



## Appellate Practice Corner

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### **Do Not Wait for the File Stamp: Two First District Warnings on Appellate Finality**

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Two recent First District opinions show how easily a party can lose review by misjudging which order triggers the 30-day clock for filing a notice of appeal under Supreme Court Rule 303. In both cases, the court’s construction of Rule 272—governing when a judgment becomes final and “entered”—proved decisive. Each appeal was dismissed because entry occurred earlier than counsel assumed.

#### ***National Collegiate Student Loan Trust 2007-4 v. Phelps***

In *National Collegiate Student Loan Trust 2007-4 v. Phelps*, 2025 IL App (1st) 231783, a trust that collects defaulted private student loans sued Kimberly Phelps to collect on a defaulted loan. The circuit court entered a default judgment. The parties later stipulated to dismiss the case without prejudice, while granting the trust leave to reinstate if Phelps failed to comply with a repayment schedule. When payments stopped, the trust reinstated the case, and the court entered judgment in its favor. *Phelps*, 2025 IL App (1st) 231783, ¶¶ 3-7.

Phelps filed a timely motion to reconsider. On April 24, 2023, the court denied that motion in open court. The clerk recorded the ruling on the court’s half-sheet—the official docket record that memorializes court action in Cook County practice. No separate written order issued that day. *Id.* ¶ 11.

Defense counsel did not file a notice of appeal. Instead, exactly 30 days later—on May 24, 2023—counsel filed a “Motion for Entry of Order.” *Id.* ¶ 12. The motion did not challenge or seek to modify the judgment; rather, it asked the court to enter a written order reflecting its April 24 ruling. On September 7, 2023, the circuit court directed that a written order be entered dated April 24, 2023, memorializing the earlier denial. *Id.* ¶ 14. Phelps then filed her notice of appeal on September 29, 2023. *Id.* ¶ 16.

The First District dismissed the appeal for lack of jurisdiction. The court began with Rule 303’s requirement that a notice of appeal must be filed within 30 days after entry of the order disposing of the last postjudgment motion. *Id.* ¶¶ 23-26. It then examined when “entry” occurred. Because at the time of its initial ruling, the trial judge did not require submission of a written order and the clerk made no Rule 272 notation indicating that one would follow, entry occurred when the ruling appeared on the half-sheet. *Phelps*, 2025 IL App (1st) 231783, ¶¶ 34-37. The First District explained that “absent draft orders indicating otherwise, the half-sheet entries are the official recordation of orders entered.” *Id.* ¶ 28. Consequently, the 30-day clock began to run on April 24, 2023.

The court also held that the May 24, 2023 “motion for entry of order” did not toll the deadline. It was not “directed against the judgment” within the meaning of Rule 303(a)(1). *Id.* ¶ 32. It sought only to memorialize the previous order. Because it did not attack the judgment itself, it did not qualify as a proper posttrial motion.

The majority further noted that Rule 303(a)(2) protects parties who file early. A notice filed before formal entry “becomes effective when the order disposing of said motion . . . is entered.” *Id.* ¶ 30. Filing prematurely would have preserved jurisdiction. Waiting for a written order did not.

Justice Mitchell dissented. He read Rule 272 as designed to remove uncertainty about finality and argued that the later signed written order should control. *Id.* ¶¶ 47-50 (Mitchell, P.J., dissenting). In his view, allowing a half-sheet notation to trigger finality risks confusion and undermines the clarity Rule 272 was meant to provide. The majority disagreed. The Illinois Supreme Court denied defendant’s petition for leave to appeal.

### *Carr v. City of Chicago*

If *Phelps* addressed whether a half-sheet entry can start the clock, *Carr* asked whether electronic posting of a signed order does the same.

In *Carr v. City of Chicago*, 2025 IL App (1st) 241639, the plaintiff brought a wrongful death action against the City of Chicago after a police pursuit ended in a fatal crash. A jury returned a verdict for the City. The plaintiff moved for a new trial.

On July 12, 2024, the circuit court denied that post-trial motion in a signed written order. *Carr*, 2025 IL App (1st) 241639, ¶ 11. The same day, that signed order was posted to the court’s electronic docket in the Odyssey system. *Id.* ¶¶ 14-15, 20. It bore the judge’s signature but no clerk’s file stamp. Neither party received separate notice that the order had been posted. *Id.* ¶ 20.

On August 13, 2024, the plaintiff attempted to file a notice of appeal. The notice erroneously identified the date of the order being appealed as August 17, 2024—a date in the future—and the clerk rejected it with instructions to verify the date. *Id.* ¶¶ 16, 21. On August 14, the plaintiff resubmitted the notice with the correct date. That same day, the clerk affixed a file stamp reflecting July 12, 2024 as the effective date of the post-judgment order. *Id.* ¶¶ 17, 22-23.

The plaintiff argued that the post-judgment order was not “filed” under Rule 272 until August 14, 2024, when the clerk file-stamped it. If so, the notice of appeal would have been timely.

The First District disagreed. It held that filing occurred when the signed order was posted to the electronic docket on July 12, 2024 and made accessible to the parties. *Id.* ¶¶ 26-27. The absence of a file stamp was a ministerial defect that did not delay finality. *Carr*, 2025 IL App (1st) 241639, ¶ 27.

As in *Phelps*, the court emphasized that Rule 303(a)(2) protects early notices, which “become effective when the order disposing of said motion . . . is entered.” *Id.* ¶ 32. What the rules do not protect is filing after the 30-day period has expired.

Because more than 30 days passed between July 12 and August 14, the court dismissed the appeal for lack of jurisdiction. *Id.* ¶ 34.

### Practice Tip

Both decisions reflect the same construction of Rule 272: entry occurs when the ruling is made of record, not when it is later formalized or file-stamped. In *Phelps*, the half-sheet entry triggered the deadline. In *Carr*, electronic posting of a signed order did the same. Defense counsel should assume the clock begins with the earliest official docket entry reflecting the ruling. If uncertainty exists, file the notice of appeal. Rule 303(a)(2) protects premature notices because they mature upon entry; nothing rescues a late one.



### About the Author

**Irina Y. Dmitrieva** is a partner with *HeplerBroom, LLC*. She focuses her practice on appellate litigation and critical trial motions. Irina has represented both government entities and private clients in federal and state appellate courts, including the Illinois Supreme Court, Illinois Appellate Court, and the U.S. Court of Appeals for the Seventh Circuit. Prior to joining HeplerBroom LLC, she handled all appeals on behalf of the Chicago Transit Authority.

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