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

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

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

Committee Comments
(Revised 1979)

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

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

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