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## Interlocutory appeals before the Illinois Appellate Court

In our last column on Nov. 5, we discussed appeals to the Illinois Appellate Court from final judgments pursuant to Illinois Supreme Court Rules 303 and 304 as well as certified questions pursuant to Rule 308. Our journey of appellate review continues as we today examine interlocutory appeals as of right pursuant to Rule 307 and by permission pursuant to Rule 306.

### Interlocutory appeals as of right

An interlocutory judgment is a judgment rendered in the middle of a cause on a plea, proceeding or default that is only intermediate and does not finally determine or dispose of the suit.

Rule 307(a) sets forth a list of interlocutory orders from which an appeal may be taken to the appellate court as of right.

The orders are those: 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); and 7) determining issues raised in proceedings to exercise the right of eminent domain under Section 20-5-10 of the Eminent Domain Act.

Except as provided in 307(b) and (d) discussed below, within 30 days from the interlocutory order, the party appealing the interlocu-

tory order pursuant to Rule 307(a) must file a notice of appeal with the circuit court and the record in the appellate court.

Rule 307(b) provides that if an interlocutory order is entered on an ex parte application, the party intending to take an appeal therefrom must first attempt to vacate the order in the trial court. The party may thereafter appeal either the denial of the motion to vacate or the court's failure to act within seven days after the motion to vacate was presented.

Within 30 days from the day the motion to vacate is denied or from the last day for action thereon, the party must file a notice of appeal with the circuit court and the record in the appellate court.

Rule 307(d) sets forth the procedure for appealing temporary restraining orders.

The granting or denial of a temporary restraining order or an order modifying, dissolving or refusing to dissolve or modify a temporary restraining order may be appealed by filing a notice of interlocutory appeal with the circuit court and a petition in the appellate court. This must be done within two days of the entry or denial of the order from which review is being sought.

The petition shall be accompanied by an appropriate supporting record. Legal memorandum supporting the petition may also be filed within the two days.

### Permissive interlocutory appeals

Pursuant to Rule 306(a), 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

### ON APPEAL



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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; 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.).

With regard to appeals from interlocutory orders affecting the care and custody of unemancipated minors pursuant to Rule 306(a)(5), the appellant must file within 14 days from the entry or denial of the orders from which review is being sought a written petition and supporting record in the appellate court. A memorandum may accompany the petition.

The respondent may file a responding memorandum within five business days following service of the petition and memorandum. If the appellate court grants the petition, the proceedings are subject to the expedited procedures set forth in Rule 311(a).

With regard to all other petitions filed under Rule 306, the appellant shall file a petition and supporting record in the appellate court within 30 days after the entry of the order.

Any other party may file an answer within 21 days of the filing of the petition, together with a supplementary supporting record. If the petition is granted, the proceedings in the trial court are stayed.

Stay tuned for our next article in this series which will outline the steps required to prepare the record on appeal and file a brief.

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