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## Filing a notice of appeal and docketing statement for the court

In our prior trio of articles, published on Oct. 3, Nov. 5 and Dec. 2 of last year, we discussed the various roads which may be traveled to seek review of decisions in the Illinois Supreme Court and the Illinois Appellate Court.

In our next series of articles, we will shift gears to focus on the practical steps which must be taken to perfect an appeal to the Illinois Appellate Court. Today, we generally discuss the first two steps in requesting review of trial court judgments: The filing of the notice of appeal and the docketing statement.

Appellate review is initiated by the jurisdictional step of filing the notice of appeal, Ill. S. Ct. R. 301. The importance of the notice of appeal cannot be overstated: If the notice of appeal is not properly and timely filed, the reviewing court has no jurisdiction over the matter and it is therefore dismissed.

Illinois Supreme Court Rule 303(a) sets forth the timing and filing requirements for the notice of appeal. Generally, a notice of appeal must be filed with the circuit court clerk within 30 days after entry of the final judgment in the case being appealed. Note the requirement that this document must be filed with the circuit court; filing it with the appellate court does not vest that court with jurisdiction and will not prevent dismissal of the appeal.

If a timely post-trial motion directed against the judgment is filed, the notice of appeal must then be filed within 30 days after the entry of the order disposing of the last pending post-judgment motion directed against the judgment or order. Ill. S. Ct. R. 303(a)(1).

Illinois Supreme Court Rule 303(b) sets forth the required form and contents of the notice of appeal. The notice of appeal shall: 1) Contain a specified caption; 2) specify the judgment or part

thereof or other orders appealed from and the relief sought from the reviewing court; 3) have appended thereto a copy of the court's finding, if the notice of appeal is filed pursuant to Rule 302(a)(1) from a judgment of a circuit court holding unconstitutional a statute of the United States or of Illinois; and 4) contain the signature and address of each appellant or appellant's attorney. Ill. S. Ct. R. 303(b)(1)-(4).

A party can amend the notice of appeal without leave of court within the original 30-day period to file the notice of appeal. Ill. S. Ct. R. 303(b)(5). After the initial 30 days expire, the party may only amend the notice of appeal on motion to the reviewing court. Id.

When the reviewing court receives a copy of the notice of appeal, the clerk of the reviewing court shall enter the appeal on the docket. This brings us to the next step in the process: Preparing and filing the docketing statement.

The docketing statement is a short, two-page document that all appellants, including cross-appellants and separate appellants, must file. The docketing statement provides the appellate court with general information about the case. Illinois Supreme Court Rule 312 provides that where the appeal is a matter of right, the appellant shall file the statement within 14 days after filing the notice of appeal.

With regard to a discretionary appeal filed pursuant to Rule 306 or Rule 308, the appellant shall file the statement at the time he or she files his or her Rule 306 petition or Rule 308 application. In cases of interlocutory appeals as of right pursuant to Rule 307(a), the appellant shall file the docketing statement within seven days from the filing of the notice of appeal.

In addition to the timing requirements, Rule 312 also sets forth the form and contents of the docketing statement and provides an example to follow. In the cap-

### ON APPEAL



**MICHELE M. JOCHNER AND SHANNON R. BURKE**

*Michele M. Jochner is a partner at Schiller, DuCanto & Fleck LLP, after previously serving as a judicial law clerk to Illinois Supreme Court Justices Charles E. Freeman and Mary Ann G. McMorrow. She can be reached at [mjochner@sdflaw.com](mailto:mjochner@sdflaw.com). Shannon R. Burke is an attorney at Schiller, DuCanto & Fleck, where she concentrates on family law appeals. Reach her at [sburke@sdflaw.com](mailto:sburke@sdflaw.com).*

tion, the appellant shall set forth: The complete case title, the county, the circuit court number, the trial judge, the date of the notice of appeal, the date of the judgment, the date of any post-judgment motion order and the Supreme Court Rule that confers jurisdiction upon the reviewing court.

With regard to civil appeals, the docketing statement requires that the appellant answer seven questions: 1) Whether the appeal is a cross-appeal, separate appeal, joining in a prior appeal or related to another appeal that is currently pending or has been disposed of by the court; 2) whether any party to the appeal is a corporation and, if so, the identification of any affiliate, subsidiary or parent group; 3) the full name and complete address of appellants and counsel on

appeal for appellants filing the statement; 4) the full name and complete address of counsel for the appellee; 5) the contact information for the court reporting personnel; 6) whether the appeal is from a final order in a matter involving child custody that requires mandatory accelerated disposition of child custody appeals; and 7) the general issues proposed to be raised on appeal.

Although the appellant must list the proposed issues to be raised on appeal, Rule 312 expressly provides that failure to include an issue in the docketing statement does not result in the waiver of the issue on appeal.

In addition to containing the above information, the docketing statement must be accompanied by a \$25 filing fee. See Ill. S. Ct. R. 313.

The final part of the docketing statement requires that the appellant's attorney certify that he or she has made a written request to both the circuit court clerk to prepare the record on appeal and to the court reporting personnel to prepare the transcripts of the trial court proceedings.

Stay tuned for our next article in this series, in which we will discuss the content of these written requests to the circuit court clerk and the court reporting personnel as well as the compilation of the record on appeal and the applicable due dates.

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