be 12-point or larger throughout the document, including quoted material and any footnotes. Condensed type is prohibited. Carbon copies are not permitted.

(b) Length of Briefs.

(1) ~~Page~~ 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 words. This ~~page~~ length limitation excludes pages ~~containing~~ 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 words, and the cross-appellant's reply brief shall not exceed 20 pages, or alternatively 7,000 words.

(2) Motions. Motions to file a brief in excess of the ~~page~~ 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 unrepresented party. 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 unrepresented party 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 ~~containing~~ 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 shall be: abstract, gray; 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) Number of Copies To Be Filed and Served; Proof of Service. Except as provided hereafter nine copies of each brief shall be filed in appeals to the Appellate Court. In proceedings in the Appellate Court to review orders of the Illinois Workers' Compensation Commission, 15 copies of each brief shall be filed. In appeals to the Supreme Court, 20 copies of each brief shall be filed. Three copies (or one copy if by e-mail service) shall be served upon each other party to the appeal represented by separate counsel. If the Attorney General and the State's Attorney both appear for a party, each shall be served with three copies (or one copy if by e-mail service). 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, *e.g.*, R. C7, or R. 7, or to the pages of the abstract, *e.g.*, A. 7. Exhibits may be cited by reference to pages of the abstract or of the record on appeal or by exhibit number followed by the page number within the exhibit, *e.g.*, Pl. Ex. 1, p. 6.

(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 or abstract, if any, 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.

(l) Copy of Document in Electronic Format. In addition to the number of copies required to be filed and served in accordance with this rule, the brief may be furnished on any removable media, such as floppy disk or CD-ROM, acceptable to the clerk of the reviewing court in Adobe Acrobat and served on each party to the appeal. The electronic document may but need not contain the required appendix. A copy of a brief in electronic format shall be filed upon request of the court or a judge thereof.

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.

Committee Comments

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).

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.

Amended Rule 367

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 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; Copies; Service; Notification of Reporter. The number of copies of the petition, and of any answer or reply (see paragraph (d)), the form, cover and service shall conform to the requirements for briefs (see Rule 341), except that, in the Supreme Court, petitions for rehearing shall be delivered or mailed by first-class mail or delivered by third-party commercial carrier, and a copy of the petition or any motion seeking to change the time for filing the petition shall also be delivered or mailed by first-class mail or delivered by third-party commercial carrier to the Reporter of Decisions, P.O. Box 3456, Bloomington, Illinois 61702-3456, and a certificate of mailing or delivery shall be supplied to the clerk of the Supreme Court.

(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 words, the reply shall be limited to 10 pages, or alternatively 3,500 words, and each must be supported by a certificate of compliance in accordance with Rule 341(c). Three copies (or one copy if by e-mail service) of each shall be served on opposing counsel and proof of service filed with the clerk. The original briefs of the parties, and 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.

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.

Amended Rule 381

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. 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 appropriate papers for that party but shall not file any paper in the name of the judge.

(d) Objections to Motion. The respondent shall have 7 days after personal, 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 original papers to stand as his or her 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.

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.

Amended Rule 383

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) A copy of the motion, explanatory suggestions, and all supporting 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 papers for that respondent but shall not file any paper in the name of the respondent.

(d) The prevailing party below shall have 7 days after personal, 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 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.

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.