

Table of Contents

Volume 1

PART I. APPELLATE PRACTICE AND REVIEWING COURTS

CHAPTER 1. THE NATURE OF APPELLATE PRACTICE

A. APPELLATE PRACTICE OVERVIEW

- § 1:1 Right to appeal
- § 1:2 Special nature of an appeal

B. APPELLATE ADVOCACY

- § 1:3 Nature of appellate advocacy
- § 1:4 Appellate expertise
- § 1:5 Professional ethics on appeal—Competence of appellate counsel
- § 1:6 —Ineffective assistance of appellate counsel
- § 1:7 — —Standard
- § 1:8 — —Three categories
- § 1:9 — —Presumption of adequate assistance of counsel
- § 1:10 —Unwarranted positions
- § 1:11 —Frivolous appeals
- § 1:12 — —Standard
- § 1:13 —Duty to expedite appeal
- § 1:14 —Disclosure of adverse authority
- § 1:15 —Means of persuasion—Maintaining court’s confidence
- § 1:16 — —Candor

C. APPELLATE JUDICIAL PROCESS

- § 1:17 Appellate jurisdiction in general
- § 1:18 Appellate judicial decision-making
- § 1:19 Judicial immunity

CHAPTER 2. ORGANIZATION OF ILLINOIS COURTS OF REVIEW

A. THE ILLINOIS SUPREME COURT

- § 2:1 Supreme Court organization
- § 2:2 —2021 redistricting
- § 2:3 —Chief Justice
- § 2:4 —Quorum necessary
- § 2:5 —Terms of the Supreme Court
- § 2:6 —Continuance of causes
- § 2:7 —Justices of the Supreme Court
- § 2:8 —Clerk of Court
- § 2:9 Supreme Court authority
- § 2:10 —Conclusiveness of judgments and orders
- § 2:11 —Judgments in vacation
- § 2:12 —Powers in vacation

B. THE ILLINOIS APPELLATE COURT

- § 2:13 Appellate Court organization
- § 2:14 —Districts
- § 2:15 — —2021 redistricting
- § 2:16 — —First Judicial District
- § 2:17 — —Second Judicial District
- § 2:18 — —Third Judicial District
- § 2:19 — —Fourth Judicial District
- § 2:20 — —Fifth Judicial District
- § 2:21 — —Number of judges assigned
- § 2:22 —Additional judges
- § 2:23 —Appellate Court judges
- § 2:24 —Location of Appellate Court judges
- § 2:25 —Presiding judge
- § 2:26 —Executive Committee of the Appellate Court—First Appellate District
- § 2:27 —Divisions
- § 2:28 — —Rotation of judges
- § 2:29 — —Workers' Compensation Commission Division
- § 2:30 —Panels
- § 2:31 —Quorum
- § 2:32 —Decisions
- § 2:33 —Sessions
- § 2:34 —Clerks of Court
- § 2:35 — —First District
- § 2:36 — —Second District
- § 2:37 — —Third District
- § 2:38 — —Fourth District

TABLE OF CONTENTS

- § 2:39 — —Fifth District
- § 2:40 —Appellate Court research departments
- § 2:41 —Judicial law clerks

C. COURT ADMINISTRATION

- § 2:42 Court administration—Generally
- § 2:43 —Supreme Court rules
- § 2:44 — —Binding effect of Supreme Court rules
- § 2:45 —Local rules of the Appellate Court
- § 2:46 — —First District
- § 2:47 —Administrative rules of the Appellate Court—Second District
- § 2:48 — —Third District
- § 2:49 — —Fourth District
- § 2:50 — —Fifth District
- § 2:51 — —Workers' Compensation Commission Division
- § 2:52 Illinois reviewing court holidays

CHAPTER 3. AUTHORITY OF ILLINOIS REVIEWING COURTS

A. POWERS AND DUTIES

- § 3:1 Separation of powers
- § 3:2 —Judicial power
- § 3:3 — —Illinois Supreme Court
- § 3:4 — —Legislative and administrative acts
- § 3:5 Judicial powers in general
- § 3:6 The judicial function
- § 3:7 —Duty to declare and enforce law
- § 3:8 —No advisory opinions
- § 3:9 —No power to legislate
- § 3:10 —Review of statutes
- § 3:11 — —Question of law
- § 3:12 — —Interpretation of legislation
- § 3:13 — —Desirability and reasonableness of statute
- § 3:14 — —Duty to strike down unconstitutional acts
- § 3:15 —Concurrent judicial and legislative jurisdiction
- § 3:16 —Powers of amendment
- § 3:17 —Substitution of parties
- § 3:18 —Inferences of fact
- § 3:19 —Grant of relief

B. JURISDICTION OF REVIEWING COURTS

- § 3:20 Appellate jurisdiction

- § 3:21 —Constitutional right of review
- § 3:22 —Supreme Court rules
- § 3:23 —Statute
- § 3:24 —Court’s duty to consider jurisdiction *sua sponte*
- § 3:25 —Parties may not waive or stipulate to jurisdiction
- § 3:26 —Actual controversy
- § 3:27 —Mootness
- § 3:28 — —Matters outside the record
- § 3:29 — —Exceptions
- § 3:30 — — —Capable of repetition, yet evading review
- § 3:31 — — —Public interest
- § 3:32 — — —Collateral consequences
- § 3:33 —Circuit court jurisdiction while appeal is pending
- § 3:34 Supreme Court jurisdiction
- § 3:35 Appellate Court jurisdiction
- § 3:36 —Power and authority
- § 3:37 —Certiorari and other relief
- § 3:38 —Mandamus
- § 3:39 — —Process
- § 3:40 Jurisdictional effect of failure to comply with Supreme
Court rules
- § 3:41 Federal court jurisdiction over state court judgments

PART II. PRE-APPEAL PROCEDURE AND CONSIDERATIONS

CHAPTER 4. PRESERVING ISSUES FOR REVIEW

A. FAILURE TO RAISE ISSUE AND OBTAIN A RULING

- § 4:1 Issue waiver and forfeiture
- § 4:2 —Waiver versus forfeiture
- § 4:3 —Party’s own conduct
- § 4:4 —Invited error and inducement of error
- § 4:5 —Acquiescence in ruling
- § 4:6 —Change in theory
- § 4:7 —Constitutional issues
- § 4:8 —Specific grounds for objection
- § 4:9 — —Continuing objection
- § 4:10 —Misconduct of counsel
- § 4:11 — —Motion for mistrial or to withdraw juror
unnecessary
- § 4:12 — —Request to have jury disregard

TABLE OF CONTENTS

- § 4:13 —Motion *in limine*
- § 4:14 —Closing argument
- § 4:15 —Jury instructions
- § 4:16 — —Proffer of correct instruction
- § 4:17 —Special interrogatories
- § 4:18 —Motions to strike
- § 4:19 — —Testimony unconnected
- § 4:20 —Summary judgment—Exhibits
- § 4:21 — —Affidavits
- § 4:22 —Other matters
- § 4:23 —Application to appellee
- § 4:24 Necessity of trial court ruling
- § 4:25 —Reservation of rulings

B. OFFER OF PROOF

- § 4:26 Offers of proof in general
- § 4:27 Nature and purpose of offer of proof
- § 4:28 Absence of offer of proof
- § 4:29 Contents of offer
- § 4:30 —Formality of offer
- § 4:31 — —Exceptions to formality
- § 4:32 —Exhibits offered
- § 4:33 —Stated purpose
- § 4:34 —Separation of inadmissible evidence
- § 4:35 Trial court’s refusal to allow offer
- § 4:36 Grounds on appeal

C. THE ROLE OF THE REVIEWING COURT

- § 4:37 Reviewing court not limited by waiver rule
- § 4:38 —Issue of public importance
- § 4:39 —Plain error doctrine
- § 4:40 Waiver—Appellate jurisdiction
- § 4:41 —Circuit court jurisdiction
- § 4:42 Release of errors doctrine

D. CHECKLISTS

- § 4:43 Checklist for preserving the trial record
- § 4:44 Checklist for offer of proof

E. FORM

- § 4:45 Sample offer of proof

CHAPTER 5. POST-TRIAL MOTIONS

A. OVERVIEW OF POST-TRIAL MOTIONS

- § 5:1 Nature and purpose

- § 5:2 Preservation of issues—Jury trial
- § 5:3 — —Waiver
- § 5:4 — — —Waiver of new trial
- § 5:5 —Bench trial
- § 5:6 Form of motions
- § 5:7 Content of motions—Jury trials
- § 5:8 —Bench trials
- § 5:9 —Amendments to post-trial motions
- § 5:10 Time for filing
- § 5:11 —New judgment after original post-trial motion
- § 5:12 —Jurisdiction
- § 5:13 —Successive post-trial motions impermissible
- § 5:14 Extending the time to appeal—Timely post-trial motion required
- § 5:15 —Proper post-trial motion required
- § 5:16 —Types of motions not considered post-trial motions
- § 5:17 —Letters not considered post-trial motions
- § 5:18 Stay of enforcement
- § 5:19 Revestment
- § 5:20 Court’s ruling

B. TYPES OF MOTIONS AFTER EITHER BENCH OR JURY TRIAL

- § 5:21 Motions for new trial
- § 5:22 —Standard of decision
- § 5:23 —New trial on damages only
- § 5:24 — —Remittitur
- § 5:25 —Ruling within the trial court’s discretion

C. TYPES OF MOTIONS AFTER JURY TRIAL

- § 5:26 Assertions of error after jury trial
- § 5:27 —Specificity requirement
- § 5:28 Motions for judgment notwithstanding the verdict
- § 5:29 —Standard of decision
- § 5:30 Motions for new trial—Erroneous instructions
- § 5:31 — —Point raised during instruction conference
- § 5:32 —Objection to special interrogatory
- § 5:33 —Answers to special interrogatory
- § 5:34 —Error relating only to damages
- § 5:35 — —Excessive damages

D. CHECKLIST

- § 5:36 Checklist for post-trial motion

E. FORM

- § 5:37 Sample post-trial motion

CHAPTER 6. THE DECISION TO APPEAL

A. CONSIDERATIONS INFLUENCING THE DECISION TO APPEAL

- § 6:1 In general
- § 6:2 Factors to consider
- § 6:3 —Legitimate grounds
- § 6:4 —Question of sufficient importance
- § 6:5 —Result in trial court
- § 6:6 —Valid question of law
- § 6:7 —Costs involved
- § 6:8 — —Attorneys' fees
- § 6:9 — —Postjudgment interest
- § 6:10 — — —Determination of interest
- § 6:11 — — — —Example
- § 6:12 — —Prejudgment interest
- § 6:13 — —Security for stay
- § 6:14 — —Delay in collection of judgment
- § 6:15 —Special interest in law
- § 6:16 —Issue preservation
- § 6:17 — —Underlying rationale
- § 6:18 — —Other aids

B. RIGHT TO APPEAL

- § 6:19 Preservation of client's right to appeal
- § 6:20 Party's right to appeal
- § 6:21 Factors affecting the right to appeal—Enjoyment of judgment's benefits
- § 6:22 —Consent decree or agreed order
- § 6:23 —Voluntary dismissal by plaintiff
- § 6:24 —Directed verdict in favor of codefendant
- § 6:25 —Verdict for codefendant
- § 6:26 —Prevailing party status
- § 6:27 —No cross-appeal right
- § 6:28 —No anticipatory rulings
- § 6:29 —Nonparty status
- § 6:30 —Fugitive disentitlement doctrine
- § 6:31 Factors not affecting the right to appeal—Payment of judgment
- § 6:32 —Failure to obtain a stay

C. PARTIES AND ATTORNEYS

- § 6:33 Joinder of necessary parties
- § 6:34 Parties in the trial court
- § 6:35 Attorneys

D. RELIEF FROM JUDGMENT AFTER THE TIME TO APPEAL HAS EXPIRED

- § 6:36 Relief under § 2-1401
- § 6:37 —Grounds for relief
- § 6:38 —Practice
- § 6:39 —Scope of proceeding
- § 6:40 —Nature of relief
- § 6:41 —Limitations
- § 6:42 —Available after appeal
- § 6:43 —Ruling subject to appeal

E. CHECKLIST

- § 6:44 Checklist for decision to appeal

CHAPTER 7. STAY OF JUDGMENT AND SECURITY

A. STAYS IN GENERAL

- § 7:1 Effect of filing of post-trial motion
- § 7:2 Applicable Supreme Court rule
- § 7:3 Effect of notice of appeal
- § 7:4 —Amendment of notice of appeal
- § 7:5 Bond not jurisdictional
- § 7:6 Types of stay distinguished
- § 7:7 Effect of stay—Purpose of stay order
- § 7:8 —Actions in violation of stay

B. SECURITY AND STAY

- § 7:9 Motion for stay
- § 7:10 Stay of money judgments—Security
- § 7:11 — —Insurance policy in lieu of bond
- § 7:12 — —Land trust bond
- § 7:13 — —No bond requirement for public agencies
- § 7:14 — —Amount and condition of security
- § 7:15 — — —Partial stays
- § 7:16 — — —Changing security after appeal docketed
- § 7:17 Stay of nonmoney judgments and orders
- § 7:18 —Conditions
- § 7:19 Extension of time to file motion for bond
- § 7:20 Filing of security with clerk of circuit court

C. ROLE OF THE REVIEWING COURT

- § 7:21 Reviewing Court—Discretion of court

TABLE OF CONTENTS

- § 7:22 — —Showing required
- § 7:23 — —Abuse of discretion
- § 7:24 Motion for stay in reviewing court

D. PROCEDURE ABSENT A STAY

- § 7:25 Proceedings to collect judgment
- § 7:26 Failure to obtain stay—Effect on interests in property
- § 7:27 —Restitution

E. PARENTAL RIGHTS APPEALS

- § 7:28 Automatic stay
- § 7:29 Effect of stay
- § 7:30 Circuit court’s continuing jurisdiction
- § 7:31 Checklist for motion to lift automatic stay of order terminating parental rights

F. FORMS

- § 7:32 Sample motion to set bond
- § 7:33 Sample appeal bond
- § 7:34 Sample motion to stay with insurance policy
- § 7:35 Sample affidavit of counsel
- § 7:36 Sample written recognizance of insurance company
- § 7:37 Sample verification of policy
- § 7:38 Sample motion for stay in reviewing court
- § 7:39 Sample affidavit supporting motion made in reviewing court

PART III. PERFECTING THE APPEAL

CHAPTER 8. THE NOTICE OF APPEAL

A. NATURE OF NOTICE OF APPEAL

- § 8:1 Purpose of notice of appeal
- § 8:2 —Consequences of defects in notice of appeal

B. CONTENTS OF NOTICE OF APPEAL

- § 8:3 Contents of notice of appeal
- § 8:4 —Caption
- § 8:5 —Name of case and parties
- § 8:6 —Specification of judgment
- § 8:7 —Relief sought
- § 8:8 —Signature

§ 8:9 Amendment of notice of appeal

C. ORDERS AND JUDGMENTS REVIEWABLE

§ 8:10 Reviewability of unspecified order or judgment

§ 8:11 —Step in the procedural progression

§ 8:12 —Ruling on postjudgment motion

§ 8:13 —Separate appeal or cross-appeal

D. JURISDICTIONAL EFFECT OF FILING NOTICE OF APPEAL

§ 8:14 Jurisdiction of the circuit court

§ 8:15 —Matters on appeal

§ 8:16 —Independent, collateral, and supplemental matters

§ 8:17 —Nunc pro tunc orders

§ 8:18 —Depositions while case is on appeal

§ 8:19 Jurisdiction of the Appellate Court

E. TIMELINESS, FILING, AND SERVICE OF NOTICE OF APPEAL

§ 8:20 Time for filing

§ 8:21 —Mandatory and jurisdictional

§ 8:22 — —No waiver

§ 8:23 —Mailed notice

§ 8:24 —Pending postjudgment motion

§ 8:25 — —Successive postjudgment motions

§ 8:26 —Pending motion for sanctions

§ 8:27 —Party's death

§ 8:28 —Notices of appeal by another party

§ 8:29 —Premature notice

§ 8:30 —Weekends or holidays

§ 8:31 —Extension of time to file

§ 8:32 — —Reasonable excuse

§ 8:33 —E-filing error

§ 8:34 Service of notice of appeal

F. CHECKLIST

§ 8:35 Checklist for notice of appeal

G. FORM

§ 8:36 Sample notice of appeal

CHAPTER 9. THE DOCKETING STATEMENT

§ 9:1 Docketing the appeal

TABLE OF CONTENTS

- § 9:2 Docketing statement
- § 9:3 —When filed
- § 9:4 —Service and docketing fees
- § 9:5 —Written request to the circuit court clerk and court reporter(s)
- § 9:6 —Responsive statement
- § 9:7 Numbering and assigning cases
- § 9:8 —First District
- § 9:9 — —Computerized random assignment
- § 9:10 — —Reassignment of case to same division
- § 9:11 Appellee’s appearance

CHAPTER 10. THE RECORD ON APPEAL

A. INTRODUCTION

- § 10:1 Purpose of record
- § 10:2 —Full and fair presentation
- § 10:3 —Conclusive record of circuit court proceedings
- § 10:4 —Reviewing court bound by record

B. APPELLANT’S RESPONSIBILITY

- § 10:5 Appellant’s duty to furnish record
- § 10:6 —Consequences of incomplete record
- § 10:7 — —Omission of report of proceedings
- § 10:8 — —Omission of trial exhibits
- § 10:9 — — —Procedure for transmitting exhibits
- § 10:10 Supporting record
- § 10:11 —Authentication
- § 10:12 —Format

C. COMPOSITION OF RECORD

- § 10:13 Contents of record
- § 10:14 —Common law record
- § 10:15 —Report of proceedings
- § 10:16 —Complete record customary

D. THE REPORT OF PROCEEDINGS OR SUBSTITUTE

- § 10:17 Report of proceedings
- § 10:18 —Contents
- § 10:19 Appellant’s request to court reporting personnel
- § 10:20 Appellee’s designation of additional matter
- § 10:21 —Inclusion by appellant
- § 10:22 — —Alternative motion

- § 10:23 Cost of unnecessary material
- § 10:24 Filing the report of proceedings
- § 10:25 Filing of report of proceedings—Certification procedure
- § 10:26 —Extension of time to file report of proceedings
- § 10:27 — —When filed
- § 10:28 Procedure in absence of verbatim transcript (bystander’s report)
- § 10:29 —Recollection and sources
- § 10:30 — —No attorney’s affidavit
- § 10:31 Agreed statement of facts
- § 10:32 Failure to timely file report of proceedings
- § 10:33 —Dismissal of appeal
- § 10:34 —Review of questions of law

E. REQUESTING AND TRANSMITTING RECORD

- § 10:35 Appellant’s request for record
- § 10:36 —Clerk’s preparation of common law record
- § 10:37 — —Arrangement and numbering
- § 10:38 — —Minimum fee for record
- § 10:39 — —Supplying missing documents
- § 10:40 Transmission of record
- § 10:41 —Time for filing record on appeal
- § 10:42 — —Extensions of time
- § 10:43 —Notice of filing of record
- § 10:44 Removal or copying paper or physical components of record
- § 10:45 Electronic record
- § 10:46 Confidential records

F. SUPPLEMENTING THE RECORD

- § 10:47 Supplement to the record on appeal
- § 10:48 —Nature and purpose
- § 10:49 —Timing
- § 10:50 —Amendment not contested
- § 10:51 —Amendment contested
- § 10:52 —Basis for amendment
- § 10:53 — —Affidavit insufficient
- § 10:54 — —No impeachment
- § 10:55 — — —No additional evidence
- § 10:56 —Jurisdiction
- § 10:57 Conflict between report of proceedings and common law record
- § 10:58 Briefing before leave to supplement is allowed

G. CHECKLISTS

- § 10:59 Appellant’s checklist for the record on appeal

TABLE OF CONTENTS

§ 10:60 Checklist for supporting record

H. FORMS

§ 10:61 Certification of record

§ 10:62 Sample motion to supplement the record on appeal

CHAPTER 11. ABSTRACTS OF THE RECORD

§ 11:1 History of abstracts

PART IV. TYPES OF APPEALS TO THE APPELLATE COURT

CHAPTER 12. APPEALS FROM FINAL ORDERS AND JUDGMENTS OF THE CIRCUIT COURT

A. FINALITY OF JUDGMENTS AND ORDERS

§ 12:1 Appeals from final judgments

§ 12:2 Authority for appeal

§ 12:3 The finality requirement

§ 12:4 Determination of finality

§ 12:5 —Judgments

§ 12:6 — —Form of judgment

§ 12:7 — —Substance of judgment

§ 12:8 —Orders

§ 12:9 Implications for filing notice of appeal

§ 12:10 —Effect of pending post-trial motion

§ 12:11 —Effect of pending request for attorneys' fees or costs

B. APPEALABILITY OF PARTICULAR ORDERS

§ 12:12 Orders immediately appealable—Order quashing service of summons

§ 12:13 —Dismissal of complaint with prejudice

§ 12:14 —Dismissal of complaint without prejudice—Steps to appeal

§ 12:15 — —Election to stand on complaint

§ 12:16 —Dismissal of complaint—Voluntary dismissal

§ 12:17 —Discovery orders under Rule 204(b)

§ 12:18 —Summary judgment

§ 12:19 —Grant of permanent injunction

§ 12:20 —Order denying postjudgment motion

§ 12:21 —Contempt orders imposing punishment

- § 12:22 — —Method of appealing underlying order
- § 12:23 —Sanctions against attorney
- § 12:24 —Dismissal of appeal
- § 12:25 Orders not immediately appealable—Order denying motion for substitution of judge
- § 12:26 —Denial of motion to dismiss
- § 12:27 —Dismissal for want of prosecution
- § 12:28 —Order vacating voluntary dismissal
- § 12:29 —Dismissal of complaint—Without prejudice
- § 12:30 — —Leave to amend
- § 12:31 — —Subsequent order allowing amendment
- § 12:32 —Dismissal of third-party complaint
- § 12:33 —Dismissal without prejudice of petition for relief from judgment
- § 12:34 —Order striking answer
- § 12:35 —Judgment on the pleadings
- § 12:36 —Intervention orders
- § 12:37 —Pre-trial discovery orders
- § 12:38 —Order denying summary judgment motion
- § 12:39 —Dismissal of motion for sanctions
- § 12:40 —Order setting aside default
- § 12:41 —Order denying extension of time to file postjudgment motion
- § 12:42 —Contempt orders not imposing punishment
- § 12:43 —Attorney disqualification

C. CHECKLIST

- § 12:44 Checklist for finality of certain orders

D. TIMELINE

- § 12:45 Timeline for appeals from final orders and judgments of the circuit court

CHAPTER 13. APPEALS FROM FINAL JUDGMENTS NOT DISPOSING OF THE ENTIRE PROCEEDING

A. FINAL JUDGMENT RESOLVING LESS THAN ALL CLAIMS AS TO ALL PARTIES

- § 13:1 Generally

B. FINAL JUDGMENTS APPEALABLE WITH SPECIAL FINDING

- § 13:2 Appeal with special finding—Authority for appeal

TABLE OF CONTENTS

- § 13:3 —Purpose
- § 13:4 —Definition of “claim”
- § 13:5 —Not intended to circumvent Rule 308
- § 13:6 Necessity of special finding
- § 13:7 —Circuit court’s discretion
- § 13:8 —When the finding is made
- § 13:9 —How the finding is obtained
- § 13:10 —Specific language
- § 13:11 The time for filing the notice of appeal
- § 13:12 —Effect of a motion to reconsider
- § 13:13 Dismissal for lack of a final order
- § 13:14 Dismissal for lack of the required finding

C. JUDGMENTS AND ORDERS APPEALABLE WITHOUT A SPECIAL FINDING

- § 13:15 Appeal without special finding—Authority for appeal
- § 13:16 Types of orders immediately appealable without special finding
- § 13:17 Consolidated cases
- § 13:18 Contempt orders not appealable after purge
- § 13:19 Distinction between orders on § 2-1401 and § 2-1301 motions
- § 13:20 The time for filing the notice of appeal

D. FORM

- § 13:21 Sample motion to make order of summary judgment immediately appealable

CHAPTER 14. INTERLOCUTORY APPEALS AS OF RIGHT

A. NATURE AND PURPOSE

- § 14:1 Authority for appeal
- § 14:2 When available
- § 14:3 Purpose of rule

B. INTERLOCUTORY ORDERS IMMEDIATELY APPEALABLE

- § 14:4 Appealability of orders
- § 14:5 Types of orders immediately appealable
- § 14:6 Types of orders not immediately appealable

C. SCOPE AND STANDARD OF REVIEW

- § 14:7 Scope of review

- § 14:8 Standard of review
- § 14:9 —Preliminary injunction

D. PROCEDURE FOR INTERLOCUTORY APPEALS

- § 14:10 Notice of interlocutory appeal
- § 14:11 —Docketing statement
- § 14:12 —Retention of jurisdiction by trial court
- § 14:13 Supporting record
- § 14:14 Time for filing briefs
- § 14:15 Motion to vacate ex parte order

E. TEMPORARY RESTRAINING ORDERS

- § 14:16 Procedure in appeals of temporary restraining orders
- § 14:17 Time for filing
- § 14:18 Purpose
- § 14:19 Standard of review
- § 14:20 Petition
- § 14:21 Supporting record
- § 14:22 Legal memoranda in support of petition
- § 14:23 Response to petition
- § 14:24 Reply
- § 14:25 Oral argument
- § 14:26 Time for decision

F. PARENTAL NOTICE OF ABORTION ACT

- § 14:27 Effect of the repeal of the Parental Notice of Abortion Act

G. CHECKLISTS

- § 14:28 Appellant's checklist for appeal of an interlocutory order
- § 14:29 Appellant's checklist for appeal of a temporary restraining order

H. TIMELINE

- § 14:30 Timeline for interlocutory appeals as of right

I. FORM

- § 14:31 Sample notice of interlocutory appeal

TABLE OF CONTENTS

**CHAPTER 15. INTERLOCUTORY APPEALS
BY PERMISSION**

**A. AVAILABILITY OF INTERLOCUTORY APPEAL
BY PERMISSION**

- § 15:1 Authority for appeal
- § 15:2 Effect of failure to file petition

B. PARTICULAR ORDERS APPEALABLE

- § 15:3 Order granting a new trial
- § 15:4 —Purpose
- § 15:5 —No review after second trial
- § 15:6 —The standard for granting a petition for leave to
appeal
- § 15:7 —Reversal of a new trial order
- § 15:8 Forum non conveniens orders
- § 15:9 —Motions to reconsider

C. THE PETITION AND RESPONSIVE FILINGS

- § 15:10 The petition for leave to appeal
- § 15:11 —Filing of the petition
- § 15:12 —Contents
- § 15:13 —The required appendix
- § 15:14 —Supporting record
- § 15:15 —Docketing statement
- § 15:16 Answer
- § 15:17 The supplemental record
- § 15:18 Reply
- § 15:19 Extension of time

D. GRANT OR DENIAL OF PETITION

- § 15:20 Time for decision
- § 15:21 Allowance of the petition
- § 15:22 —Notice
- § 15:23 —Stay of proceedings
- § 15:24 —Bond
- § 15:25 —Briefs
- § 15:26 —Additional record
- § 15:27 —Oral argument
- § 15:28 —Cross-petition unnecessary on new trial orders
- § 15:29 —Court's duty to assure jurisdiction
- § 15:30 Denial of leave to appeal—Preclusive effect
- § 15:31 —Review

E. CASES INVOLVING MINORS

- § 15:32 Procedure in cases involving the care and custody of, or the allocation of parental responsibilities for, unemancipated minors or the relocation (formerly known as removal) of unemancipated minors
- § 15:33 Petition
- § 15:34 Supporting record
- § 15:35 Legal memoranda
- § 15:36 Time for filing
- § 15:37 Proof of service
- § 15:38 Response
- § 15:39 No reply
- § 15:40 Extensions
- § 15:41 Variations of procedure by court
- § 15:42 Procedure if leave to appeal is granted

F. CHECKLIST

- § 15:43 Petitioner's checklist for a petition for leave to appeal under Rule 306

G. TIMELINE

- § 15:44 Timeline for interlocutory appeals by permission

CHAPTER 16. INTERLOCUTORY APPEALS OF IMPORTANT QUESTIONS OF LAW

A. "IMPORTANT QUESTION" REQUIREMENTS

- § 16:1 Nature of interlocutory appeal of important questions of law
- § 16:2 Time for certifying a question
- § 16:3 Procedure upon denial of certification or abandonment

B. THE APPLICATION AND RESPONSIVE FILINGS

- § 16:4 The application for leave to appeal
- § 16:5 The supporting record
- § 16:6 The docketing statement
- § 16:7 Answer to the application
- § 16:8 Opposing an attempted Rule 308 certification
- § 16:9 Appropriate situations
- § 16:10 —Substantial ground for difference of opinion

C. APPELLATE COURT'S REVIEW AND DECISION

- § 16:11 Oral argument

TABLE OF CONTENTS

- § 16:12 Time for decision
- § 16:13 Appellate Court's discretion
- § 16:14 Rule 308 to be strictly construed
- § 16:15 Stay of proceedings
- § 16:16 Procedure upon allowance of leave to appeal
- § 16:17 Procedure upon denial of leave to appeal
- § 16:18 Construction of a certified question of law—
Traditional rule
- § 16:19 —Departures from traditional rule
- § 16:20 Standard of review
- § 16:21 Supreme Court review of Appellate Court's answer

D. CHECKLISTS

- § 16:22 Petitioner's checklist for a Rule 308 application for
leave to appeal
- § 16:23 Respondent's checklist for opposing an attempted
Rule 308 appeal

E. APPENDIX

- § 16:24 Timeline for appeals of important questions of law

CHAPTER 17. DIRECT APPELLATE COURT REVIEW OF ADMINISTRATIVE AGENCY DECISIONS

A. OVERVIEW OF STATUTORY DIRECT REVIEW

- § 17:1 Direct review of administrative orders
- § 17:2 Administrative orders directly appealable
- § 17:3 Petition for review
- § 17:4 —Service
- § 17:5 Other parties
- § 17:6 Review of decision by labor relations boards

B. THE RECORD ON APPEAL

- § 17:7 The record
- § 17:8 —Entire record of the agency
- § 17:9 —Filing of the record
- § 17:10 —Return of the record

C. OTHER CONSIDERATIONS

- § 17:11 Stay of the agency order or decision
- § 17:12 Application of other Supreme Court rules
- § 17:13 Application of sections of code of civil procedure

- § 17:14 Filing period for briefs
- § 17:15 Standard of review
- § 17:16 —Agency interpretation of its regulations
- § 17:17 —Findings of an administrative tribunal

D. CHECKLIST

- § 17:18 Appellant's checklist for direct review by the Appellate Court of a final administrative order

E. FORMS

- § 17:19 Sample petition
- § 17:20 Sample motion for stay

PART V. MATTERS IN THE APPELLATE COURT

CHAPTER 18. MISCELLANEOUS PRELIMINARY MATTERS

A. CAPTIONS

- § 18:1 Captions in reviewing courts

B. FILING, PROCESS, AND SERVICE OF DOCUMENTS

- § 18:2 E-filing in Illinois reviewing courts
- § 18:3 Process
- § 18:4 Service of documents
- § 18:5 —Appellate counsel
- § 18:6 —Method of serving documents—Email
- § 18:7 — —Personal service
- § 18:8 — —Delivery to office or residence
- § 18:9 — —Mail
- § 18:10 — —Third-party commercial carrier
- § 18:11 Proof of service—Automated verification
- § 18:12 —Written acknowledgement
- § 18:13 —Certificate—Email
- § 18:14 — —Personal delivery
- § 18:15 — —Mail or third-party commercial carrier
- § 18:16 — — —Substantial compliance
- § 18:17 — — —Denial of receipt by opposing party
- § 18:18 — —Service by an incarcerated *pro se* petitioner
- § 18:19 —Effective date
- § 18:20 Date of filing papers in reviewing court

TABLE OF CONTENTS

- § 18:21 Privacy protection for documents filed in reviewing courts

C. DISMISSAL OF THE APPEAL OR APPEAL TO THE WRONG COURT

- § 18:22 Dismissal of an appeal by the circuit court
- § 18:23 Supporting record
- § 18:24 —Contents
- § 18:25 —Authentication
- § 18:26 Appeal to wrong court

D. APPELLATE COURT CONFERENCES

- § 18:27 Prehearing conference in Appellate Court
- § 18:28 Appellate Settlement Conference Program

E. FEES

- § 18:29 Fees in the reviewing court
- § 18:30 Fee waivers in the reviewing court

CHAPTER 19. MOTIONS IN THE APPELLATE COURT

A. MOTION PRACTICE IN GENERAL

- § 19:1 Preparation of the motion
- § 19:2 —Requirement of writing
- § 19:3 —Content of the motion
- § 19:4 —Uncontested motion to be so described
- § 19:5 Form of papers
- § 19:6 Documents accompanying motions—Proposed order
- § 19:7 —Supporting record
- § 19:8 —Affidavit in support
- § 19:9 —Supporting memorandum
- § 19:10 Responses to motions
- § 19:11 Ruling
- § 19:12 Dispositive motions
- § 19:13 —Objections to the motion
- § 19:14 —Additional documents and oral argument
- § 19:15 Corrections
- § 19:16 Motions in the Appellate Court—First District

B. MOTIONS TO DISMISS APPEAL

- § 19:17 Motions to dismiss—Nature of motion
- § 19:18 —Decision by merits panel

C. MOTIONS TO EXPEDITE APPEAL

- § 19:19 Accelerated docket
- § 19:20 —Motion to accelerate
- § 19:21 —Special caption
- § 19:22 —Supporting record on motion to accelerate
- § 19:23 —Memoranda in lieu of briefs
- § 19:24 —Expedited schedule

D. MOTIONS TO AMEND PLEADINGS

- § 19:25 Amendment of pleading and process
- § 19:26 —How sought
- § 19:27 —Time for filing
- § 19:28 —Showing required
- § 19:29 —Rule 329 amendment distinguished
- § 19:30 —Service
- § 19:31 —Objections to application
- § 19:32 —Amendment on court's own motion

E. ADDITIONAL TYPES OF MOTIONS

- § 19:33 Motions for extensions of time
- § 19:34 Motion to cite supplemental authority

F. CHECKLIST

- § 19:35 Movant's checklist for motions

G. FORMS

- § 19:36 Sample motion for extension of time
- § 19:37 Sample proposed order

PART VI. APPEALS TO THE ILLINOIS SUPREME COURT

CHAPTER 20. DIRECT APPEALS TO THE SUPREME COURT FROM THE CIRCUIT COURT

A. BASIS FOR DIRECT APPEAL

- § 20:1 Authority for appeal
- § 20:2 The history and purpose of direct appeal
- § 20:3 *Sua sponte* consideration of jurisdiction
- § 20:4 Mandatory direct appeal

TABLE OF CONTENTS

- § 20:5 —Finding of unconstitutionality
- § 20:6 —Requirements of the circuit court order
- § 20:7 —Rule 21(d) proceedings
- § 20:8 Discretionary direct appeal

B. PROCEDURE FOR DIRECT APPEAL

- § 20:9 How direct appeal is initiated
- § 20:10 Documents transmitted by the Appellate Court
- § 20:11 Briefing and disposition

CHAPTER 21. LEAVE TO APPEAL FROM THE APPELLATE COURT TO THE SUPREME COURT

A. THE PETITION FOR LEAVE TO APPEAL

- § 21:1 Authority for appeal
- § 21:2 The nature and purpose of the petition
- § 21:3 The substance and form of the petition
- § 21:4 —Length of the petition
- § 21:5 —Contents
- § 21:6 The time for filing the petition
- § 21:7 —Extensions of time
- § 21:8 Service and filing

B. FACTORS CONSIDERED BY THE SUPREME COURT

- § 21:9 The Supreme Court's discretion
- § 21:10 —Reasons considered
- § 21:11 — —Importance of the question
- § 21:12 — —Conflict in Appellate Court decisions
- § 21:13 — —The need for exercise of the Supreme Court's
supervisory authority
- § 21:14 — —Finality of the judgment
- § 21:15 Consideration of issues not raised in petition

C. ANSWER TO THE PETITION FOR LEAVE TO APPEAL

- § 21:16 Answer
- § 21:17 —Contents of answer
- § 21:18 —Approach to answer
- § 21:19 —Filing the answer
- § 21:20 No reply is allowed

D. RELATED MATTERS AND PROCEDURES

- § 21:21 Petition from a decision reviewing Workers' Compensation Commission orders
- § 21:22 Ruling on the petition
- § 21:23 Motion to reconsider denial of leave to appeal
- § 21:24 Precedential effect of a denial of leave to appeal
- § 21:25 The record on appeal

E. CHECKLISTS

- § 21:26 Checklist for the petitioner
- § 21:27 Checklist for the respondent

CHAPTER 22. REQUEST FOR A CERTIFICATE OF IMPORTANCE TO THE SUPREME COURT

A. THE CERTIFICATE OF IMPORTANCE

- § 22:1 Authority for appeal
- § 22:2 Availability of a certificate of importance
- § 22:3 Particular questions are not to be certified
- § 22:4 The manner and timing of a request for a certificate
- § 22:5 Time for petition for leave to appeal
- § 22:6 Bond
- § 22:7 Answer

B. CHECKLIST

- § 22:8 Checklist for request for certificate of importance

CHAPTER 23. APPEAL TO THE SUPREME COURT AS A MATTER OF RIGHT

A. THE RIGHT TO APPEAL FROM THE APPELLATE COURT TO THE SUPREME COURT

- § 23:1 Authority for appeal
- § 23:2 Requirements for an appeal as of right—Sufficiency of constitutional questions
- § 23:3 —Actual presence of a constitutional question is required
- § 23:4 Procedure
- § 23:5 Disposition
- § 23:6 Procedure upon grant of the petition

B. CHECKLIST

- § 23:7 Checklist for a petition for appeal to the Supreme Court as a matter of right

TABLE OF CONTENTS

C. FORMS

§ 23:8 Sample petition for appeal as a matter of right

**CHAPTER 24. PROCEDURE IN THE
SUPREME COURT ON APPEAL FROM THE
APPELLATE COURT**

**A. REQUIREMENTS CONCERNING BRIEFS IN
THE SUPREME COURT**

- § 24:1 Procedure in the Supreme Court
- § 24:2 Briefs upon allowance of leave to appeal
- § 24:3 —Appellant’s brief
- § 24:4 —Notice of election
- § 24:5 — —Allowance of the petition to stand as the brief
- § 24:6 — —Filing of an additional brief
- § 24:7 — — —Extension of time
- § 24:8 —Appellee’s brief
- § 24:9 — —Notice of election when the appellant allows the
petition to stand as the brief
- § 24:10 — —Filing of an additional brief
- § 24:11 — —Notice of election when the appellant files an
additional brief
- § 24:12 — —When cross-relief is requested
- § 24:13 —Appellant’s reply brief
- § 24:14 Issues that were not presented in the petition for
leave to appeal

**B. SUPREME COURT PROCEDURES UPON THE
APPELLATE COURT’S GRANT OF A
CERTIFICATE OF IMPORTANCE**

- § 24:15 Procedure upon the Appellate Court’s grant of a
certificate of importance
- § 24:16 —Briefs in the Supreme Court

**C. RULES GOVERNING ALL APPEALS IN THE
SUPREME COURT**

- § 24:17 Rules governing all appeals
- § 24:18 —Relief to other parties
- § 24:19 —Filing of Appellate Court briefs
- § 24:20 —No waiver by failure to seek interlocutory review
- § 24:21 —Fees

D. MOTION PRACTICE

- § 24:22 Motions

- § 24:23 —Responses
- § 24:24 —Reply to response
- § 24:25 —No oral argument

E. CHECKLISTS

- § 24:26 Checklist for the appellant
- § 24:27 Checklist for the appellee

F. FORMS

- § 24:28 Sample notice of election to allow petition to stand as brief
- § 24:29 Sample notice of election to file additional brief

PART VII. SCOPE AND STANDARDS OF REVIEW

CHAPTER 25. SCOPE OF REVIEW

A. INTRODUCTION TO THE SCOPE OF REVIEW

- § 25:1 Generally
- § 25:2 —Error of law
- § 25:3 —Error of fact

B. THE SCOPE OF REVIEW AFTER A JURY TRIAL

- § 25:4 Jury cases
- § 25:5 —Jury instructions
- § 25:6 —Remittitur
- § 25:7 —Post-trial motion
- § 25:8 —Judgment at the close of the plaintiff's case

C. THE SCOPE OF REVIEW AFTER A BENCH TRIAL

- § 25:9 Non-jury cases
- § 25:10 —Special findings unnecessary
- § 25:11 —Review of sufficiency of the evidence
- § 25:12 —Post-judgment motion unnecessary

D. HARMLESS ERROR

- § 25:13 The harmless error doctrine
- § 25:14 —Ultimate question for the reviewing court
- § 25:15 —An error-free trial is not required
- § 25:16 Burden on the party asserting error

TABLE OF CONTENTS

- § 25:17 Procedures for curing error
- § 25:18 —Sustaining an objection and jury instruction to disregard
- § 25:19 —Striking testimony
- § 25:20 Application of the harmless error doctrine—Where the verdict is not contended to be against the weight of evidence
- § 25:21 —In limine orders
- § 25:22 —Process and service
- § 25:23 —Pleading
- § 25:24 —Variance between pleading and proof
- § 25:25 —Rulings on evidence
- § 25:26 —Admission of expert testimony
- § 25:27 —Incomplete impeachment
- § 25:28 —Rebuttal evidence
- § 25:29 —Trial judge’s comments
- § 25:30 — —Indication of hostility
- § 25:31 —Bench trial
- § 25:32 —Other various circumstances
- § 25:33 Cumulative error

CHAPTER 26. PRESUMPTIONS

A. THE FUNCTION AND NATURE OF PRESUMPTIONS

- § 26:1 The presumption of correctness
- § 26:2 Burden on the appellant to show error
- § 26:3 —Where the record is incomplete
- § 26:4 — —Report of proceedings absent
- § 26:5 — —Exhibits absent

B. PRESUMPTIONS IN JURY CASES

- § 26:6 Presumptions after a jury trial
- § 26:7 —Conduct of the trial court
- § 26:8 —Conduct of the jury
- § 26:9 —Arguments of counsel
- § 26:10 — —Prejudicial misconduct not to be presumed
- § 26:11 —Jury instructions
- § 26:12 —General verdict
- § 26:13 —Interrogatories and special verdicts

C. PRESUMPTIONS IN CASES TRIED WITHOUT A JURY

- § 26:14 Presumptions after a bench trial
- § 26:15 —Admission of incompetent evidence

§ 26:16 —Presumption rebuttable

CHAPTER 27. STANDARDS OF REVIEW

A. INTRODUCTION TO STANDARDS OF REVIEW

- § 27:1 Appellate function
- § 27:2 The standard of review
- § 27:3 —De novo review
- § 27:4 —Clear error
- § 27:5 —Manifest weight of the evidence
- § 27:6 —Abuse of discretion
- § 27:7 Statement in appellant's brief

B. THE STANDARD OF REVIEW FOR QUESTIONS OF LAW

- § 27:8 Questions of law
- § 27:9 —Where the facts are undisputed
- § 27:10 —Statutes, ordinances, and court rules
- § 27:11 —Instruments and contracts
- § 27:12 — —Insurance policies
- § 27:13 — —Leases
- § 27:14 —When the trial court's decision is based on documents and transcripts
- § 27:15 —Motions to dismiss or strike
- § 27:16 — —Affirmative defenses
- § 27:17 —Grant of summary judgment
- § 27:18 —Directed verdict and judgment notwithstanding the verdict

C. STANDARDS OF REVIEW FOR DAMAGE AWARDS

- § 27:19 Damage awards
- § 27:20 —Punitive damages
- § 27:21 —Prejudgment interest

D. STANDARDS OF REVIEW FOR THE COURT'S DISCRETION AND WEIGHING OF EVIDENCE

- § 27:22 Manifest weight of the evidence
- § 27:23 Abuse of discretion
- § 27:24 —Reviewing court's duty
- § 27:25 —Appellant's burden of proof

E. STANDARDS OF REVIEW FOR ADMINISTRATIVE AGENCY DECISIONS

- § 27:26 Review of administrative agency findings

TABLE OF CONTENTS

- § 27:27 —Manifest weight of evidence
- § 27:28 Review of Workers' Compensation Commission orders
- § 27:29 —Fact questions
- § 27:30 —Undisputed facts
- § 27:31 Review of Pollution Control Board rulings—Arbitrary and capricious standard

F. APPENDIX

- § 27:32 Standards of review applicable to particular issues

Volume 2

PART VIII. THE BRIEFS AND ARGUMENT

CHAPTER 28. THE APPELLANT'S BRIEF

A. THE ROLE OF THE APPELLANT'S BRIEF

- § 28:1 The nature and purpose of an appellate brief
- § 28:2 The importance of honesty
- § 28:3 Consequences of failure to comply with briefing requirements

B. FAILURE TO FILE A BRIEF

- § 28:4 Consequences of failure to file a brief
- § 28:5 —Appellant
- § 28:6 —Appellee
- § 28:7 —Effect on judgment

C. CONTENTS OF THE APPELLANT'S BRIEF

- § 28:8 Required sections of the appellant's brief
- § 28:9 Table of contents and points and authorities
- § 28:10 Introductory paragraph
- § 28:11 Issue(s) presented for review
- § 28:12 —Number of errors or points raised
- § 28:13 —Preparation
- § 28:14 Statement of jurisdiction
- § 28:15 —Appellate Court
- § 28:16 —Supreme Court
- § 28:17 Statute(s) involved
- § 28:18 Statement of facts
- § 28:19 —Necessity of record references

- § 28:20 —No argument
- § 28:21 —Preparation and presentation—Chronological order
- § 28:22 — —Topical subdivisions
- § 28:23 — —Disputed versus undisputed facts
- § 28:24 —Exhibits or charts
- § 28:25 Argument
- § 28:26 —Statement of standard(s) of review
- § 28:27 —Presentation of favorable authority
- § 28:28 — —Supreme Court authority
- § 28:29 —Attorney General opinions
- § 28:30 —Parenthetical statements
- § 28:31 —Distinguishing or challenging authority
- § 28:32 —Presentation of adverse authority
- § 28:33 —Demonstrating the justness of requested result
- § 28:34 —Forfeiture of issues not raised
- § 28:35 — —Inadequate citation of authority
- § 28:36 —Style and tone of argument
- § 28:37 —Effective brief writing
- § 28:38 —Footnotes
- § 28:39 Conclusion
- § 28:40 Appendix
- § 28:41 —Failure to comply
- § 28:42 The brief as a stand-alone document

D. CHECKLIST

- § 28:43 Checklist for the appellant’s opening brief

E. SAMPLE BRIEFS

- § 28:44 Sample points and authorities
- § 28:45 Sample introductory paragraph—Version 1
- § 28:46 —Version 2
- § 28:47 —Version 3
- § 28:48 Sample issues presented for review—Version 1
- § 28:49 —Version 2
- § 28:50 Sample statement of jurisdiction—Version 1
- § 28:51 —Version 2
- § 28:52 Sample statement of facts (partial)—Version 1
- § 28:53 —Version 2
- § 28:54 Sample argument (partial)—Version 1
- § 28:55 —Version 2
- § 28:56 —Version 3
- § 28:57 Sample conclusion
- § 28:58 Sample table of contents of the appendix

TABLE OF CONTENTS

CHAPTER 29. THE APPELLEE’S BRIEF

A. THE EFFECT AND IMPORTANCE OF THE APPELLEE’S BRIEF

- § 29:1 The nature and purpose of the appellee brief
- § 29:2 Methods to refute the appellant’s case

B. CONTENTS OF THE APPELLEE’S BRIEF

- § 29:3 Required sections of the appellee brief
- § 29:4 Appellee’s state of the issue presented for review
- § 29:5 Appellee’s statement of jurisdiction
- § 29:6 Appellee’s corrected standard of review
- § 29:7 Corrected statement of facts
- § 29:8 Argument
- § 29:9 —Evidentiary support for the verdict
- § 29:10 —Demonstrating waiver of alleged errors
- § 29:11 —Harmless error
- § 29:12 Supplementary appendix

C. CHECKLIST

- § 29:13 Checklist for the appellee’s brief

D. SAMPLE BRIEFS

- § 29:14 Sample appellee’s points and authorities
- § 29:15 Sample appellee’s issues presented for review—
Version 1
- § 29:16 —Version 2
- § 29:17 Sample appellee’s statement of facts (partial)—
Version 1
- § 29:18 —Version 2
- § 29:19 Sample appellee’s argument (partial)—Version 1
- § 29:20 —Version 2

CHAPTER 30. THE REPLY BRIEF

A. THE NATURE AND PURPOSE OF THE REPLY BRIEF

- § 30:1 The function of the reply brief
- § 30:2 Waiver
- § 30:3 Supplementary appendix

B. CHECKLIST

- § 30:4 Checklist for reply briefs

C. SAMPLE BRIEFS

- § 30:5 Sample reply argument (partial)—Version 1
- § 30:6 —Version 2
- § 30:7 —Version 3

CHAPTER 31. OTHER BRIEFS

A. SUPPLEMENTAL BRIEFS

- § 31:1 Supplemental brief on leave to appeal

B. BRIEFS *AMICUS CURIAE*

- § 31:2 The nature of *amicus curiae* briefs
- § 31:3 Leave to file
- § 31:4 Contents
- § 31:5 Procedure

CHAPTER 32. FORM, FILING, AND SERVICE OF BRIEFS

A. REQUIREMENTS CONCERNING THE FORM OF BRIEFS

- § 32:1 Form of briefs
- § 32:2 —Cover
- § 32:3 —Citations
- § 32:4 —Length limitations
- § 32:5 —Motions to exceed page limitations

B. TIMELINESS AND SERVICE OF BRIEFS

- § 32:6 Time for filing briefs
- § 32:7 —In cross-appeals
- § 32:8 —In separate appeals
- § 32:9 Extension of time to file briefs
- § 32:10 E-filing of briefs
- § 32:11 Duplicate paper copies of briefs

CHAPTER 33. ORAL ARGUMENT

A. INTRODUCTION TO ORAL ARGUMENT

- § 33:1 The role of oral argument
- § 33:2 The goals of oral argument

B. PREPARATION FOR ORAL ARGUMENT

- § 33:3 Structure of argument

TABLE OF CONTENTS

- § 33:4 Rehearsal
- § 33:5 —Planning of argument
- § 33:6 —Flexibility of argument
- § 33:7 —Time allotment
- § 33:8 —Answering questions
- § 33:9 Oral argument notes

C. DELIVERY OF ORAL ARGUMENT

- § 33:10 Ten rules to remember
- § 33:11 Consideration of forum
- § 33:12 Other miscellaneous suggestions

D. PROCEDURAL CONSIDERATIONS

- § 33:13 Right to oral argument
- § 33:14 —Disposition without argument
- § 33:15 Request for oral argument
- § 33:16 —Waiver of argument
- § 33:17 Multiple arguments or counsel
- § 33:18 Procedure prior to oral argument—Notice to counsel
- § 33:19 —Acknowledgement by counsel of receipt
- § 33:20 —Registration by counsel
- § 33:21 Admissions or concessions by counsel
- § 33:22 —Caution regarding admissions

E. CHECKLIST

- § 33:23 Oral argument checklist

PART IX. DISPOSITION OF APPEALS

CHAPTER 34. THE DECISION

A. DECISION IN GENERAL

- § 34:1 A majority is necessary for a decision
- § 34:2 No valid decision in the absence of a majority of the panel
- § 34:3 Substitution of judges
- § 34:4 The effect of a change in the law while an appeal is pending
- § 34:5 Non-essential questions
- § 34:6 Dismissal of an appeal
- § 34:7 Voluntary dismissal

B. TYPES OF DISPOSITION

- § 34:8 Summary disposition by the Supreme Court

- § 34:9 Disposition in the Appellate Court
- § 34:10 —Disposition by opinion
- § 34:11 — —The function of the judicial opinion
- § 34:12 —Disposition by written order
- § 34:13 —Disposition by summary order
- § 34:14 — —Contents
- § 34:15 — —Types of dispositions by order
- § 34:16 — —When entered
- § 34:17 — —Effect of orders
- § 34:18 —Disposition by Rule 23 order
- § 34:19 — —Motion to publish
- § 34:20 Dissenting opinions

C. DECISION AFFIRMING THE JUDGMENT

- § 34:21 Affirmance
- § 34:22 —Search of the record
- § 34:23 —Other grounds appearing in record
- § 34:24 —Trial court's grant of a new trial
- § 34:25 —Harmless error

D. ADDITUR AND REMITTITUR ISSUES

- § 34:26 Additur
- § 34:27 Remittitur
- § 34:28 —The plaintiff's consent is essential
- § 34:29 —Appeal of a remittitur
- § 34:30 —When a remittitur is proper

E. DECISION REVERSING THE JUDGMENT

- § 34:31 Effect of reversal
- § 34:32 Reversal of the dismissal of a cause
- § 34:33 Reversal of a directed verdict
- § 34:34 Reversal as to co-parties
- § 34:35 Reversal of a third party judgment
- § 34:36 Reversal in part

F. DECISION AWARDING A NEW TRIAL

- § 34:37 Award of a new trial
- § 34:38 New trial on damages only

G. DECISION CAUSING A CHANGE IN THE LAW

- § 34:39 The common law
- § 34:40 —Stabilizing factors
- § 34:41 Retroactive application of decisions
- § 34:42 Manner of prospective application

TABLE OF CONTENTS

- § 34:43 Previously unaddressed questions
- § 34:44 Procedural matters only
- § 34:45 Prospective application by the Supreme Court
- § 34:46 Prospective application by the Appellate Court
- § 34:47 —Effect on the Appellate Court in other judicial districts
- § 34:48 —Examples of prospective application
- § 34:49 —Application of a new rule to the litigants
- § 34:50 —Application of statutory amendments
- § 34:51 —Declaration of a statute unconstitutional as void ab initio

H. BINDING EFFECT OF DECISIONS

- § 34:52 Illinois Supreme Court decisions
- § 34:53 Illinois Appellate Court decisions
- § 34:54 Federal court decisions
- § 34:55 Decisions from other jurisdictions

CHAPTER 35. REHEARING

A. THE NATURE AND BASIS OF THE PETITION FOR REHEARING

- § 35:1 The scope and purpose of the petition for rehearing
- § 35:2 Reargument of the case is not permitted
- § 35:3 New points may not be raised

B. THE PETITION FOR REHEARING

- § 35:4 Contents of the petition
- § 35:5 Length of the petition
- § 35:6 Time for filing the petition
- § 35:7 Form and service of the petition

C. ANSWER AND REPLY

- § 35:8 Answer
- § 35:9 Form of Answer
- § 35:10 Reply

D. PROCEDURE

- § 35:11 Documents considered on rehearing
- § 35:12 Effective date of the judgment
- § 35:13 Oral argument

E. DECISION

- § 35:14 When the petition may be granted

- § 35:15 When a petition will be denied
- § 35:16 Grant of rehearing
- § 35:17 —Reversal on rehearing
- § 35:18 Denial of rehearing

F. FURTHER PROCEEDINGS

- § 35:19 Additional petitions
- § 35:20 Motion for reconsideration of denial

G. CHECKLIST

- § 35:21 Checklist for the petition for rehearing

PART X. POST-APPEAL MATTERS

CHAPTER 36. THE MANDATE

A. MANDATE PROCEDURE IN GENERAL

- § 36:1 Issuance of the mandate
- § 36:2 Filing and notice
- § 36:3 Jurisdiction of the Appellate Court
- § 36:4 Jurisdiction of trial court

B. MANDATE ON AFFIRMANCE

- § 36:5 Enforcement of the judgment upon affirmance

C. MANDATE ON REVERSAL

- § 36:6 Reversal without remand
- § 36:7 Reinstatement of case upon remand
- § 36:8 Proceedings upon remand
- § 36:9 —Restitution of benefits
- § 36:10 Correctness of the trial court's action on remand
- § 36:11 —Deviation from the mandate

D. JUDICIAL CONSTRUCTION OF THE MANDATE

- § 36:12 Construction of the mandate
- § 36:13 *Res judicata*

E. OPERATION OF A STAY OR A RECALL OF THE MANDATE

- § 36:14 Stay or recall
- § 36:15 —Stay when a petition for rehearing is filed
- § 36:16 —When Supreme Court review is sought

TABLE OF CONTENTS

§ 36:17 —By court order

CHAPTER 37. COSTS AND FEES

A. OBTAINING COSTS ON APPEAL

- § 37:1 When costs are available
- § 37:2 —Via the Code of Civil Procedure
- § 37:3 When costs are not available
- § 37:4 Taxable costs
- § 37:5 Procedure to obtain taxation of costs
- § 37:6 Objections to the bill of costs

B. CHECKLIST

- § 37:7 Checklist for a bill of costs

C. FORMS

- § 37:8 Sample bill of costs
- § 37:9 Sample affidavit of counsel
- § 37:10 Sample objections to bill of costs

CHAPTER 38. SANCTIONS

A. OBTAINING SANCTIONS ON APPEAL

- § 38:1 When sanctions are available
- § 38:2 —Failure to comply with appeal rules
- § 38:3 Sanctions for violation of appeals rules
- § 38:4 Frivolous appeals or other improper conduct
- § 38:5 When an appeal is deemed frivolous
- § 38:6 —Improper purpose
- § 38:7 —Objective determination
- § 38:8 Sanctions for frivolous appeals or improper conduct
- § 38:9 —Vexatious litigant
- § 38:10 Procedure for the imposition of sanctions
- § 38:11 Waiver of the right to seek sanctions
- § 38:12 Review of sanctions on appeal

B. CHECKLISTS

- § 38:13 Checklist for a motion for sanctions for failure to follow appeals rules
- § 38:14 Checklist for request for sanctions for frivolous appeal

C. FORMS

- § 38:15 Sample motion for sanctions

§ 38:16 Sample motion for sanctions for frivolous appeal

PART XI. MATTERS COMMENCED IN THE ILLINOIS SUPREME COURT

CHAPTER 39. ORIGINAL ACTIONS IN THE SUPREME COURT

A. OVERVIEW

§ 39:1 Supreme Court jurisdiction over cases relating to
revenue, mandamus, prohibition, or habeas corpus

B. MANDAMUS ACTIONS

- § 39:2 Mandamus
- § 39:3 Court's discretion
- § 39:4 Nature of mandamus
- § 39:5 —Directed at a ministerial duty
- § 39:6 —Public offices affected
- § 39:7 —Not a substitute for appeal
- § 39:8 —Not a device to correct judicial errors or an abuse of
discretion
- § 39:9 —Not used to regulate discovery
- § 39:10 The judge as a nominal party
- § 39:11 —The judge is not a participant
- § 39:12 Denial

C. WRIT OF PROHIBITION ACTIONS

- § 39:13 Nature of prohibition
- § 39:14 —Not a substitute for appeal
- § 39:15 —Not a vehicle for the regulation of discovery
- § 39:16 The required showing
- § 39:17 When a writ of prohibition may issue

D. HABEAS CORPUS ACTIONS

- § 39:18 Habeas corpus generally
- § 39:19 Purpose of habeas corpus

E. PLEADING AND MOTION PRACTICE

- § 39:20 The complaint
- § 39:21 Proceeding encompasses only issues of law
- § 39:22 Filing of a motion to institute an original action

TABLE OF CONTENTS

- § 39:23 —Service of process
- § 39:24 Objections to the motion
- § 39:25 Oral argument
- § 39:26 Briefs upon allowance of the motion

F. OTHER ORIGINAL ACTIONS

- § 39:27 Supreme Court jurisdiction over redistricting of the General Assembly and the ability of the Governor to serve or resume office
- § 39:28 Motion
- § 39:29 Complaint
- § 39:30 Procedure
- § 39:31 Determination of fact issues
- § 39:32 Briefs and other documents

G. CHECKLIST

- § 39:33 Checklist for mandamus petition

CHAPTER 40. SUPREME COURT SUPERVISORY ORDERS

A. SUPERVISORY AUTHORITY OF THE SUPREME COURT

- § 40:1 Nature of the Supreme Court's supervisory authority
- § 40:2 —Not a substitute for the normal appellate process
- § 40:3 —Separate from mandamus request
- § 40:4 Procedure
- § 40:5 —Service upon parties and nominal party
- § 40:6 The respondent
- § 40:7 Prevailing party's objections
- § 40:8 Oral argument
- § 40:9 Precedential effect

B. CHECKLIST

- § 40:10 Checklist for motion for supervisory order

CHAPTER 41. CONSOLIDATION OF MULTICIRCUIT ACTIONS

A. CONSOLIDATION PRACTICE

- § 41:1 The Supreme Court's authority
- § 41:2 When consolidation is available
- § 41:3 Procedure

- § 41:4 —Notice to parties
- § 41:5 —Filing with circuit clerks
- § 41:6 —Oral argument
- § 41:7 Grant of a motion to consolidate
- § 41:8 —Procedure upon the grant of consolidation

B. CHECKLIST

- § 41:9 Checklist for motion to consolidate multicircuit action

C. FORM

- § 41:10 Sample motion to consolidate

PART XII. APPEALS TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

CHAPTER 42. PRELIMINARY CONSIDERATIONS

A. OVERVIEW

- § 42:1 Practice guide

B. THE SEVENTH CIRCUIT COURT CLERK'S OFFICE

- § 42:2 Fees to be collected by clerk
- § 42:3 Advance payment
- § 42:4 Electronic access to case information, rules,
procedures, and opinions

C. ATTORNEYS APPEARING IN THE SEVENTH CIRCUIT

- § 42:5 Admission to the Bar
- § 42:6 Eligibility
- § 42:7 Procedure for withdrawal

D. RULE 26.1 DISCLOSURE STATEMENTS

- § 42:8 The purpose of F.R.A.P. 26.1 and Seventh Circuit
Rule 26.1
- § 42:9 The required disclosure statement
- § 42:10 Contents of the statement

TABLE OF CONTENTS

- § 42:11 Pseudonym
- § 42:12 Time for filing
- § 42:13 Duty to update Rule 26.1 disclosures
- § 42:14 Forms

CHAPTER 43. BRIEFS AND REQUIRED APPENDIX

A. GOVERNING RULES

- § 43:1 Rules applicable to briefs on appeal

B. THE APPELLANT'S BRIEF

- § 43:2 Requirements of the appellant's brief
- § 43:3 —Disclosure statement
- § 43:4 —Table of contents
- § 43:5 —Table of authorities
- § 43:6 —Jurisdictional statement
- § 43:7 —Statement of issues presented for review
- § 43:8 —Statement of the case
- § 43:9 —Summary of the argument
- § 43:10 —The argument—General requirements
- § 43:11 — —Inadequate assertions and arguments
- § 43:12 —Conclusion
- § 43:13 —Certificate of compliance

C. THE APPELLEE'S BRIEF

- § 43:14 Requirements of the appellee's brief
- § 43:15 —The appellee's jurisdictional statement
- § 43:16 —Statement of the case

D. THE APPELLANT'S REPLY BRIEF

- § 43:17 Requirements of the reply brief

E. LENGTH OF BRIEFS

- § 43:18 Page limitations
- § 43:19 —Where additional space is needed

F. CROSS-APPEALS; MULTIPLE APPEALS

- § 43:20 Cross-appeals
- § 43:21 Multiple appeals
- § 43:22 Form of briefs

G. FILING AND SERVICE

- § 43:23 Time for filing briefs

- § 43:24 Failure to timely file a brief
- § 43:25 Electronic filing
- § 43:26 Extension of time

H. AMICUS CURIAE BRIEF

- § 43:27 Amicus curiae brief—Definition and general requirements
- § 43:28 —Contents
- § 43:29 —Length
- § 43:30 —Time for filing

I. APPENDIX TO THE BRIEF

- § 43:31 Applicable rules
- § 43:32 Contents of appendix
- § 43:33 —Determining the contents of the appendix
- § 43:34 — —Additional contents
- § 43:35 — —Supplemental appendix
- § 43:36 References to the record
- § 43:37 Reproduction of exhibits
- § 43:38 Costs of the appendix
- § 43:39 No appendix
- § 43:40 Statement that all required materials are in appendix

J. CHECKLISTS

- § 43:41 Checklist for an appendix filed with the brief
- § 43:42 Checklist for a separate appendix

CHAPTER 44. MOTIONS IN THE SEVENTH CIRCUIT

- § 44:1 Definition of motion
- § 44:2 Contents of motion
- § 44:3 Documents that accompany motions
- § 44:4 Response
- § 44:5 —Contents
- § 44:6 —Time for filing
- § 44:7 —Grant of a motion before a response is filed
- § 44:8 —Seeking affirmative relief
- § 44:9 Response to the new motion
- § 44:10 Reply
- § 44:11 Page limits
- § 44:12 Number of copies
- § 44:13 No oral argument
- § 44:14 Disposition of motions
- § 44:15 Disposition of procedural motion

TABLE OF CONTENTS

- § 44:16 Adverse party
- § 44:17 Form of documents

CHAPTER 45. ORAL ARGUMENT

- § 45:1 Oral argument in Seventh Circuit Court of Appeals
- § 45:2 Local rules
- § 45:3 Notice of oral argument
- § 45:4 Notice to the clerk
- § 45:5 Time allotted for oral arguments
- § 45:6 Postponement of oral argument
- § 45:7 Request for more time
- § 45:8 Out of town counsel
- § 45:9 Avoidance of certain days
- § 45:10 Order of argument
- § 45:11 Cross-appeals and separate appeals
- § 45:12 Time to argue cross-appeal
- § 45:13 Avoid divided argument
- § 45:14 Physical exhibits at oral argument
- § 45:15 Citation of authorities at oral argument

CHAPTER 46. DISPOSITION OF CASES AND THE MANDATE

A. PROCESS FOR DISPOSITION OF APPEALS

- § 46:1 Post-argument conference
- § 46:2 Assessment of cases
- § 46:3 Circulation of proposed opinions

B. THE MANDATE

- § 46:4 Definition of mandate
- § 46:5 Immediate issuance
- § 46:6 Effective date
- § 46:7 Staying the mandate
- § 46:8 —Petition for writ of certiorari
- § 46:9 — —Requirements of motion
- § 46:10 — —Service
- § 46:11 — —Ninety-day limit
- § 46:12 — —Bond
- § 46:13 — —Petition ruled on

CHAPTER 47. CERTIFICATION OF QUESTIONS OF STATE LAW TO THE ILLINOIS SUPREME COURT

- § 47:1 Seventh Circuit certification rule

- § 47:2 Certification of questions of state law by federal courts—Nature and scope
- § 47:3 —Purpose
- § 47:4 —Contents of certification orders
- § 47:5 —Filing of record
- § 47:6 —Proceedings in the Supreme Court
- § 47:7 — —Fees and costs
- § 47:8 —Answer of certified question
- § 47:9 Denial of certified question

CHAPTER 48. COSTS ON APPEAL

- § 48:1 Introduction
- § 48:2 Costs when the United States is a party
- § 48:3 Bill of costs—When to file
- § 48:4 —Objections
- § 48:5 Inclusion of costs in mandates
- § 48:6 Taxable costs on appeal
- § 48:7 Printing costs
- § 48:8 Bond for costs on appeal in a civil case

PART XIII. UNITED STATES SUPREME COURT REVIEW

CHAPTER 49. PETITION FOR *CERTIORARI* TO THE UNITED STATES SUPREME COURT

A. WRIT OF CERTIORARI

- § 49:1 Generally
- § 49:2 Certiorari considered for grant of petition
- § 49:3 —Contents of the petition
- § 49:4 Time for filing a petition
- § 49:5 Copies
- § 49:6 Opposing petition

APPENDICES

- Appendix A. Illinois Constitutional Provisions Governing Appeals
- Appendix B. Code of Civil Procedure Provisions Governing Post-Trial Motions
- Appendix C. Federal Rules of Appellate Procedure—Rules 28 and 28.1

Table of Laws and Rules

Table of Cases

TABLE OF CONTENTS

Index