

# Local Court Rules 12<sup>th</sup> Judicial Circuit Court

## Will County, Illinois

*Effective November 30, 2015*

*Version 12  
Revised July 1, 2016*



Will County Courthouse  
14 W. Jefferson Street  
Joliet, IL 60432



River Valley Justice Center  
3210 W. McDonough Street  
Joliet, IL 60431



Will County Court Annex  
57 N. Ottawa Street  
Joliet, IL 60432

*Acknowledgments*

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## 1.00 GENERAL

### 1.01 Assignment of Cases

All cases shall be assigned by the Chief Judge as directed by Administrative Order or otherwise.

### 1.02 Office of the Chief Judge

#### A. Selection of the Chief Judge

The Circuit Judges shall elect by secret ballot a Chief Judge from their number to serve at their pleasure. The election of the Chief Judge shall be held after the general election and on the first Tuesday after the first Monday of December on each even year thereafter at a meeting to be called by the Chief Judge for that purpose.

#### B. Election Ballot, Election Committee, Majority Vote

Whenever a Chief Judge is to be selected, a ballot containing the names of all Circuit Judges, arranged alphabetically, shall be given to each Circuit Judge, who shall indicate thereon the Judge for whom he votes as Chief Judge. An election committee appointed by the Chief Judge shall canvas the votes. If on any ballot a Judge receives the votes of a majority of the Circuit Judges of this Circuit, that Judge shall be declared elected as Chief Judge.

#### C. Removal of Chief Judge

A majority of such Circuit Judges may at any time, by written order, call a meeting of the Judges at a time and place stated for the purpose of considering the removal of the Chief Judge then in office. A copy of such order shall be delivered, or mailed, postage prepaid, to each Judge not joining in it, at least five (5) days before the fixed time for the meeting. At such meeting, the Judges shall vote by ballot on the question: "Shall the present Chief Judge be removed from office?" If a majority of such Judges vote in the affirmative, the Chief Judge is thereby removed from office and the Judges shall thereupon proceed to select one of the Circuit Judges to serve as new Chief Judge to take office at once.

#### D. Resignation of Chief Judge

If the Chief Judge shall at any time desire to resign, he shall call a meeting of Circuit Judges and present his resignation. If the resignation is accepted, the Judges shall thereupon proceed to select one of the Circuit

Judges to serve as new Chief Judge, to take office at once.

E. Vacancy in Office of the Chief Judge

Should the office of Chief Judge at any time become vacant by any cause not otherwise provided for in this Rule, the Circuit Judges designated as such by Rule of this Court shall call a meeting of the Judges for the purpose of filling the vacancy and at such meeting a new Chief Judge shall be selected to take office at once.

F. General Administrative Authority of the Chief Judge

The Chief Judge may enter general and administrative orders in the exercise of his general administrative authority, including orders providing for assignment of Judges, general or specialized divisions, and times and places of holding court.

1. Administrative and General Orders

Copies of all administrative and general orders enacted by the Chief Judge shall be filed with the Circuit Clerk who shall maintain them as permanent Court records which shall be available for inspection as public documents.

2. Nepotism

In order to further the public confidence in the integrity and fairness of the Circuit Court of the Twelfth Judicial Circuit, the Chief Judge shall avoid the hiring of persons who are related by blood or marriage to current employees of the Circuit Court.

G. Election to the Office of Associate Judge

Election to the office of Associate Judge will be in accordance with Supreme Court Rule 39 and the additional local procedures set forth herein:

1. After applications are closed pursuant to Supreme Court Rule 39, the Chief Judge shall make the names of the applicant's public for a period of 14 days to allow for public comment. All such public comment shall be in writing and addressed to the Office of the Chief Judge. The Chief Judge's office shall make a packet of all such public comment available to each Circuit Judge prior to a formal interview process.

2. During the time for public comment, the Chief Judge's office shall do a background investigation on each candidate, including but not limited to Attorney Registration and Disciplinary Commission (ARDC) Records, LEADS and other pertinent records.
3. The Circuit Judges shall conduct an interview with each candidate. If a candidate has been interviewed within the previous 24 months, no additional interview will be necessary.
4. Other than the formal interview conducted by the Circuit Judges, no candidate shall contact any Circuit Judge either directly or indirectly to discuss his or her application. No one other than the candidate shall make contact with a Circuit Judge regarding the application of a particular candidate other than to make the public comment as set forth in paragraph 1.
5. After the interviews, public comment and background checks provided for herein, the Circuit Judges shall meet to discuss the candidate's qualifications and conduct a straw poll.
6. The actual vote shall be in accord with Supreme Court Rule 39.

#### 1.03 Meetings of the Circuit Judges

##### A. Meetings of the Circuit Judges

The Circuit Judges shall meet periodically to discuss and take such action as may be required in connection with the business of the Court. A meeting may be called by the Chief Judge or a majority of the Circuit Judges.

##### B. Meetings of the Associate Judges

The Chief Judge or his/ her designee shall meet with the Associate Judges periodically as designated by the Chief Judge.

#### 1.04 Substitution of Judges

In all cases wherein a substitution of Judges has been requested and granted unless otherwise provided by administrative order, said case shall be transferred to the Presiding Judge or his / her designee for reassignment.

#### 1.05 Handling of Summons or Court Processes

Upon the issuance of any warrant or Court Process, the Clerk of the Court shall

promptly deliver said warrant or Court Process to the Sheriff or to such person as the law directs, for service.

#### 1.06 Marriages

##### A. General Scheduling

Judges shall be assigned to perform marriage on court days pursuant to the schedule prepared and promulgated by the Chief Judge. Said schedule shall be available from the County Clerk and shall set forth the procedure and times for solemnizing marriages in the Courthouse on week days.

##### B. Holiday Court Scheduling

Judges holding Holiday Court each and every Saturday are assigned to perform marriages pursuant to the Holiday Court Assignment Schedule. Parties seeking judicial solemnization of the marriage on Saturdays will appear in Holiday Court at 9:00 a.m. The Judge sitting in Holiday Court on that day shall, prior to the call of cases, solemnize the marriage in the courtroom. Recording or photographing the ceremony is hereby permitted at the discretion of the Judge holding Holiday Court.

##### C. Collection of Fees

The Clerk of the Circuit Court, or someone designated by him, shall attend and assist the Judge assigned to perform marriages. A fee in the amount of Ten Dollars (\$10.00) shall be collected by the Clerk. The Clerk of the Court shall establish a bank account in the name of the "Marriage Fund of the Circuit Court of Will County" and all fees collected pursuant to this order shall be deposited therein. Trustees for said account shall be appointed by the Chief Judge. Moneys from said fund may be spent from time to time as said trustees may direct in furtherance of the administration of justice.

#### 1.07 Holiday Court

##### A. Establishment of Holiday Court

A specialized division of the Circuit Court in Will County is hereby established to be known as HOLIDAY COURT.

##### B. Location

Holiday Court shall be in session in the Will County Courthouse, Joliet, Illinois, using the Court's video arraignment equipment.

C. Scheduled Time

Sessions shall commence at 9:00 A.M. and shall end upon completion of the Court's business.

D. Scheduled Days

Sessions shall be held on each holiday and every Saturday.

E. Persons Subject to Holiday Court

The Sheriff and all peace officers and police departments in the County of Will are hereby ordered to bring to Holiday Court all persons in their custody who have been arrested without a warrant in person or by video arraignment equipment and where no bond is fixed by statute. Those individuals arrested pursuant to warrant without bond set or those arrested without warrant where bond is set by statute are to remain in custody of the Sheriff in lieu of bond until the first regular business day of Court.

F. Scope of Holiday Court

Holiday Court is expressly limited to bail, Saturday weddings, emergency orders of protection and emergency injunctive relief.

G. Role of the Circuit Clerk

The Circuit Clerk is ordered to have his/her office open prior to the time Holiday Court is in session for the purpose of preparing for Holiday Court. Matters of bail and bond for persons in custody shall be handled by jail personnel.

1.08 Photographs / Recording Devices

The Circuit Court shall enact a policy regarding the use of electronic devices by Administrative Order. The current policy will be available in the Office of the Chief Judge and be subject to periodic review.

1.09 Court Reporters

In no case pending at any time in this court shall anyone other than the official court reporter or court authorized recording specialist or technician take or attempt to take any verbatim testimony or any other proceedings, in any criminal or civil case without the consent of the Trial Judge.

1.10 Hours of the Circuit Clerk

The Office of the Clerk of the Circuit Court shall be open to the public from 8:30 A.M. to 4:30 P.M. Monday through Friday, except on Court Holidays.

1.11 Posting of Court Docket Calls

The Clerk of the Court shall post the call sheets for each of the courtrooms on bulletin boards and / or electronic monitors as designated by the Chief Judge each business day by 8:45 A.M.

1.12 Local Rules

A. Rules Committee

There is hereby established a Rules Committee to be made up of the Chief Judge, one Associate Judge, and three members of the Will County Bar Association, all appointed by the Chief Judge. The function of the Rules Committee is to meet at such times and at such places as the Chairman deems necessary for the purpose of reviewing the current rules, and any suggested changes or new rules. The Committee shall report at least once per year to the Circuit Judges any proposed inclusions, deletions or changes in the Circuit Court Rules. The Committee shall serve for one year from July 1 to June 30, unless otherwise reappointed.

B. Judges' Review of the Rules

The Circuit Judges shall review the rules and any suggested changes, additions or deletions at any of their meetings held from time to time throughout the year, but will, at the first meeting of the Circuit Judges in January of each and every year, reconsider all of the adopted rules, and consider the recommendations of the Rules Committee as to any changes, deletions or additions thereto.

C. Availability of Rules

The Will County Bar Association, with the advice and consent of the Chief Judge shall publish, distribute, and offer for sale the Rules of the Circuit Court of the Twelfth Judicial Circuit.

**2.00 SHERIFF**

2.01 Periodic Imprisonment Records

The Sheriff of Will County shall maintain records of the time of each incarceration and release of each offender and shall also record all violations of jail regulations by each offender while in custody.

2.02 Notice of Periodic Imprisonment Violations

The Sheriff shall give written notice to the State's Attorney of each failure of an offender to submit to Periodic Imprisonment as ordered.

2.03 Examination of Prisoners

Psychiatric and Psychological examinations of incarcerated persons shall be conducted in the Will County Adult Detention Facility at a place designated by the Sheriff.

2.04 Access by the Sheriff

The Sheriff or his agents shall be allowed access to all areas of the Will County Courthouse.

### **3.00 JURORS**

3.01 Jurors - Terms of Service

A. Grand Jurors

Grand Jurors shall be called to serve on the first Wednesday in January, April, July and October of each year by the Chief Judge or his / her designee. Their term of service shall be ninety (90) days. If any day upon which a Grand Jury is to be called is a legal holiday, such Grand Jurors shall be called to serve the next Court day. After being impaneled, instructed and sworn by the Court, the Grand Jury shall sit at such times as the Court may order or that the State's Attorney or the Grand Jury deems appropriate, and may be recessed from time to time to a day certain or subject to recall.

B. Petit Jurors

The Chief Judge or his / her designee shall certify to the jury Commissioner's office the number of Petit Jurors required each week and the date and time and place at which they shall be summoned. Persons summoned as Petit Jurors shall serve for a specific period of time as directed by the Chief Judge. Any Judge may extend the term of any Petit Jurors from time to time as justice may require.

C. Form of Summons

The summons to each juror shall state the period of juror service.

D. Excuse of Service

The Chief Judge or his / her designee shall be responsible for excusing jurors from service, impaneling them, regulating their assignment to the various Judges and supervising the recording of their service.

3.02 Rules of Procedure Concerning Petit Jurors

A. Access to Jury Assembly Room

The Judges, Court personnel specifically authorized by the Chief Judge, representatives of the Jury Commissioner's Office and the jurors are the only persons permitted in the Jury Assembly Room. The presence of other persons is prohibited except as provided for in sub-paragraph (B).

B. Jurors Access to Courthouse

All jurors shall be forbidden to use the cafeteria, visit any courtroom unless they are assigned to it, or loiter in the halls during their entire term of service without express permission of the Chief Judge or Trial Judge.

C. Procedures for Handling

The procedure for handling Petit Jurors and Grand Jurors during their term of service shall be prescribed by administrative order of the Chief Judge.

3.03 Jury Commission

The Jury Commission shall not, nor shall any juror or potential juror, be required to disclose their street address or telephone number(s) to litigants except upon petition to the Presiding Judge which sets forth with specificity the need for such information. The court may order the street address and / or telephone number(s) of a juror or potential juror to be released to the parties' attorney for good cause shown, but only if the Presiding Judge makes a specific written finding that the failure to order such release of information would materially prejudice the party.

3.04 Jury Questionnaires

In cases where applicable, a questionnaire in a form approved by the Court shall be submitted to the Jury and the answers thereto shall be made available to the

parties prior to the commencement of Voir Dire examination. All questionnaires shall be returned to the Jury Commission Staff immediately at the conclusion of the selection process. Neither counsel nor the litigants shall mark or write on the questionnaire forms. No contact shall be made with Jurors before, during or after a trial without leave of the Trial or Chief Judge.

## 4.00 MOTIONS & DISCOVERY

### 4.01 Clerk's Responsibility in Filing

#### A. Time Stamping of Documents

The Clerk of the Circuit Court shall time-stamp any documents presented, and place the documents in the file as soon thereafter as practicable but in no event beyond 48 hours from receipt, Saturday, Sunday and Holidays excluded.

#### B. Assignment of Case Management Conference Date

Except as noted in 4.01(C), upon filing of any civil case in Jury or Non-Jury the Clerk shall affix a Circuit Court filing number and assign and docket an Initial Case Management Conference date which shall be clearly marked on the face of the summons and complaint and all copies thereof. In Forcible Entry and Detainer, Arbitration and any other case with a fixed return date, the Initial Case Management Conference shall be the initial return date. In all other civil cases, the Initial Case Management Conference shall be scheduled between 110 and 120 days after filing. Initial Case Management Conferences shall be scheduled and docketed by the Clerk on the normal motion call for that particular kind of case.

#### C. Exemptions to S. Ct. Rule 218 (Case Management Conference)

The following cases are exempted from the "Initial Case Management Conference" of Supreme Court Rule 218(a):

Tax	
Small Claims	(Supreme Court Rule 281)
Probate	(755 ILCS 5/1 et seq.)
Forcible Entry and Detainer	(735 ILCS 5/9-101 et seq.)
Mental Health	(405 ILCS 5/1-100 et seq.)
Replevin	(735 ILCS 5/19-101 et seq.)
Court Annexed Mandatory Arbitration	
Adoptions	
Municipal Ordinance Violations	

## Mortgage Foreclosure Actions

In all of the above categories of cases the Court shall conduct a preemptory court call at intervals not to exceed six (6) months.

### 4.02 Setting and Filing of Motions

All motions must be filed with the Clerk and listed in the Motion Book to be kept by the Clerk before 4:30 P.M. two days prior to the day they are to be presented, except emergency motions, and the same shall be heard in the order in which they are listed in the Motion Book.

### 4.03 Courtesy Copies

Courtesy copies of briefs on contested motions may be submitted to the Court concurrent with the time of filing.

Any party may submit to the Court courtesy copies of all Briefs and other materials necessary for decision within a reasonable amount of time before hearing. Any transmittal letters should be limited to the fact of transmittal only and a copy thereof shall be contemporaneously mailed to all persons entitled.

### 4.04 Notice of Hearing of Motions

#### A. Appearances

All pro se parties and attorneys shall file a written appearance before either addresses the Court, unless presenting a motion for leave to appear by intervention or otherwise. Any applicable appearance fee shall be paid when the appearance is filed except as otherwise ordered by the Court.

#### B. Notice Required

Except in actions appearing on the daily trial call or during the course of trial, written notice of the hearing of all motions shall be given to all parties who have appeared and have not theretofore been found by the court to be in default for failure to plead, and to all parties whose time to appear has not expired on the date of notice.

#### C. Content of Notice

The notice of hearing shall be directed to the Motion Judge, shall show the title and number of the action, and the date and time when the motion will be presented. All motions shall be in writing, and a copy of the motion and a statement that it has previously been served upon all counsel of

record shall be served with the notice and filed with the Clerk.

D. Summary Judgment

1. With each motion for summary judgment filed pursuant to 735 ILCS 5/2-1005; the moving party shall serve and file:

- a. The pleadings, deposition, admissions, affidavits, and their supplemental materials which support / oppose the motion.
- b. A statement of material facts as to which the moving party contends there is no genuine issue.

The statement of material facts shall consist of short numbered paragraphs, including within each paragraph specific references to the affidavits, parts of the record, and other supporting materials the moving party relies upon to support the facts set forth in that paragraph.

Failure to submit such a statement constitutes grounds for denial of the motion.

2. Opposing Party

Each party opposing a motion pursuant to 735 ILCS 5/2-1005 shall serve and file:

- a. Any opposing affidavits and other materials in support of their opposition of the motion;
- b. A concise response to the movant's statement of material facts which shall contain:
  1. Numbered paragraphs, each corresponding and stating a concise summary of the paragraph to which it is directed; and,
  2. A response to each numbered paragraph in the moving party's statement of material facts, including, in the case of any disagreement, specific references to the affidavit, parts of the record and other supporting materials relied upon; and,
  3. A statement, consisting of short numbered paragraphs of any additional facts that require the denial of summary judgment, including references to affidavits, parts of the record and other supporting materials relied upon.

If additional material facts are submitted by the opposing party pursuant to section, the moving party may submit a concise reply in the same form prescribed above.

All motions for summary judgment shall be filed no later than sixty (60) days before the scheduled trial or arbitration hearing date, except by prior leave of Court for good cause shown.

E. Dispositive Motions

All Dispositive Motions shall be filed no later than sixty (60) days before the scheduled trial or arbitration hearing date, except by prior leave of Court, for good cause shown.

4.05 Emergency and Ex Parte Motions Where Notice is Not Required

A. Notice Not Required

Emergency motions and notices which by law may be made ex parte may, in the discretion of the court, be heard without giving prior notice and without calling the motion for hearing. Emergency motions shall, so far as possible, be given precedence.

B. Notice After Hearing

If a motion is heard without prior notice under this rule, written notice of the hearing of the motion showing the title and number of the action, the name of the Judge who heard the motion, the date of the hearing, and the ruling of the court thereon, shall be served, by the attorney obtaining the order, upon all parties who have appeared and have not theretofore been found by the court to be in default, and upon all parties whose time to appear had not expired on the date of hearing, and proof of service thereof shall be filed with the Clerk, within two (2) court days after the hearing. Notice shall be given in the manner and to the persons described in Supreme Court Rule 11 and these Rules. This notice shall not supersede or in any way relieve a party from complying with the requirements of Chapter 735 ILCS 5/11-101 et seq., preliminary injunctions and temporary restraining orders.

C. Order Upon Denial

If a motion heard without prior notice is denied, a written order of the denial shall be entered.

#### 4.06 Contested Motions

Motions which are not agreed to by the parties or require the Court to make a decision are contested motions. All contested motions are customarily heard at the end of the call.

#### 4.07 Emergency Motions and Emergency Relief

Emergency motions shall be presented to the Judge assigned to the case, or if not yet assigned, to the Presiding Judge of the appropriate division and shall be heard by him at such times as he/she may determine. Precedence so far as possible shall be given over other judicial business. If he is unavailable, then said motion shall be presented to the Chief Judge of the Circuit and may be heard by him or such Judge as he shall assign.

#### 4.08 Default of Motions

Motions not presented or supported by the moving party when called may be stricken upon motion of the opposing party in open court, or by the court on its own motion.

#### 4.09 Certificate of Service on Motion For Default Judgment

Except in small claims cases, a motion for entry of default judgment for failure to answer shall be supported by a certificate of the moving party, certifying that the Court file reflects service, the mode of service and the date of service. Said certificate shall be in substantially that form as approved from time to time by the Court and filed in the office of the Circuit Clerk.

#### 4.10 Depositions

Unless otherwise agreed by the parties or ordered by the court, depositions shall not be taken on Saturdays, Sundays or court holidays. Unless otherwise agreed by the parties or ordered by the Court, depositions shall not be taken at times other than between the hours of 9:00 a.m. and 5:00 p.m.

#### 4.11 Advancement of Cases

Cases may be advanced for trial upon motion of any party upon good cause shown.

#### 4.12 Bankruptcy Filing

If a party files for bankruptcy staying any proceedings in the Twelfth Judicial Circuit, that party shall file a copy of the Bankruptcy Court stay order with the

Circuit Clerk. If the Plaintiff does not voluntarily non-suit the cause, the Court shall enter an order directing the parties to show cause why the matter (in whole or in part) should not be dismissed because of the Bankruptcy filing. This rule to show cause order shall be set for hearing on a date certain no more than 180 days from the date the copy of the stay order is filed with the Circuit Clerk or as otherwise set by the Court.

#### 4.13 Briefs and Memoranda

No motion, response or brief or memorandum in support thereof shall exceed fifteen (15) typewritten double-spaced pages in at least 12 point font, exclusive of exhibits, without prior approval of this Court. Neither narrow margins nor any other tactic shall be employed to evade the page limitation. Failure to comply with this Rule shall be sufficient grounds for the Court's refusal to consider the document.

### **5.00 MINORS AND DISABLED PERSONS' PERSONAL INJURY AND WRONGFUL DEATH CASES**

#### 5.01 Procedures Concerning Settlement of Minor's And Disabled Persons' Personal Injury And Wrongful Death Cases

The procedures outlined in this Section contemplate that the Judges assigned to the Jury and Non-Jury Division will rule on the fairness of a proposed settlement, adjudicate the reasonableness of the fees and expenses attributable to the litigation under the attorney's retainer agreement and pursuant to Article VIII of the Illinois Rules of Professional Conduct Rule 1.5 (fees), adjudicate liens where appropriate, find the degree of dependency in wrongful death cases, and determine the net amount distributable to those persons entitled. Once these determinations are made by the Law Judge, the Probate Division is responsible for the appointment of guardians or other representatives, setting and approval of bonds, and the administration of the estate in cases where the amount involved requires administration.

Structured settlements must be dealt with carefully. When structured payments are part of a settlement, the attorney's fees, if not similarly structured, shall be based on a percentage of the present cash value of the total settlement. If the structure includes direct payment by the defendant of installments without the purchase of an annuity, the present cash value of the installment payments must be determined.

The Trial Judge shall have the discretion to order the money placed in a federally insured depository subject to withdrawal only upon court order or the minor obtaining the age of majority, or alternatively order that a proceeding must be

instituted in Probate for appointment of a guardian and administration of the proceeds. In cases where probate administration is required, the Trial Judge's order must contain the following language:

"The Settlement amount approved herein shall be paid only to a guardian appointed by the probate division or Circuit court where the minor or disabled person resides and this order shall be effective only after the entry in court of an order approving the bond or other security required to administer the settlement and distribution provided for in this order".

In the event that a probate proceeding is ordered, the Trial Judge's order should not contain language which appoints a guardian, designates a depository or purports to waive bond. The order should be restricted solely to determining the reasonableness of the settlement, fixing the fees and expenses attributable to the litigation, adjudicating liens and determining the amount to be distributed. Further, the order should not direct the execution of releases by the parent or purport to appoint the parent as guardian unless it also orders that the settlement draft shall include in the "payee" portion the words "subject to order of the probate court." Nothing herein, pursuant to the Illinois Constitution, shall deprive the Trial Judge of the authority to make such other different or further order as it may deem appropriate under the facts presented to it.

## 5.02 Wrongful Death Actions

When a wrongful death action has been filed in the Circuit Court with a special administrator having been appointed pursuant to 740 ILCS 180/2.1 (Chapter 70 2.1), the disposition of the case is completely determined by the Trial Judge's order. Since the proceeds of a wrongful death action are not an asset of a decedent's estate subject to the claims of creditors, and since distribution is made on the basis of dependency without regard to testacy or intestacy, there is no reason for Probate Court involvement unless a minor or disabled person is involved.

In those cases, therefore, where all of the persons receiving a distribution are competent adults, the Trial Judge's order should determine the fairness of the settlement, identify the dependents, and determine the fairness of the settlement, identify the dependents, determine the degree of dependency, and determine the reasonable fees and expenses under the retainer contract, pursuant to Article VIII of the Illinois Rules of Professional Conduct Rule 1.5 (fees) and order the distribution. The Trial Judge should enter an order requiring the presentation of vouchers of distribution on a day certain in accordance with the order of distribution.

When the Trial Judge's order provides for probate of a distribution of funds to a minor or disabled person, further proceedings in probate in the county or state in

which the minor or disabled person resides are necessary. The Trial Judge shall allow disbursements and fees to the special administrator and the attorney, and the balance shall be administered and distributed under the supervision of the appropriate Probate court. In such cases, the same language used in the minor's settlement cases requiring payment only to a guardian appointed in the appropriate Probate court should be included in the order.

In cases involving actions for wrongful death brought on behalf of decedents by representatives appointed by the Probate Judge and pending before other Judges, the following procedures apply:

A. Determination of Expenses / Adjudication of Liens / Distribution

The Judge hearing the case, upon the approval of a settlement or upon the entry of judgment, shall determine the expenses, including reasonable attorneys' compensation pursuant to contract and pursuant to Article VIII of the Illinois Rules of Professional Conduct Rule 1.5 (fees), to be deducted from the settlement or judgment, shall adjudicate all liens, and shall determine the net amount distributable to each person entitled thereto pursuant to the provisions of the Wrongful Death Act.

B. Presentation of Written Order

The order approving the settlement or the order entering the judgment shall provide that the amount distributable to the representative appointed by the Probate Judge for distribution under the Wrongful Death Act shall be paid only upon the presentation of an order entered by the Probate Judge authorizing the representative to receive the distributable amount and approving the bond or other security required in connection therewith.

C. Authorizing Acceptance

Upon entry of the order approving the settlement or entering the judgment by the Judge hearing the case, the representative shall file a petition in Probate requesting the entry of an order authorizing the representative to accept the distributable amount and fixing and approving the bond or other security required pursuant to the settlement or judgment. The amount of the bond shall be fixed pursuant to the Probate Act. A copy of the order entered by the Judge hearing the case shall be attached to the petition.

D. Administration of Settlement in Probate

The distributable amount received by a representative for a minor or disabled ward pursuant to the provisions of this section shall be accounted for and administered in Probate as in any other estate.

Upon the settlement or disposition of a wrongful death case, prior to distribution of the proceeds, the Judge disposing of the wrongful death case shall consider appointing a guardian ad litem to represent the interests of any minor or disabled person solely for the purpose of distribution. The necessity for appointment of a guardian ad litem most often arises in circumstances in which the proposed distribution allocates a disproportionately low amount to the minor. The fees of the guardian ad litem shall be paid out of the gross estate rather than the distributive share of the minor.

The objective of the procedures described above is to permit the total disposition by the Trial Judge of any case in which appropriate Probate action is not necessary while, at the same time, insuring that appropriate Probate involvement is not eliminated by reason of an overly broad Trial Court order.

### 5.03 Settlement of Minor's Personal Injury Cases, Wrongful Death Cases, and Actions Under the Survival Statute On Wrongful Death

- A. To settle a cause of action for personal injuries sustained by a minor or disabled person, a wrongful death action, or an action under the Survival Statute, a petition shall be filed executed by the legal representative of the minor, the ward or the decedent's estate, and shall recite:
1. A description of the occurrence-giving rise to the cause of action.
  2. The name and address of the person or entity against whom the cause of action has accrued.
  3. The name and address of the liability insurance carrier, if any, affording coverage to the person or entity against whom the cause of action has accrued and the monetary limits of the liability insurance policy issued by said insurance carrier in effect at the time of the occurrence.
  4. In a minor's or ward's personal injury case and causes of action under the Survival Statute, a description of the injuries sustained by the minor or the decedent and a list of hospital and medical expenses incurred on behalf of said minor or the decedent as a result of the occurrence. In a minor or ward's personal injury case, a current medical certificate or letter executed by the attending physician dated within thirty (30) days stating the nature and extent of the injuries sustained by the minor and the prognosis for the minor or ward, and estimated cost of future care.
  5. In wrongful death cases, the age of the decedent at the time of his

death, his occupation, and his annual earnings at the time of his death. The names, addresses, birth dates and relationship of each of the next of kin of the decedent, and a statement by the legal representative of his opinion of the respective percentage of dependency of the next of kin.

6. The terms of any settlement offer and a statement by the attorney for the legal representative, or by the legal representative if he is not represented by an attorney, of his opinion with respect to the fairness of the settlement offer and his recommendations as to whether said offer be approved.
- B. In cases where no independent attorney has been employed by the legal representative of the minor or the decedent's estate, the Court will suggest that the representative employ an independent attorney to investigate and make recommendations on the case; but if the representative does not employ an attorney at the suggestion of the Court, then the Court may appoint an attorney as guardian ad litem to investigate the merits of the proposed settlement and to report his findings and recommendations before approval of the proposed settlement. In the event the attorney appointed as guardian ad litem does not recommend the approval of the proposed settlement, he shall not represent the parties having an interest in the case, but he may continue as such guardian ad litem with reference to any revised offer of settlement so long as the legal representative has not engaged his own attorney. The Court shall fix an appropriate fee for the guardian ad litem to be taxed as cost in the case.
- C. In wrongful death actions, the Court entering the order approving the proposed settlement shall provide for allocation of the net proceeds of the settlement amount among the next of kin according to the respective percentage of dependency of the decedent. The Court may, in its discretion, hold a hearing for the purpose of determining the respective percentage of dependency by each of the next of kin.
- D. In minor's or disabled person's personal injury cases, the attorney representing the minor or the ward in a sworn petition, shall include:
1. Terms of employment, with copy of all contracts or correspondence verifying same.
  2. Statement that the fees sought comply with Article VIII of the Illinois Code of Professional Responsibility Rule 1.5 and the basis thereof.
  3. Any special circumstances which might bear on the question of

fees.

- E. If the settlement contains periodic payments or structure, the petition shall contain a statement by a qualified annuitant or broker as the fair market value of the structured settlement portion. Upon good cause shown, the Court may waive this or any of the above requirements.

#### 5.04 Structured Settlements

"Structured Settlements" demand formulating procedures to safeguard the victims of trauma which results in mental deterioration or physical incapacity or developmental disability when these persons have received a settlement for these injuries.

Orders Approving Structured Settlements Shall Contain One Form of the Following:

If it appears to the Court at the time of settlement that a minor, upon obtaining his majority, may also be a "disabled person," the following language shall be included in order of approval of a structured settlement:

A. Settlement- Payments to Minor Starting Beyond 18th Birthday

"It is further ordered that, after approval by the Probate Judge, the Court shall receive from the guardian a report as to the physical and mental condition of the minor on or before (date of majority) to determine if a hearing shall be had to adjudicate whether or not the minor, \_\_\_\_\_, should be declared a 'disabled person' and an estate opened and further payments be made to such duly appointed guardian."

B. Settlement- Payments to Minor Starting at Once and Continuing Beyond 18<sup>th</sup> Birthday

"It is further ordered that, after approval by the Probate Judge, the Court shall continue the estate of the minor for such further determination to either allow guardianship to continue or for a change in guardianship. It is further ordered that the Court shall receive from the guardian a report as to the physical and mental condition of the minor on or before (date of majority) to determine if a hearing should be had to adjudicate whether or not the minor, \_\_\_\_\_, should be declared a 'disabled person' and an estate opened and further payments be made to such duly appointed guardian."

C. Settlement- Payments to Adult

"It is further ordered that this matter be referred to the Probate Judge for determination whether a 'disabled person's estate' should be opened and a guardian appointed to receive payments on behalf of the disabled person."

D. Beneficiary of Structured Settlements

Beneficiary of an annuity established under a structured settlement for a ward must be "the estate of the ward."

## 6.00 POST JUDGMENT PROCEEDINGS

### 6.01 Supplementary Proceedings

All supplementary proceedings to enforce money judgments shall be filed under the original case number and shall be heard by the Judge then presiding in the Small Claims Court, unless otherwise designated by order of the Chief Judge. All supplementary proceedings shall be in such form and in accordance with Supreme Court Rule 277 and Section 5/2-1402 of the Code of Civil Procedure. Approved forms of supplementary proceedings shall be provided by the Clerk of the Court.

### 6.02 Post Judgment Notices – Warnings

Notices of hearings on Citations to Discover Assets, Rules to Show Cause and any other hearing where a body attachment or warrant of arrest may issue for a party's failure to appear after receipt of notice shall, in addition to the time, date and place of hearing, include the following words in bold type: **“YOUR FAILURE TO APPEAR AT THE HEARING MAY RESULT IN YOUR ARREST.”**

### 6.03 Rule to Show Cause

- A. Upon the failure of a respondent to comply with a duly entered order of the Court or failure to appear in response to a Citation to Discover Assets and upon the filing of a verified petition or after hearing sworn testimony on an unverified petition, due notice having been given to the respondent, the Court may issue a Rule, which includes the date, time and location for hearing. The Rule to Show Cause shall be served personally upon the respondent as provided by 735 ILCS 5/2-203, except as provided in Rule 6.05.
- B. If the Respondent appears pursuant to notice on the petition and the court issues a Rule, the Court may direct that the Respondent then and there be served with the Rule to Show Cause. If not then heard, the Court shall schedule a date, time and place for hearing, further advising the

respondent that failure to appear for such hearing may result in the issuance of a body attachment for the Respondent's arrest.

#### 6.04 Issuance of Order of Attachment

Upon the failure of the Respondent to appear pursuant to the personal service of a Rule to Show Cause in accordance herewith, the Court in its discretion may order the Clerk of the Court to issue an order of attachment (body order) with or without bond to have the defendant brought before the Judge issuing the order to show cause why he should not be held in civil contempt of Court. Unless waived by the Court for good cause shown, no body attachment shall issue until the Clerk of the Court is provided with a completed warrant application.

#### 6.05 Service Upon Persons Not Parties

Service of a Rule or order upon a person not a party to the action shall be made by personal service or by certified mail with return receipt requested and delivery to addressee only. No body attachment issued pursuant to this rule against a person not a party to the action shall issue unless that person has been personally served.

#### 6.06 Copy of Rule or Order

The copy of a rule or order served upon any person shall be accompanied by the certificate of the attorney for the party obtaining the rule or order that it is a true and correct copy of the rule or order entered.

#### 6.07 Satisfaction of Judgment in Open Court

A money judgment may be satisfied by the court upon written motion of the debtor supported by affidavit stating:

1. the amount of the judgment, the balance, the accrued interest and the costs;
2. that after the exercise of due diligence the judgment creditor and his attorney cannot be found or that the judgment creditor or his attorney fails or refuses to deliver a satisfaction of judgment upon being tendered the amount due; and
3. that notice of the motion has been sent by mail to the judgment creditor and his attorney at their last known address.

#### 6.08 Order of Satisfaction

Upon granting an appropriate motion, the Court shall enter an order directing the

Clerk to receive the amount of Judgment with accrued interest and costs for the judgment creditor. After payment, the Court shall enter an order satisfying the judgment and showing the amount deposited with the Clerk who shall hold the money subject to the order of the Court.

## **7.00 RECEIVERS**

### 7.01 Disqualification

#### A. Conditions of Disqualification

Except as provided in (B) of this rule or an applicable statute, an appointment as receiver shall not be granted to an individual, or to a corporation having a principal officer, who:

1. Is related by blood or marriage to a party or attorney in the action;
2. Is an attorney for, or of counsel for, any party in the action;
3. Is an officer, director, stockholder, or employee of a corporation the assets of which are in question; or
4. Stands in any relation to the subject of the controversy that would tend to interfere with the impartial discharge of his duties as an officer of the court.

#### B. Exceptions

If the court is satisfied that the best interests of the estate would be served, an individual or corporation otherwise disqualified under section (A) of this rule may be appointed as receiver by an order specifically setting forth the reasons for departing from the general rule. A receiver so appointed shall serve wholly without compensation, unless otherwise ordered by the court upon good cause shown.

### 7.02 Attorneys For Receivers

An attorney for the receiver shall be employed only upon order of the court upon written motion of the receiver stating the reasons for the requested employment and naming the attorney to be employed.

### 7.03 Inventories of Receivers

No later than thirty (30) days after his appointment, the receiver shall file with the

court a detailed report and inventory of all property, real or personal, of the estate and designating the property within his possession or control.

#### 7.04 Appraisal for Receivers

##### A. Appointment of Appraisers

Appraisers for receivers may be appointed only upon order of court or agreement of the parties with the approval of the court. If appraisers are appointed, they shall be selected by the court.

##### B. Appraisal by Receiver

If no appraisers are appointed, the receiver shall investigate the value of the property of the estate and show in the inventory the value of the several items listed as disclosed by the investigation.

#### 7.05 Reports of Receivers

##### A. Time of Filing

The receiver shall file his first report at the time of filing his inventory and additional reports annually thereafter. Special reports may be ordered by the court and a final report shall be filed upon the termination of the receivership.

##### B. Forms

The court may prescribe forms to be used for reports of a receiver.

#### 7.06 Receivers' Bond

##### A. Personal Sureties

Bonds with personal sureties shall be approved by the court. Unless excused by the court, sureties shall execute and file schedules of property in a form approved by the court.

##### B. Surety Companies

Bond with a corporation or association licensed to transact surety business in this State as surety will be approved only if a current certified copy of the surety's authority to transact business in the State, as issued by the Director of Insurance, is on file with the Clerk of the court, and verified power of attorney or certificates of authority for all persons authorized to

execute bonds for the surety is attached to the bond.

## **8.00 FAMILY DIVISION**

### 8.01 Definition

Domestic Relations proceedings are defined, for the purpose of this rule, as any proceeding for a judgment of dissolution of marriage or of legal separation, or a declaration of invalidity of marriage, or a custody proceeding as defined in the Supreme Court Rules, or a domestic violence proceeding, as well as proceedings for temporary relief or for a temporary restraining order or preliminary injunction ancillary thereto, and proceedings to modify or enforce orders or judgments entered in Domestic Relations proceedings.

### 8.02 Transcript of Testimony

The Court shall provide a certified court reporter or court-authorized recording specialist or technician to record testimony in every contested domestic relations hearing, whether for temporary relief, trial on the issue of grounds and of all other issues, and contested hearings on post judgment petitions. A court-authorized recording specialist or technician will likewise be provided for all uncontested prove-ups for entry of any Domestic Relations Judgment. The Report of Proceedings shall not be filed unless requested by a party or ordered by the Court.

### 8.03 Written Orders, Motions and Petitions

All orders of Court including those involved in the setting of hearing dates shall be in writing and shall be prepared by the moving party. Every petition or motion must be accompanied with proof of notice of its filing or presentation date. Any petition or motion not presented to the Court within 60 days of filing may be stricken.

### 8.04 Financial Disclosure

In all proceedings involving petitions for temporary maintenance or support, custody of children, attorney's fees, and modification of any previous orders of Judgments relating thereto, both parties shall comply with reasonable requests served upon them for financial information including documents and information as to income, assets, and expenses to be provided at hearing or continuance thereof.

### 8.05 Affidavit of Support

A. In all proceedings involving petitions for attorney's fees, court costs,

maintenance 'pendente lite', support and/or custody of children and modification of any previous orders relating thereto, the moving party shall prepare a financial disclosure under oath and serve same on the opposing party three (3) days prior to hearing, unless for good cause shown the Court otherwise directs.

- B. The party responding to said petition shall serve prior to hearing a financial disclosure under oath in the same form.
- C. Failure to provide financial disclosure form shall subject that party to sanctions as the Court in its discretion deems appropriate.
- D. SUPPORT PAYMENTS: Unless otherwise provided in the order for support, all support payments shall be made to the State Disbursement Unit.
- E. The financial disclosure forms shall be in a form approved by the Presiding Judge and shall have attached a copy of the parties last filed federal income tax return with all attachments and a copy of the last payroll check. All financial disclosure forms shall be available in the Clerk of the Circuit Court's office.

#### 8.06 Support Form and Order of Withholding

- A. Support Form and Order of Withholding
  - (i) That prior to the entry of any Order for Payment of Child Support or Maintenance, or unallocated family support, including Orders For Temporary Child Support or Maintenance Pendente Lite, Orders for Payment on Accrued Arrearages, Judgment of Dissolution of Marriage or Legal Separation, and orders pursuant to actions brought under the Non-Support of Spouse and Children Act, the Revised Uniform Reciprocal Enforcement of Support Act, Paternity Act, the Illinois Parentage Act, (effective 7/1/85) or the Illinois Domestic Violence Act, a Uniform Enforcement of Support Form and Order of Withholding shall be completed and submitted to the Court.
  - (ii) Except for good cause shown, all orders of Withholding entered shall be immediate orders of Withholding.
  - (iii) Conditional orders of Withholding shall be entered only in those cases where the obligor under the Order of Support has presented good-cause as to why an immediate Order of Withholding should not be entered either at the time of the proofs or at the time of the

entry of the Judgment.

B. Completion of Form

Obligee's attorney shall be charged with completion and submission of such documents unless otherwise ordered by the Court.

C. Required Provisions

That every aforesaid Order for payment of Child Support or Maintenance shall contain the following provisions: "It shall be the duty and obligation of the parties who are charged with either making or receiving a payment herein to inform the Clerk of the Circuit Court of the 12th Judicial Circuit, 14 West Jefferson Street, Joliet, Illinois 60432, of any change of address, change of place of employment, or other conditions that may affect the administration of the payment order."

8.07 Education Program

The Court-approved parenting program is required in all pre-judgment cases where the parties have a minor child and in any custody case as defined in the Supreme Court Rules. In the case of an initial Petition for Dissolution of Marriage, Legal Separation or Declaration of Invalidity of Marriage or Parentage case where the parties have a minor child(ren), each party shall within 60 days of the initial case management conference attend and complete the court approved parenting program. A party's failure to do so may result in sanctions imposed by the Court. No Judgment or post Judgment relief shall be finalized without the certificates of completion being filed unless waived by the Court for good cause shown. The Court approved parenting program need only be completed as a mandatory requirement one time per party in each case number, but may be ordered again on the Court's motion.

8.08 Rules to Show Cause - Civil Contempt

A Rule to Show Cause shall be issued upon a verified petition containing sufficient allegations which, if proved, would result in a finding of civil contempt. Notice of a petition, describing the conduct alleged to be contemptuous shall be given in accordance with Supreme Court Rule or the Twelfth Judicial Circuit's Local Rules regarding notice, upon a Respondent, unless the Respondent is present in open court in person or by attorney when the Rule is issued.

Upon the hearing on the Rule, the Respondent shall have the burden of going forward and presenting evidence to excuse the conduct described in the Rule.

Any order presented purporting to conclude a proceeding for civil contempt shall

affirmatively deal with all relief requested in the underlying petition.

#### 8.09 Citations

A citation commanding the presence of any party in connection with a hearing on a Rule to Show Cause, which commands said party to appear in person in open court, may be issued upon the party's failure to appear, after having been duly notified. A citation must be personally served on a party.

#### 8.10 Order of Attachment (Body Order)

An order of attachment may issue upon a party's failure to appear after being personally served with a citation pursuant to Rule or having appeared in open court in response to the Rule. The Court may order issuance of such order of attachment with bond, and shall fix the terms of said bond in its order directing the Clerk to issue said order.

#### 8.11 Pretrial Settings

On motion of either party or upon the Court's motion, a case may be set for a pretrial conference. Both parties must agree before a pretrial is had. However, once a Judge has pre-tried a case, that case will be heard before that Judge and he / she may not be substituted except for cause. The parties shall exchange and present to the Court their Pre-trial Memorandum in the form provided by the Clerk of the Circuit Court or as approved by the Presiding Judge of the Family Division prior to any pretrial.

#### 8.12 Entry of Judgment

##### A. Entry of Final Judgment

Unless waived by the Court for good cause shown, no final judgment will be entered within thirty (30) days of service or, if service of summons is waived within 30 days of the filing of an appearance by both parties. All judgments will be prepared by the prevailing party and shall be presented to the Court for signature within thirty-five (35) days of decision, unless for good cause shown, the time shall be extended by the Court. Nonpayment of Attorney's fees will not be recognized as good cause.

##### B. Maximum Time Limit for Final Judgment

Subsequent to said thirty-five (35) day period, no Judgment shall be signed except upon hearing in open Court.

##### C. Notice of Hearing

Proper notice of such hearing shall be served on all parties, including the movant's client. At such hearing, cause must be shown as to why said Judgment had not been presented in apt time.

8.13 Matrimonial Trial Memorandum

That at least three business days prior to the trial of a Dissolution of Marriage or Legal Separation cause on the matter of remaining issues, the attorney for each party to the proceeding must serve the opposing party's attorney a Matrimonial Trial Memorandum in the form as approved by the Presiding Judge of the Family Division and available in the Clerk of the Circuit Court's office.

8.14 Certificate

In every case for legal separation, dissolution of marriage or annulment, the half sheet Certificate provided by the Clerk shall be completed in its entirety by the moving party and no Judgment prayed for will be signed without the Certificate in the Court file.

8.15 Attorney Withdrawal From Case

In a dissolution of marriage or legal separation case, the attorneys of record shall continue to be of record until thirty (30) days after the entry of a formal Judgment; likewise, the attorneys of record in an Order of Protection case shall continue to be of record until thirty (30) days after entry of a Plenary Order of Protection. Thereafter, notice of a post-decree petition to the attorney is not mandatory and notice to the party is mandatory. However, notice to the former attorney of record as a courtesy is suggested.

8.16 Uniform Enforcement of Support Form

In every case for legal separation or dissolution of marriage, the Certificate of Dissolution / Legal Separation Form shall be completed in its entirety by the moving party and no Judgment prayed for will be signed without the Certificate in the Court file.

8.17 Mediation Program – Family Division Cases

Mediation under these rules involves a court ordered confidential process whereby a qualified and neutral mediator, selected by the parties or appointed by the Court, assists the litigants in reaching mutually acceptable agreements. It is an informal and non-adversarial process. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving exploring settlement alternatives and reaching agreements. Parties and

their representative are required to mediate in good faith.

A. Subject Matter and Commencement of Mediation

1. Matters Subject to Mediation: As authorized by Illinois law, the Court must order mediation of any pre or post-judgment contested issue of parental responsibility, custody, visitation, removal, access to child(ren) or other economic issues pursuant to local rule 17 arising in any action not otherwise determined to be ineligible. Without leave of Court, the parties may not proceed to a judicial hearing on contested issues until the mediation process has been concluded and the mediation report has been submitted to the Court. Mediation may be waived if the parties have participated in mediation pursuant to a joint parenting agreement or have previously attempted mediation on their own accord or pursuant to the terms of their Joint Parenting Agreement or by the Court on good cause shown.
2. Pursuant to Supreme Court Rule 905(b)IV, mediation is mandatory for child custody and visitation issues unless the Court determines an impediment to mediation exists. An impediment to mediation may include, but is not limited to, domestic violence, mental illness, cognitive impairment, drug use, alcohol use, prescription medication use, physical impairment, fraud, duress or undue influence. All cases that are ordered to mediation shall be screened for such impediments. The Court shall make inquiries of counsel and/or the parties concerning the issue of impediments to mediation.
3. The mediator shall also screen for issues of impediments to mediation. A finding that an impediment exists shall be cause for termination of mediation at the mediator's or the Court's discretion.

B. Qualifications of Mediators

1. The 12<sup>th</sup> Judicial Circuit shall promulgate a list of mediators who have been approved by this Court to act as mediators for the Court Ordered Family Mediation Program. These mediators, approved by the Presiding Judge of the Domestic Relations Division of the 12<sup>th</sup> Judicial Circuit, must file the required application, supply supporting documentation and meet the following criteria:
  - (a) Shall satisfactorily complete a Divorce Mediation training

program approved by the Court. The Divorce Mediation training program shall be a minimum of 45 hours including 5 hours of impairment recognition training. Impairment recognition training may be waived by the Presiding Judge if the applicant can provide proof of experience in that area.

- (b) Hold graduate degree in a field that includes the study of law, psychiatry, psychology, social work, human development, family counseling or other behavioral science substantially related to marriage and family interpersonal relationships, or a related field or other degree program otherwise approved by the Presiding Judge or his/her designee.
  - (c) If engaged in a licensed discipline, maintain said license in full force and effect.
  - (d) Shall serve at the discretion of the Presiding Judge.
  - (e) Shall provide evidence of malpractice insurance in an amount as set by the Presiding Judge. The existence of malpractice insurance does not waive any immunities afforded the mediator as granted by statute, case law or these rules.
  - (f) Shall agree to mediate at least two (2) reduced fee or pro bono cases per year as identified by the Court.
2. The mediation shall occur in Will County unless the parties agree otherwise.

### C. Referral Assignment Procedure

- 1. Upon the Court's order for the parties to participate in mediation, a mediator shall be selected by agreement of the parties from the list of qualified mediators prepared by the Presiding Judge of the Domestic Relations Division. Absent an agreement, the trial judge shall assign the mediator. A forty-five (45) day status date on the issue of progress of the mediation shall be set.
- 2. The Court shall designate in its order what percentage of the mediation fee should be paid by each party and/or whether the case should be considered a reduced fee or pro bono case.
- 3. The attorneys shall encourage the parties to mediate in good faith.

The parties shall participate in mediation in good faith.

4. On or before the status date, the mediator shall submit a report to the Court and the parties' legal counsel, which shall include information listed in this rule under the section entitled "Mediation Report".
5. The parties shall contact the mediator within seven (7) days after the referral order is signed for the purpose of setting an appointment.
6. The mediation sessions shall take place without attorneys being present but each party shall have the right to consult with his or her attorney during the process.

D. Conflict of Interest

1. If the mediator has or has had any possible conflict of interest, including but not limited to, a current or previous therapeutic, personal or economic relationship with either party, any child, step-parent, other relative, counsel or anyone else involved in the case, he or she shall decline the appointment or disclose that relationship to the attorneys and may be removed for that reason. If there is a conflict, the parties may select or the Court shall appoint another mediator.
2. A mediator who is a mental health professional shall not provide counseling or therapy to the parties or their children during or after the mediation. An attorney-mediator may not represent either party in any matter during the mediation process or in a dispute between the parties after the mediation process.

E. Reporting Risk of Bodily Harm and Abuse

A mediator shall promptly reveal information to the appropriate law enforcement agency to the extent it appears necessary to prevent a party from committing an act that would result in death or serious harm.

F. Disclosure of Information

1. Except as provided herein, the mediator and the parties shall be barred from testifying as to any statement made at the mediation sessions. Neither mediation records nor work product of the mediator shall be subpoenaed in any proceeding except by leave of the Court.

2. The mediator shall require the parties to execute a confidentiality agreement and complete a screening to determine if an impediment to mediation exists.

G. Attendance and Termination of Mediation

1. The parties shall attend the mediation session(s) which shall be up to an aggregate three (3) hours in length unless extended by agreement of the parties and the mediator. Attendance at mediation shall be limited to the parties to the dispute unless otherwise ordered by Court.
2. The mediator shall immediately advise the Court in writing if he or she suspends or terminates mediation or in the event that either or both parties fail to comply with the terms of this paragraph.
3. The mediation may be terminated or suspended at the option of the mediator or the Court.

H. Mediation Report

1. The mediator shall, on a Court approved form, report to the Court on the progress of mediation within ten (10) days of the termination of the last mediation session including a report outlining what issues the parties reached an agreement on.
2. Only written discovery on issues not being mediated shall be allowed until mediation is terminated, except by order of the Court or agreement of the parties.
3. No investigation or examination pertaining to issues pending in mediation shall be ordered by the Court, except when the Court finds good cause.
4. In the event the party fails to attend mediation without good cause shown, the Court upon motion may impose sanctions, including but not limited to costs and attorney fees.
5. Pursuant to Supreme Court Rule 99, the Court Administrator shall compile statistics regarding the effectiveness of the program and report same to the Administrative Office of the Illinois Courts on a regular basis.

I. Payment of Fees

The mediation fee and the amount of the advance deposit shall be set from time to time by the Presiding Judge of the Domestic Relations Division. Mediation fees shall consist of a maximum of three (3) hours plus one (1) hour for administrative charges which may include but are not limited to time spent in mediation sessions with the parties, telephone conference, correspondence, consultations with attorneys or expert consultants preparation of the mediator's report and any other work performed by the mediator on behalf of the parties. The parties shall be required to pay for individual sessions at the time of each mediation session. In the event payments are not made as agreed by the mediator, the mediation process may not be suspended by the mediator, but failure to pay shall be promptly reported to the Court.

#### 8.18 Case Management Conferences

- A. Within 90 Days of the filing of the initial Petition, the Clerk of the Court shall automatically schedule a Case Management Conference. In cases involving minor children, the Court shall address:
  - 1. Parenting classes as delineated in 8.07 of this part;
  - 2. Entry of a Parenting Plan, if one is agreed upon by the parties;
  - 3. Appointment of a Mediator if no agreement as to custody or a parenting plan is entered;
  - 4. No later than 30 days after the completion of mediation, if no agreement as to custody has been reached, then the Court shall address the issue as to whether to appoint a GAL, child representative or Attorney for the child, or other professional to assist in the making of a custody determination pursuant to 604 or 605 of the Illinois Marriage and Dissolution of Marriage Act.

#### 8.19 Coordination of Cases – Supreme Court Rule

- A. All cases involving minor children, whenever possible or appropriate, shall be assigned to one Judge, including cases arising from the Illinois Marriage and Dissolution of Marriage Act, Paternity Act, Illinois Domestic Violence Act, Probate (Guardianship), Juvenile Court Act and Adoption Act.
- B. Whenever multiple proceedings involving the same child(ren), then the cases shall be coordinated as follows:

1. On any party's motion, or on the Court's own motion upon being advised or learning of multiple proceedings involving the same child(ren), the Judges shall, within forty-eight (48) hours, confer to determine:
  - a. If it would be convenient and appropriate for the consolidation of the cases;
  - b. Which Judge or Division shall hear the custody issues related to the child(ren).

## **9.00 SMALL CLAIMS**

### 9.01 Definition of a Small Claim

A small claim is any civil action seeking not more than the amount defined by the Illinois Supreme Court pursuant to Supreme Court Rule 281 (exclusive of interests and costs) based on either contract, tort or for the collection of taxes.

### 9.02 Form of Summons

Summons shall be in substantial compliance with Summons Requiring Appearance on a Specific Day as set forth in Supreme Court Rule 101(b) and shall also include the following admonition to the defendant: "This case will not be tried on the date you are to appear. To avoid a default judgment, you must appear on the date and at the time shown above. You or your representative will then be told the date your case will be heard."

### 9.03 Form of Complaint

The form of complaint used in filing a small claim case shall comply with the requirements of Supreme Court Rule 282(a). The Clerk of the Court shall provide forms approved by the Circuit Court.

### 9.04 Return Date Procedures

#### A. Failure of Defendant to Appear

If the defendant fails to appear as required by a duly served summons, the Court may enter judgment for the plaintiff upon a verified complaint or proof of affidavit or sworn testimony upon an unverified complaint.

#### B. Written Appearance by Defendant

If the defendant appears on the return date, unless the Court in its discretion orders the filing of a written answer, the defendant's appearance shall stand as an answer denying the allegations of the complaint, and the case shall be tried as a contested matter.

C. Plaintiff's Failure to Appear

If the plaintiff fails to appear on the return date, the Court may dismiss the case for want of prosecution.

D. Continuances

Motions for continuances shall be governed by Supreme Court Rule 231.

9.05 Post Trial Motions

Post trial motions shall be set and may be heard by the Presiding Judge. On the Court's own motion or on the motion of a party with the concurrence of the Court, the motion may be assigned to the Judge who presided at the trial or who entered judgment.

9.06 Evictions – Petition for Rehearing

All motions to reconsider or vacate an order of eviction must be scheduled for hearing within 7 days of filing.

## **10.00 PROBATE**

10.01 Definitions

The definitions contained in The Probate Act of 1975 apply unless the context requires otherwise.

- A. The Act or the "Probate Act" refers to The Probate Act of 1975 755 ILCS 5/1-1 et seq. (1994 State Bar Edition), as amended.
- B. "Court" refers to the Probate Division of the Circuit Court.
- C. "Judge" means the judge or associate judge assigned to the Probate Call.
- D. "Motion" includes every petition, application or other matter requesting the entry of an order.
- E. "Section" refers to sections of The Probate Act.

## 10.02 Construction

In the construction of these rules, the laws governing the construction of statutes shall apply.

## 10.03 Supplemental Proceedings

Actions to contest admission or denial of a Will to probate, to contest the validity of a Will or intervivos trust to which a legacy is provided by a Will, to construe a Will or testamentary trust, to appoint a testamentary trustee during the period of administration or to seek any other appropriate relief relative to an estate pending in the Probate Division shall be designated a supplemental proceeding and shall employ the same file number as the estate to which it relates. The parties shall be designated as in other civil actions. The fee required by law shall be paid at the time the action is filed. Except in the case of an actual jury trial, or unless otherwise ordered by the Chief Judge, the action shall be heard by the judge in the Probate Division to whom the estate has been assigned.

## 10.04 Appearance of Attorneys

Notice of all motions shall be given to each attorney whose appearance has been filed.

## 10.05 Proof of Heirship

- A. Proof of heirship shall be made as provided in The Probate Act.
- B. A finding that there are unknown heirs will be made only after evidence is presented to establish the identity of all known heirs and that a reasonable effort has been made to ascertain the identity of unknown heirs. An Affidavit of Heirship in the case of unknown heirs shall contain a statement that a reasonable effort has been made to ascertain the identity of unknown heirs.
- C. If there is a change in distributive rights during the administration of an estate including a change resulting from death, renunciation, disclaimer or other election provided by law, upon motion of any person or the court's own motion, an appropriate order may be entered naming the substituted takers.

## 10.06 Proof of Will and Issuance of Letters

- A. Proof of Will shall be made only in open court.

- B. Where letters of administration with the Will annexed are sought, the Will shall be admitted only after notice as provided in Section 9-5.

#### 10.07 Bonds

- A. The filing of a bond of a personal representative may not be waived, except as provided by law.
- B. Where the provisions of a Will purport to waive the filing of a bond, it shall be presumed that the intent was to waive surety.
- C. When a representative offers a new bond, the representative shall establish to the satisfaction of the court that assets stated to be on hand are on hand before an account and new bond are approved and before any surety is discharged.

#### 10.08 Guardianship for Disabled Adults

- A. Time of Filing Petition for Appointment of a Temporary Guardian

A petition for appointment of a temporary guardian for an alleged disabled person under Section 11a-4 shall be filed at the time of or subsequent to the filing of a petition for adjudication of disability and appointment of a guardian. The petition shall state the facts upon which it is based and the name, the post office address and, in the case of an individual, the age and occupation of the proposed temporary guardian.

- B. Required Notice (Temporary Guardian)

Unless waived by the court, notice of the time and place of the hearing on a petition for temporary guardian shall be given by mail or in person to the alleged disabled person and to those persons whose names and addresses are listed in the petition for adjudication of disability and appointment of a guardian under Section 11a-8, not less than three (3) days before the hearing.

- C. Required Notice (Temporary Guardian - Revocation)

Unless waived by the court, notice of the time and place of the hearing on a petition to revoke the appointment of a temporary guardian shall be given by mail or in person to the temporary guardian, to the petitioner on whose petition the temporary guardian was appointed and to those persons whose names and addresses are listed in the petitions for adjudication of disability and appointment of a guardian under Section 11a-8, not less than three (3) days before the hearing.

D. Expenditure of Funds from Estate

A petition to expend funds from a ward's estate shall state the purpose for which the proposed expenditure is required, the value of the estate at the time of presenting the petition, the annual income available to the ward, and the amount of the last authorization for an expenditure on behalf of the ward for the same purpose.

E. Stating of Income Available

In stating the annual income available to the ward, the petition shall list payments being received by the ward or by the petitioner either individually or as guardian on behalf of the ward, including Social Security payments, disability payments, payments from the Veterans Administration or other governmental agency or department, relief or other assistance from a charitable or relief organization, payments from a trust or custodianship, and payments from one having an obligation to support the ward.

F. Property

Property of a ward held jointly with another person or persons shall be segregated from the property of the ward's estate and to the extent the property of a ward's estate. To the extent the property of a ward's estate is sufficient, joint property shall not be applied for the maintenance and support of the ward, except under order of the court for good cause shown.

G. Modification of Duties or Discharge of Guardian

In addition to the requirements of the Probate Act, not less than fourteen (14) days notice of a hearing on a petition for discharge or modification of duties of a guardian of a disabled person shall be given to the nearest relatives of the disabled person in the following order:

- (i) To the spouse and adult children, if any; or if none,
- (ii) To the parents and adult brothers and sisters, if any; or if none,
- (iii) To the nearest adult kindred.

H. Petitions Filed Under The Provisions of Section 11a-18 (a-5) of The Probate Act.

1. Upon filing a petition under the provisions of Section 11a-18 (a-5)

of the Probate Act, the petitioner shall certify to the Court that to the best of the petitioner's knowledge and belief all interested persons have been given notice of such hearing. Such notice shall be given at least 14 days before such hearing is held unless otherwise excused by the Court.

2. Upon filing a petition under the provisions of Section 11a-18 (a-5) of the Probate Act, unless waived by the Court, a guardian ad litem shall be appointed by the Court for the ward.

Upon filing a petition under the provisions of Section 11a-18 (a-5) of the Probate Act, unless waived by the Court, a guardian ad litem shall be appointed by the Court for the ward.

#### 10.09 Inventories

##### A. Filing of Inventory

When an inventory is required to be or is otherwise filed with the court, it shall be sufficient to file it with the Circuit Clerk. An inventory need not be presented in open court. Upon request of the representative on motion duly made for approval of an inventory, the court may enter an order which approves the inventory as to form only.

##### B. Content of Inventory

Inventories filed with the court shall clearly and concisely describe each item of real and personal estate in such manner as to properly identify each asset.

#### 10.10 Claims

A. A claim based upon a written instrument shall be accompanied by a copy of the instrument.

B. If the representative or his attorney waives the mailing or delivery of a copy of the claim, the time for filing Pleadings is thirty (30) days after the waiver or the filing of the claim, whichever is later. Pleadings filed thereafter shall be with leave of court.

C. If a counterclaim is filed, a copy shall be delivered or mailed to the counter defendant and his attorney, unless the counter defendant or his attorney waives in writing the delivery or mailing.

#### 10.11 Accounts

- A. Any provision herein with respect to the form of accounts may be waived by the court where:
- (i) The personal representative is also the only beneficiary;
  - (ii) All interested parties consent; or
  - (iii) Other good cause is shown.
- B. In each estate in which an account is filed in court;
- (i) Each asset listed in an account shall be designated by the number in the inventory, supplemental inventory or prior account in which it first appears. Distribution of an item or conversion into cash or other disposition need be described only in the first account after completion of the transaction.
  - (ii) All disbursements stated in an account shall be numbered, and sufficiently identified, showing date, name of recipient, purpose and amount.
  - (iii) Each account shall disclose the pendency of any litigation to which the estate is a party.
  - (iv) When accounting for the income and disbursements with respect to an unincorporated business, real estate, or beneficial interest in real estate; the representative shall report only total receipts and disbursements of the operation, but shall retain all supporting vouchers.
- C. Ten (10) days notice of the hearing on an account, accompanied by a copy of the account, shall be given to any person entitled to a share of the estate who has not received his distributive share in full and to all other persons entitled to notice.
- D. Each notice shall contain the time, place and nature of the hearing and substantially the following sentence: If the account is approved by the court upon hearing, in the absence of fraud, accident or mistake, the account as approved is binding upon all persons to whom this notice is given.
- E. Unless waived by the court, each representative shall account for his administration within thirty (30) days after one year following the issuance of letters of office.

- F. Upon presentation of an account, the attorney for the representative shall furnish receipts for any distributions set forth in the account and a certificate of the attorney and the representative stating that vouchers evidencing disbursements are in the possession of the representative or the attorney. The court may require the presentation of vouchers for examination.
- G. Unless waived by the person entitled thereto, notice of the hearing on a final account or an account intended to be binding under Section 24-2 shall be given to persons entitled to notice. If a person entitled to notice is represented by an attorney-at-law, attorney-in-fact, or consul or consular agent whose appearance is on file, notice as required for motions shall be given to the attorney-at-law, attorney-in-fact, or consul or consular agent.
- H. Before the discharge of the representative, there shall be presented to the court a statement from the representative that all death taxes have been paid or provided for, or that the estate is not subject to death taxes.
- I. Authority to a representative to pay all or part of the distributive share before six (6) months after issuance of letters will be granted only after filing of the inventory.
- J. If a distributee dies after the decedent's death, but before receipt of his entire distributive share, evidence shall be presented to establish the person entitled to the share or balance thereof.
- K. In the estate of a ward:
  - (i) Each guardian shall present an account of his administration within thirty (30) days after the expiration of one (1) year after the issuance of letters and, unless otherwise ordered, at least once in each year thereafter.
  - (ii) An account of a guardian or temporary guardian of a disabled person shall state the physical location and the physical and mental condition of the ward.
  - (iii) An account of a guardian of a minor shall state the physical location and the fact of attendance at school or occupation of the ward.
  - (iv) Unless waived by the person entitled thereto, notice of the hearing on a final account or an account intended to be binding under Section 24-11(b) shall be given to each claimant whose claim is

filed and remains undetermined or unpaid, and to other persons entitled to notice. If a person entitled to notice other than a ward is represented by an attorney whose appearance is on file, notice as required for motions shall be given to the attorney.

#### 10.12 Jury Demands

A petitioner or claimant desirous of a trial by jury where permitted must file a jury demand with the Clerk and pay the fee at the time he files his petition or claim. A representative or other party in interest opposing the petition or claim and desirous of a trial by jury, must file a jury demand and pay the fee at the time he files his answer or other responsive pleading. If the petitioner or claimant files a jury demand and thereafter waives a jury, the opposing party will be granted a jury trial upon demand promptly made after being advised of the waiver and upon payment of the fee, otherwise, the parties waive a jury.

#### 10.13 Withdrawal of Deposit With County Treasurer

Before an order is entered directing the County Treasurer to pay money deposited by order of court, notice shall be given to the State's Attorney and to such other persons as the court directs.

#### 10.14 Deposit and Withdrawal of Ward's Money - Termination of Small Estate

##### A. Presentation of Petition to Withdraw Funds

A petition to withdraw funds deposited or invested as provided in Section 24.21 shall be presented in person by the parent, spouse, person standing in loco parentis or person having the responsibility or custody of the ward, unless personal presentation is excused by the court. The petitioner may be required to furnish evidence that the sums to be withdrawn or proceeds of sale or redemption are necessary for the ward's support, comfort, education or other benefits to the ward or his dependents.

##### B. Distribution of Balance of the Funds

If money has been deposited as provided in Section 24.21 and the balance drops below the amount which may be transferred pursuant to a small estates affidavit and no part of the estate consists of real estate or a pending cause of action for personal injuries, a petition may be filed requesting distribution of the balance of the funds without further administration.

##### C. Filing of Final Account

When a guardian is acting and the estate under administration is or becomes less than the amount which may be transferred pursuant to a small estates affidavit and no part of the estate consists of real estate or a pending cause of action for personal injuries, a petition may be filed requesting distribution of the estate without further administration, and if it appears that there is no unpaid creditor and it is for the best interest of the estate and the ward, the court may order the guardian to file his final account and make distribution as the court directs.

#### 10.15 Assignment of Interest - Power of Attorney

##### A. Approval of Power of Attorney by the Court

No distribution shall be made pursuant to an assignment or a power of attorney signed by a distributee of an estate unless the assignment or power of attorney has been filed with and approved by the court.

##### B. Language in Power of Attorney

The petition for approval shall be verified and state:

- (i) The consideration paid or to be paid and fees and expenses charged or to be charged to the grantor of the power of attorney or the assignor of the assignment;
- (ii) The name and address of the grantor and grantee of the power of attorney or the assignor and assignee of the assignment; and
- (iii) That the power of attorney or assignment has not been revoked.

##### C. Necessary Signatures

Each power of attorney or assignment shall be signed and acknowledged by the grantor of the power of attorney or assignor of the assignment in accordance with the Illinois Uniform Recognition of Acknowledgements Act.

##### D. Distribution by Court

If the court does not approve the power of attorney or assignment, the representative shall make distribution directly to the grantor of the power of attorney or the assignor of the assignment.

#### 10.16 Distribution to Official Representative of Foreign Country

The distributive share of a citizen and resident of a foreign country may be paid to the official representative of the foreign country who is entitled thereto pursuant to treaty or convention between that country and the United States in the following manner:

- (i) The official representative shall present his petition for leave to receive distribution in a form prescribed by the court; and
- (ii) The official representative shall certify that his principal is a citizen and resident of the petitioner's country; and
- (iii) The official representative shall acknowledge receipt of the distributive share received from the representative. The representative shall file the receipt with his voucher.

#### 10.17 Submission of Verified Petition

Except for fees for representing a minor in a personal injury action or a decedent in wrongful death which is covered under Section 5, every request for entry of an order approving fees shall be preceded by the filing of and presentation in open court of a written verified petition of the representative or attorney seeking such order setting forth:

- A. The terms of employment, including the hourly rate of payment thereof.
- B. The nature and extent of the probate and non-probate estate and any extraordinary services required.
- C. An itemized statement of services rendered including the time spent and purpose of each entry.
- D. The customary and usual charges made by persons rendering similar services in the community.
- E. The experience of petitioner in matters for which payment is sought; and, if an attorney, whether or not his practice is limited to probate matters.
- F. If an attorney, he or she, has complied with Rule 1.5 of the Illinois Rules of Professional Conduct.

### **11.00 JUDICIAL AND FORECLOSURE SALES**

#### 11.01 Person to Hold Judicial or Foreclosure Sales of Real Estate

A. Assignment to Court's Auctioneer of Mortgage Foreclosure Sales

Unless otherwise ordered by the Court, all Judicial and Foreclosure Sales of Real Estate ordered as of the result of the foreclosure of a mortgage where a judgment is entered on or after September 1, 2015, shall be assigned to the Court's Auctioneer who acts on behalf of both the Sheriff of Will County and the Circuit Court. The attorney for plaintiff shall furnish all information requested by the Court's Auctioneer. Not fewer than 10 business days before the sale, the attorney for the plaintiff shall send notice by mail to all defendants, including the defendants in default, of the foreclosure sale date, time, and location of sale.

B. All Other Court Ordered Sales

Court ordered sale of property (real or personal), that is not the result of the foreclosure of a mortgage, shall be assigned to an officer designated by the Court in the judgment order. Judicial or foreclosure sales of personal property, collateral assignments of beneficial interests in land trusts, security interests in personal property, or real estate sold pursuant to partition shall be made by such officer, attorney or other party (including a party litigant), upon such terms and on such notice as required by law or as may in each case be ordered by the Court. The rules and limitations provided in this Rule 11.00 are to apply to sales pursuant to Rule 11.01(B) only to the extent and in such manner that the Court may, in each case, direct. The Court, in the exercise of its discretion, may also assign the sale of property pursuant to Rule 11.01(B) to the Will County Sheriff.

11.02 Preparation of Documents

The Plaintiff in all Rule 11.01(A) and / or Rule 11.01(B) sales shall do the following:

- A. Prepare a notice of the sale and present same to the Court's auctioneer to have it published in an English language newspaper of general circulation in the county;
- B. Prepare a report of sale and distribution and the Court's auctioneer shall file it with the Circuit Clerk prior to the entry of an order confirming sale. The plaintiff shall pay any costs of filing; and,
- C. The Court's auctioneer shall prepare a certificate of sale and the Plaintiff shall record it with the Will County Recorder of Deeds.

11.03 Sales Procedures

- A. Prior to the scheduling of any sale date, the plaintiff shall provide to the Court's Auctioneer a certified copy of the judgment order, which must include the date of the expiration of the period of redemption and proof of publication.
- B. The Court's Auctioneer is obligated to maintain records for the cases assigned to it filed during the current year and the two preceding calendar years. Any records for older cases may be destroyed by the Court's Auctioneer without notice. Any party attempting to schedule a sale on a judgment order in a case not filed in the current year or the two preceding calendar years must provide the Court's Auctioneer a new certified copy of the judgment order.
- C. Unless the Court orders otherwise, with notice to the Court's auctioneer, all judgment orders shall specify that the terms of the sale shall be payment of a deposit in cash or certified funds of 10% of the amount of the successful bid at the time of the sale and payment of the balance of the successful bid in cash or certified funds within twenty-four (24) hours thereafter. Any payments accepted after twenty-four (24) hours must include per diem interest at the judgment rate plus any costs incurred. Any judgment order containing terms of sale which conflict with the terms of sale specified in this Rule shall be deemed to be amended to conform the judgment order to the terms of sale specified in this Rule unless an order was entered by the Court pursuant to this Rule varying the terms of sale. All payments of the successful bid amount or any portion thereof shall be made in cash or certified funds payable to the Sheriff of Will County. Every bidder shall present to the Court's Auctioneer proof satisfactory to the Court's Auctioneer of funds representing at least ten percent (10%) of the amount of the bid in cash or certified funds prior to the bid being accepted by the Court's Auctioneer.
- D. If the Court's Auctioneer is to present an opening bid at the sale on behalf of a mortgagee, then the bidding instructions must be in writing and must be received at the office of the Court's Auctioneer at least one (1) hour before the time of the scheduled sale. All bids shall be accompanied by a cashier's, certified, or law firm check for the costs of the sale.
- E. In the event that a written bidding instructions and / or the costs of sale are not timely received pursuant to Rule 11.03 D the Court's Auctioneer will automatically continue the sale for a period of seven (7) days or to the next available date for scheduled sales, and an additional fee will be assessed by the Court's Auctioneer. If the continuance results in the need to republish the sale to comply with the terms of the Mortgage Foreclosure Act, then on the continued date, the sale will be canceled and not rescheduled until such time as the costs of republication, the rescheduling

fee, and all other costs are received by the Court's Auctioneer.

- F. All bids, continuance requests and cancellations of mortgage foreclosures sales are to be sent directly to the office of the Court's Auctioneer and must be received at least one (1) hour before the sale.
- G. The costs for canceled sales including the Court's Auctioneer's fees, must be paid by the party requesting the sale within thirty (30) days of the canceled sale date, unless otherwise ordered by the Court. If mortgagees or attorneys are delinquent in the payment of any costs or fees incurred, then the Court's Auctioneer may refuse to conduct sales upon any of the other cases of the mortgagee, the attorney and / or the law firm until such time as all costs and fees and all delinquent accounts are paid in full.
- H. Following the sale, Plaintiff shall promptly prepare and the Court's Auctioneer shall promptly file with the Circuit Clerk, a report of sale and distribution. The Court's Auctioneer shall also prepare an original certificate of sale and the Plaintiff shall file the certificate of sale with the Recorder of Deeds and provide the successful purchaser with a copy.
- I. Following the filing of the report of sale by the Court's Auctioneer, the plaintiff shall be responsible for presenting to the Court for approval an order confirming the sale with all necessary supporting documents, including but not limited to, proof of publication, notice of sale, and notice of motion for presentation of the order confirming sale, a copy of the certificate of sale, and if applicable, all proof required by the Court for the entry of a deficiency judgment.
- J. If there is a surplus following application of the proceeds of sale, then the plaintiff shall send written notice pursuant to 735 ILCS 5/15-1512(d) to all parties to the proceeding advising them of the amount of the surplus and that the surplus will be held until a party obtains a court order for its distribution or, in the absence of an order, until the surplus is forfeited to the State, and enclose a form motion and petition for turnover of surplus funds.

#### 11.04 Issuance of Deed or Bill of Sale

Following the entry of an order confirming sale, the purchaser at the sale shall prepare and forward to the Court's Auctioneer the following:

- A. A copy of purchaser's certificate of sale and the original or a recorded copy of any assignment thereof. All assignments of the certificate of sale must be recorded with the Will County Recorder of Deeds before a deed is signed by the Sheriff or the Court's Auctioneer;

- B. A proposed Deed for signature by the Sheriff of Will County, the Court’s Auctioneer, or the Court and a copy thereof;
- C. A completed state and / or municipal Real Estate Transfer Declaration or a declaration of exemption if required by the Recorder of Deeds.
- D. If the auction was of personal property pursuant to Rule 11.01(B) and not of real estate, a Bill of Sale for the personal property auctioned, in an “as is” state with a disclaimer of all warranties, which will be returned to the purchaser after signature by the Judge presiding in the court which ordered the sale.
- E. The Court’s Auctioneer is hereby given authority by this Rule to execute on behalf of the Sheriff all Sheriff’s Deeds arising out of mortgage foreclosure sales pursuant to this Act.
- F. After execution by the Sheriff or the Court’s Auctioneer, the Sheriff’s Deed and Real Estate Transfer Declaration(s) will be returned to the grantee for recording, and it shall be the obligation and expense of the grantee to record the Sheriff’s Deed.

#### 11.05 Return of Documents to Counsel

All communications should be properly addressed to the Will County Sheriff or the designated officer to whom the sale is assigned. Plaintiffs and their attorneys will at all times enclose a postage-paid, self-addressed envelope or a prepaid or C.O.D. courier return envelope when documents are to be returned to them.

#### 11.06 Monies to be Deposited with the Sheriff

All monies paid as a result of sales under this Article shall be deposited with the Sheriff of Will County to be retained in a special account subject to disbursement orders entered by the Court.

#### 11.07 Use of Future Technology and E-Filing

The Court’s Auctioneer may, from time to time, institute procedures consistent with this Article 11.00 in order to implement e-filing to accommodate advancements in technology, or to enhance the orderly processing and administration of sales.

## **12.00 ADOPTIONS**

## 12.01 Appointment of Investigating Agency and Guardian Ad Litem

### A. Referral to Proper Person or Agency

Upon filing of a petition for a non-related adoption, counsel for the petitioners shall present a motion to the court to refer such petition to the proper person or agency for investigation in accordance with the provisions of the statute, and shall request the appointment of a guardian ad litem.

### B. Notification to Investigating Agency

The petitioner's attorney shall have the duty of notifying the investigating agency or officer of their appointment by the Court within seven (7) days after entry of the order appointing the agency is filed.

## 12.02 Investigation Report

The Investigating Officer or Agency will complete the investigation not later than thirty (30) days prior to the expiration of six (6) months from the date of the Interim Order granting care and custody of the minor child to the Petitioner. The Investigating officer shall notify counsel for the Petitioners when the same is completed.

## 12.03 Hearing

### A. Scheduling of Hearing

After the return of the report of the investigator, the adoption matter will be set for hearing by the Court upon request of counsel.

### B. Requirement of Child to Attend Hearing

In the case of a non-Related child, non-Agency, Related or Agency adoption, the child's presence in open Court will be required at the time of hearing on the Judgment for Adoption unless excused by the Court for good cause.

## 12.04 Court File

The Clerk of the Court shall produce the Court file in open Court at the time of the hearing.

### **13.00 SPECIAL ASSESSMENTS**

With each roll spreading a special assessment, there shall be filed with the Circuit Court Clerk a true and correct copy of said roll, which copy the Clerk of this Court may certify to the Village or City Collector for the collection of said assessment.

### **14.00 TAX MATTERS**

#### **14.01 Filing of Objections**

All Objections must be filed with the Circuit Court Clerk in quadruplicate and signed and sworn to by the property owners on forms provided by the Clerk.

#### **14.02 Procedures for Real Estate Tax Cases**

- A. The caption of each cause shall bear the Will County Property Index Number for the parcels of real estate for which relief is sought or otherwise affected by the proceedings, the name of the owner thereof and the party seeking the relief; except, those cases relating to corporate levy and rate objections and Petitions for Certificates of Error which shall set forth the Property Index Number, name of the owner, and party seeking relief in the body of the pleading filed.
- B. Upon the filing of any objection of a Tax Assessment or corporate levy and rate, the Circuit Clerk shall:
  1. Set the objection for a pretrial conference before the Judge assigned to hear such objection at a time specified by the Office of the Chief Judge on the 56<sup>th</sup> day thereafter unless such day is a legal holiday in which event it shall be the next Court day after the 56<sup>th</sup> day; and,
  2. Transmit copies of such objections the Offices of the State's Attorney, County Clerk and County Treasurer with a certification by the Clerk that the objection has been set for pretrial conference as hereinabove required. A copy of said certification to be given to the objector at the time of filing.
  3. The objector and State's Attorney shall appear at the pretrial conference in person or by counsel with all proof required to sustain or overrule the objection. Failure of any party to appear without cause may result in an adverse judgment.

## **15.00 CRIMINAL PROCEEDINGS**

### 15.01 Consolidation of Offenses

#### A. Setting of Single Court Date

All criminal charges arising out of a single incident, including ordinance violations, shall be written into a single Court on a single date. All matters will be set in the division that would hear the most serious offense.

#### B. Bond Reduction Motions / Motion to Quash

Where a defendant is actually in custody of the Will County Adult Detention Facility on the date he / she missed a court date, no notice shall be required for a Bond Reduction Motion or a Motion to Quash the Warrant.

### 15.02 Public Service

#### A. Coordinator

##### 1. Assignment

An individual shall be designated to serve as Coordinator of public service work by the Chief Judge, including cases of defendants who are not on formal probation. The designated individual shall serve at the pleasure of the Chief Judge.

##### 2. Maintenance of Records

The Coordinator shall establish and maintain such records as may be necessary to enable the Coordinator to remain currently apprised of each offender's compliance with, or violation of, a sentence or condition of public service work.

#### B. Communication of Order of Public Service Work

The Clerk of the Court shall furnish to the Defendant and the State's Attorney a copy of each Order entered by the Court imposing a sentence of public service work or requiring public service work as a condition of Probation or Conditional Discharge. Each order shall provide that the offender report personally to the Coordinator instanter.

#### C. Court Referral to Coordinator Prior to Imposition of Sentence of Public Service Work

The Court may, in its discretion, before sentencing refer an offender to the Coordinator for an evaluation of the offender's social, scholastic, employment and financial circumstances for the limited purpose of determining the suitability of specific requirements of public service work. The Coordinator shall then report his findings to the Court without unnecessary delay.

#### 15.03 Violations of Probation, Conditional Discharge and Court Supervision

##### A. Notice to Defendant

Violations of Probation, Conditional Discharge and Court Supervision shall be brought to the attention of the Court on petition filed by the State's Attorney or Probation Department. On Motion of the State's Attorney, the Court shall direct that the Clerk notify the defendant and his attorney of said filing pursuant to Supreme Court Rule. Notice to defendant shall be at his last known address based on records of the Court and/or Probation Department; and, upon appearance of the defendant, the matter shall be set down for a date certain for hearing unless otherwise provided by State statute.

The attorney of record shall continue to be of record until thirty (30) days after the entry of the original order. Thereafter, notice of the Petition to revoke to the attorney is not mandatory. Notice to the defendant is mandatory. However, notice to the former attorney of record as a courtesy is suggested.

##### B. Warrants

Upon due proof of service of notice on defendant at his address described above, his failure to appear may cause, on Motion of the State's Attorney, a warrant to issue for his arrest.

##### C. Petitions to Revoke (Felony Charges) – Assignment of Judge

Petitions to Revoke shall be assigned to the Judge that entered the original order. If the Judge that entered the original order is no longer serving in the Felony Division, the Petition to Revoke shall be filed before the Presiding Judge of the Felony Division, who shall thereupon assign the case to a Judge serving in the Felony Division.

#### 15.04 T.A.S.C. Probation – Motion to Vacate

If a motion is filed to vacate the judgment of conviction, the motion shall be set for the termination date of the T.A.S.C. Probation. The Clerk of the Court shall,

within forty-five (45) days of the termination date, send notice of the hearing on the motion to vacate to the attorney of record and to the Defendant.

#### 15.05 Drug Court

Any Defendant requesting admission to Drug Court shall send a Drug Court Referral Form, as provided by the State's Attorney, to the Drug Court Coordinator for consideration for admission to the Drug Court Program.

#### 15.06 Orders to Rescind a Statutory Summary Suspension and Orders for Judicial Driving Permits

Upon the entry of an order rescinding a Statutory Summary Suspension, or granting a request for a Judicial Driving Permit, the Clerk of the Court shall send a copy of said order to the Secretary of State by the end of the second business day following the entry of the order.

#### 15.07 Bond

Upon finding of "no probable cause" after a preliminary hearing the Court may, only with the concurrence of the defendant and his attorney, allow the defendant's bond to stand for a reasonable time as determined by the Court.

#### 15.08 Felonies

##### A. Discovery

Discovery for felony cases wherein the defendant has pleaded not guilty shall be ordered by the Court at arraignment and regulated by Supreme Court Rules 412 and 413 without the necessity of formal written motion.

##### B. Discretionary Disclosures

Discretionary disclosures shall be applied for by written motion with notice to the opposing party pursuant to Supreme Court and local Court rules.

##### C. First Court Appearance

All persons charged with a felony who, upon arrest, are not brought before a Judge immediately because of the hour of the arrest shall be promptly brought before a Judge the following day.

#### 15.09 Misdemeanors

In all misdemeanor and aggravated traffic cases discovery in accordance with People v. Schmidt shall be ordered by the Court at first appearance, without the necessity of a formal written motion.”

#### 15.10 Defendant Representation

Once a defendant is represented by an Attorney, including the Public Defender, no other Attorney shall file an appearance, except with leave of the Court.

#### 15.11 Court Appearance by Closed Circuit Television

The Sheriff of Will County, having certified that he has the facilities to present people in his custody to the Court by closed circuit television, may do so in any pre-trial or post-trial proceeding with the consent of the Court when a Defendant’s personal appearance is not required by the Constitution of the United States or the Illinois Constitution. These may include but are not limited to:

- A. All persons in his / her custody without a warrant and there is no bond fixed by statute.
- B. Arraignments
- C. Motions to modify bonds.
- D. When the Defendant’s presence is waived.

### **16.00 MANDATORY ARBITRATION**

#### 16.01 Civil Actions Subject to Mandatory Arbitration

##### A. Authority

Mandatory Arbitration proceedings are undertaken and conducted in the Circuit Court for the Twelfth Judicial Circuit pursuant to Order of the Illinois Supreme Court, the Illinois Supreme Court Rules and the Illinois Code of Civil Procedure.

##### B. Jurisdictional Limit

All civil actions exclusively for money damages in an amount exceeding the monetary limit authorized for small claims cases but not exceeding the

monetary limit authorized by the Supreme Court for mandatory arbitration in the 12<sup>th</sup> Judicial Circuit shall be subject to mandatory arbitration and assigned to the arbitration calendar.

C. Transfer of Civil Actions

Civil Actions not originally assigned to the Arbitration Calendar may be transferred to arbitration by agreement of the parties, or by Order of Court at a status call or case management conference, if the Court determines that no claim in the action has a value in excess of the monetary limit authorized by the Supreme Court for the 12th Judicial Circuit.

D. Assignment of Status Date

When a civil action not originally assigned to the Arbitration Calendar is transferred to the Arbitration Calendar, the transferring Judge of said cause shall set it for status and further setting before the Supervising Judge for Arbitration.

16.02 Appointment, Qualification and Compensation of Arbitrators

A. Arbitrator Eligibility

Licensed Illinois attorneys in good standing shall be eligible for certification and appointment as Arbitrators by filing an approved application form with the Arbitration Administrator and completing an Arbitrator Training Seminar. Retired judges shall also be eligible for appointment. Arbitrators must have engaged in the active practice of law for a minimum of one year. An applicant requesting to be certified as a Chairperson must have been engaged in the active practice of law for at least five years. Applicants shall be certified as Arbitrators and/or Chairpersons by the Supervising Judge for Arbitration after recommendation of the Arbitration Administrator.

B. Arbitrator Assignment to a Panel

The Arbitration Administrator shall maintain an alphabetical list of approved arbitrators to be called for service on a rotating basis. The list shall designate the arbitrators who are approved to serve as chairpersons.

C. Composition of a Panel

Three arbitrators shall constitute a panel at least one of which must be certified as a chairperson. Three arbitrators shall constitute a panel unless the parties stipulate using the prescribed form to a two arbitrator panel. In

no instance shall a hearing proceed with only one arbitrator.

D. Notification to Arbitrators

The Arbitration Administrator shall appoint the arbitrators to the various hearings and shall designate the Chairperson in the event that said panel is comprised of more than one certified Chairperson.

The Arbitration Administrator shall notify the arbitrators of the hearing date at least 30 days prior to the assigned hearing date. Those arbitrators who have agreed to serve on an emergency basis shall be notified as soon as practical.

E. Arbitrator Recusal

Not more than one member or associate of a firm, or office shall be appointed to the same panel. Upon appointment to a case, an arbitrator shall notify the Arbitration Administrator and withdraw from the case if any grounds appear to exist for disqualification pursuant to the Illinois Code of Judicial Conduct.

F. Payment to Arbitrators

Upon completion of each day's arbitration hearings arbitrators shall file a voucher with the Arbitration Administrator for submission to the Administrative Office of the Illinois Courts for payment of the prescribed fee.

G. Arbitrator Oath

Each arbitrator shall take an oath of office in conformity with the form provided in Supreme Court Rule 94 in advance of the hearing.

16.03 Scheduling of Hearings

A. Hearing Schedule

No arbitration hearing date shall be set less than 60 days nor more than one year from the date of filing or subsequent assignment to the arbitration calendar unless allowed by the Supervising Judge for Arbitration upon good cause shown. Arbitration hearings shall be held at the Will County Court Annex Building, 3<sup>rd</sup> floor or at another location authorized by the Chief Judge of the Circuit Court. Arbitration Actions shall be assigned for hearing by the Supervising Judge for Arbitration based on the arbitration

calendar maintained by the Arbitration Administrator or his / her designee. The dates available on the calendar may be adjusted by the Arbitration Administrator with the approval of the Supervising Judge for Arbitration.

Any party to a case may request postponement of a scheduled arbitration hearing date only by filing a written motion with the Clerk of the Circuit court. The motion shall be heard by the Supervising Judge for Arbitration. The motion shall meet the requirements of Supreme Court Rule 231. The notice of hearing and motion shall be served upon counsel for all other parties, upon pro-se parties as provided by Supreme Court Rule and Rules of the Circuit Court of the Twelfth Judicial Circuit and upon the Arbitration Administrator.

B. Consolidated Cases

Consolidated cases shall be heard on the hearing date assigned to the latest cause unless otherwise set by the Supervising Judge for Arbitration.

C. Notification to Arbitration Center of the Settlement of a Case

Upon voluntary settlement or dismissal of any case scheduled for arbitration, counsel for the plaintiff or the Plaintiff if pro se, shall immediately notify the Arbitration Administrator in writing. Failure to do so may result in the imposition of sanctions.

D. Time Limit of an Arbitration Hearing

Arbitration hearings shall be limited in duration to two (2) hours for presentation of the case. Any party to a case may request additional time for presentation of the case by filing a motion with the Clerk of the Circuit Court. The notice of hearing and motion shall be served upon counsel for all other parties and upon pro se parties as prescribed by Supreme Court Rules and the Rules of the Circuit Court of the 12th Judicial Circuit and upon the Arbitration Administrator. The motion shall be set for hearing on the calendar of the Supervising Judge for Arbitration not less than 30 days prior to the arbitration hearing.

16.04 Discovery

Discovery shall be conducted in accordance with Supreme Court Rule 222 except the time lines for initial disclosure required by such rule may be shortened and set by the initial or subsequent Case Management Order as entered in the action.

16.05 Conduct of the Hearings

A. Authority of the Supervising Judge

The Supervising Judge for Arbitration shall have complete supervisory authority over all questions and issues arising in any arbitration proceeding, including the application of these Rules and shall hear all pre-trial motions, dispositive motions, discovery motions, motions to continue and all post arbitration proceedings up to and including the trial status setting.

B. Stenographic Records

No stenographic record may be made of the hearing unless stipulated by the parties. If a party has a stenographic record transcribed, notice thereof shall be given to all other parties and a copy shall be furnished to any party upon payment of a proportionate share of the total cost of making the stenographic record.

C. Statement of Witnesses

Statements and affidavits of witnesses shall set forth the name, address and telephone number of the witness.

D. Language Interpreters

Any party requiring the services of a language interpreter during the hearing shall be responsible for providing same. Any party requiring the services of an interpreter for the hearing impaired shall notify the Arbitration Center of said need not less than seven (7) days prior to the scheduled hearing date.

E. Handling of Exhibits

All exhibits admitted into evidence shall be retained by the panel until entry of the award. It is the duty of the attorneys or parties to retrieve such exhibits promptly after entry of the award. All exhibits not retrieved shall be destroyed.

## **17.00 COURT-ANNEXED MEDIATION**

### **17.01 Actions Eligible for Court-Annexed Civil Mediation**

A. Referral by Judge or Stipulation

Except as hereinafter provided, the Judge to whom a matter is assigned may order to mediation any contested domestic or civil matter, other than Mandatory Arbitration and Small Claims cases. In addition, the parties to any such matter may file a written stipulation to mediate any issue between them at any time. Such stipulation shall be incorporated into the order of referral.

B. Exclusions from Mediation

Except as otherwise set forth in Section 17.01(A) above, matters specified by administrative order of the Chief Judge of the circuit shall not be referred to mediation.

17.02 Scheduling of Mediation

A. Conference or Hearing Date

Unless otherwise ordered by the court, the first mediation conference shall be held within four (4) weeks of the Order of Referral.

At least ten (10) days before the conference, each side shall present to the mediator a brief, written summary of the case containing a list of issues as to each party. If the attorney filing the summary wishes its contents to remain confidential, he/she should advise the mediator in writing at the same time the summary is filed. The summary shall include the facts of the occurrence, opinions of liability, all damages and injury information, and any offers or demands regarding settlement. Names of all participants in the mediation shall be disclosed to the mediator in the summary prior to the session.

B. Notice of Date, Time and Place

Within 28 days after the Order of Referral, the mediator shall notify the parties in writing of the location, date and time of the mediation conference. All notices shall be mailed and recorded by court personnel assigned to the mediation program.

C. Scheduling Precedence

In the event that a mediation session creates a scheduling conflict with a mandatory arbitration hearing, the arbitration hearing shall take precedence. All parties shall immediately reschedule the mediation session to another time agreeable to the mediator and the Administrator of the mediation program.

D. Motion to Dispense with Mediation

A party may move, within 14 days after the Order of Referral, to dispense with mediation if:

1. The issue to be considered has been previously mediated between the same parties pursuant to General Order of the 12th Judicial Circuit;
2. The issue presents questions of law only;
3. The order violates Section 17.01(B) of this General Order;
4. Other good cause is shown.

E. Motion to Defer Mediation

Within 14 days of the Order of Referral, any party may file a motion with the court to defer the mediation. The movant shall set the motion to defer the hearing prior to the scheduled date for mediation. Notice of the hearing shall be provided to all interested parties, the Administrator of the mediation program, and any mediator who has been appointed. The motion shall set forth, in detail, the facts and circumstances supporting the motion. Mediation shall be tolled until disposition of the motion.

17.03 Mediation Rules and Procedures

A. Appointment of the Mediator

1. Upon referral of the case to mediation, the court shall provide a list of mediators certified by the 12th Judicial Circuit. Within 14 days of the order of referral, all parties may present a stipulation designating a certified mediator from the list provided by the court or one they choose from outside the certified mediator list. If all parties cannot agree on a mediator, the court shall appoint one from the list of approved mediators.
2. The court, upon determining that issues regarding the case are of a complex, unusual or specialized nature, may appoint an individual not on the list of certified arbitrators.

B. Compensation of the Mediator

Each party shall pay a proportionate share of the total charges of the mediator. All compensation due to mediators shall be collected by the

mediator him/herself. Court staff shall under no circumstances be involved in the collection or compensation of a mediator for his/her services. If any party had been granted leave to sue or defend as a poor person, the court shall appoint a mediator who shall serve pro bono as to that party. A court appointed mediator's fee shall be subject to appropriate order of judgment for enforcement.

C. Disqualification of a Mediator

Any party may move to enter an order disqualifying a mediator for good cause. If the court rules that a mediator is disqualified from hearing a case, an order shall be entered setting forth the name of a qualified replacement. Nothing in this provision shall preclude mediators from disqualifying themselves or refusing any assignment. The time for mediation shall be tolled during any periods in which a motion to disqualify is pending. An hourly fee in excess of prevailing standards may be grounds for disqualification.

D. Interim or Emergency Relief

A party may apply to the court for interim or emergency relief at any time. Mediation shall continue while such a motion is pending absent a contrary order of the court or a decision of the mediator to adjourn pending disposition of the motion.

E. Sanctions for Failure to Appear

If a party fails to appear at a duly noticed mediation conference without good cause, the court upon motion shall impose sanctions, including an award of mediator and attorney fees and other costs, against the party failing to appear. If a party to mediation is a public entity, that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity. Otherwise, unless stipulated by the parties, or by order of the court, a party is deemed to appear at a mediation conference if the following persons are physically present:

1. The party or its representative having full authority to settle without further consultation; and
2. The party's counsel of record, if any; and
3. A representative of the insurance carrier for any insured party who is not such carrier's outside counsel and who has full authority to

negotiate and recommend settlements to the limits of the policy or the most recent demand, whichever is lower without further consultation.

F. Adjournments

The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference notwithstanding Sec. I of this General Order. No further notification is required for parties present at the adjourned conference.

G. Counsel

The mediator shall at all times be in control of the mediation and the procedures to be followed in the mediation. Counsel shall be permitted to communicate privately with their clients.

H. Communication with Parties

The mediator may meet and consult privately with any party and his/her representative during the mediation session.

I. Completion of the Mediation

Mediation shall be completed within eight (8) weeks of the first mediation conference unless extended by order of the court or by stipulation of the parties.

J. No Agreement

If the parties do not reach an agreement as to any matter as a result of mediation, the mediator shall report the lack of an agreement to the court without comment or recommendation.

K. Agreement

If an agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any, at the conclusion of the mediation.

L. Imposition of Sanctions

In the event of any breach or failure to perform under the agreement, the court upon motion may impose sanctions, including costs, attorney fees, or other appropriate remedies including entry of judgment on the agreement.

M. Discovery

Discovery may continue throughout mediation.

N. Confidentiality of Communications

All oral or written communications with the mediator at any time, other than executed settlement agreements, shall be deemed confidential and privileged in accordance with the provisions of the Uniform Mediation Act. All such communications shall be exempt from discovery and inadmissible as evidence in any action or proceeding. However, evidence that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its use in a mediation session.

The general rule of confidentiality does not apply in the following situations:

1. Where professional misconduct reporting rules, such as the Rules of Professional Conduct, require reporting of a mediation communication;
2. As necessary for the mediator to defend against a lawsuit or claim for malpractice or other misconduct; or,
3. In the case of a threat of a prospective crime or of serious imminent harm to any person.

In such circumstances, the reporting party may testify to or report only the necessary information to the appropriate authorities. The mediator shall not be compelled to provide evidence of a mediation communication in any lawsuit or claim against an attorney or party participating in the mediation.

O. Forms

The forms necessary for the operation of the Court - Annexed Mediation program shall be provided by the Administrator of the program.

17.04 Mediator Qualifications

A. Circuit Court Mediator

The Administrator of the mediation program shall maintain the lists of mediators who have been certified by the Presiding Judge of the Civil

Division and who have registered for appointment. For certification as a civil mediator in the 12<sup>th</sup> Judicial Circuit, Will County, Illinois, the applicant must meet or exceed one of the following criteria:

1. The applicant shall certify that he / she is currently a mediator in a State of Illinois Court Annexed Major Civil Case Mediation Program in another County in the State of Illinois; or
2. The applicant shall certify that he or she is currently a mediator in a program approved by the Presiding Judge of the Civil Division of the 12<sup>th</sup> Judicial Circuit; or
3. The applicant shall certify that he / she has served as a mediator in major civil case(s) and shall provide requested verification information as requested; or
4. The applicant shall certify to having successfully completed mediation training in a program consisting of at least forty (40) hours of training approved by the Presiding Judge of the Civil Division of the 12<sup>th</sup> Judicial Circuit.

B. Mediator General Standards

In each case, the mediator shall comply with such general standards as may, from time to time, be established and promulgated in writing by the Presiding Judge of the Civil Division.

C. Decertification of Mediators

The eligibility of each mediator to retain the status of a certified mediator may be periodically reviewed by the Presiding Judge of the Civil Division. Failure to adhere to this General Order governing mediation or the General Standards provided for above may result in the decertification of the mediator.

D. Mediator Immunity

A mediator, approved and certified by this Circuit and acting pursuant to these rules, shall have judicial immunity in the same manner and to the same extent as a judge, under the authority conferred by Supreme Court Rule 99(b)(1) as amended, effective October 10, 2001.

E. Mediator Pro-Bono Requirement

Each court-certified mediator shall agree to mediate at least one case per

year without compensation if the Court has determined that mediation might be beneficial and that none of the parties has the resources to compensate a mediator.

For certification as a mediator for Family Division cases, refer to section 8.17(B).

#### 17.05 Statistics

Pursuant to Supreme Court Rule 99, the Administrator shall compile statistics regarding the effectiveness of the program and report same to the Administrative Office of the Illinois Courts on a regular basis.

#### 17.06 Mortgage Foreclosure Mediation

##### A. Purpose of the Mediation Process

The foreclosure mediation program is designed to alleviate the burden of costs and expenses to lenders, borrowers and taxpayers caused by Residential Mortgage Foreclosures. It is further designed to aid the administration of justice by reducing the backlog of court cases. It is also aimed at keeping families in homes to prevent vacant and abandoned houses that negatively affect property values and destabilize neighborhoods.

##### B. Actions Eligible for Mediation

From the effective date of this Rule, the parties in all residential foreclosures (as defined by the Illinois Mortgage Foreclosure Act 735 ILCS 15/1501 et seq.) will be subject to mediation as set forth herein.

##### C. Mediation Procedure

1. Upon the filing of a complaint for foreclosure eligible for mandatory mediation, the clerk of court shall automatically set the case for a mandatory pre-mediation conference that is to be set on a date, time and at a location as designated by the Chief Judge, but in no event later than sixty (60) days from the filing of the complaint. The pre-mediation conference shall be attended by the plaintiff's counsel, the defendant borrowers and an outside mediator.
2. The Clerk shall furthermore provide a form, to be included with the summons, notifying the defendant borrowers of the mandatory mediation program, which form must be served upon the defendants with the summons and evidenced by a proof of service the same as the summons.

3. The form shall include a provision that the case will be evaluated by an outside mediator for possible loan modification or other loan workout. The notice shall further state that if such modification is not deemed feasible, or the borrower does not desire to save his or her home, then mediation may still be used to assist the parties in discussing a consent foreclosure or deed-in-lieu of foreclosure in which the lender will waive any deficiency against the borrowers.
4. The form shall include language advising the defendant borrower to bring certain financial information (such as the borrower's monthly income, work status and expenses) that may assist in discussions for a loan modification and should contain a list of local counseling agencies that may be available to assist borrowers in foreclosure.
5. Lastly, the notice shall indicate that the financial information shall be held in strict confidence by the mediator and not disclosed to any other party without the consent of the defendant.
6. At the pre-mediation hearing, an independent mediator shall have the defendant borrowers fill out a questionnaire to determine if the borrower meets initial criteria of having greater monthly income than expenses in order to qualify for a loan workout or modification. If the information provided shows that the borrower does not meet the initial criteria, or if the defendant indicates in his/her response that he does not desire to keep the house, then the mediator may use the scheduled mediation conference to determine whether the borrower can deed the property to the lender or consent to a judgment waiving any deficiency judgment against the borrower. Alternatively, the mediator may assist the parties to determine whether the property can be sold to a third party that will result in the dismissal of the foreclosure action.
7. The plaintiff's counsel and any defendant borrower must attend the pre-mediation conference. If the borrower meets the initial criteria, or expresses a desire to surrender the property in a deed-in-lieu, consent foreclosure or other arrangement, then the mediator shall set the matter for a mediation conference on a date not more than thirty (30) days thereafter. At the mediation conference, the defendant borrowers as well as a representative of the lender must appear in person with full settlement authority and participate in good faith in the mediation process. Failure of the lender or its agent to attend at either the pre-mediation or the mediation conference or participate in good faith in the mediation process will result in sanctions by the court, including possible dismissal of the action, with the lender unable to recoup its costs of refile in any subsequent new action. If the defendant borrower fails to appear, then the mediator shall terminate the mediation and refer the matter back to the

trial court. If the defendant borrower can demonstrate that its failure to attend was excusable, then the circuit court may refer the matter back for a pre-mediation or mediation conference.

8. Upon the conclusion of the mediation conference (or the pre-mediation, if the defendant borrower fails to appear or does not meet any criteria for loan workout or resolution of the action), the mediator shall file a report with the court terminating mediation services and indicating the outcome of the conferences. If an agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any, and at the request of the parties, the circuit court may retain jurisdiction of the case to accommodate any “trial period” which the parties enter into prior to a loan modification being effective. If the lender notifies the circuit court within the “trial period” that the borrower has failed to successfully modify its loan, or, if no agreement is reached, the foreclosure action shall resume.
9. The Chief Judge shall maintain statistical data on the results of the mediation, including but not limited to the number of cases where the initial criteria was met and the number of cases where the loans were modified or otherwise had workouts between the parties and shall report same to the Administrative Office of the Illinois Courts at such times and in such manner as may be required.
10. Individuals participating in this program with limited language proficiency may request interpretation / translation assistance at the pre mediation conference. Reasonable efforts will be made at that time to secure interpretation / translation assistance.
11. Individuals participating in this program must be provided information regarding available HUD certified counseling services.

D. Qualifications, Appointment and Compensation of Mediators

1. The Chief Judge shall maintain a list of mediators who have sought appointment and been certified for approval by the Court as mediators. For approval as a mediator, an individual must:
  - (i) Be a retired judge; or
  - (ii) Be a member in good standing of the Illinois Bar with at least five years of litigation experience in foreclosures or at least ten years of real estate and/or litigation experience;

- (iii) Demonstrate completion of mediation training approved by the Minimum Illinois Continuing Legal Education Board or such other program as approved by the Chief Judge;
  - (iv) Submit an application for approval by the Chief Judge. The eligibility of each mediator to retain its status shall be periodically reviewed by the Chief Judge. The mediators shall comply with general standards as may from time to time be established by the Chief Judge and failure to adhere to these general standards may be grounds for decertification of the mediator by the Chief Judge. The Chief Judge may contract with an outside mediation service (provided the mediators meet the above qualifications) to provide these services.
2. The mediators shall be compensated \$150 per court file for each file that is subject to mandatory mediation. Effective August 1, 2010 filing fees paid by a plaintiff for all foreclosures in the Twelfth Judicial Circuit shall be increased from \$276 to \$426. The additional \$150 filing fee shall be placed in a fund for this mandatory foreclosure mediation program, which program shall also begin on that date. The Chief Judge shall report quarterly to the Director of the Administrative Office of the Illinois Courts on the revenue and expenditures of the program on such forms and in the manner prescribed by the Administrative Office.
  3. The Chief Judge of the Circuit Court shall be empowered to enter into a contract with an entity to provide the mediation services subject to all Court Rules and Procedures. It is contemplated that in its initial phase the Mandatory Residential Foreclosure Mediation program is on a trial basis and that contracting with an entity for Mediation Services will result in services being provided at neither cost to the taxpayers nor the expenditure of any Public Funds with the exception of the Filing Fee authorized by the Illinois Supreme Court.
  4. Mediators in the Mandatory Residential Mortgage Foreclosure Mediation Program must be either Retired Judges or Attorneys. They must have five years experience in the Mortgage Foreclosure Field and be certified by the chief Judge of the Twelfth Judicial Circuit. Judges, Mediators, key court personnel and volunteers involved with the Mandatory Residential Mortgage Foreclosure Mediation Program shall periodically participate in continuing education program(s) involving Foreclosure and the Mediation process.

Mediators in the Circuit Court's Mandatory Residential Mortgage Foreclosure Mediation Program are not allowed to practice in residential

mortgage foreclosure proceedings in the Circuit Court of the Twelfth Judicial Circuit in any capacity either as plaintiffs, defendants, counsel for any party or as bidders at the Sheriff Sales or in any other capacity. Violation of this provision will result in their removal from the Mandatory Residential Mortgage Foreclosure Mediation Program.

E. Discovery

Unless otherwise ordered by court, no discovery shall take place until after the mediation conference is held.

F. Confidentiality

Unless otherwise authorized by the parties, all oral or written communications to the mediator or in the mediation conference, other than written agreements between the parties, shall be exempt from discovery and shall be confidential and inadmissible as evidence in the underlying cause of action.

G. Immunity

Any person approved to act as a mediator under these rules, while acting within the scope of his or her duties as a mediator, shall have judicial immunity in the same manner and to the same extent as a judge in the State of Illinois, as provided in Illinois Supreme Court Rule 99.

## **18.00 E-FILING**

### 18.01 Authority

The Illinois Supreme Court issued Order M.R. 18368 effective January 1, 2013, approving *Electronic Filing Standards and Principles* and has approved the 12<sup>th</sup> Judicial Circuit Court to accept the electronic filing of documents in civil and criminal proceedings effective May 10, 2016.

### 18.02 Effective Date

These rules shall become effective on July 1, 2016 and remain in effect until further order.

### 18.03 Designation of Electronic Filing Case Types

- A. This Court hereby authorizes all criminal and civil cases with the exception of WI (Wills), sealed and impounded cases as permissible electronic filing case types. From time to time, with the Approval of the

Director of the Administrative Office of the Illinois Courts, the Court may authorize, by written Administrative Order, additional types of cases to be processed by electronic filing. The Circuit Court Clerk shall direct the phasing in of case types during implementation of electronic filing.

- B. Wills or other testamentary documents, exhibits or documents that are filed directly with the judge (e.g. proposed orders) may not be accepted for filing electronically. Documents required to be kept in their original form pursuant to the *Manual on Recordkeeping in the Circuit Courts* are excluded from electronic filing. Any unapproved document type filed electronically by a Subscriber shall be rejected by the Circuit Court Clerk.
- C. Any notice of appeal and post-judgment enforcement proceeding documents may be e-filed and served in accordance with Supreme Court Rules.

#### 18.04 Definitions

The following terms in these rules are defined as follows:

- A. Clerk – The Clerk of the Circuit Court of Will County as defined in Art. 6 § 18 of the Illinois Constitution.
- B. Conventional manner of filing – The filing of paper documents with the Clerk as is done in cases that are not e-file cases.
- C. Court Partner Agency Users – Any local prosecutor or person authorized to serve civil process with the 12<sup>th</sup> Judicial Circuit.
- D. Electronic Document (“e-document”) – An electronic file containing informational text.
- E. Electronic Filing (“e-file” or “e-filing”) – An electronic transmission of information between the Clerk and a vendor for the purposes of case processing.
- F. Electronic Image (“e-image”) – An electronic representation of a document that has been transformed to a graphical or image format.
- G. Electronic Service (“e-service”) – An electronic transmission of documents to a party, attorney or representative in a case via the vendor. However, e-service is not capable of conferring jurisdiction under circumstances where personal service is required as a matter of law.

- H. Justice Community User – Any 12<sup>th</sup> Judicial Circuit governmental unit, including but not limited to the Sheriff’s Office, State’s Attorney’s Office, Public Defender, County Clerk or Recorder of Deeds.
- I. PDF/a – A portable document format is a file format that preserves all fonts, formatting colors and graphics of any source document regardless of the application platform used.
- J. Subscriber – One contracting with a Vendor to use the e-filing system.
- K. Vendor – A company or organization that has an executed Electronic Information Project Agreement with the Clerk of the Circuit Court to provide e-filing services for the 12<sup>th</sup> Judicial Circuit.

#### 18.05 Authorized Users

- A. The Clerk shall accept and approve filings electronically through a vendor or through the Clerk’s computer workstation.
- B. The Clerk shall allow the filing of a document or pleading using the conventional manner of filing. At no time shall the e-filing program prevent or exclude the ability to file a valid pleading with the Clerk of the 12th Judicial Circuit Court. In those circumstances, the Clerk shall scan conventionally filed documents into the electronic file.
- C. Prior to filing any document electronically, Attorney users are required to register with the Clerk’s iAttorney™ program as well as the Clerk’s authorized e-filing Vendor. Attorneys shall furnish, at a minimum, the following information: firm name, attorney names and ARDC registration numbers, address, main telephone number and e-mail address for e-service. All other Justice Community Users shall be registered upon confirmation of authorization by the Clerk. Court Partner Agency Users and individual registrations will be used to identify the source of the e-filed document submitted to the court electronically.
- D. Self-represented litigants or other parties may utilize e-filing through a Vendor on the Internet by means of individual transactional agreements and credit card payment.
- E. Without charge during normal business hours, the Clerk of the Circuit Court shall provide attorneys and parties in e-file cases access to an e-file computer workstation. Any attorney or party of a designated e-file case who is not a Subscriber that requests to file a document shall be given a temporary confidential Personal Identification Number (PIN), and allowed

to spend a reasonable time at the workstation in connection with e-filing cases.

#### 18.06 Method of Filing

- A. The Circuit Court hereby encourages electronic filing in each of the designated case types, although conventional filings in these case types will continue to be accepted.
- B. Physical items for which a photograph may be substituted may be electronically imaged and e-filed. Items not conducive to electronic filing, such as documents under seal and physical exhibits for which an image will not suffice, shall be filed in their physical form at the Clerk's Office or in the courtroom, as directed by order of the Court and in conformity with Illinois Supreme Court *Electronic Filing Standards and Principles*. The Motion and Notice of Motion for permission to file any of these physical items may be done electronically in e-file cases.
- C. The method of filing shall not affect the right of access to court documents. The Clerk shall maintain public access viewing terminals to allow electronic records and electronic documents to be displayed to the public. Electronic access and dissemination of court records shall be in accordance with the *Electronic Access Policy of Circuit Court Records of the Illinois Courts*.
- D. The Court, through the Clerk of the Court, may issue e-filing notices and other documents electronically in an e-file case.

#### 18.07 Maintenance of Original Documents

- A. Anyone filing an e-document that requires an original signature certifies by so filing, that the original signed document exists in the filing person's possession. Unless otherwise ordered by the Court, the filing party shall maintain and preserve all documents containing original signatures that are filed electronically. The filing party shall make those signed originals available for inspection by the Court, the Clerk of the Court, other counsel or self-represented litigant in the case, upon five (5) days' notice. At any time, the Clerk may request from the filing party a hard copy of an e-document, which shall be provided within five (5) business days upon reasonable notice.
- B. All documents that are required to be maintained and preserved must be kept for one year after the appellate process period has been completed.

#### 18.08 Privacy Issues

It is the responsibility of the filing party or counsel to ensure that documents or exhibits filed electronically do not disclose previously or statutorily impounded or sealed information or private information as defined by Illinois Supreme Court Rules 15 and 138, court order or other applicable statutes or rules. All documents in confidential, impounded or sealed cases must be submitted conventionally to the Clerk for filing. A party who has a legal basis for filing a document under seal without prior court order must electronically file a motion for leave to file under seal. The motion must include an explanation of how the document meets the legal standards for filing sealed documents. The document in question may not be attached to the motion as an exhibit. The Clerk is not responsible for the content of filed documents and has no obligation to review, redact or screen any expunged, sealed or impounded information.

In addition to the materials referenced in Supreme Court Rules 15 and 138, parties and their counsel shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all documents electronically filed with the Court, including exhibits thereto, unless otherwise ordered by the Court:

- A. Social Security Number and Driver's License Number – If an individual's social security number or driver's license number must be included in a document, only the last four digits of the number shall be used.
- B. Financial Account Numbers – If financial account numbers are relevant, only the last four digits of these numbers shall be used.
- C. In addition to the above, persons filing electronically shall exercise extreme caution when filing documents that contains the following:
  - 1. Personal identifying numbers;
  - 2. Medical records, such as treatment and diagnosis;
  - 3. Employment history information;
  - 4. Individual financial information other than account numbers;
  - 5. Proprietary or trade secret information.

#### 18.09 Format of Documents

- A. All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of

paper pleadings. Additionally, each e-filed pleading and document shall include the case title, case number and the nature of the filing.

- B. Each electronically filed document shall also include the typed name, e-mail address, address and main telephone number of the attorney or self-represented litigant filing such document. Attorneys shall include their ARDC Number on all documents.
- B. Documents must be submitted in PDF/a format. When possible, documents shall be converted to a PDF/a directly from the program creating the document, rather than from a scanned image of a paper document. Documents only available in paper format may be scanned and converted to PDF/a for e-filing.
- C. Documents shall be formatted as follows:
  - 1. The size of the type in the body of the text must be no less than 12 point font, and footnotes no less than 10 point font;
  - 2. The text of documents filed electronically shall use the color black. Signatures and dates may be in contrasting colors provided they will print legibly;
  - 3. The size of the pages must be 8 ½ by 11 inches;
  - 4. The margins on each side of the page must be a minimum of 1 inch. Margins may be used for non-essential notations that will not affect the validity of the document, including but not limited to form numbers, page numbers and customer notations. The bottom 1 inch margin shall be left blank for the Clerk's case management stamp;
  - 5. The top right 2 inch by 2 inch corner of the first page of each pleading shall be left blank for the Clerk's stamp.
- D. In as much as technology changes, the maximum file size allowable is available in the Vendor's user manual. If a document exceeds the maximum size allowed, the filer will file multiple documents, each under the maximum file size. In such case, the user will be responsible for dividing the document into appropriately-sized parts.
- E. Any electronically filed document must be unalterable (sealed PDF/a), and be able to be printed with the same contents and formats as if printed from its authoring program. The Vendor is required to make each e-document that is not infected by a virus available for transmission to the Clerk immediately after successful receipt and virus-checking of the document.

- F. Bulk filings of multiple cases or multiple documents combined into one PDF/a shall not be accepted. Documents with different case numbers must be filed individually in separate transactions. Filing of individual documents within a case should be accepted in a single electronic filing transaction. Multiple citations being electronically filed may be transmitted to the Circuit Clerk as a single transaction directly from the law enforcement agency.
- G. Documents filed by attorneys that do not comply with the format specified by the applicable statute or rule or promulgated standards may be rejected. Documents filed by self-represented litigants that do not comply with the format specified by the applicable statute or rule shall be reviewed for acceptance by the Court prior to rejection.
- H. E-documents containing links to material either within the filed document or external to the filed document are for convenience purposes only. The external material behind the link is not considered part of the filing for the basic record.

#### 18.10 Signatures and Authentication

- A. Each electronically filed document, including all pleadings, motions, papers, etc., that require an original signature when conventionally filed, may bear a facsimile or typographical signature of the attorney or self-represented litigant authorizing such filing, (e.g., “/s/ Adam Attorney”), and shall be deemed to have been signed in person by the individual identified.
- B. In the absence of a facsimile or typographical signature, any document electronically filed with a user identification and password is deemed to have been personally signed by the holder of the user identification and password.
- C. Documents containing signatures of one or more persons or third parties may be filed electronically and shall bear a facsimile or typographical signature. The filing party or attorney must confirm the approval of all persons, persons not a party to a case or not registered persons (e.g. paralegals or other persons authorized to act on behalf of a registered user) required to sign the document.
- D. Original signatures of all non-electronic filers must be obtained before filing the document. The document must indicate the identity of each non-registered signatory. The filing party must retain the original document

until one year after the date that the judgment has become final or the expiration of the time for seeking such review.

- E. Where a Clerk is required to endorse a document, the typed name of the clerk shall be deemed to be the clerk's signature on an electronic document.
- F. All Judges' and other necessary electronic signatures shall be captured and maintained by the Clerk. Each signature shall be protected by internal system security measures and use security tokens and encrypted passwords to authenticate the use of the e-signature.
- G. Signatures as defined in subparagraphs A, B, C, D, E and F satisfy Supreme Court Rules and statutes regarding signatures, and give rise to the application of available sanctions when appropriate.
- H. The original signed document that has been electronically filed pursuant to subparagraphs A, B, C, D, E and F shall be maintained and preserved as required by Rule 18.07.

#### 18.11 Time of Filing, Acceptance by the Clerk and Electronic Filing Stamp

- A. Any document filed electronically shall be considered as filed with the Clerk of the Circuit Court upon review and acceptance, and the transmission has been completed with the Clerk's electronic filing stamp.
- B. A person who files a document electronically shall have the same responsibility as a person filing a document in the conventional manner for ensuring that the document is complete, readable and properly filed.
- C. The transmission date and time of transfer shall govern the electronic filing mark. Pleadings received by the Clerk before midnight on a day the courthouse is open shall be deemed filed that day. If filed on a day the courthouse is not open for business, the document will be deemed filed the next business day.
- D. Upon receipt by the Vendor, and submission of an e-document to the Clerk, the Vendor shall issue a confirmation to the Subscriber. The confirmation shall indicate the time and date of receipt, and serve as proof that the document has been submitted to the Clerk. A subscriber will receive e-mail notification from the Vendor if a document is not accepted by the Clerk's office. In that event, the Subscriber may be required to re-file the document to meet necessary filing requirements.

- E. Each document reviewed and accepted for filing by the Clerk of Court shall receive an electronic file stamp, except for documents used for service of process, which receive an electronic seal. The stamp shall be endorsed in the name of the Circuit Clerk by the deputy clerk accepting the filing, and shall include the official time and date of filing and contain the words “FILED” and “TWELFTH JUDICIAL CIRCUIT COURT.” This file stamp shall be merged with the electronic document and shall be visible when the document is printed and viewed online. Electronic documents are not officially filed without the electronic filing stamp. Filings so endorsed shall have the same force and effect as documents time stamped in the conventional manner. While the case is pending, the Clerk shall retain an audit trail of submission, acceptance, and filing of electronic documents by recording the dates and times transmitted, received, and accepted or rejected.

#### 18.12 Electronic Service and Filing Proof of Service

- A. Electronic service is not capable of conferring jurisdiction. Documents that require personal service to confer jurisdiction as a matter of law may not be served electronically through an e-file vendor, but must be served in the conventional manner.
- B. All other documents in civil cases may be served upon the other parties or their representatives electronically through the e-file vendor. The filing party or attorney shall be responsible for completing electronic service of these other documents using the Vendor’s system. Service of documents on parties not registered as an e-filing participant shall be made pursuant to Illinois Supreme Court Rule 12 or applicable rule or statute.
- C. All other documents in criminal cases may be served upon registered attorneys electronically through the e-file vendor. The filing party or attorney shall be responsible for completing electronic service of these other documents using the Vendor’s system. Service of documents in criminal cases to a self-represented defendant shall be made, unless waived, pursuant to Illinois Supreme Court Rule 12 or applicable rule or statute.
- D. Electronic service via e-mail shall be deemed complete on the first court day following transmission by the e-file Vendor or party. The electronic service of a pleading or other document shall be considered as valid and effective service on all parties and have the same legal effect as personal service of an original paper document.

- E. If electronic service on a party does not occur because of (1) inaccessibility to the Vendor's system, (2) an error in the Vendor's transmission of notice to the party being served, (3) the Vendor's failure to process the electronic filing for service, or (4) the party was erroneously excluded from the service list, the party to be served shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right, duty or other act must be performed.
- F. The e-filing Vendor is required to maintain an e-service list for each e-filed case. The Vendor shall immediately update the service list upon being given notice of new contact information. Whenever a document is submitted for service upon other parties by the e-filing Vendor's system, the e-filing Vendor shall use the most current e-service list to perform service.
- G. All Subscribers and other participants must immediately, but not later than ten (10) business days prior to when such a change takes effect, notify other parties, the Clerk and the e-filing Vendor of any change of firm name, delivery address, fax number or e-mail address.
- H. Paper courtesy copies of documents customarily required to be provided to the court shall continue to be required in e-file cases, absent a specific court order to the contrary.

#### 18.13 Collection of Fees and Courtesy Copies

- A. The e-filing of a document requiring payment of a statutory filing fee to the Clerk of the Court in order to achieve valid filing status shall be filed electronically in the same manner as any other e-file document.
- B. At the end of each business day, the Vendor shall electronically transmit to the Clerk's bank account all statutory filing fees required for that day's electronic filings. The Vendor shall electronically provide the Clerk's Accounting Department a detailed breakdown including case number, type of transaction and party being billed for the payment for each deposit. The Vendor shall act as a limited agent for the Clerk and collect such required filing fees from the Subscriber through direct billing of that Subscriber, unless the payment of the fee has been waived by court order of law.
- C. Fees charged to e-filing Subscribers by the Vendor for Vendor services are solely the property of the Vendor and are in addition to any statutory fees associated with statutory filing fees.

- D. Copies of any document or certification of same shall be available to the requesting party at a reasonable cost, including all applicable fees as set by rule or statute.
- E. When the electronic filing includes a request for waiver of fees by petition for indigence, payment of the requisite fees shall be stayed until the court rules on the petition. If payment is ordered by the Court it shall occur pursuant to subparagraphs A, B, C, D and F of this section.
- F. E-filing fees must be paid in full within 24 hours of transmittal to the Vendor using United State currency, money order, certified bank check, credit card or ACH transfer. Failure to do so may result in the rejection of the e-filing by the Clerk or commencement of collection proceedings.
- G. Filings initiated by Justice Community Users in criminal cases (e.g., State's Attorney, Public Defender, Attorney General, law enforcement) shall be exempted from the payment of filing fees and any vendor fees, when appropriate.

#### 18.14 System or User Errors

- A. The Court and Clerk of the Circuit Court shall not be liable for malfunction or errors occurring in electronic transmission or receipt of electronically filed or served documents.
- B. If the electronic filing is not filed with the Clerk because of (1) an error in the transmission of the document to the Vendor which was unknown to the sending party or (2) a failure to process the electronic filing when received by the Vendor or (3) rejection by the Clerk or (4) other technical problems experienced by the filer or (5) the party was erroneously excluded from the service list or (6) for other good cause shown, the Court may upon satisfactory proof enter an order permitting the document to be subsequently filed effective as of the date filing was first attempted.

#### 18.15 Vendor Conditions

- A. E-Filing Vendor(s) with Electronic Information Project Agreements executed with the Clerk of the Circuit Court are hereby appointed to be the agent of the Clerk regarding electronic filing, receipt, service and/or retrieval of any pleading or document via the e-filing Vendor system.
- B. The e-filing Vendor shall make electronically filed documents, and documents being served electronically through the e-filing Vendor's system, available to subscribers and the designated court authorized users through the e-filing Vendor's system in accordance with the current

contract between the Clerk and the e-filing Vendor, and consistent with the Supreme Court's *Electronic Access Policy for Circuit Court Records of the Illinois Courts*.

- C. The e-filing Vendor may require payment of a fee or impose other reasonable requirements by contract with a Subscriber as conditions for processing electronic filings. Pursuant to contract terms, the e-filing Vendor must provide services but is not permitted to require payment of a fee for government users or parties deemed indigent by the Court.
- D. The Chief Judge of the Court or his/her designee, in coordination with the Clerk of the Court, shall review and approve the terms of the Subscriber Agreement. The Vendor shall provide at least thirty (30) days' notice prior to the effective date of any Subscriber Agreement changes.
- E. Ownership of the documents and access to the data associated with all e-filed documents remains with the Court. The e-documents processed by the e-filing Vendor remain property of the Court and neither the documents nor the data from the documents and/or transactions shall be used by the e-filing Vendor for any other purpose other than those specifically authorized by the Chief Judge of this Court and his/her designee, in coordination with the Clerk of the Court.

## **19.00 Guardians Ad Litem**

### **19.01 Appointment of Guardians Ad Litem**

The Presiding Judge of the Family Division for the Will County Circuit Court shall maintain a list of approved Attorneys qualified to be appointed in child custody and visitation matters as Guardians Ad Litem (GAL), Child Representatives or Attorneys for Children. A separate list of approved Attorneys shall be maintained by the Presiding Judge of the Probate Division for probate and adoption matters.

A Guardian ad Litem may be appointed as authorized by statute when necessary to protect the interest of a person who is, or is alleged to be a person under legal disability. The Guardian ad Litem shall have such qualifications as the Court shall determine or as required by statute. A Guardian ad Litem will not be appointed where such person is represented by a duly qualified personal representative, a personal fiduciary in independent administration or by another party having a substantially identical interest in the proceedings and where the judge determines it is unnecessary to protect such person's interest. Unless otherwise specified at the time of appointment, a Guardian ad Litem shall act only with respect

to the matter immediately before the court for hearing and the appointment shall terminate upon its disposition.

## 19.02 Qualifications

In order to qualify for either the Family Division or Probate approved Guardian Ad Litem list, each applicant shall meet the following minimum requirements:

1. Each Attorney shall be licensed and in good standing with the Illinois Supreme Court for a minimum of two (2) years.
2. Each Attorney shall have attended the education program created by the Illinois State Bar Association for education of Attorneys appointed in Family, Juvenile and Probate adoption (Family Division); or the Juvenile Court Act, Probate, guardianship, elder law, adoptions, estates and education on the roles and responsibilities of Guardian Ad Litem (Probate Division). Equivalent education programs consisting of a minimum of ten (10) hours of continuing legal education credit within the two years prior to the date the Attorney qualifies to be appointed for each list.
3. To remain on the approved list, each Attorney shall attend continuing legal education courses consisting of at least ten (10) hours every two (2) year period and submit verification of attendance to the Office of the respective Presiding Judge at the time of attendance or upon request. The ten (10) hours should include courses in child development, ethics in child custody cases, relevant substantive law in custody, guardianship and visitation issues, domestic violence, family dynamics including substance abuse and mental health issues, and education on the roles and responsibilities of Guardian Ad Litem, Child Representatives and Attorneys for Children. Attendance at programs approved by the Circuit may be included as a portion of this continuing legal education requirement.
4. Each Attorney must complete the Guardian Ad Litem / Child Representative application provided by the 12<sup>th</sup> Judicial Circuit Court and return it with a certification of attendance at continuing education. The initial application should also include a copy of the applicant's ARDC card and evidence of a current professional liability insurance coverage.

5. This rule does not apply to full-time attorneys and part-time attorneys from The Office of the Public Defender who are assigned to the Juvenile Division.

#### 19.03 Pro Bono Requirement

In the event that the Court deems it is in the best interests of the child or children to have a Guardian Ad Litem, Childs Representative or an Attorney for the Children appointed, each Attorney on the approved lists shall be required to accept one (1) pro bono appointment as Guardian Ad Litem, Childs Representative or Attorney for the Children each calendar year.

#### 19.04 Conflicts of Interest

An Attorney for a Child, Guardian Ad Litem or Childs Representative shall not be appointed as a mediator in the same case. A Guardian Ad Litem shall not serve as the Attorney for the child or the Childs Representative in the same case.

#### 19.05 Appointment Order

Whenever a Court appoints a Childs Representative or Guardian Ad Litem, the appointment order shall specify the tasks expected of the Childs Representative or Guardian Ad Litem. The designated counsel for the parties shall forward a copy of the appointment order within five (5) days of entry thereof to the Attorney for the child, the Guardian Ad Litem and / or the Childs Representative. The order shall be made in the following format:

1. The order shall be made pursuant to the standardized appointment order.
2. The appointment order shall order the parties to pay retainer amounts to the Attorney for the child, Guardian Ad Litem or the Childs Representative by a date certain.
3. The Attorney for the child, Guardian Ad Litem or the Childs Representative shall submit statements to litigants for services rendered within ninety (90) days of his / her appointment and every thirty (30) days thereafter during the course of his / her appointment.

4. Unless otherwise determined by the Court upon good cause shown, both parties shall be jointly and severally liable for the fees and costs of the Attorney for the Child, Guardian Ad Litem and / or Childs Representative.

19.06 Duties of the Attorney for the Child, Guardian Ad Litem and Childs Representative

The Attorney for the child, Guardian Ad Litem or Childs Representative shall:

1. File an appearance upon retention.
2. Be provided copies of all Court orders and pleadings by the parties.
3. Be notified of all Court appearances and conferences with the Judge and appear unless excused by the Court or by agreement of the parties including the Attorney for the Child, Guardian Ad Litem or Childs Representative. Failure of any party to give proper notice may result in sanctions including, but not limited to, the vacating of any resulting Court order or judgment.
4. There shall be no fee for the filing of an Appearance as a Court-appointed Attorney for the Child, Guardian Ad Litem or Childs Representative.

19.07 Attorneys Right to Interview the Child(ren) or Alleged Disabled Party

The parties' Attorney shall not interview the child(ren) or alleged disabled party without consent of the Attorney for the child, Guardian Ad Litem or Childs Representative. Either the Attorney for the child, Guardian Ad Litem or Childs Representative, or any of them, shall have the right to be present during any such interview.

19.08 Discharge

Unless previously discharged, the Court shall discharge the Attorney for the child, the Guardian Ad Litem and / or the Childs Representative at the conclusion of the performance of his / her duties as ordered pursuant to paragraph E above. Unless previously discharged, the final order disposing of the issues resulting in the appointment shall act as a discharge of the Court-appointed Attorney for the Child, Guardian Ad Litem and / or Childs Representative.

## **20.00 INSPECTION AND CERTIFICATION OF COURT FACILITIES**

### 20.01 Times and Places of Holding Court

The Chief Circuit Judge shall designate, as provided in Article VI, 7(c) of the Constitution of 1970, the time and places of holding Court.

### 20.02 Committee on Court Facilities

There shall be in the Twelfth Judicial Circuit a committee on court facilities. "Court facilities" includes all property controlled or used by the Circuit Court, including building interiors, exteriors, grounds and parking facilities. The Chief Judge shall appoint committee members from: 1) the Circuit and Associate Judges of the Circuit; 2) attorneys from the Circuit; or, 3) residents of the Circuit who shall serve on the committee. Once formed, the committee shall designate one of its members as chairman. The Chief Judge may not serve as a member of the committee.

- (a) When directed by the Chief Circuit Judge, the committee shall inspect each courtroom, jury quarters, chambers, ancillary court spaces, and office of the Clerk of the Court.
- (b) The Committee shall file a preliminary report of the inspection, together with the committee's recommendations, with the Chief Circuit Judge. The Chief Circuit Judge shall transmit a copy of the report and proposals for corrective action to provide necessary and adequate facilities and to bring existing facilities in compliance with applicable standards to the County Executive, Speaker of the County Board, County Board caucus leaders and State's Attorney. If corrective action is not commenced and completed within the time period established by the committee, then it shall promptly file therein any additional recommendations. The Chief Circuit Judge shall transmit a copy of the supplemental report to the County Executive, Speaker of the County Board, County Board caucus leaders and State's Attorney. Within 90 days of such transmittal, or such other period as may be designated by the chairman of the committee, the County Executive and/or County Board must either:
  - 1) correct the condition of the facility in question pursuant to the committee's report and recommendations; or,
  - 2) bind the county contractually and irrevocably to have the facility so corrected within six months or such other time as may be designated by the committee, or a hearing shall be held as provided in Rule 20.3 .

### 20.03 Court Facilities Hearing

In the event the County Executive and / or the County Board fail to comply with the proposals for corrective action pursuant to Rule 20.2(b), the chairman of the committee shall file a petition styled, "In re the Court Facilities of Will County," with the Clerk of the Court. The petition shall specify the deficiencies of each such facility, the need for additional or improved facilities, the remedial action proposed, any action taken by the County Executive and/or the County Board, and prayer for appropriate relief. Upon such filing, the Chief Circuit Judge shall forthwith designate a time, date and place for hearing thereon.

- (a) The chairman of the committee shall cause summons, together with a copy of the petition, to issue and to be served on the County Executive and each member of the County Board not less than 21 days prior to the hearing. The Chairman of the committee may direct the Circuit Clerk to give notice of the hearing to such other persons as he or she deems appropriate by placing such notice and a copy of the petition in an envelope having prepaid first class postage thereon and depositing it in the United States Mail not less than 21 days prior to the hearing. The Clerk's certificate of mailing notice shall be made of record.
- (b) A public hearing on the petition shall be held. The Chief Circuit Judge shall preside over the hearing, which shall be transcribed by a court reporter. The Chief Circuit Judge may direct that a subpoena issue to any witness deemed appropriate and may take judicial notice of reports filed by the committee. The County Executive and members of the board shall be allowed to present their views and relevant evidence.
- (c) Following the hearing,, the Chief Circuit Judge shall file with the Circuit Clerk his or her findings and order regarding the facility in question, together with a certification that the facility:
  - (1) provides necessary and adequate facilities and meets applicable standards; or,
  - (2) does not provide necessary and adequate facilities and/or meet applicable standards, but may be temporarily certified until a period ending on a date certain; or,
  - (3) does not provide necessary and adequate facilities and / or meet applicable standards, but may be conditionally certified upon the condition that specified action is taken and completed by a date certain; or,
  - (4) does not provide necessary and adequate facilities and/or meet applicable standards and will be discontinued for Court use.
- (d) Before the Chief Circuit Judge may order that new or additional court facilities be constructed or remodeled, he or she must first determine that exigent circumstances exist requiring that such an order be entered. The Chief Circuit Judge may also order that such construction or remodeling be completed by a specified date. Any such

orders regarding construction or remodeling of new court facilities shall be entered against the County Executive and the County Board, and may be personally entered against the County Executive and each member of that County Board.

(e) A hearing under this subsection need not be held if:

- (1) The Chief Circuit Judge certifies that the facility in question meets applicable standards; or,
- (2) The County Executive, Speaker of the County Board and the Chief Circuit Judge waive such hearing in writing. No order may be personally entered against the County Executive or members of the County Board, unless a hearing has been held or they have waived a hearing.

#### 20.04 Hearing Pursuant to Supreme Court Rule 21(C)

1. If the County Executive or County Board does not comply with the order of the Chief Judge as set forth in Rule 20.3, then the chairman of the committee on court facilities shall file a "Petition to Compel Compliance" with the Circuit Clerk of Will County.
2. A showing by the committee chairman of compliance with Rules 20.2 and 20.3 constitutes *prima facie* evidence of validity and enforceability of any orders entered by the Chief Circuit Judge pursuant to those Rules.
3. After hearing, the Chief Circuit Judge shall file his written findings, order and certification and shall have available all appropriate remedies under law of this State.

#### 20.05 Costs, Fees and Expenses

In proceedings held pursuant to this Rule, costs, attorneys' fees and other expenses, including but not limited to expert witness fees incurred by or taxable to the Chief Circuit Judge, shall be paid by the county

(Rule 20 adopted August 1, 2013)