

Chicago Daily Law Bulletin®

Volume 159, No. 194

How to challenge a judgment before the Illinois Supreme Court

For the transactional attorney who rarely steps foot inside a courtroom or the litigator who spends most of his or her time before a trial judge, appellate rules and procedures may seem foreign, complex and overwhelming. To help demystify some of the basic rules of appellate practice, this article is the first in a series in which we will outline the various paths available to challenge a judgment on review.

Our discussion will include the jurisdictional prerequisites to appeal to the Illinois Supreme Court and the Illinois Appellate Court; the steps required to prepare the record and file a brief; and tips for effective brief writing and oral advocacy.

Our first stop on this journey is the Illinois Supreme Court.

The seven justices of the Illinois Supreme Court are elected from the state's five appellate districts. Three of the justices are elected from the 1st District (Cook County) and one justice is elected from each of the state's four other districts. Each justice is elected for a term of 10 years. The court hears cases and issues opinions during one of its five annual terms, which occur in January, March, May, September and November.

The Illinois Supreme Court has general administrative and supervisory authority over all of the courts in the state. Accordingly, the Supreme Court promulgates the Illinois Supreme Court Rules, which govern trial and appellate procedure in both civil and criminal proceedings. In addition, the court has the sole authority to define and regulate the practice of law. To this end, the court has promulgated the Illinois Rules of Professional Conduct, which regulate attorney conduct and set forth discipline for misconduct.

There are several different avenues that lead to consideration of a case by the Illinois Supreme Court: original jurisdiction; direct appeals from the circuit courts; appeals as of right from the Illi-

nois Appellate Court; and appeals by permission from the appellate court.

Original jurisdiction

Pursuant to Article IV, Section 4(a) of the Illinois Constitution of 1970, the Illinois Supreme Court may exercise original jurisdiction in cases relating to revenue, mandamus, prohibition and habeas corpus as well as to the extent necessary to complete the determination of any case on review.

When the court has original jurisdiction over an action, a party may file the action directly with the court. To do so, Supreme Court Rule 381 provides that the party shall file a motion, supported by explanatory suggestions, for leave to file a complaint seeking appropriate relief. The court's consideration is limited solely to issues of law.

Direct appeals from the circuit court

Pursuant to Supreme Court Rule 302, appeals from final judgments of circuit courts shall be taken directly to the Illinois Supreme Court in cases in which a statute of the United States or of Illinois has been held invalid or in proceedings commenced under Rule 21(d) to compel compliance with certain orders entered by a chief circuit judge. Additionally, in cases in which a notice of appeal has been filed in the appellate court but the public interest requires prompt adjudication by the Illinois Supreme Court, the Supreme Court or a justice of the court may order that the appeal be taken directly to it — a scenario which often occurs in election cases. Any documents filed in the appellate court are sent to the Supreme Court and the case proceeds as if the appeal had been taken directly to the Supreme Court.

Appeals from the appellate court as a matter of right

A party may appeal from the appellate court to the Supreme Court as a matter of right on two grounds. Supreme Court Rule 316 provides that an appeal from the appellate court shall lie to the Supreme Court upon the certi-

ON APPEAL



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fication by the appellate court that a case decided by it involves a question of such importance that it should be decided by the Supreme Court.

To file a certificate of importance, a party can either include the application in a petition for rehearing filed with the appellate court or file with the appellate court four copies of a petition that clearly sets forth the grounds relied upon within 35 days after entry of the judgment.

Supreme Court Rule 317 provides that a party may also appeal from the appellate court to the Supreme Court as a matter of right where a statute of the United States or of Illinois has been

held invalid or in which a question under the Constitution of the United States or of Illinois arises for the first time in and, as a result of, the action of the appellate court. To file an appeal pursuant to Rule 317, a party must file a petition in the Supreme Court titled "Petition for Appeal as a Matter of Right." In the petition, the party can also seek leave to appeal (i.e., seek a permissive appeal) in the alternative.

Permissive appeals from the appellate court

Pursuant to Supreme Court Rule 315, a party may file a petition for leave to appeal to the Supreme Court from the appellate court in any case not appealable from the appellate court as a matter of right. The court has discretion in granting such petitions and may consider the following factors, as set forth in the rule: The general importance of the question presented; the existence of a conflict between the decision sought to be reviewed and a decision of the Supreme Court or of another division of the appellate court; the need for the exercise of the Supreme Court's supervisory authority; and the final or interlocutory character of the judgment sought to be reviewed.

By understanding the applicable rules, you can preserve your client's right to appeal to the Illinois Supreme Court.

In our next article, we will discuss the ways to request review in the Illinois Appellate Court.

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