

# Local Rules of the Twenty-Third Judicial Circuit

(Revised January 31, 2017)

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# ARTICLE I

## ADMINISTRATION OF THE COURT

### 1.0 POWERS OF THE COURT TO ADOPT RULES

- A. These Local Court Rules are adopted pursuant to the Civil Practice Act, 735 ILCS 5/1-104(b), providing that the Circuit Court may make rules regulating their dockets, calendars and business, and Supreme Court Rule 21 providing that a majority of the Circuit Judges in each Circuit may adopt rules governing civil and criminal cases.
- B. Administrative/General Orders of the 23rd Judicial Circuit, pursuant to Supreme Court Rule 21, may be enacted or Amended by the Chief Judge. Administrative/General Orders relating specifically to either DeKalb or Kendall County may be enacted and amended by the Presiding Judges assigned to DeKalb or Kendall County.
- C. Orders or rules entered contrary hereto are, and shall be, valid and effective and shall be deemed to be a waiver to the extent that they conflict with the rules or orders contained herein.

### 1.05 GENERAL RULES

- A. These Local Court Rules apply both to civil and criminal proceedings, and govern all proceedings except to the extent that the procedure in a particular kind of action is specifically regulated by a statute or Supreme Court Rule.
- B. These Local Court Rules, (Rules), are to be construed in accordance with the appropriate provisions of the Statute on Statutes, 5 ILCS 70/0.01 *et seq.*, and in accordance with the standards stated in the Code of Civil Procedure at 735 ILCS 5/1-106.
- C. The Court shall enforce all rules and orders necessary to compel compliance with these rules.
- D. These Rules shall become effective upon their adoption and publication.
- E. The following short titles shall be used throughout these rules:
  - 1. Code of Civil Procedure 735 ILCS 5/1-101 *et seq.*;
  - 2. Code of Criminal Procedure 725 ILCS 5/100-1 *et seq.*;
  - 3. Criminal Code 720 ILCS 5/1-1 *et seq.*;
  - 4. Supreme Court Rules;
  - 5. Unified Code of Corrections 730 ILCS 5/1-1-1 *et seq.*
- F. For the purpose of these Rules any masculine term includes the feminine and vice versa.

### 1.10 MEETINGS

The Judges of the 23rd Judicial Circuit shall meet upon the call of the Chief Judge. A special meeting may be called at any time by any three Circuit Judges by giving notice to all Circuit Judges.

### **1.15 SELECTION OF A CHIEF JUDGE**

- A. A majority of the Circuit Judges shall select, by secret ballot, one of their number to serve as Chief Judge for a three-year term commencing the first Monday in December, 2012 and shall select a Chief Judge in like manner every three years thereafter pursuant to Article VI, Section 7(c) of the Illinois Constitution. The election shall be held in September in the year the Chief Judge is to take office. The Office of Chief Judge shall alternate between DeKalb and Kendall Counties.
- B. The Chief Judge shall appoint one of the Circuit Judges to act as Chief Judge in his or her absence. The Acting Chief Judge shall have the same powers and duties as Chief Judge. In the event the Acting Chief Judge is also unavailable, the most Senior Circuit Judge on the premises shall act as Chief Judge.
- C. At any time by written request directed to the Chief Judge, a majority of the Circuit Judges may call a meeting for the purpose of removal of the Chief Judge, at a time and place stated therein. A copy of such request shall be mailed or delivered to each Circuit Judge not joining therein at least five (5) days before the time fixed for such meeting. If a majority of all the Judges shall at such meeting vote for removal of the Chief Judge, the Judges shall proceed immediately to elect a new Chief Judge to take office at once.
- D. Whenever a vacancy occurs in the office of Chief Judge, any three (3) Circuit Judges may call a meeting of the Circuit Judges to select a Circuit Judge to fill such vacancy to take office at once in the same manner as in subparagraph A above.

### **1.20 AUTHORITY OF THE CHIEF JUDGE**

- A. The Chief Judge may enter Administrative/General Orders in the exercise of his or her general administrative authority, including but not limited to orders providing for the appointment of Presiding Judges, assignment of Judges, general or specialized divisions, and times and places of holding Court, as provided by applicable statutes, Supreme Court Rules, or these Rules. The Chief Judge may appoint personnel to assist him in the performance of his duties.
- B. Copies of all Administrative/General Orders issued by the Chief Judge shall be filed with the Circuit Clerk of the county in which the Chief Judge is sitting, who shall maintain them as permanent Court records. Upon filing an Administrative/General Order, the Circuit Clerk of that county shall provide a copy of said Order to the Circuit Clerk of the other county. All such Administrative/General Orders shall be available for inspection as public records in the Office of the Circuit Clerk.
- C. For the purposes of these Rules, as well as all General Orders of the 23rd Judicial Circuit, the Chief Judge shall serve as the Presiding Judge in the county in which he or she is assigned to hear cases on a regular basis.

### **1.25 ASSIGNMENT OF JUDGES**

- A. All judicial assignments shall be made by the Chief Judge.
- B. Assignment of judges to the various divisions of the Circuit Court shall be governed by Administrative/General Order.

### **1.30 SUBSTITUTION OF JUDGES - CHANGE OF VENUE**

- A. In any case in which:

1. a substitution of judge has been requested in accordance with the Code of Criminal Procedure 725 ILCS 5/114-5; or
2. a change in venue on account of prejudice of the judge is granted in accordance with the Code of Civil Procedure 735 ILCS 5/2-1001; or
3. on the Court's own Motion,

the case shall be transferred for re-assignment within the county to the Presiding Judge of the County in which the case is pending.

- B. In every case in which the Presiding Judge of any County is the judge from whom the change of judge is being granted, the case will be transferred for re-assignment to the next most senior Circuit Judge assigned to that County.

### **1.35 AUTHORITY OF PRESIDING JUDGES**

The assignment of personnel to specific court calls, courtrooms, and chambers, and the assignment of specific cases shall be at the discretion of the Presiding Judge of each county.

### **1.40 ATTORNEY REGISTRATION-ADDRESSES OF PARTIES AND ATTORNEYS**

- A. The Clerk of the Circuit Court shall maintain a computerized attorney identification file, furnished by the Illinois Attorney Registration and Disciplinary Commission, to properly identify the attorney of record in a matter pending before the Court.
- B. The first pleading and/or appearance and all subsequent papers and orders shall contain the name, address, and telephone number of the attorney, or self represented litigant filing said paper. The attorney shall also include his or her attorney registration number issued by the Illinois Attorney Registration and Disciplinary Commission.

### **1.45 DISMISSAL FOR LACK OF ACTIVITY**

Reasonable efforts shall be made to assure that all cases that require a trial shall be set for trial within 12 months of filing. In the event that an order has not been entered setting the case for trial (or pre-trial if it is a civil jury trial) within 12 months after filing thereof, upon Order of the Judge presiding over the matter, the Clerk of Court shall notify the attorneys of record, or any party who has filed an appearance, providing their address is recorded in the contents of the file, that the case will be called on a day certain on which day it will be dismissed on motion of the Court, except for good cause shown. Failure to appear shall constitute acknowledgment of the dismissal. Orders of dismissal entered under Local Rule 1.45 hereafter shall be considered as involuntary dismissals subject to Illinois Supreme Court Rule 273.

### **1.50 DECISIONS WITHIN 60 DAYS**

- A. All judges are encouraged to render their decisions promptly when matters are ready for decision, and except as hereinafter provided, no judge of this Circuit shall keep a matter under advisement or fail to render a decision in a matter submitted to him for a period of time greater than 60 days from the date such matter is ready for decision.
- B. For the purposes of this Rule, a matter is ready for decision:
  1. If the issue to be decided is a factual issue, at such time as the proofs have been closed;

2. If the issue to be decided is a legal issue, at such time as the judge has received briefs as may have been ordered by the judge and heard arguments as may have been ordered; or
  3. If the issues are both factual and legal, it shall be considered as if the case involved legal issues only, after the proofs have been closed.
- C. Any case ready for decision which has not been decided by the sitting judge within 60 days of being ready for decision shall be reported by the sitting judge to the Chief Judge together with an explanation of the reason such decision has not been rendered.

### **1.55 PLACE AND HOURS OF HOLDING COURT**

- A. The Presiding Judge of each county shall determine the locations where Court shall be held, and shall determine the dates and times of each court call. Such determinations shall be listed in an Administrative/General Order filed in the respective county.
- B. The Court shall convene each Monday thru Friday except for holidays designated by the Order of the Chief Judge.
- C. The Office of the Clerk of the Circuit Court in the respective counties shall be open as hereinafter provided:

DEKALB: Monday thru Friday 8:30 A.M. to 4:30 P.M.

KENDALL: Monday thru Friday 8:00 A.M. to 4:30 P.M.

### **1.60 PHOTOGRAPHING, RECORDING, BROADCASTING, OR TELEVISIONING IN OR NEAR COURTROOMS**

#### **A. Definitions:**

1. For the purpose of this rule, the use of any of the terms “photographs, audio or video recordings, televising or broadcasting” includes the audio or video transmissions or recordings made by cameras, telephones, personal data assistants, laptop computers, and any other wired or wireless data transmission or recording devices.
2. For the purpose of this rule, the use of the term “immediate surrounding area” includes the private and public hallways connecting to any courtroom, rooms immediately adjacent to said hallways and to the courtroom, jury assembly/deliberation rooms, judge’s chambers, and access elevators and stairs.

#### **B. Prohibited Usage:**

1. Except as provided in this Rule, it is prohibited to take, transmit, record, televise, or broadcast any photograph or audio or video recording of any judicial proceeding or in connection with any judicial proceeding from within any courtroom or from its immediate surrounding area.
2. Unless granted leave by specific court order, it is prohibited to transmit or receive audible wireless communications within any courtroom while court is in session.
3. Audio and/or video recording or dictating devices shall not be used within any courtroom, but may be used in the public areas, hallways or conference rooms adjacent to said hallways, provided that such use in accordance with this rule and applicable state and federal laws, and such use does not interfere with the intended

uses of said premises or disrupt any court proceeding. Any such personal hand-held micro-cassette recorder or dictating device brought into a courtroom or Judge's chambers must be turned to the "off" position.

C. Permissive Usage:

1. While Court is in session the silent transmission or receipt of wireless communication messages or data on electronic devices which does not invoke the transmission, recording, televising, or broadcasting of court proceedings is permitted, so long as such silent transmission or receipt does not disrupt any courtroom or conflict with the intended uses of the courtroom or the immediate surrounding area. Otherwise, any electronic devices brought into a courtroom must be turned to the "off" mode.
2. Within any court facility, photographs and audio and video recordings, including broadcasting or televising, of events and activities not related to a pending case or of judicial personnel or of the facilities, may be authorized by any judge with the permission of the Chief Judge for educational, instructional, informational or ceremonial purposes, provided that court is not in session during such photographing, audio or video recording, broadcasting, or televising. Such event and activities may include: weddings, bar association activities, induction ceremonies, award ceremonies, dedication ceremonies, mock trials, seminars, speeches, demonstrations, training sessions, journalistic undertakings, public awareness activities, and similar events and activities.
3. Audio recording by an official or court-authorized court reporter in the exercise of court reporter duties and for the professional use of the court reporter only is permitted.

D. Penalties and Enforcement:

1. Violation of this rule may subject any violator to contempt proceedings.
2. Violation of this rule may result in the turnover of any offending device at the direction of the judge until any related proceedings are concluded.
3. Any tape, photograph, film, disk, or other electronic format produced in violation of this rule shall be subject to erasure at the violator's sole expense and/or forfeiture without compensation.

E. Rule 1.60 shall not be applied in such a way as to limit any judge's use of electronic devices in the course of execution of professional duties, nor in such a way as to conflict with any Supreme Court Rule or Order of the Illinois Supreme Court or with any state or federal laws.

**1.65 EXTENDED MEDIA COVERAGE**

A. Definitions

1. Extended media coverage means any media recording or broadcasting of proceedings by the use of internet, television, video, radio, photographic, or other recording equipment for the purpose of gathering and disseminating information to the public.
2. Media means print, digital, television, video, internet, telephonic, aural or radio media.
3. News Media in general, means any person or organization actively engaging in professional information gathering or reporting and includes any newspaper, internet,

digital, radio or television station or network, information service, or other information reporting agency.

4. Judge means the Circuit or Associate Judge presiding in a trial court proceeding for which extended media coverage has been requested.
5. Presiding Judge means the Circuit Judge designated by the Chief Judge as the Presiding Judge of the county in which the matter is pending, pursuant to the Local Rules of the Twenty-Third Judicial Circuit.
6. Chief Judge means the Chief Judge of the 23<sup>rd</sup> Judicial Circuit.
7. Judicial proceedings or proceedings includes all public trials, hearings or other proceedings of a trial court when extended media coverage is requested, except those specifically excluded by these provisions.
8. Media Coordinator means a member of the news media who has requested extend media coverage, or in the case of more than one media person requesting extended media coverage, a representative chosen by all of the media requesting extended media coverage and approved by the Judge. In a court proceeding with extended media coverage, the Media Coordinator shall work with the Chief Judge, the Presiding Judge, and the Judge, or with their designee, and with the Court Media Liaison.
9. Court Media Liaison is the Court Administrator or a designee of the Court Administrator. The Court Media Liaison shall work with the Media Coordinator on all matters pertaining to extended media coverage.

#### B. Media Access

Coverage of judicial proceedings in the 23rd Judicial Circuit shall be subject, at all times, to the authority of the Judge. Extended media coverage shall not be distracting or interfere with the court in making decisions.

#### C. Procedures

1. Request for Media Coverage. Requests for extended media coverage shall be filed with the Clerk of the Circuit Court at least fourteen (14) days before the proceeding for which extended media coverage is sought. Requests shall be filed using Form 1, in the Appendix, or a substantially similar form. The time for filing a request may be extended or shortened by court order.
2. Notice of Request. Using Form 2, in the Appendix, the Clerk of the Circuit Court shall send written notice and a copy of the Request for Media Coverage to the following persons:
  - a. Attorneys of record;
  - b. Parties appearing without counsel;
  - c. The Court Media Liaison;
  - d. The Judge;
  - e. The Presiding Judge of the County in which the case pends; and
  - f. The Chief Judge.

No later than the close of business on the day following the filing of the Request, a copy of the Notice and Request shall be sent by first class mail or facsimile transmission or delivered by personal service. The Chief Judge may order alternative means of service, such as electronic mail, for the recipients named in subparagraphs d-f above.

3. Objections by Parties. At least three (3) days before the commencement of the proceeding, a party objecting to extended media coverage shall file a written objection stating the reasons for objecting to extended media coverage. The objection shall be filed using Form 3, in the Appendix, or a substantially similar form.
4. Objections by Witnesses. All witnesses shall be notified by counsel proposing to introduce their testimony of their right to object to extended media coverage, by using Form #2A, in the Appendix, or a substantially similar form. Counsel shall file an appropriate proof of notice. All objections by witnesses shall be filed prior to the commencement of the proceeding. Any objecting witness shall file his or her objection using Form 4, in the Appendix, or a substantially similar form.
5. Notice of Objections. The Clerk of the Circuit Court shall provide a copy of any objection filed to the persons listed in subparagraph 2 and to the Media Coordinator. The copy shall be provided using the means listed in subparagraph 2 no later than the close of business on the day following the filing of the objection.
6. Disposition of Requests. After the time for objections has elapsed, the Judge shall make a determination as to whether the Request should be granted and/or whether an objection thereto should be sustained, and, if so, to what extent. The Court may consider factors including, but not necessarily limited to the following:
  - a. The effect on the parties' ability to select a fair and unbiased jury;
  - b. The importance of maintaining public trust and confidence in the judicial system;
  - c. The importance of promoting public access to the judicial system;
  - d. Matters raised in the request and in any objections thereto;
  - e. The parties' support of or opposition to the request;
  - f. The nature of the case;
  - g. The privacy rights of all participants in the proceeding, including witnesses, jurors, and victims;
  - h. The effect on any minor who is a party, prospective witness, victim, or other participant in the proceeding;
  - i. The effect on any ongoing law enforcement activity in the case;
  - j. The effect on any subsequent proceedings in the case;
  - k. The effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness;

- l. The effect on excluded witnesses who would have access to the televised testimony of prior witnesses;
- m. The scope of the coverage and whether partial coverage might unfairly influence or distract the jury;
- n. The difficulty of jury selection if a mistrial is declared;
- o. The security and dignity of the Court;
- p. Undue administrative or financial burden to the Court or participants;
- q. The interference caused to neighboring courtrooms;
- r. The maintenance of the orderly conduct of the proceeding;
- s. Any other factor affecting the fair administration of justice; and
- t. Any other factor the Judge deems relevant.

The Judge may use Form 5, in the Appendix, in dealing with the Request.

#### D. General

Broadcasting, televising, recording, and photographing or otherwise memorializing information may be permitted in the courtroom during sessions of the court, under the following conditions:

1. Permission first shall have been granted by the Judge, who may prescribe such conditions of coverage as provided for in this policy. The Presiding Judge and Chief Judge shall have discretion to permit or deny any extended media coverage.
2. In prosecutions for sexual abuse, or when sexual abuse is an essential element of a proceeding there shall be no extended media coverage of the testimony of a victim unless the testifying victim consents. Further, an objection to coverage by a testifying victim in any other forcible felony prosecution, and by police informants, undercover agent(s), and relocated witnesses shall be presumed valid. The Judge shall exercise broad discretion in deciding whether there is cause for prohibition.
3. Extended media coverage is prohibited in any court proceeding required under Illinois law to be held in private. No coverage shall be permitted in any juvenile, dissolution, adoption, child custody, elder abuse, evidence suppression or trade secret cases.
4. Extended media coverage of jury selection is prohibited. Extended media coverage of the jury and individual jurors is prohibited.
5. There shall be no audio, visual or internet, pick up or broadcast or recording of a conference in a court proceeding or in a court facility between attorneys and their clients, between co-counsel, between attorneys and opposing counsel, or attorneys and the Judge that is not intended to be part of the court record.
6. Audio, internet or visual equipment authorized by these provisions shall not be operated during a recess in the court proceeding.
7. The quantity and type of equipment permitted in the courtroom shall be subject to the discretion of the Judge within the guidelines set out in this policy.

8. Upon application of the media, the trial court judge may permit the use of equipment or techniques at variance with the provisions in this policy, provided the variance request is included in the Request for Media Coverage provided for in subsections C (1) and (2). Ruling upon a variance application shall be at the sole discretion of the Judge. Variances may be allowed by the Judge without advance application or notice if all counsel and parties consent to it.
9. The Judge may refuse, limit, amend or terminate photographic or electronic media coverage at any time during the proceedings in the event the Judge finds that provisions established under this policy, or additional rules imposed by the Judge, have been violated or that substantial rights of individual participants or rights to a fair trial will be prejudiced by the manner of coverage if it is allowed to continue; or if it is necessary to guarantee the safety of the courtroom, including any party, witness, juror or attendee of the proceeding.
10. Members of the media must abide by the rules regarding filming and photography outside the courtroom, but still within the courthouse. The media is not permitted to film/photograph/record any person present for any grand jury proceeding. Coverage is only allowed during proceedings taking place inside the courtroom, in the presence of the Judge.
11. The rights of extended media coverage may be exercised only by the news media.
12. A decision by a Judge to deny, limit or terminate extended media coverage is not appealable.
13. A Judge may authorize extended media coverage of ceremonial proceedings at variance with provisions in this policy as the Judge sees fit.

#### E. Technical

1. Equipment specifications. Equipment to be used in courtrooms during judicial proceedings must be unobtrusive and must not produce distracting sound, light or other influence. In addition, equipment must satisfy the following criteria, where applicable:
  - a. Still cameras. Still cameras and lenses must be unobtrusive without distracting light or sound.
  - b. Television or video devices and related equipment. Television cameras or other video devices together with any related equipment to be located in the courtroom, must be unobtrusive in both size and appearance, without distracting sound or light.
  - c. Audio equipment. Microphones, wiring and audio recording equipment shall be unobtrusive and shall be of adequate technical quality to prevent interference with the covered judicial proceedings. Any changes in existing audio systems must be approved by the Judge. Microphones for use of counsel and judges shall be equipped with power switches to facilitate compliance with subsection D (5) of this policy.
  - d. Visual or Audio signal. No light or signal which is visible or audible to participants in the proceeding shall be used on any equipment during extended media coverage to indicate whether it is operating.

- e. Advance approval. It shall be the duty of media personnel to demonstrate to the Judge reasonably in advance of the proceeding that the equipment sought to be used meets the criteria set forth in this section. Failure to obtain advance judicial approval for equipment may preclude its use in the proceeding. All media equipment and personnel shall be in place at least fifteen (15) minutes prior to the scheduled time of commencement of the proceeding.
  - f. Expense. The cost of any equipment under these guidelines will not be incurred at public expense.
2. Lighting. Other than light sources already existing in the courtroom, no flashbulbs or other artificial light device of any kind shall be employed in the courtroom. With the approval of the Presiding Judge, however, modifications may be made in light sources existing in the courtroom, provided modifications are installed and maintained without public expense.
3. Pooling and Equipment. The following limitations on the number of photographic and broadcast media personnel in the courtroom and the amount of equipment shall apply:
- a. Still photography. Not more than two (2) still photographers are permitted in a proceeding. Each shall be limited to not more than two (2) camera bodies and two (2) lenses at any one time. Changing of film or lenses is only allowed during recesses. Still photographers must stay in their assigned spots throughout the proceedings, and may not make any movements or assume positions that might be distracting. Even if hand-held cameras are used, the operator must remain in his/her assigned spot.
  - b. Television. Not more than two (2) television cameras, each operated by not more than one (1) camera person, shall be permitted in the courtroom during a proceeding.
  - c. Audio. Only one (1) audio system for broadcast shall be permitted in a proceeding. Where possible, audio for all media shall be from any existing audio system present in the courtroom. If no technically suitable audio system exists, microphones, wiring and recording equipment shall be furnished and temporarily installed by the news media without public expense, shall not interfere with the sound quality of any existing courtroom audio system, shall be operated by one (1) person, shall have a means of immediately disabling the system (a/k/a “kill switch”) by the Judge and shall be located in places designated in advance by the Judge or his or her designee.
  - d. Pooling. Pooling arrangements shall be the sole responsibility of the Media Coordinator. No judicial officer or court personnel shall mediate disputes. Priority consideration shall be extended to one (1) of the two (2) television cameras to televise an entire proceeding from beginning to end. In the absence of agreement or in the event of unresolved disputes relating to pooling arrangements, the kind of extended coverage sought shall be prohibited and excluded from the proceeding.
  - e. Attire. No equipment or clothing on any extended media coverage personnel shall bear any insignia or identification of the individual medium or network involved in extended coverage.

4. Location of equipment and personnel. Equipment and operating personnel shall be located in, and coverage of the proceedings shall take place from, an area or areas designated by the Judge. The area or areas designated shall provide reasonable access to the proceeding to be covered. No equipment or personnel involved in extended media coverage shall impede pedestrian traffic movement into, or from the courthouse, including but not limited to courthouse corridors and courtroom entrances and exits.
  - a. Television, video, and still photography camera equipment should be set up in locations which do not distract from the normal courtroom processes. Court Security staff shall direct media personnel to the appropriate locations within the courtroom subject to the direction and approval of the Judge.
  - b. Equipment and operators shall not impede the view of persons seated in the public area of the courtroom.
  - c. Movement during the proceedings. Television cameras and audio equipment may only be installed before proceedings begin or removed from the courtroom only when the court is not in session. Equipment shall not be stored in the courthouse. In addition, such equipment shall at all times be operated from a fixed position.

F. Other provisions

1. Restrictions and prohibitions. The following restrictions and prohibitions shall be applicable to all proceedings.
  - a. Audio or visual equipment authorized by this rule/order shall not be operated during a recess in a court proceeding.
  - b. Focusing on and photographing of materials on counsel tables is prohibited.
  - c. Use of parabolic or other highly sensitive long range microphones is prohibited.
  - d. No film, videotape, photograph, or audio reproduction of a court proceeding made by the media shall affect the official court record of the proceeding for purposes of appeal or otherwise.
  - e. None of the film, videotape, still photographs or audio reproductions developed during, or by virtue of, coverage of a judicial proceeding shall be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent or collateral thereto, or upon any retrial or appeal of such proceedings.
2. Expenses. No court facility may be altered, unless approved in advance by the Chief Judge. Expenses for alterations shall be borne by the media.
3. Decorum. Proceedings in the courtroom shall not be disrupted. Members of the media in the courtroom shall:
  - a. Not make comments in the courtroom during the court proceedings;
  - b. Not comment to or within the hearing of the jury or any member thereof at any time before the jury is dismissed;

- c. Not conduct interviews in the courtroom;
  - d. Comply with the orders and directives of the court; and
  - e. Be properly attired and shall maintain proper courtroom decorum at all times when covering a judicial proceeding. The Judge has discretion to determine proper attire and courtroom decorum.
  - f. At the conclusion of the proceedings and after the trial court judge leaves the courtroom, all media will leave the courtroom and may assemble in the lobby to meet with the parties, families and their attorneys if the parties, families and attorneys wish to be interviewed or comment to the media.
4. Inapplicability to individuals; use of material of advertising prohibited. The privileges granted by this rule/order to photograph, televise and record court proceedings may be exercised only by persons or organizations that are part of an established news media organization.
  5. Access to the Building. Court security policies require all persons and equipment entering the courthouse to pass through screening. News media will not be permitted to bypass screening and should allow sufficient time to get through the screening in advance of the commencement of proceedings.
  6. Media Disputes. It shall be the responsibility of the media to settle disputes among media representatives, facilities pooling where necessary, and implement procedures which meet the approval of the Judge prior to any coverage and without disruption to the court.
  7. Non-exclusivity. These guidelines shall not preclude coverage of any judicial proceeding by news reporters or other person who are employing only the means of taking notes or drawing pictures.
  8. Sanctions. In addition to contempt and any other sanctions allowed by law, the Judge may remove anyone violating these rules from the courtroom and revoke the privileges contained in this rule.
  9. Professional Conduct. Nothing herein shall alter the obligation of any attorney to comply with the provisions of the Illinois Rules of Professional Conduct governing trial publicity.
  10. Revocation of Permission. If any media representative fails to comply with the conditions set by either the Judge or this rule, the Judge, the Presiding Judge, or the Chief Judge may revoke the permission to broadcast or photograph the trial or hearing.

## **1.70 COURT REPORTING SERVICES**

### **A. Employees:**

1. The responsibilities, requirements, and policies of court reporting services employees shall be governed by the current edition of the *Administrative Regulations for Court Reporting Services in the Illinois Courts* manual.
2. No one other than a court reporting services employee or court-authorized freelance court reporter shall record the proceedings of any case in this circuit court.

B. Electronic Recording:

1. Electronic recording systems are installed and in use in this circuit.
2. Court reporting services employees shall be the only persons trained, assigned to operate, and produce transcripts from the electronic recording system.
3. All digital recordings, court reporter notes, and related storage media are the property of the Circuit Court of the 23rd Judicial Circuit and will be stored as such.
4. Any spoken words in the courtroom that are not part of a court proceeding are not intended recordings and may not be used or played back in any way except in the following instances:
  - a. During the court proceeding at the direction of the judge presiding over the matter.
  - b. By a court reporting services employee for the purpose of preparing a transcript of the official record.
  - c. At the direction of the Presiding Judge.
  - d. In all other instances, the contents of the electronic recordings shall be disseminated by transcript only.

C. Transcripts:

1. All transcript requests shall be made in writing and submitted to the court reporter supervisor or court reporting services employee.
2. All transcripts shall be prepared in accordance with the applicable statutory authority and current edition of the *Administrative Regulations for Court Reporting Services in the Illinois Courts* manual.
3. Transcripts prepared by court reporting services employees shall be considered the official record. If the court allows a freelance court reporter to record the proceedings, the transcript prepared by that freelance court reporter shall be considered the official record.

**1.80 SELECTION OF PUBLIC DEFENDER**

- A. Selection and appointment of the Public Defenders of the respective counties within the 23rd Judicial Circuit shall be pursuant to 55 ILCS 5/3-4000 *et seq.* and as provided within these rules.
- B. A majority of the entire number of Circuit Judges shall, by secret ballot, appoint properly qualified persons to the Office of Public Defender in each of the respective counties of the 23rd Judicial Circuit.
- C. Each Public Defender so appointed shall hold office, so long as properly qualified, death or resignation not intervening, at the pleasure of the judges competent to so appoint.
- D. Said appointments shall be reviewed every two (2) years. Nothing herein shall prohibit the removal of an appointed Public Defender by a majority vote of the Circuit Judges qualified to vote on such appointments.

# ARTICLE 2

## CLERK OF THE CIRCUIT COURT

### 2.0 OFFICE OF THE CIRCUIT CLERK

Each Clerk of the Circuit Court shall maintain his or her principal office in the courthouse of each respective county and at any additional branch locations which may be necessary to facilitate the transaction of business in any branch court.

### 2.05 FILING OF PAPERS

- A. Any paper to be filed in any cause or proceeding may be filed in person, by United States mail, by courier, or electronically as provided in these Rules.
- B. Any paper filed in any cause or proceeding, except in branch courts, shall be impressed with a stamp bearing the word "Filed" followed by a notation of the month, day and year of the filing and the name of the Clerk of Court.
- C. Any paper to be filed in any cause or proceeding pending in branch court may be filed either at the main Clerk's office, a branch location of the Clerk's office, or at the appropriate field court.
- D. Pleadings, motions and other papers filed with the Clerk, and not served in compliance with Supreme Court Rules 11 and 12, may be stricken by the Judge hearing the case, either with or without advance notice.
- E. Each party commencing an action or proceeding in case types L, LM, SC, TX, AD, JA, JD, OP, ED, MR, CH, F, D, P, J, MH, or MC shall complete the New Case Information Sheet provided by the office of the Clerk of Court, and present said sheet at the time of filing the complaint, petition, or other paper initiating said action or proceeding.
- F. The Clerk shall assign to each such action or proceeding a Case Number, which shall be endorsed on all pleadings, notices, orders, and other papers filed therein. Such Case Number shall consist of: (1) a two digit number indicating the year in which such action or proceeding was commenced; (2) a case type abbreviation prescribed by the Administrative Office of the Illinois Courts; and (3) a consecutive case number. Pending actions or proceedings shall continue under the numbers heretofore assigned.

### 2.10 REMOVAL OF PAPERS FILED

No part of the court file shall be removed from the Clerk's office without a specific Order signed by the judge hearing the matter. Any such removal must be in accordance with the current edition of *Administrative Office of Illinois Courts Manual on Recordkeeping*.

### 2.15 COPIES OF PAPERS FILED

Upon request and the payment of the appropriate fee, the Clerk shall provide copies of any pleading or papers filed in this Court pursuant to 705 ILCS 105/27.1a, unless otherwise specifically ordered.

## **2.20 DELIVERY OF FILES TO BAILIFF**

The Clerk may deliver a file in any case to a bailiff, court administrator, or security personnel upon the request of any judge.

## **2.25 MAINTAINING DAILY CALL SHEETS**

The Clerk shall maintain a daily call sheet for each judge showing cases set for hearing and the hour of the day they shall be heard.

## **2.30 FILES PRESENT IN THE COURTROOM**

Unless otherwise directed by the Judge, the Clerk shall have present in the courtroom all files appearing on the daily call sheet provided for in Section 2.25 of these Rules.

## **2.35 JUDGE'S NOTES**

- A. At the request of any judge, the Clerk of Court may, for the sake of convenience and judicial economy, keep and maintain a Judge's trial and/or hearing notes in the court file. These notes are the property of the Judge and shall not be filed of record by the Clerk. A Judge's notes shall be placed in an envelope, which shall be sealed and marked "Judicial Notes - Impounded Documents" together with the name of the judge requesting the notes be preserved and stored.
- B. The Circuit Clerk's Office may, at the time of file destruction, dispose of a Judge's notes found in a court file by returning them to the judge, or, if the judge approves, is retired, or deceased, by destroying them using approved methodology pursuant to the Local Records Act, 50 ILCS 205/1 *et. seq.* and the retention schedules established by the Supreme Court of Illinois.

## **2.40 APPLICATION FOR WAIVER OF COURT FEES**

- A. Forms of Application for Waiver of Court Fees, as provided in Supreme Court Rule 298, shall be provided by the Clerk of Court.
- B. Said Applications shall be submitted for hearing to the judge expected to be assigned to hear the matter in the future, or to the Presiding Judge if the judge expected to be assigned to the matter is unavailable.

## **2.45 GUIDELINES FOR COURT PERSONNEL IN ASSISTING SELF REPRESENTED LITIGANTS**

- A. A self represented litigant is one who does not retain an attorney and appears in court on his or her own behalf. A self represented litigant, under the law, is held to the same standards and duties of an attorney. Self represented litigants are expected to know what the law requires and how to proceed in accordance with applicable statutes and court rules.
- B. In the performance of their official duties, court personnel and the staff of the Clerk of the Circuit Court, are prohibited from giving legal advice or counseling to the self represented litigants as to their specific cases. This includes persons seeking advice in small claims, forcible entry and detainer, dissolution of marriage, child support matters, and the like.
- C. Court personnel may assist persons seeking information regarding procedural matters unique to the 23rd Judicial Circuit by referring the person to these Rules, or to the courthouse law

library. Additionally, court personnel may tell the person that they should consider consulting qualified legal counsel or by referral to the Legal Self Help Center.

- D. Law Library staff may assist self represented litigants by directing them to any standard reference materials in the Law Library or elsewhere, and may show persons how to access such reference materials, but such personnel and staff are not permitted to give extensive instruction in the use of legal materials.

## **2.50 CLERK TO PREPARE PRE-PRINTED FORMS**

- A. For clarity of documents and expediency in processing, standardization of documents is necessary.
- B. The Clerk of the Circuit Court shall provide pre-printed or electronic forms as may be approved by the Illinois Supreme Court or by the Presiding Judge. The contents, and formatting, including the number of carbonless copies, if any, of pre-printed forms must be approved by the Presiding Judge prior to use. All new designs, revisions, and modifications to forms shall be forwarded to the Clerk of the Circuit Court prior to approval by the Presiding Judge.
- C. The duplication of forms available from the Clerk of the Circuit Court, by attorneys or litigants, is acceptable provided they contain the same standard heading and content as the Clerk's previously supplied form.

## **2.55 DOCUMENTS FILED WITH THE CIRCUIT CLERK**

- A. Documents shall consist of one or more individual sheets measuring 8.5 inches by 11 inches, not permanently bound and not a continuous form. All exhibits attached to motions, petitions or the like shall conform to the 8.5 inch by 11 inch standard. Discovery and depositions shall not be attached as exhibits, except as required by Statute or Supreme Court Rule.
- B. Documents to be filed shall not contain staples
- C. Original documents filed with the Clerk of the Circuit Court shall not have attachments that are duplicates or reproductions of previously filed documents, unless required by Statute or Supreme Court Rule. A reference to the filing date and title of the documents shall be used to replace the reproductions.
- D. Documents shall have the case number printed on each page. The first page shall be numbered "Page 1 of \_\_\_\_ Pages." Each page thereafter shall be numbered consecutively or sequentially.
- E. Documents shall be legibly printed in permanent black or blue ink, by hand, type or computer generated. Signatures and dates shall be in black or blue ink or in an electronic format approved by the Supreme Court. Printing is not acceptable unless the type is dark enough to reproduce clearly when photocopied or scanned for computer imaging.
- F. Documents shall be on white paper of not less than 20 pound weight and shall have a margin of at least one inch on the top, the bottom and each side. Margins shall not be used for any handwritten modifications or continuation to the document.

- G. Documents shall be a minimum of 12 point type. The font shall be a plain or block type. Suggested use is Times New Roman or any San Serif type for reproduction and scanning purposes.
- H. The first page of the document shall contain a blank space, measuring 2.5 inches by 2 inches, incorporated within the right side of the header area.

## **2.60 REMOVAL OF COURT FILES AND DOCUMENTS**

Original court files and documents that have been filed with the Clerk of Court shall not be removed from the courthouse without the advance permission of the Clerk of the Circuit Court.

## **2.65 E-FILING**

### **A. Designation of electronic filing case types**

1. This Court hereby authorizes all civil and criminal cases with the exception of WI (Wills), sealed and impounded cases as permissible electronic filing case types. The Circuit Court Clerk shall direct the phasing in of case types during implementation of electronic filing.
2. Wills or other testamentary documents, exhibits, or documents that are filed directly with the judge (e.g. proposed orders) shall not be accepted for filing electronically. Any unapproved document type filed electronically by a Subscriber shall be rejected by the Clerk of the Court.
3. Any notice of appeal and post judgment enforcement proceeding documents may be e-filed and served in accordance with Supreme Court Rules.

### **B. Definitions**

1. Clerk or Circuit Clerk: The Clerk of the Circuit Court of either DeKalb or Kendall County as defined in Art. 6 § 18 of the Constitution of the State of Illinois.
2. Conventional manner of filing: The filing of paper documents with the Clerk as is done in cases that are not e-file cases.
3. Court Partner Agency Users: Any local prosecutor or person authorized to serve civil and criminal process with the 23rd Judicial Circuit.
4. Electronic Document (“e-document”): An electronic file containing informational text.
5. Electronic Filing (“e-file”): An electronic transmission of information between the Clerk and a vendor for the purpose of case processing.
6. Electronic Image (“e-image”): An electronic representation of a document that has been transformed to a graphical or image format.
7. 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.

8. Justice Community User: Any DeKalb or Kendall County governmental unit, including but not limited to the Sheriff's Office, State's Attorney's Office, Public Defender, Court Services Office, County Clerk, or Recorder of Deeds.
9. PDF: 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.
10. Subscriber: One contracting with a vendor to use the e-filing system.
11. Vendor: A company or organization that has an executed Electronic Information Project Agreement with the Clerk to provide e-filing services for either DeKalb or Kendall County.

#### C. Authorized users

1. The Clerk shall accept and approve filings electronically through a vendor or through the Clerk's computer workstation.
2. 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 any valid pleading with the Clerk. In those circumstances, the Clerk shall scan conventionally filed documents into the electronic file.
3. Prior to filing any document electronically, users are required to register with the Clerk of Court and the Court's authorized e-filing vendor. Attorneys must submit an E-Filing Registration Form to the Clerk of Court which shall include a minimum of the following information: firm name, attorney names and ARDC registration numbers, address, phone number, e-mail address for E-service, staff contact information, selected method for paying filing fees. 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.
4. Self-represented litigants may utilize e-filing through a vendor on the internet by means of individual transactional agreements and credit card payment. Self-represented litigants will be assigned a user name and password by the Vendor.
5. Without charge during normal business hours, the Clerk shall provide attorneys and parties in e-file cases access to an e-file computer workstation.

#### D. Method of filing

1. 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 unless otherwise mandated by Supreme Court Rule.
2. 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*.

#### E. Filing of exhibits

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 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.

#### F. Maintenance of original documents

1. Anyone filing an electronic 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, other counsel, or *pro se* party in the case, upon five (5) days notice. At any time, the Clerk may request from the filing party a hard copy of an electronically filed document, which shall be provided within five (5) business days.
2. All documents which are required to be maintained and preserved shall be kept for one year after the judgment has become final by conclusion of direct review or the expiration of the time for seeking such review.

#### G. Privacy Issues

1. It is the responsibility of the filing party or counsel to insure that documents filed electronically do not disclose previously or statutorily impounded or sealed information or personal identity information defined in Supreme Court Rules 15 and 138. 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.
2. All documents in confidential, impounded, or sealed cases must be submitted conventionally to the Clerk's office 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 shall not be attached to the motion as an attachment.
3. Parties and their counsel shall refrain from including, or shall redact where inclusion is necessary, the personal identity information referenced in Supreme Court Rules 15 and 138. The filing of all documents shall be in accordance with Supreme Court Rules 15 and 138.

#### H. Format of documents

1. All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper document pleadings. Additionally, each electronically filed pleading and document shall include the case title, case number and the nature of the filing.

2. Each electronically filed document shall also include the typed name, e-mail address, address and telephone number of the attorney or self-represented party filing such document. Attorneys shall include their Attorney Number issued by the Attorney Registration and Disciplinary Commission on all documents.
3. A New Case Information Sheet shall be required with all new case filings. The New Case Information Sheet shall be completed by the attorney or *pro se* filer and submitted electronically in addition to case initiation documents. The Clerk shall provide electronic access to the required New Case Information Sheet both in the Clerk's office and on the e-filing website.

The minimum data required to be included on a *New Case Information Sheet* for all new case filings is the following: Case Type, Sub-Case Type, Jury Demand (yes or no), Amount Claimed, First Named Plaintiff, Plaintiff's Attorney (or *pro se* indication), Plaintiff Attorney's Address & Phone Number, First Named Defendant, Defendant's Address, Summons Issued (yes or no), Additional Party Information if applicable.

4. Documents must be submitted in PDF format. When possible, documents must be converted to PDF directly from the program creating the document, rather than from the scanned image of a paper document. Documents only available in paper format may be scanned and converted to PDF for electronic filing.
5. Documents shall be formatted as follows:
  - a. 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;
  - b. The size of the pages must be 8 ½ by 11 inches;
  - c. The margins on each side of the page must each be a minimum of 1 inch;
  - d. 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.
  - e. Any electronically filed document must be unalterable (sealed PDF), and be able to be printed with the same contents and formats as if printed from its authoring program. The e-filing vendor is required to make each electronically filed 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 document in civil or criminal case types shall not be accepted. Documents with different civil or criminal case numbers must be filed individually in separate transactions. Filing of individual documents within a civil or criminal case should be accepted in a single electronic filing transaction.
  - g. Multiple citations being electronically filed may be transmitted to the circuit clerk as a single transaction directly from the law enforcement agency.
  - h. Electronic 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 or the basic record.

6. Documents filed by attorneys that do not comply with the format specified by the applicable statute or rule may be rejected. Documents filed by self-represented parties that do not comply with the applicable statute or rule shall be reviewed for acceptance by the court prior to rejection.

#### I. Signatures and authentication

1. Any document filed electronically, including all pleadings, motions, documents, etc., using a verified user authentication shall be deemed to have been signed by the holder of the user authentication. Documents containing facsimile or typographical signatures may be filed electronically and shall be deemed to have been signed in person by the individual identified.
2. In the absence of a facsimile or typographical signature, any document electronically filed with a user's identification and password is deemed to have been personally signed by the holder of the user identification and password.
3. 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 approval of all persons not a party to the case or non-registered persons (including paralegals or other persons authorized to act on behalf of a registered user) required to sign the document.
4. 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.
5. 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.
6. All judges' and other necessary electronic signatures shall be captured and maintained by the Circuit 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.
7. Signatures as defined in the above subparagraphs satisfy Supreme Court Rules and statutes regarding signatures, and give rise to the application of available sanctions when appropriate.

#### J. Time of filing, acceptance by the clerk and electronic filing stamp

1. Any document filed electronically shall be considered as filed with the Clerk upon review and acceptance, and the transmission has been completed with the Clerk's electronic filing stamp.
2. 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.
3. 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.

4. Upon receipt by the vendor, and submission of an electronic 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.
5. Each document reviewed and accepted for filing by the Clerk shall receive an electronic file stamp. The stamp shall be endorsed in the name of the Clerk by the deputy clerk accepting filing, and shall include the identification of the court, the official time and date of filing and contain the word "FILED." This file stamp shall be merged with the electronic document and shall be visible when the document is printed and viewed on-line. 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.

#### K. Electronic service and filing proof of service

1. Electronic service is not capable of conferring jurisdiction. Therefore, regarding electronically filed cases, 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.
2. All other documents 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.
3. If a party or party's designee has not subscribed to a vendor's services, service of all other documents shall be pursuant to Supreme Court Rule 12.
4. E-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 shall have the same legal effect as personal service of an original paper document.
5. 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.
6. 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.

7. 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.

#### L. Collection of fees

1. The e-filing of a document requiring payment of a statutory filing fee to the Clerk in order to achieve valid filing status shall be filed electronically in the same manner as any other e-file document. All Subscribers shall maintain a valid credit card on file with the e-filing Vendor for the payment of statutory filing fees.
2. At the end of each business day, the vendor shall transfer by electronic deposit to the Clerk's bank account all statutory filing fees required for that day's electronic filings. The vendor shall electronically provide the Clerk a detailed itemization of the fees so deposited, 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 payment of the fee has been waived by court order or law.
3. 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.
4. 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.
5. When the electronic filing includes a request for waiver of fees by a petition for indigence, payment of the requisite fees shall be stayed until the court rules on the petition.
6. Filings initiated by court partner agencies in criminal cases (*e.g.*, state's attorney, public defender, attorney general and law enforcement) shall be exempt from the payment of filing fees and any vendor fees.

#### M. System or user errors

1. The Court and Clerk shall not be liable for malfunction or errors occurring in electronic transmission or receipt of electronically filed or served documents.
2. If the electronic filing is not filed with the Clerk because of (a) an error in the transmission of the document to the vendor which was unknown to the sending party, (b) a failure to process the electronic filing when received by the vendor, (c) rejection by the Clerk, (d) other technical problems experienced by the filer, or (e) the party was erroneously excluded from the service list, 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.
3. In the case of a filing error, absent extraordinary circumstances, anyone prejudiced by the Court's order to accept a subsequent filing effective as of the date filing was first attempted, shall 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.

## N. Vendor conditions

1. E-filing vendor(s) with Electronic Information Project Agreements executed with the Clerk 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.
2. 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*.
3. 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.
4. 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 30 days notice prior to the effective date of any subscriber agreement changes.
5. Ownership of the documents and access to the data associated with all E-filed documents remains with the Court. The electronic documents processed by the E-filing vendor remain the 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 or his/her designee, in coordination with the Clerk of the Court.

## 2.70 AUTHORITY FOR E-RECORDS

### A. Designation of electronic record types

This Court hereby authorizes all electronic civil court records to be the official court record. This includes all civil (AD, CH, D, ED, F, L, LM, MC, MH, MR, OP, P, SC and TX) case types, with the exception of Will Filing (WD). The court may authorize, by written Administrative Order, the electronic records of additional types of civil cases to be the official court record. The Circuit Clerk shall direct the phasing in of additional implementation.

### B. Definitions

1. Electronic Record: All official trial court records for a case filed and stored electronically, except all documents required to be maintained in original form.
2. Print on Demand: The ability to print any electronic document for use by judges, court personnel, lawyers, litigants and the public.

### C. Electronic access to records

This Circuit adopts the Supreme Court's *Electronic Access Policy*. Access to the electronic court record will be available consistent with this policy. All protected information will be viewable

only by the parties of record consistent with the Supreme Court's *General Administrative Order on Recordkeeping in the Circuit Courts* and applicable laws. The electronic record can be accessed at any time subject to unexpected technical failures, normal system maintenance, or as may otherwise be technically feasible.

#### D. Protecting electronic record

The Clerk of the Circuit Court shall ensure the migration and safety of the Court's records through regular maintenance of the hardware and software, and replication of the data to offsite storage facilities.

# **ARTICLE 3**

## **SHERIFF**

### **3.0 DUTIES OF THE SHERIFF**

- A. The Sheriff of each county shall maintain order and security in the courthouse, parking areas and surrounding environs in each county.
- B. Nothing herein shall be deemed to take away the powers and authorities of any law enforcement officer having appropriate jurisdictional and legal authority to enforce the laws and public safety in and around the courthouse facility.

### **3.05 CONSULTATION WITH PRESIDING JUDGE**

- A. The Sheriff shall confer with the Presiding Judge regarding such matters of hours of operation, appropriate staffing numbers, security and screening procedures.
- B. The Sheriff will develop appropriate security screening procedures as well as procedures to maintain the safety and security of the courthouse area. Persons who fail to abide by the security rules and regulations of the Sheriff will be denied admission to the courthouse or removed from the premises, as the situation requires.
- C. The Sheriff will develop appropriate policies regarding safe and secure prisoner movement throughout the courthouse and surrounding areas.
- D. These procedures shall be reviewed by the Presiding Judge and shall be updated as required.

### **3.10 COURTROOM SECURITY**

The Sheriff and the Presiding Judge of each county shall confer and develop appropriate courtroom security guidelines.

### **3.15 RULES AS TO BAILIFFS**

The Presiding Judge of each county will develop his own rules governing the assignment and duties of bailiffs.

# **ARTICLE 4**

## **JURY SERVICES**

### **4.0 JUROR SELECTION**

Each county shall maintain a regular system for selecting and summoning jurors.

### **4.05 CONSULTATION WITH PRESIDING JUDGE**

- A. The Presiding Judge of each county shall prepare a schedule of anticipated jury trial weeks.
- B. Nothing herein shall prohibit the Presiding Judge from calling for a special jury trial setting, is appropriate

### **4.10 COMPENSATION OF JURORS**

- A. All jurors shall be compensated in accordance with the law regarding same.
- B. The amount of said compensation shall be at the rates determined by the applicable County Board.

### **4.15 JURY COMMISSION**

All jurors are subject to the rules of the County Jury Commission, if such commission has been established in the county.

# **ARTICLE 5**

## **CIVIL PROCEEDINGS**

### **5.0 CASE MANAGEMENT AND SETTLEMENT CONFERENCES**

#### **A. Case Management Conference**

1. In all cases except for MC, OV, OP and P cases, the Clerk of the Court shall, on the date of filing, assign an automatic case management conference date on the call of the Judge assigned to the case within ninety (90) days from the date of filing. The Clerk shall affix notice of said date to the original pleading and to copies of said pleading to be served on the opposing party.
2. In the event an automatic case management conference falls on a date when the Court is not in session, the case will be set for the next court date.
3. Failure of the parties or their counsel to appear on an automatic case management conference date may result in dismissal for want of prosecution, default and/or other sanctions.
4. In all cases subject to Supreme Court Rule 218, the attorneys for the parties with the responsibility for trial of the case, shall prior to the automatic case management conference and each conference thereafter, confer regarding matters set forth in Supreme Court Rule 218.
5. Failure to comply with Supreme Court Rule 218, local rules, or court orders pertaining to case management may result in sanctions being imposed against a party and/or attorney.
6. In all Probate proceedings the Clerk of the Court shall, on the date of filing, assign an automatic case management conference date on the call of the Judge assigned to the case approximately nine (9) months from the date of filing. The Clerk shall affix notice of said date to the original pleading and to copies of said pleading to be served on the opposing party (if any).

#### **B. Settlement Conference**

1. In the event a settlement conference is held, the attorney for the plaintiff and the attorney for the defendant shall prepare a settlement conference memorandum and shall deliver a copy to the judge and to counsel of record seven (7) days in advance of the settlement conference. At the settlement conference the attorneys present shall:
  - a. Be familiar with the case; and
  - b. Be authorized to act in furtherance of the settlement conference; and
  - c. Ascertain in advance the extent of authority given by their client to act in furtherance of settlement. If the attorney does not have authority to settle the matter, he shall ensure that the client, or some other representative of the client with authority to settle the case, shall be available in person or by

telephone during the settlement conference to provide feedback and attempt to resolve the case.

d. The Court may order a litigation conference in any case deemed appropriate

2. Failure to abide by this Rule may result in sanctions

#### **5.05 CLERK'S NOTICE: DISMISSAL FOR WANT OF PROSECUTION**

Within ten (10) days of the entry of an order of dismissal for want of prosecution the Clerk of the Court shall send notice of the dismissal to all attorneys of record, and all self represented parties at their last known address indicated in the file by regular mail and place of record a certificate of mailing to all self represented parties and attorneys of record at their last known addresses of record.

#### **5.10 DISMISSAL FOR LACK OF ACTIVITY**

If a civil case has no order entered for a period of nine (9) months and has no future date, the Clerk of the Court shall notify the attorneys of record together with any person who has filed an appearance and given an address that the case will be called on a date certain at which time it will be dismissed except for good cause shown.

#### **5.15 PLEADINGS TO BE READILY COMPREHENSIBLE**

- A. If a pleading contains multiple counts or affirmative defenses, each count or defense shall bear a concise title stating the theory of liability or defense. If the pleading is filed on behalf of or against multiple parties and all such parties are not asserting the same claims or defenses as to all opposing parties, the title of each count or defense shall also concisely designate the subgroup of parties to which it pertains.
- B. If incorporation of facts by reference to another pleading or to another part of the same pleading permitted by Supreme Court Rule 134 will render a pleading not readily comprehensible, the facts shall be re-alleged verbatim.
- C. Where necessary, the Judge assigned the case may order consolidation of the pleadings into one finished comprehensible set.
- D. Nothing in Rule 5.15 shall be applied in such a manner as to abridge or conflict with the Code of Civil Procedure.

#### **5.20 MOTIONS GENERALLY**

- A. Every motion shall identify in its title or introductory paragraph the particular relief sought together with the section of the Code of Civil Procedure pursuant to which the motion is brought.
- B. Pleading motions shall not be combined with fact motions except as permitted by 735 ILCS 5/2-619.1 of the Code of Civil Procedure. Improperly combined motions may be stricken by the court without hearing.
- C. The court may decline to hear any contested Motion that has not been set for hearing by court order. This Rule does not apply to genuine emergency motions.
- D. The notice of hearing shall state the title and case number of the action, and set forth the date and time the motion will be presented and the courtroom in which it will be presented. A copy

of the motion, any papers to be presented with the motion, and proof of service shall be served with the notice.

- E. All notices shall comply with Supreme Court Ruling 11 and 12 and the following times for notice shall be observed:
  - 1. Notice by personal service shall be made by 4:00 p.m. at least two (2) court days before the scheduled hearing.
  - 2. Notice by mail shall be deposited in a U.S. Post Office at least five (5) court days before the scheduled hearing.
  - 3. Notice by fax shall be completed by 4:00 p.m. at least three (3) court days before the scheduled hearing.
- F. The burden of calling for hearing/setting any motion previously filed is on the party making the motion.
- G. Any motion not called for hearing/setting within sixty (60) days from the date it was filed may be stricken without notice. Any motion not presented or supported by the moving party when called for hearing upon notice may be denied.

### **5.25 PARTICULAR MOTIONS**

- A. All case or claim dispositive motions, other than those arising during trial, shall be filed and noticed for setting no later than 120 days before the designated trial date except by leave of court upon good cause shown.
- B. All motions for leave to file counterclaims, actions over, contribution actions and third party complaints shall be filed no later than sixty (60) days before the designated trial date. No such filing will be construed to compel the court to continue the trial date or impair the Court's authority to sever such actions.

### **5.30 CONTESTED MOTIONS**

- A. Any motion which is opposed may be heard at the end of the Court's call or at such other time designated by the Court.
- B. Any writing in support of or in opposition to a motion will be filed and served upon the opposing party.
- C. No writing in support of or in opposition to a motion will exceed ten (10) pages in length except by prior leave of court.

### **5.35 MOTIONS FOR SUBSTITUTION OF JUDGE**

- A. Motions for substitution of a judge as a matter of right in civil cases (735 ILCS 5/2-1001(a)(2)) will be filed with and heard by the judge to whom the case is assigned.
- B. Motions for substitution of a judge as a matter of right must be filed not later than sixty (60) days before the designated trial date except where the judge to whom the case was originally assigned is succeeded by another judge within sixty (60) days of trial.
- C. Motions for substitution of a judge for cause in civil cases (735 ILCS 5/2-1001(a)(3)) will be filed with the judge to whom the case is assigned, but transferred to the Presiding Judge of the

County for assignment to another judge for the sole purpose of hearing the motion to substitute for cause.

#### **5.40 MOTIONS FOR CONSOLIDATION OF CASES**

- A. Motions for consolidation of cases shall be brought on notice to all parties of record in all cases involved in the proposed consolidation.
- B. Motions for the consolidation of cases shall be brought before the judge hearing the earliest filed case.
- C. Unless good cause is shown, cases will be consolidated into the earliest filed case, and all subsequent pleadings shall use the number of that case.

#### **5.45 EMERGENCY MOTIONS AND EMERGENCY RELIEF**

- A. Designation of a matter as an “emergency” is determined to be an extraordinary measure and shall be heard at the discretion of the judge.
- B. Emergency motions will be heard by the judge assigned to the case. If the assigned judge is unavailable, then the emergency motions shall be heard by the Presiding Judge or his or her designee.
- C. The proponent of an alleged “emergency” matter shall have the initial burden of proving the emergency which burden shall include, at a minimum, the following:
  - 1. Inability to obtain an assignment on the regularly scheduled call within a reasonable time given the circumstances for which or from which relief is sought;
  - 2. Notice to the opposing party pursuant to statute; and
  - 3. That immediate and irreparable injury, loss or damage will result if the relief is not granted and that there exists no adequate remedy at law.
- D. Upon a determination by the judge that a matter does not meet the criteria for “emergency” matters, an order so finding shall be entered and the matter may be set on a regular call. A party or their attorney who responds to a motion propounded as, but found not to be, an “emergency” may be entitled to reimbursement from the movant for actual expenses, fees and costs incurred in responding to the motion.

#### **5.50 DISCOVERY GENERAL PROVISIONS**

- A. The sequence of discovery will comply with Supreme Court Rule 201. The obligation to comply with and complete discovery is not dependant on opponent’s compliance unless otherwise ordered by the Court.
- B. All discovery will be completed no later than sixty (60) days before the trial date unless otherwise authorized by the Court.

#### **5.55 MOTIONS RELATING TO DISCOVERY**

- A. Motions to Compel compliance with discovery rules or orders shall be scheduled to assure hearing prior to any date that may be affected by said motion.
- B. Motions requesting relief from discovery rules or orders shall be scheduled to assure hearing prior to any date that may be affected by said request.

C. Failure to bring timely motions may preclude relief.

#### **5.60 JURY TRIALS**

- A. In all civil jury cases, the plaintiff's attorney will prepare and submit to the Court and to each opposing party a Statement of the Nature of the Case for use at voir dire. The statement will include the time, date and location of the alleged transaction or occurrence giving rise to the lawsuit; a brief description of the alleged transaction or occurrence; the name and city of residence (or business) of each of the parties involved and of their attorneys; and a list of the names and residence communities of witnesses whom the parties expect to call. Opposing counsel may suggest amendments to the statement.
- B. Proposed stipulations for use at trial will be in writing, signed by the parties or their attorneys and filed in the cause unless the Court directs otherwise.

#### **5.65 SETTLEMENTS/JUDGMENTS: MINORS, WARDS AND DISABLED PERSONS**

- A. Attorney's fees will not be awarded or approved unless the attorney representing the claim of the minor, ward or disabled person sets forth in a separate sworn statement the following:
1. An itemization of hours expended, the work performed and the hourly rates charged; or
  2. If the fees sought are based upon a contingent fee agreement, an account of the work performed, the result realized (together with a copy of the fee agreement) and a statement justifying any amount in excess of 25% of the gross settlement amount.
- B. Any proceeds due a minor from a settlement approved hereunder shall be deposited in a restricted account in an institution approved by the Court and the voucher secured by the personal representative must contain the express language: "No withdrawals, expenditures or transfers shall be made of these monies at any time prior to (assert the date that the minor attains majority) unless same has been authorized by order of Court" or similar words.
- C. If the portion of the settlement funds due a minor, ward or disabled person is \$15,000 or less, the Court may in its discretion order the amount to be distributed by the guardian of the estate directly to the parent or guardian with whom the minor, ward or disabled person resides to be used solely for the benefit of the minor, ward or disabled person.
- D. In the event a waiver of surety on the bond of the guardian of the estate appointed hereunder is sought and granted, it shall become the personal responsibility of the attorney seeking entry of a settlement order to deposit and disburse the funds in accordance with the order and to present proof of the same. The order approving the settlement shall set out this responsibility.

#### **5.70 MOTIONS, PETITIONS AND ORDERS**

- A. All motions and petitions must be fully titled to include the relief sought. Non-form orders must be similarly titled. Orders which are agreed must so state. Any order in a pre-judgment case shall contain a future court date and time.
- B. All orders, including pre-printed form orders, shall be fully completed and must clearly state the specific relief granted. The presence or absence of the plaintiff or defendant and/or counsel appearing on their behalf must be indicated on any order presented. The name of the person preparing the order shall also appear.

- C. Neither a plaintiff nor plaintiff's counsel may represent the defendant(s). Orders presented by the plaintiff or plaintiff's counsel in absence of the defendant or defendant's counsel must be either on motion of the plaintiff or titled as agreed.
- D. Where the cases are cited to the Court in a written motion or pleading, or in oral argument, a complete and correct copy of the case shall be presented to the Court.
- E. Motions for turnover of garnished sums or withheld wages must be presented to the Court on notice to the judgment debtor and the garnishee or employer.
- F. All matters which are set or continued for hearing shall be individually listed in the Order setting the matter for hearing. Orders which provide for hearing on "all pending matters" or similar language may be stricken by the judge without hearing.

#### **5.75 SMALL CLAIMS: DISCOVERY; FILING OF COUNTERCLAIMS, CROSS CLAIMS, INTERVENOR SUITS AND THIRD PARTY COMPLAINTS**

- A. Where discovery is a matter or right or where a party has been granted leave to engage in discovery pursuant to Supreme Court Rule 287, such discovery shall be completed at least fifteen (15) days prior to trial.
- B. No counterclaim, crossclaims, intervenor suits or third party complaints may be filed less than thirty (30) days prior to trial, except upon order of court and for good cause shown.

#### **5.80 CONTINUANCES**

- A. There shall be no telephone continuances.
- B. No motion shall be continued for a period greater than ninety (90) days except for good cause shown.
- C. Trials will not be continued except upon motion brought in advance of the trial date and then only for good cause shown;
- D. Cases settled in advance of the time set for trial may be continued by agreement for thirty (30) days for the entry of judgment or dismissal. One or both parties or counsel representing them must appear before the Court to obtain such continuance. All matters so continued shall be scheduled for a date approved by the judge. Orders granting such a continuance must include language striking the case from the call on the date set for trial. The failure to present an order of judgment or dismissal on the continuance date will result in dismissal.

#### **5.85 SERVICE OF SUMMONS, CITATIONS**

On the return of an initial summons or citation to discover assets, if service of process has not been had on the named defendant(s) or citation respondent(s), the plaintiff or plaintiff's counsel must appear and submit an order continuing the matter for a date certain and thereupon an alias summons or citation may issue. If the plaintiff or plaintiff's counsel fails to appear, the matter may be dismissed.

#### **5.90 CITATIONS TO DISCOVER ASSETS**

- A. In addition to the requirements set forth in 735 ILCS 5/2-1402 of the Code of Civil Procedure and Illinois Supreme Court Rule 277, the following Rules of Court are hereby established concerning citation proceedings:

1. If the citation respondent appears on the return date, he shall be sworn and examined subject to the discretion of the Court. Upon completion of the examination, an order shall be entered dismissing the citation, unless the Court determines that it is necessary to continue the citation. Orders continuing a citation must set forth specifically the reason for the continuance and what is required to complete the citation. Continuances merely to permit a judgment debtor to complete an installment payment schedule or otherwise satisfy the judgment will not be allowed.
2. If the citation respondent, having been duly served, fails to appear on the return date, a rule to show cause shall issue. No continuances in lieu of a rule will be granted, except where the court determines it necessary to do so to protect the rights and interests of all parties to the proceedings.
3. Orders compelling respondent to make installment payments to be applied to the judgment must provide that the underlying citation is dismissed. Rules to show cause for the failure to comply with the terms of such a payment order shall issue only upon petition.

#### **5.95 RULES TO SHOW CAUSE, ORDERS FOR BODY ATTACHMENT**

- A. Writs and Rules to Show Cause must be continued to a date certain within six (6) months .
- B. Any Order for Body Attachment shall include, at a minimum, the subject's full name, race, gender and date of birth, as well as any known physical description
- C. Where a rule or body attachment is returned unserved:
  1. The first alias shall be returnable approximately thirty (30) days from the date of issuance. The second alias shall be returnable approximately sixty (60) days from the date of issuance. The third alias shall be returnable approximately ninety (90) days from the date of issuance.
  2. If the third alias is returned unserved, the supplementary proceeding will be dismissed with leave to reinstate upon showing that service can likely be obtained.

# **ARTICLE 6**

## **DOMESTIC RELATIONS PROCEEDINGS**

### **6.0 DEFINITIONS**

- A. The Local Rules set forth in this Article are promulgated in accordance with the authority conferred in section 802 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/802) and the Code of Civil Procedure (735 ILCS 5/1 *et seq.*).
- B. For purposes of the Local Rules under this Section, a Family Court case is defined as any proceeding arising under the provisions of 750 ILCS 5/101 *et seq.*, which seeks an order or judgment relating to dissolution of marriage/civil union, declaration of invalidity of marriage/civil union or legal separation, and parentage, including proceedings relating to matters of temporary and permanent support and maintenance, allocation of parental responsibilities and parenting time, Orders of Ne Exeat, or applicable petitions for orders of protection.

### **6.05 MARRIAGE**

- A. A petition for an order directing the County Clerk to issue a marriage license as provided in 750 ILCS 5/201 *et seq.* shall be on one of the forms provided by the Clerk, or in a format substantially similar to it.
- B. An order granting such petition may be entered on the form provided by the Clerk, or in a format substantially similar to it.
- C. The issuance of a marriage license by the County Clerk shall be prima facie evidence of compliance with the statute and may be relied upon by any judge assigned to perform a marriage ceremony.

### **6.10 SETTING OF CASES ON COURT CALLS**

- A. All pre-decree motions, including temporary support motions, as well as all post-decree actions, shall be heard by the judge assigned to the Family Court call.
- B. Pretrial and trial dates must be obtained from the assigned judge. Hearings which will last less than fifteen (15) minutes may be set on any date when court is in session at 9:00 a.m., subject to approval of the assigned judge. Contested motions or hearings which will last more than fifteen (15) minutes shall be scheduled with the assigned judge's approval.
- C. All pending pre-decree cases, and all post-decree cases where the reallocation of parental responsibilities is at issue, must be given future court dates.
- D. All matters which are set or continued for hearing shall be individually listed in the Order setting the matter for hearing. Orders which provide for hearing on "all pending matters" or similar language may be stricken by the judge without hearing.

- E. Whenever possible and appropriate, all allocation of parental responsibilities and/or parenting time proceedings relating to an individual child shall be conducted by a single judge. Upon written petition before the assigned trial judge in any action for dissolution of marriage or civil union, legal separation, paternity, probate, or guardianship, where allocation of parental responsibilities and/or parenting time of a minor child is at issue, and after personal consultation between the Family Court judge and the assigned judge in the other proceeding, the case shall be transferred for consolidation and disposition with the Family Court case. In any case pending in the Family Court involving the allocation of parental responsibilities and/or parenting time with a minor child, who is also the subject of a Juvenile Court case, the Family Court judge may stay all or part of the proceedings pending the outcome of the Juvenile Court case.

#### **6.15 ORDERS OF PROTECTION, CIVIL NO CONTACT ORDERS, & NO STALKING ORDERS**

- A. Petitions for Emergency Orders of Protection/Civil No Contact Orders/No Stalking Orders brought in cases assigned to the Family Court shall be heard by the judge assigned to the existing Family Court case, or such other judge as may be designated by the Presiding Judge. Petitions for Emergency Orders shall be given priority and need not be scheduled on the motion call.
- B. All independent civil actions, not brought as part of a dissolution or criminal proceeding, and requests for interim or plenary orders, shall be heard by the judge assigned to the Order of Protection call, or to such other judge as the Presiding Judge shall designate.
- C. All Petitions for Emergency Orders brought in cases assigned to the Criminal Courts shall be heard by the judge assigned to the Criminal Court case, or such other judge as may be designated by the Presiding Judge.
- D. All Petitions, Findings and Orders of Protection shall be made on approved forms. If there is insufficient space on the forms, an attachment shall be used as a rider to the approved forms.

#### **6.20 RULE TO SHOW CAUSE**

- A. No Rule to Show Cause shall issue except upon proper notice and motion except for good cause shown by verified pleading. Petitions for Rule to Show Cause shall be handled as uncontested, non-scheduled matters, and there shall be no evidentiary hearing at the time of issuance. Accordingly, the burden of proof shall not shift to the respondent upon the issuance of the rule.
- B. Rules shall be returnable not less than fourteen (14) days nor more than thirty (30) days from the date of issuance, unless otherwise ordered by the court.

#### **6.25 AFFIDAVITS RELATING TO INCOME AND EXPENSES**

- A. Every pleading seeking to establish or otherwise affect issues of support or maintenance, whether temporary or permanent in nature shall be accompanied by an Affidavit as to Income and Expenses on a form which is available from the Circuit Court Clerk, or in a format containing the same information.
- B. Said affidavit shall be attached to and filed with the initial and responsive pleadings. No affidavit prepared more than sixty (60) days before the date of hearing or pretrial shall be considered valid for purposes of that proceeding unless accompanied by a new affidavit stating

that the party offering it represents there has been no substantial change in any of the information since the last affidavit.

- C. References in any pleading or order to an “Expense Affidavit” or “Income Affidavit” shall be presumed to refer to the document described herein.
- D. Failure by either party to submit the affidavit required hereunder shall be cause for sanctions as the court may deem appropriate including but not limited to the striking of the pleadings of the party not in compliance.
- E. Prior to the date of the hearing on any pleading filed under paragraph A, the party filing the affidavit shall supplement the affidavit by attaching the affiant’s four (4) most recent pay stubs, or other written evidence of recent earnings from all sources for a period of not less than two (2) months preceding the date of the hearing.

### **6.30 PROVE-UPS**

- A. After default on personal service, five (5) days written notice of intent to appear for prove-up shall be given to the respondent at the address where the respondent was served with summons or at the last known residence of the respondent and certificate of such service shall be filed at or prior to the prove-up.
- B. Whenever it shall appear from the record or the testimony that there has been some communication and/or agreement between the parties concerning support, allocation of parental responsibilities and/or parenting time, or other material issues, then in such event both parties should appear in open court at the time of the prove-up to acknowledge their agreement. The judge may excuse the presence of the respondent. If the non-moving party fails to appear at the prove-up, the movant or his or her attorney shall serve a copy of the judgment on such party by mail within ten (10) days from the entry of said judgment and shall file a proof of service with the Circuit Court Clerk.
- C. No Family Court case will be heard upon its merits earlier than the summons return date or thirty (30) days from the date of filing of a response and/or appearance without issuance and service of summons. The parties may waive in open court or in writing the thirty (30) day waiting period.
- D. It shall be the responsibility of the person seeking to affect the marital status, or his or her attorney, to present to the prove-up judge, in a single package, prior to the commencement of testimony, the documents described in Section 6.30 H below.
- E. Court reporter fees shall be paid in full at the time of hearing, unless waived by the judge. An arrangement for the payment of said fees is the responsibility of the attorney representing the party seeking dissolution. Failure to make prompt payment may result in sanctions against said attorney or party. No transcript will be produced until the transcript fee is paid, unless previously waived by the judge, pursuant to a finding of indigency.
- F. Matters which are not on the regularly scheduled “prove-up” call, but which are settled and treated as a “prove-up” (such as following a settlement conference or pretrial conference) shall be subject to all of the foregoing rules.
- G. Prove-ups shall be scheduled by the Court Administrator or by the judge.

H. Documents required hereunder shall be presented at the time a prove-up date is assigned by the Court Administrator or on or before such date as the Court may order:

1. Fully completed Certificate of Dissolution of Marriage, Invalidity or Legal Separation;
2. Judgment Order;
3. Marital/Civil Union Settlement Agreement;
4. Allocation of Parental Responsibilities (if applicable);
5. Certificate of Completion of Parenting Class (if Parties have minor children);
6. Order of Support (if applicable);
7. Withholding Order (if applicable);
8. QDRO/QILDRO (if applicable);
9. Certificate of Readiness and Order, signed by the Parties and/or counsel.

I. No prove-up may be scheduled without the submission of the foregoing documents, in completed form and signed by the Parties, where applicable. Upon submission of the required documents, the Court Administrator will assign a Prove-up date on the Certificate of Readiness and Order and will present same to a judge for signature signed by a Party (the Parties) and/or counsel. A signature on a Certificate of Readiness constitutes an affirmation to the Court that all matters in controversy have been settled. Presentation of a Certificate of Readiness in violation of this rule may result in sanctions.

J. Failure to comply with the foregoing paragraphs may result in the case being dismissed without prejudice.

### **6.35 REINSTATEMENT**

Reinstatement of a Petition for Dissolution of Marriage may be had within one (1) year from the date of dismissal, if the petitioner files an appropriate notice and motion and pays the required reinstatement fee. The reinstatement fee may be waived by the judge upon a showing of good cause.

### **6.40 MAINTENANCE OR SUPPORT PAYMENTS**

- A. Maintenance or support payments shall be made pursuant to a Support Order using the form available from the Circuit Court Clerk.
- B. Support Orders shall be reviewed and approved as to form by the Circuit Court Clerk before the presentation to the judge.

### **6.45 DISCOVERY RULES IN FAMILY LAW CASES**

A. Section 6.45 shall apply to dissolution of marriage/civil union proceedings and legal separation proceedings unless compliance is excused by order of the judge or on motion of a party for good cause shown. The Rule may further apply to actions to establish or declare parentage and to post-decree proceedings for modification or termination of maintenance; modification of child support; education contributions; contribution to medical, dental or psychological expenses; insurance expenses or reimbursement; and all other pleadings raising financial issues; but the Rules shall apply in these cases only upon order of court on motion of

either party or on the judge's own motion. These discovery rules do not apply to Joint Simplified Dissolution (750 ILCS 5/451 *et seq.*) or to *precipae* for summons.

- B. Within thirty (30) days of the filing of the defendant's general appearance or responsive pleading in any family law case, each party shall serve upon all parties entitled to notice the completed Comprehensive Financial Statement in the form established by these Rules and each party shall file with the Circuit Court Clerk within seven (7) days thereafter proof of service, certifying that the Comprehensive Financial Statement has been completed and setting forth the date on which the completed Comprehensive Financial Statement was served upon the opposing party. The Comprehensive Financial Statement shall not be filed with the Circuit Court Clerk.
- C. If a party is unable to complete any portion of the required Comprehensive Financial Statement, he shall indicate his inability to do so by indicating an "Unknown" as to each specific item and shall so certify on the last page of the Comprehensive Financial Statement pursuant to 735 ILCS 5/1-109. The parties are required to make every reasonable effort to obtain the information required and, neither party shall withhold records in his control relating to the information sought.
- D. All statements of income, assets and debts set forth in the Comprehensive Financial Statement shall be corroborated by written documents to be attached to and made part of the Comprehensive Financial Statement, whenever a party has such documentation, or whenever a party can obtain such documentation upon reasonable effort from other sources.
- E. It is the duty of each party and each party's attorney to timely supplement the Comprehensive Financial Statement.
- F. No party shall be entitled to serve any requests for discovery on a party until that party has filed the Comprehensive Financial Statement with all corroborating documents.
- G. Exhibits, prior orders, or prior pleadings SHALL NOT be attached and filed with the Circuit Clerk unless otherwise required by law, rule, or by leave of Court. Violations of this rule may result in sanctions, including reasonable costs or fees associated with enforcement of this rule and/or, in appropriate cases, the barring of the particular attachment.

#### **6.50 PRETRIAL/ SETTLEMENT CONFERENCES**

- A. All cases, including post-decree cases, shall be set for pretrial conference before being set for trial.
- B. The judge may require a pretrial memorandum to be submitted by each party, containing such information as the judge may specify. The pretrial memorandum, supplemented by a current Affidavit of Income and Expenses, as required by Section 6.25 shall be served upon opposing counsel, or party, and a courtesy copy sent to the assigned judge, no later than five (5) days prior to the scheduled settlement conference.
- C. If approved by the Court for good cause shown, cases settled at a settlement conference may proceed to prove-up based on an oral agreement provided it is subject to subsequent filing of a judgment incorporating all the terms of the Agreement.
- D. If either party or his attorney fails to appear at a pre-trial/settlement conference, the Court may impose reasonable sanctions on the party and/or the attorney.

## **6.55 SETTING OF TRIALS**

- A. Any Order setting the matter for trial shall include a schedule for any further discovery as well as for compliance with Supreme Court Rules.
- B. Cases set for trial shall not be continued except for statutory cause shown, pursuant to notice, written motion, affidavit, and order of the trial judge.
- C. Counsel shall provide copies of the following information to opposing counsel at least fourteen (14) days prior to commencement of trial:
  - 1. Affidavit of Income and Expenses;
  - 2. A list of anticipated exhibits and witnesses; and
  - 3. A statement of contested issues.
- D. If a prove-up or trial date has been set and the petitioner or his attorney fails to appear, the cause may be dismissed for want of prosecution and appropriate sanctions may be imposed.
- E. If a trial date has been set and the respondent fails to appear, a finding of default may enter and appropriate sanctions may be imposed for failure to appear. If respondent appears but his attorney fails to appear, no default will enter against the respondent, but sanctions may be imposed for the attorney's failure to appear.
- F. If a case set for trial or pretrial is proved-up prior to the date set, Petitioner, or Petitioner's attorney, shall promptly notify the trial judge.

## **6.60 FAMILY MEDIATION PROGRAM**

### **A. Definitions.**

- 1. "Mediation" is a cooperative process for resolving conflict with the assistance of a trained, neutral third party, whose role is to facilitate communication, to assist the parties in identifying issues needing to be resolved, to explore options, to negotiate acceptable solutions, and to assist in reaching agreement on the issues. Fundamental to the mediation process described herein are principles of cooperation, informality, privacy, confidentiality, self determination, and full disclosure by the parties of relevant information. Mediation under this rule is a means for parties to maintain control of parenting decisions, by resolving for themselves the issues of allocation of parental responsibility, parenting time, relocation, and other non-financial children's issues. Parties are encouraged to participate in the mediation process by attempting good faith negotiation and resolution of the issues brought to mediation. Mediation under this rule is not to be considered a substitute for independent legal advice. Instead, it is designed to work in partnership with the attorneys and the legal process, by giving the parties the ability to be fully informed of options for resolution of their issues, which would include obtaining legal advice before, during, and after the mediation process.
- 2. "Impediment to mediation" means any condition, including but not limited to domestic violence or intimidation, substance abuse, child abuse, mental illness or a cognitive

impairment, which hinders the ability of a party to negotiate safely, competently, and in good faith. Pursuant to these rules, the identification of impediments in a case is necessary to determine if mediation should be required, and to insure that only parties having a present, undiminished ability to negotiate are required to participate in mediation.

- B. Subject Matter of Mediation. Court required mediation will be limited to disputes involving children, or other non-economic issues relating to the child(ren), either prior to dissolution of a marriage or post-judgment. Mediation may be ordered by the judge for resolving allocation of parental responsibility, parenting time, relocation, or other family law issues such as economic issues only if the parties and their attorneys agree. For mediation of these other issues, the judge shall take into account the qualifications and professional background of the individual mediator appointed.
- C. Prerequisite to Mediation. For any county having an established parent education program, the parties referred to mediation by the judge shall complete the parent education program prior to starting mediation or as soon after starting mediation. The mediator shall screen for the identification of cases that may be deemed as inappropriate for mediation under this rule.
- D. Qualifications and Requirements of Dissolution Mediators.
  - 1. Any person who meets the following criteria is eligible to serve as a mediator for the purposes of this rule:
    - a. The applicant has satisfactorily completed a 40 hour divorce mediation training program, approved by the Presiding Judge. In addition, the applicant must have completed training specific to domestic violence, child abuse, substance abuse, and mental illness, which gives the applicant an understanding of the issues related to these impairments and one's ability to negotiate effectively when impacted by one or more of these impairments.
    - b. The applicant has been awarded a degree in law or a graduate degree in a field that includes the study of psychiatry, psychology, social work, human development, family counseling, or other behavioral science substantially related to marriage and family interpersonal relationships, or a related field otherwise approved by the Presiding Judge of each county, or his/her designee.
    - c. Member in good standing in the professional organizations of his/her respective disciplines.
    - d. The applicant shows proof of professional liability insurance which covers the mediation process.
    - e. The applicant has a minimum of two years of work experience in their discipline or profession, or otherwise supervised by a qualified mediator.
  - 2. All persons meeting the requirements above who are interested in acting as a Court appointed mediator shall provide proof by way of affidavit which is supported by documentation of the aforesaid requirements to the Presiding Judge of each county, or the person designated to receive such material in each county.

3. A periodic list shall be prepared by the Court Administrator of each county, or the person designated by the Presiding Judge to keep such list in each county.
4. A mediator shall participate in six (6) hours of continuing education every two (2) years from programs approved by the judge, relating to family law and/or mediation, and be personally responsible for ongoing professional growth. A mediator is encouraged to join with other mediators and members of related professions to promote mutual professional development.
5. The court mediators may be required from time to time to attend specific training offered or sponsored by the Family Mediation Program, the Bar Associations or other individuals or organizations.
6. A mediator's request to be placed on the Court approved list constitutes an agreement to mediate two (2) pro bono cases, per year, as identified by the judge, within the 23rd Judicial Circuit.

#### E. Referral Procedure.

1. Upon the judge's order for the parties to participate in mediation, a mediator shall be assigned in accordance with the procedures pursuant to these rules from the list of qualified mediators prepared and kept by the Court Administrator or the person designated to prepare said list, and a sixty (60) day hearing date shall be set for the status of the mediation process.
2. Judges assigned cases with allocation of parental responsibilities, parenting time, or relocation issues may make then necessary findings to order mediation. The judge may also 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 low income case or pro bono assignment.
3. Parties are not obligated to participate in the mediation process until ordered by the judge or agreed to by the parties. The attorneys shall encourage their clients to mediate in good faith, and the parties shall participate in mediation in good faith. After entry of a mediation order by the judge, the absence of a party at a mediation session or the lack of a party's participation in the mediation process may result in sanctions, including reasonable costs to the other party for mediation and/or attorney's fees.
4. If the mediator appointed has any conflict of interest, another mediator shall be appointed by the court from the list. If the mediator appointed on a designated low income case has already met his/her annual requirement for mediating low-income cases or pro bono cases and cannot or does not wish to take another, and informs the judge, the judge shall appoint another mediator that has not reached the required quota or is willing to take such cases in excess of two (2) cases per year. The Court Administrator of each county, or another designated person, shall keep a record of low income or pro bono cases assigned to each mediator, to ensure fair distribution of these cases to all mediators.
5. By the status date, the mediator shall submit a report to the judge and the parties' attorneys, in the form of a Mediator Report, notifying the judge and the attorneys of information listed in this rule under sub-section k, herein.

## F. Conflict of Interest

1. Generally. In order to avoid the appearance of impropriety, a mediator who has represented or has had a professional relationship with either party prior to the mediation may not mediate the dispute unless the prior relationship is fully disclosed to both parties and each party consents in writing to the participation of the mediator notwithstanding the prior relationship. A mediator who is a mental health professional shall not provide counseling or therapy to the parties during the mediation process. 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.
2. Imputed Disqualifications. No mediator associated with a law firm or a counseling agency shall mediate a dispute when the mediator knows or reasonably should know that another attorney or counselor associated with that firm or agency would be prohibited from undertaking the mediation.
3. Exception. A therapist-mediator, who would otherwise be disqualified from mediation as a result of imputed disqualification, may undertake the mediation only under the following circumstances:
  - a. There has been full disclosure to both parties about the conflict of interest and the imputed disqualification of the mediator, including the extent to which information is shared by personnel within the agency; and
  - b. Both parties consent to the mediation in writing.

G. Exclusionary Rule. The mediator shall be barred from testimony as to confidential mediation issues, and mediation records shall not be subpoenaed in any proceeding except by leave of the judge for good cause shown.

H. Orientation Schedule. At the orientation session, a mediator shall inform the parties of the following:

1. Neither therapy nor marriage counseling are part of the mediator's function.
2. No legal advice will be given by the mediator
3. An attorney-mediator will not act as an attorney for either or both parties and no attorney-client relationship nor attorney-client privilege will apply.
4. The rules pertaining to confidentiality, as outlined in sub paragraph G above.
5. The basis for termination of mediation, as outlined in sub paragraph J below.
6. The proposed resolution of the mediated issues will be documented in a written summary. This summary will form the basis of the formal mediated agreement presented to the judge for approval.
7. Each party shall be strongly encouraged to obtain independent legal counsel to assist and advise him/her throughout the mediation.
8. Legal counsel for either party will not be present at any mediation session without the agreement of the parties and the mediator.

I. The Mediation Process. At the initial session the mediator shall provide the parties with a written agreement outlining the guidelines under which mediation shall occur and the expectations of the parties and mediator. This initial agreement shall include at a minimum, all of the foregoing information in sub paragraph H. Either or both of the parties shall be permitted to consult their respective legal counsel before executing this agreement. The mediator shall assess the ability and willingness of the parties to mediate at the orientation session and throughout the process, and shall advise the parties in the event the case is inappropriate for mediation.

J. Termination of Mediation. The parties shall attend mediation until such time as they shall reach an agreement on the issues or the mediator or the judge suspends or terminates mediation. The mediator shall immediately advise the judge in writing if he/she suspends or terminates mediation or in the event that either or both parties fail to comply with the terms of this paragraph.

K. Mediation Report.

A mediator may not make a report, assessment, evaluation, recommendation, finding or other communication regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation, except as to communications which are not privileged pursuant to 710 ILCS 35/6. A mediator may disclose:

1. Whether a settlement was reached, and attendance;
2. A mediation communication as permitted under 710 ILCS 35/6;
3. A mediation communication evidencing abuse, neglect, abandonment, or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment.

L. Discovery. Only written discovery shall be allowed until mediation is terminated by order of the judge.

M. Payment of Fees. The mediator shall charge an hourly fee to the parties as set by the Presiding Judge of each county, to be shared equally by the parties, unless the judge directs otherwise in an order or otherwise agreed by the parties. This hourly fee shall be paid to the mediator at the time of each session for the time spent in mediation at the session. Along with the hourly fee, the mediator may request an advance deposit of \$300.00 to be paid at the first session. Such deposit may be applied to services rendered by the mediator outside of the mediation session, such as telephone conferences, correspondence, consultation with attorneys or other individuals, preparation of the Mediator Report, and any other work performed by the mediator on behalf of the parties. Any additional fees that exceed the deposit or the fees collected at the time of sessions for services rendered by the mediator shall be paid as required by the mediator. In the event payments are not made as required under this rule, or otherwise agreed to by the mediator and the parties, the mediation process may be suspended by the mediator pending compliance.

## **6.65 MANDATORY PARENT EDUCATION PROGRAM**

A. The 23rd Judicial Circuit has approved a mandatory parent education program. In all cases involving allocation of parental responsibilities, parenting time, or relocation, the parties shall

be personally required to attend an approved parent education program by the date of the initial case management conference and prior to entry of a final judgment disposing of the case.

- B. Each party's attendance and completion of the parent education program is mandatory and the judge shall not excuse attendance unless the reason is documented in the record and a finding is made that excusing one or both parents from attendance is in the best interests of the children.
- C. The program fees for attendance by the parties shall be set by the Presiding Judge of each county.
- D. If a party fails to attend and complete the parent education program by the date of the initial case management conference, that party shall be charged a \$50.00 sanction which shall be collected by the Circuit Clerk, prior to scheduling the prove up.

#### **6.70 GUARDIAN AD LITEM, ATTORNEY FOR CHILDREN, AND CHILD'S REPRESENTATIVE**

- A. The Court Administrator for each county shall maintain a list of approved attorneys qualified to be appointed in allocation of parental responsibilities and parenting time matters covered under Section IX of the Supreme Court Rules as Guardian *ad Litem*, Child Representative, or Attorney for Children.
- B. In order to qualify for the approved list, each applicant for the list shall meet the requirements as established in Supreme Court Rules 906, 907, and 908, and shall comply with the following rules:
  - 1. Each attorney must be a licensed attorney for a minimum of three (3) years (or be an associate with a firm which has a qualified attorney practice), must be experienced in the practice of Family Law, must maintain professional liability insurance coverage and must be trained in the representation of children.
  - 2. An attorney who wishes to be considered for appointment as Attorney for a Child, Guardian *ad Litem*, or Child's Representative for allocation of parental responsibilities, parenting time or relocation in Family Court shall make application to the Presiding Judge of each county. The Court Administrator for each county shall send a notice to renew on or before April 1 of each year. An attorney's renewal shall be made on or before May 30 of each year.
- C. In the event that the judge deems it is in the best interests of the child or children to have a Guardian *ad Litem*, Child's Representative or an Attorney for the Children appointed in a proceeding under Article IX of the Supreme Court Rules, but finds that the parties are both indigent, the judge may appoint an attorney from the approved list to serve pro bono. Each attorney on the approved list shall be required to accept one (1) pro bono appointment each calendar year in the 23rd Circuit.
- D. In appointing an Attorney for a Child, Guardian *ad Litem* or Child's Representative for a child, the judge shall consider the experience of the attorney, the complexity and factual circumstances of the case, the recommendations or agreements of the parties, and the geographic location of the child's residence, the parties' residences, and the office location of the Attorney for the Child, the Guardian *ad Litem* or Child's Representative.

- E. An Attorney for a Child, Guardian *ad Litem* or Child's 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 in the same case. The Child's Representative shall not serve as the Attorney for the child or the Guardian *ad Litem* in the same case.
- F. Whenever a judge appoints a Child's Representative or a Guardian *ad Litem*, the appointment order shall specify the tasks expected of the Child's 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 Child's Representative.
- G. All Attorneys for the Child, Guardian *ad Litem* and Child's Representative appointments shall be made pursuant to a standardized appointment order. In the appointment order, the judge shall order the parties to pay retainer amounts to the Attorney for the Child, Guardian *ad Litem* or the Child's Representative by a date certain. The Attorney for the Child, Guardian *ad Litem* or the Child's Representative shall submit statements to litigants for services rendered within 90 days of his or her appointment, and every subsequent 90 day period thereafter during the course of his or her appointment. Unless otherwise determined by the judge upon good cause show, both parties shall be jointly and severally liable for the fees and costs of the Attorney for the Child, Guardian *ad Litem* and/or the Child's Representative.
- H. The Attorney for the Child, Guardian *ad Litem* or Child's Representative shall, upon retention, file an appearance. The Attorney for the Child, Guardian *ad Litem* or Child's Representative shall be provided copies of all court orders and pleadings. The Attorney for the Child, Guardian *ad Litem* or Child's Representative shall be notified of all court appearances and conferences with the judge and appear unless excused by the judge or by agreement of the parties including the Attorney for the Child, Guardian *ad Litem*, or Child's Representative. Failure to give proper notice to the Attorney for the Child, Guardian *ad Litem* or Child's Representative may result in sanctions including, but not limited to, the vacating of any resulting court order or judgment. There will be no fee for the filing of an Appearance as a court-appointed Attorney for the Child, Guardian *ad Litem* or Child's Representative.
- I. Absent leave of court, the parties' attorneys shall not interview the child(ren) without the prior consent of the Guardian *ad Litem*. Either the Attorney for the Child, Guardian *ad Litem* or Child's Representative, or any of them, shall have the right to be present during any such interview.
- J. The Attorney for the Child, Guardian *ad Litem*, and Child's Representative should all take measures to protect the child from harm that may be incurred as a result of the litigation by striving to expedite the proceedings and encouraging settlement in order to reduce trauma that can be caused by litigation.
- K. Unless previously discharged, the judge shall discharge the Attorney for the Child, the Guardian *ad Litem* and the Child's Representative at the conclusion of the performance of his duties as ordered pursuant to subparagraphs F and G, 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 Child's Representative.
- L. At the discretion of the judge, the Guardian *ad Litem* shall submit a written or oral report(s) by a date certain designated by the judge. If the Guardian *ad Litem* submits a written report, it shall be impounded by the Circuit Clerk and shall not be open to viewing by the public.
- M. The attorney for the child shall at all times act as the advocate for the child.

N. Standards relating to Guardians *ad Litem*

1. During the pretrial stage of a case, the Guardian *ad Litem* should use appropriate procedures to elicit facts which the judge should consider in deciding the case. The Guardian *ad Litem* shall obtain leave of judge to instigate depositions and to file pleadings.
2. At a trial or hearing, the Guardian *ad Litem* shall make the judge aware of all facts which the judge should consider.
3. The Guardian *ad Litem* may be duly sworn as a witness and be subject to examination by all parties.
4. At the discretion of the judge, the Guardian *ad Litem* may be allowed to call and examine witnesses at trial.

O. The Child's Representative shall at all times act in accordance with 750 ILCS 5/506 *et seq.*

**6.75 EVALUATION FOR ALLOCATION OF PARENTAL RESPONSIBILITY**

A. Authorization. Pursuant to the Court's inherent powers to protect and act in the best interests of the children under the Illinois Marriage and Dissolution Act, the Court may order an evaluation of the parties in any pre or post-decree contested issue of allocation of parental responsibilities, parenting time, relocation or any other non-economic issue. Such Court ordered evaluations are authorized under the following provisions:

1.750 ILCS 5/604.10(b);

2.750 ILCS 5/604.10(c);

3.750 ILCS 5/602.5;

4.750 ILCS 5/602.7;

5.750 ILCS5/602.8; and any other statutes as may be added or amended in time.

B. Establishment of 604.10 Witness Certification. The 23rd Judicial Circuit may establish a 604(b) Witness List of certified custody evaluators, each of whom may be appointed from time to time to serve in the Court ordered 604.10(b) witness program, under the direction and at the discretion of the Presiding Judge of each county. All 604.10(b) evaluators shall be subject to the following rules.

1. Applicants. Applicants for the program must file the required application with supporting documentation and meet the following minimum criteria:
  - a. Academic. Applicants must possess one of the following degrees or licenses in current good standing: Ph.D; Psy.D; LCSW; LCPC; MD; Master's Degree in a mental health field; and possess the requisite active practice licenses required by the State of Illinois;
  - b. Professional. Applicants must have completed five (5) years of post licensure practice. Practice must include education or training in the following areas of

child welfare: child development, domestic violence, physical/sexual abuse, and substance abuse;

- c. Applicants must have the availability to conduct evaluations within a reasonable distance of DeKalb or Kendall County;
- d. Experience. Post licensure practice must include no less than two (2) years experience in two (2) or more of the following areas: families in distress, child or family experience and domestic violence; and
- e. Applicants must be available to accept one (1) pro bono assignment annually.

## 2. Certification.

- a. The roster of 604.10(b) evaluators shall be maintained by Court Administrator of each county. The Presiding Judge of each county or his designee shall review each application to determine if the applicants possess the required educational background and experience to qualify as an Evaluator for Allocation of Parental Responsibility.
- b. An approved Evaluator has the affirmative duty to inform the Presiding Judge of each county of any change in their licensure or any formal discipline. Continued certification as an Evaluator for Allocation of Parental Responsibility is at the discretion of the Presiding Judge of each county, which may include but is not limited to a review of compliance with rules for evaluations as well as timeliness of reports.
- c. The Presiding Judge of each county has the discretion to remove an Evaluator from the approved list at any time.

## 3. Procedure

The 23rd Judicial Circuit shall develop and maintain a standard 604.10(b) Witness Appointment Order. Said order shall specify the issues or questions upon which the expert opinion is sought; and shall address the statutory factors set forth in Section 602; and contain a section directing the evaluator to perform specific acts, including (or excluding) but not limited to: tests, collateral interviews, certain investigative actions, and the like.

# ARTICLE 7

## JUVENILE PROCEEDINGS

### 7.0 PURPOSE AND POLICY

These rules set forth procedures for the Juvenile Court in the 23rd Judicial Circuit. They supplement the Juvenile Court Act (705 ILCS 405/1-1 et seq.), the Code of Civil Procedure (735 ILCS 5/1-101 et seq.) and the Rules of the Illinois Supreme Court. They are designed to facilitate the movement of cases through the Court by reducing unnecessary delay, strengthening caseflow management, and encouraging involvement of parents and other parties so as to ensure the best interests of the children are protected.

### 7.05 JUVENILE COURT JUDGES

The Presiding Judges in DeKalb and Kendall Counties shall designate a judge to hear juvenile matters in their respective county. All Juvenile Court matters, including both shelter care and detention hearings, shall be heard by the assigned judge, or by any judge sitting in his or her stead. The judge entering the adjudicatory order shall, whenever possible, conduct the dispositional hearing.

### 7.10 INTERSTATE COMPACT ON JUVENILES

All requests for return of a minor pursuant to the Interstate Compact on Juvenile Act (45 ILCS 10/0.01 *et seq.*) requiring court approval shall be heard by the assigned judge or by any judge sitting in his stead.

### 7.15 APPOINTMENT OF COUNSEL

- A. If any Respondent in a juvenile court action qualifies for counsel by Statute or the Rules for court appointed counsel, the Public Defender shall be first appointed.
- B. If any other Respondent qualifies for court-appointed counsel and a conflict exists, conflict counsel shall be appointed.

### 7.20 SCHEDULING

All court dates shall be obtained by or as directed by the assigned judge, or by any judge sitting in his stead

### 7.25 SECURE CUSTODY AND DETENTION OF MINORS

A minor determined to require secure detention pursuant to 705 ILCS 5-410(2) shall be detained in the Kane County Juvenile Justice Center unless otherwise directed by court order.

### 7.30 DISCOVERY

In all cases involving juvenile abuse and dependency:

- A. Discovery with leave of Court. All provisions for civil discovery set out in the Supreme Court Rules are applicable only with leave of Court for good cause shown.

B. Exchange of Information without leave of court. Parties may voluntarily exchange information upon reasonable written requests for information, documents, records, list of witnesses or evidence available for inspection without leave of Court.

C. All attorneys and respondents shall comply with the rules of confidentiality and accessibility of juvenile court records as set forth at 705 ILCS 405/1-8.

### **7.35 DISCOVERY**

In all cases involving Juvenile delinquency:

A. Discovery shall be governed by Illinois Supreme Court Rules 412 (Disclosure to Accused) and 413 (Disclosure to Prosecution).

# **ARTICLE 8**

## **CRIMINAL PROCEEDINGS**

### **8.0 APPLICABILITY OF RULES**

Except where clearly indicated otherwise, the rules contained in this Section shall be applicable to all cases assigned to the Criminal and Traffic Courts.

### **8.05 COURTROOMS AND CASE ASSIGNMENTS**

A. Courtroom assignments within the Criminal and Traffic Courts shall be regulated by Administrative/General Order issued by the Presiding Judge of each county.

B. Motions for Substitution of Judge:

1. If a motion for substitution of judge is granted, the case shall be transferred to the Presiding Judge of the county for reassignment. If the Presiding Judge is named in the motion, the case shall be transferred to the next most senior Circuit Judge of that county for reassignment.
2. A motion for substitution for cause shall be transferred to the Presiding Judge of that county to be assigned for hearing. If the Presiding Judge is named in the motion, the case shall be transferred to the next most senior Circuit Judge of that county for assignment for hearing.

### **8.10 CONSOLIDATION OF OFFENSES**

When a misdemeanor or traffic offense is the basis for a Petition to Revoke Sentence against a Defendant with a felony case, the misdemeanor or traffic offense shall be assigned to the judge hearing the felony case for all further proceedings.

### **8.15 ASSIGNMENT TO TRIAL CALLS**

For the purpose of 725 ILCS 5/114-5, a matter shall be considered placed upon the call of a judge when the matter is first scheduled to be heard on a contested hearing before that judge.

### **8.20 CRIMINAL DEFENDANT'S APPEARANCE BY A TWO-WAY AUDIO/VIDEO COMMUNICATION SYSTEM**

A. Whenever the appearance in person in court, in a criminal proceeding is required of anyone held in a place of custody or confinement operated by the State or any of its political subdivisions, including counties and municipalities, the chief judge of the circuit by rule may permit the personal appearance to be made by means of two-way audio-visual communication, including closed circuit television and computerized video conference, in the following proceedings:

1. The initial appearance before a judge on a criminal complaint, at which bail will be set;
2. The waiver of a preliminary hearing;
3. The arraignment on an information or indictment at which a plea of not guilty will be entered;

4. The presentation of a jury waiver;
  5. Any status hearing; and
  6. Any hearing conducted under the Sexually Violent Persons Commitment Act at which no witness testimony will be taken.
- B. The two-way audio-visual communication facilities must provide two-way audio-visual communication between the court and the place of custody or confinement, and must include a secure line over which the person in custody and his or her counsel, if any, may communicate.
  - C. Nothing in this Section shall be construed to prohibit other court appearances through the use of two-way audio-visual communication, upon waiver of any right the person in custody or confinement may have to be present physically.
  - D. Nothing in this Section shall be construed to establish a right of any person held in custody or confinement to appear in court through two-way audio-visual communication or to require that any governmental entity, or place of custody or confinement, provide two-way audio-visual communication.
  - E. A hearing to deny bail to the defendant may not be conducted by way of the two-way audio-visual communication system.

#### **8.25 PETITIONS TO EXPUNGE RECORDS OF ARREST**

Any petition to expunge records of felony or misdemeanor arrest pursuant to 20 ILCS 2630/5.2, 730 ILCS 5/5-5-4 and 730 ILCS 5/5-6-3.1 shall be in writing and shall be brought before the Presiding Judge of the county or any Judge designated by the Presiding Judge.

#### **8.30 PROCESSING RETURNS ON BENCH WARRANTS**

- A. After a defendant is taken into custody, the defendant should be taken before a judge at the next available bond call when practicable, but in no case, more than 48 hours after arrest.
- B. The Bond Court Judge shall, if necessary, set a bond in accordance with the law. The Bond Call Judge shall set the case for status on the assigned Judge's calendar.

#### **8.35 RELEASE ON INDIVIDUAL BOND WITHOUT POSTING CASH SECURITY**

- A. Until further order by the court and pursuant to Supreme Court Rule 553, the Chief Judge may designate law enforcement officers, by Office, who are authorized to release on individual bond without posting cash security, persons 17 years of age or older arrested for or charged with an offense covered by Supreme Court Rules 526, 527 or 528.
- B. Pursuant to Supreme Court Rule 553(d), this type of release by the above designated law enforcement officers may be done except when:
  1. The accused has previously been convicted of a criminal misdemeanor or felony;
  2. The accused has previously been admitted to bail on one or more criminal charges and the charge or charges are currently pending;
  3. The accused, at the time of arrest, is in possession of a dangerous weapon;

4. The accused is on parole, probation, conditional discharge, or supervision for a misdemeanor or felony;
  5. There is an outstanding warrant, detainer or bond forfeiture against the accused;
  6. The accused is unable or unwilling to establish his identity or submit to being fingerprinted as required by law; or
  7. Detention is necessary to prevent imminent bodily harm to the accused or to another.
- C. Persons under 18 years of age, who have been charged or arrested for a misdemeanor offense, who cannot make bail, may be released on individual bond as set by statute if the authorities cannot, within a reasonable time, locate a parent or adult standing in the place of a parent to execute the bond as surety.

#### **8.40 STATUTORY FEE FOR FAILURE TO APPEAR WARRANTS**

Those persons authorized to release individuals on bond in the 23rd Judicial Circuit shall be authorized to release a person who has posted their bond but is unable to post the statutory fee imposed by 725 ILCS 5/110-7(i) for failure to appear. In that event, the statutory fee shall be collected as court costs imposed in the case.

# **APPENDIX**

STATE OF ILLINOIS  
IN THE CIRCUIT COURT FOR THE TWENTY-THIRD CIRCUIT

\_\_\_\_\_)  
V. \_\_\_\_\_) Case No. \_\_\_\_\_  
\_\_\_\_\_)

**REQUEST FOR EXTENDED MEDIA COVERAGE**

NOW COMES the undersigned, who states as follows:

- 1. This request is being made on behalf of all news media organizations.
- 2. Extended media coverage is requested in connection with the trial or proceeding scheduled to take place on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a.m./p.m. at the \_\_\_\_\_ Courthouse in \_\_\_\_\_, Illinois.
- 3. This request for extended media coverage is for the entirety of this trial or proceeding and all subsequent hearing dates.
- 4. The type of extended media coverage requested is as follows: (Include type of equipment and number of personnel):  
\_\_\_\_\_  
\_\_\_\_\_

- 5. This request for extended media coverage is filed (check the appropriate box):  
 At least fourteen (14) days in advance of the proceeding identified above; or  
 Less than fourteen (14) days in advance of the proceeding identified above because \_\_\_\_\_.

- 6. Notice of this request needs to be provided to:  
 Counsel of record: \_\_\_\_\_  
 Parties appearing without counsel: \_\_\_\_\_  
 The Court Media Liaison: \_\_\_\_\_

7. I will abide by all the provisions of the Policy for Extended Media Coverage in Circuit Courts of Illinois and the 23rd Circuit Court Administrative Order on Extended Media Coverage and perform all duties required of me, if I am designated as the Media Coordinator.

- 8. I nominate the following person be designated as Media Coordinator: \_\_\_\_\_  
\_\_\_\_\_.

Respectfully submitted,

\_\_\_\_\_  
Signature Printed Name

News Media Organization: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

STATE OF ILLINOIS  
IN THE CIRCUIT COURT FOR THE TWENTY-THIRD JUDICIAL CIRCUIT

\_\_\_\_\_)  
V. \_\_\_\_\_) Case No. \_\_\_\_\_)  
\_\_\_\_\_)

**NOTICE OF FILING OF REQUEST FOR EXTENDED MEDIA COVERAGE**

TO: Attorneys of record in the above cause; parties, if any, appearing without counsel in the above cause; the Court Media Liaison; the Judge presiding over the above-captioned case; the Presiding Judge, and the Chief Judge.

PLEASE TAKE NOTICE that the attached Request for Extended Media Coverage has been filed in the above case. Administrative Order \_\_\_\_\_ controls the disposition of this Request, and any objections thereto. In accord with the Administrative Order, any party objecting to the attached Request must file a written objection at least three days before the commencement of the proceeding, and any witness objecting must file a written objection before the commencement of the proceeding. The Administrative Order and suggested forms are available at the Office of the Circuit Court Clerk,

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Circuit Court

STATE OF ILLINOIS  
IN THE CIRCUIT COURT FOR THE TWENTY-THIRD JUDICIAL CIRCUIT

\_\_\_\_\_)  
V. \_\_\_\_\_) Case No. \_\_\_\_\_)  
\_\_\_\_\_)

**NOTICE OF FILING OF REQUEST FOR EXTENDED MEDIA COVERAGE**

TO: Witness in the above entitled proceeding

PLEASE TAKE NOTICE that the attached Request for Extended Media Coverage has been filed in the above case. Administrative Order \_\_\_\_\_ controls the disposition of this Request, and any objections thereto. In accord with the Administrative Order, any party objecting to the attached Request must file a written objection at least three days before the commencement of the proceeding, and any witness objecting must file a written objection before the commencement of the proceeding. The Administrative Order and suggested forms are available at the Office of the Circuit Court Clerk,

Dated: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Circuit Court

STATE OF ILLINOIS  
IN THE CIRCUIT COURT FOR THE TWENTY-THIRD JUDICIAL CIRCUIT

\_\_\_\_\_)  
V. \_\_\_\_\_) Case No. \_\_\_\_\_)  
\_\_\_\_\_)

**OBJECTION OF PARTY TO EXTENDED  
MEDIA COVERAGE OF TESTIMONY**

NOW COMES \_\_\_\_\_, who states as follows:  
(Name of objecting party)

- 1. Extended media coverage has been requested for the above matter.
- 2. There is good cause to believe that the presence of extended media coverage, under the particular circumstances of this trial or proceeding, would materially interfere with the fair and impartial administration of justice. The specific facts and circumstance in support of this allegation are as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 3. This objection is filed at least three (3) calendar days before the commencement of the trial or proceeding for which extended media coverage has been requested.
- 4. Notice of this objection needs to be provided to all counsel of record, parties appearing without counsel, the Media Coordinator and the Court Media Liaison.

WHEREFORE, I object to extended media coverage of this proceeding for the above stated reasons.

Respectfully submitted,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (please print)

STATE OF ILLINOIS  
IN THE CIRCUIT COURT FOR THE TWENTY-THIRD JUDICIAL CIRCUIT

\_\_\_\_\_)  
V. \_\_\_\_\_) Case No. \_\_\_\_\_)  
\_\_\_\_\_)

**OBJECTION OF WITNESS TO  
EXTENDED MEDIA COVERAGE OF TESTIMONY**

NOW COMES \_\_\_\_\_, who states as follows:  
(Name of objecting witness)

- 1. Extended media coverage has been requested for the above matter.
- 2. I expect to be called as a witness in this case.
- 3. I object to extended media coverage of my testimony for the following reasons: (please

be  
specific): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 4. This objection is filed with the Clerk of the Court prior to the commencement of the trial or proceeding for which extended media coverage has been requested.

WHEREFORE, I object to extended media coverage of my testimony.

Respectfully submitted,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (please print)

STATE OF ILLINOIS  
IN THE CIRCUIT COURT FOR THE TWENTY-THIRD JUDICIAL CIRCUIT

\_\_\_\_\_)  
\_\_\_\_\_)  
V. \_\_\_\_\_) Case No. \_\_\_\_\_  
\_\_\_\_\_)  
\_\_\_\_\_)

**ORDER ON REQUEST FOR  
EXTENDED MEDIA COVERAGE**

THIS MATTER coming before the Court on a filed request for extended media coverage, the Court hereby orders as follows:

A hearing on the request for extended media coverage shall be scheduled on \_\_\_\_\_  
20\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in Courtroom \_\_\_\_\_.

Within the guidelines of the Illinois Supreme Court Policy on Extended Media Coverage and the Twenty-Third Judicial Circuit Court Administrative Order on Extended Media Coverage, extended media coverage is granted in connection with the trial or proceeding scheduled to commence on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ a.m./p.m. and for all subsequent proceedings until full conclusion of the case(s) or as otherwise ordered by the Court and subject to ruling on any filed objections.

By means of:

- Still Photography: \_\_\_\_\_
- Video Recording (with existing audio recording): \_\_\_\_\_
- Audio Recording: \_\_\_\_\_

The following exceptions and/or additional restrictions shall apply:

\_\_\_\_\_  
\_\_\_\_\_  
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The following person is designated as Media Coordinator: \_\_\_\_\_

Extended media coverage is denied for the following reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDGE