

# UNIFORM RULES OF PRACTICE

## CIRCUIT COURT OF ILLINOIS

### EIGHTH JUDICIAL CIRCUIT

The following rules are adopted as rules of practice of the Circuit Court of Illinois, Eighth Judicial Circuit.

#### PART 1. ORGANIZATION

##### 1.1 RULES OF COURT

- (a) Power of Court to adopt Rules. These rules are established pursuant to Section 1-104(b) of the Code of Civil Procedure providing that the Circuit Court may make rules regulating their dockets, calendars and business, and pursuant to Supreme Court Rule 21(a) providing that a majority of the Circuit Judges in each circuit may adopt rules governing civil and criminal cases consistent with rules and statutes.
- (b) Existing Rules repealed. These rules shall become effective on September 1, 1990. All prior rules of the Circuit Court of the Eighth Judicial Circuit, State of Illinois, are hereby repealed.
- (c) Amendment of the Rules. Any amendment of these rules shall be passed by a majority vote of all Circuit Judges of the Eighth Judicial Circuit, with each voting judge being mailed a copy of the proposed amendment at least ten days prior to the vote thereon.
- (d) Copy of Rules to be filed with the Director of the Administrative Office. All rules of this court and amendments thereto shall be filed with the director of the Administrative Office of the Illinois Courts, Springfield, Illinois, within ten days after the adoption thereof pursuant to Supreme Court Rule 21(d).
- (e) Construction of these Rules. In the construction of these rules, the law governing the construction of Statutes (5 ILCS 70/1-70/7) shall apply.

##### 1.2 CHIEF JUDGE

- (a) Selection of the Chief Judge. Subject to the overriding authority of paragraph 7(c) of Article VI of the 1970 Illinois Constitution, a majority of the Circuit Judges of the Eighth Judicial Circuit shall select one of their number to serve as Chief Judge for a two year term

commencing the first Monday in December, 1979, and every two years thereafter. The election shall be held at the November Judges' Meeting immediately preceding the end of each two year term. At said meeting, names shall be placed in nomination and the Circuit Judges shall then vote by secret ballot. A majority vote of the Circuit Judges is required for election, and the Chief Judge of the Circuit shall provide the ballot. Any of the Circuit Judges who are absent from said meeting may designate in writing another of the Circuit Judges to vote for him as designated in said written proxy. In the event that the election process as described above has not been completed, the Chief Judge shall continue in office until his successor is elected. Nothing in these rules shall prevent a Chief Judge from succeeding himself in office.

- (b) Acting Chief Judge. The Chief Judge shall designate one of the Circuit Judges to serve as Acting Chief Judge in his absence or when the Chief Judge is unable to serve. The Acting Chief Judge shall have the same powers and duties as the Chief Judge.
- (c) Vacancy in the Office of Chief Judge. Whenever a vacancy in the Office of Chief Judge occurs, any two Circuit Judges may call, in writing, a meeting of the Circuit Judges to elect a Chief Judge to fill the unexpired term of office. The election shall be within four weeks of the vacancy occurring and at least seven days notice shall be given to all Circuit Judges.

### 1.3 PRESIDING JUDGE

- (a) Designation of Presiding Judge. The Chief Judge may appoint one Circuit Judge within each county of the circuit as Presiding Judge of that county. The Presiding Judge shall sit at the pleasure of the Chief Judge and nothing in these rules shall prevent the Chief Judge from serving as Presiding Judge of the county in which he sits. Whenever the term "Presiding Judge" is used in these rules, it refers to the Presiding Judge of a county, appointed by the Chief Judge of the Eighth Judicial Circuit.
- (b) Duties of the Presiding Judge. The Presiding Judge or his designate shall call and impanel grand and petit juries, administer the judicial department of the county in which he is presiding, oversee the operation of the county probation department and perform such other duties as may be required for the proper administration of justice. He may adopt administrative orders within his county consistent with these rules and the administrative order of the Chief Judge, if so authorized by General Administrative Order from the Chief Judge.

#### 1.4 JUDICIAL ASSIGNMENTS

- (a) Assignments by the Chief Judge. The Chief Judge may assign Circuit Judges and Associate Judges to the various counties within the circuit, and may further assign all judges on a case by case basis.

#### 1.5 COURT PERSONNEL

- (a) Court complement. A full court complement consists of the judge, court reporter, courtroom clerk, and bailiff when court is in session. A full complement shall be maintained at all times unless waived by the court for good cause.
- (b) Courtroom Clerk. The courtroom clerk shall be the Circuit Clerk or a Deputy Circuit Clerk authorized to swear witnesses. The clerk shall attend court when in session unless excused on a case by case basis by the judge presiding in the particular courtroom. The clerk shall obtain all necessary files and documents for cases to be heard that day, swear witnesses, maintain custody of all exhibits which have been marked for identification until further order of court, and perform such other duties as may be directed by the court.
- (c) Bailiff. The bailiff shall open and close court, preserve order in the courtroom, attend upon the jury when placed in his custody, and perform such other duties as may be directed by the court.

#### 1.6 JUDICIAL MEETINGS

- (a) Regular meetings. All judges of the Eighth Judicial Circuit shall meet and confer at specific times and places to be designated by the Chief Judge for the exchange of information, discussion, and for the accomplishment of the business of the court.
- (b) Special meetings. Special meetings may be called at any time by the Chief Judge or by a majority of the Circuit Judges within the Eighth Judicial Circuit upon seven days written notice to all judges.

#### 1.7 DOCUMENTS AND COURT FILES

- (a) Filing of pleadings and documents. All documents shall be filed with the Clerk of the Court pursuant to Supreme Court Rule 10 prior to their presentment to the court with the exception of proposed orders. Clerk shall not file a pleading unless accompanied by the proper filing fee, if any. The size and physical arrangement of pleadings shall be done pursuant to Supreme Court Rules, only one side of each page shall be used, and on each page a margin of at least one and one-half inches shall be left at the top

to permit legibility after binding that sheet into the clerk's file. This rule does not apply to exhibits or other documents which are not pleadings as defined in the Supreme Court Rules.

- (b) Removal of files. Original files, documents or exhibits shall not be removed from the Office of the Circuit Clerk or courtroom except by leave of court or the Clerk of the Court without first filing a receipt therefore. Such files, documents or exhibits shall not be retained by the party removing the same for more than two days without further leave of court or the Clerk of the Court.

#### 1.8 COUNTY PROBATION OFFICE AND COURT SERVICES DEPARTMENT

- (a) General rules and appointments. A majority of the Circuit Judges permanently assigned to a county of the Eighth Judicial Circuit may, with the consent of the Chief Judge, establish general rules for the county probation office or court services department, as the case may be, and appoint a Chief Probation Officer and/or Director of Court Services. These rules and general administrative orders of the Eighth Judicial Circuit relating to county probation offices and court services departments are established subject to applicable statutes, case law and Supreme Court Rules. The inclusion of certain duties of probation officers shall not be construed to exclude any duties which are not listed, but which are otherwise required.
- (b) Duties of the Chief Probation Officer and Director of Court Services. The Chief Probation Officer and/or Director of Court Services shall supervise probation officers and employees on his staff, administer the probation office or court services department of his county, and carry out the direction of the Presiding Judge and Chief Judge and the general rules and policy as established by a majority of the Circuit Judges within the county. The Chief Probation Officer and/or Director of Court Services may issue regulations upon the approval thereof by the Presiding Judge or Chief Judge, which are consistent with the general rules governing the probation office or court services department.
- (c) Reports. The Chief Probation Officer and/or Director of Court Services shall prepare and submit to the Chief Judge a report at least annually relating to the prior year's operation of the probation office or court services department. The date for furnishing this report shall be determined by the Chief Judge, along with any other specific information which is requested by the Chief Judge.
- (d) Maintenance and destruction of probation files. Files of the probation office or court services department may be

destroyed only upon petition and court order. All files may be destroyed ten years after said files have been opened, or a lesser number of years for good cause shown. In all counties of the Eighth Judicial Circuit, except Adams County, an order shall be obtained from the Resident Circuit Judge authorizing the destruction of files. In Adams County, an order shall be obtained from a majority of the Circuit Judges permanently assigned to Adams County, authorizing the destruction of files. In Adams County, an order to destroy files affecting juveniles shall not be sought without first having obtained the written consent of the judge assigned to the Juvenile Division, which consent shall be attached to the petition. Prior to the destruction of files, a card containing the information or substantially all of the information as provided on the previously established form shall be prepared by the probation department or court services department and made a part of the permanent records of the department.

#### 1.9 COUNTY LAW LIBRARY

- (a) Law Library Committee. Each county within the Eighth Judicial Circuit shall have a Law Library Committee of which the Presiding Judge of that county or his designate shall serve as Chairman. The members of the committee shall be named by the Presiding Judge. The committee shall oversee the operation of the County Law Library and shall establish rules for the operation of the library, which shall be in writing and posted within the library.
- (b) Law Library Fund. Disbursements of the County Law Library Fund shall be on order of a majority of the judges of the Circuit Court of the county pursuant to 55 ILCS 5/5-39001; except however, that a majority of said judges may authorize the Presiding Judge or his designate to make lawful disbursements from the fund.
- (c) Law Library Budget. The annual budget for the County Law Library shall be included in the budget of the judicial department of that county.

#### 1.10 COURT FACILITIES.

- (a) Designation of Court Facilities. The Chief Judge of the Eighth Judicial Circuit shall designate when and where court shall be held within the Eighth Judicial Circuit pursuant to Article VI, Section 7(c) of the Constitution of the State of Illinois (1970).
- (b) Review of Court Facilities. The Chief Judge shall, from time to time, appoint a committee of judges to inspect the

court facilities within the circuit, and to determine if the personnel and resource needs of the court are being met. The committee shall report to the Circuit Judges as to whether each courtroom, jury room and chambers meet minimum standards as provided by the Supreme Court, and whether the personnel and resources presently being provided to the courts are adequate. The committee may prepare and submit proposals and recommendations to the appropriate County Board for its consideration and action. If appropriate action is not taken within a reasonable time as may be designated by the committee, the provisions of sub-section(c) of this rule shall apply.

- (c) Enforcement. Upon the failure of the County Board to act pursuant to sub-section(b) of this rule, the committee shall so report to the Chief Judge and submit to the Chief Judge its proposals and recommendations together with the response and action taken by the County Board. If the Chief Judge deems appropriate, he shall set the matter of the proposals and recommendations of the committee for administrative hearing over which he shall preside. The hearing shall be held in the county where the alleged deficiencies exist and the Clerk of the Court of that county shall give notice of the hearing to the Chairman of the County Board of that county and to any other person whom the Chief Judge deems to be an interested party. The notice shall be by regular U.S. mail, state the time, date and place of the hearing, the matter to be reviewed, and include a copy of the proposals of the committee. The Clerk's Certificate of Mailing shall be made part of the record. The hearing shall not be held until after 30 days from the date of mailing notice.

If, after hearing, the Chief Judge finds that deficiencies exist, he shall specify the particular deficiencies and the corrective action to be taken by the County Board, and the time by which the corrective action is to be completed. If the County Board fails or refuses to comply, a proceeding to enforce the Chief Judge's directive may be filed pursuant to Article XIV of the Code of Civil Procedure or in a matter as may be provided by the Supreme Court. The Chief Judge may appoint any such experts deemed necessary to examine the facilities and to present evidence at the hearing.

#### 1.11 COURTROOM DECORUM

- (a) Judicial Responsibility. It shall be the responsibility of each judge sitting within the Eighth Judicial Circuit to enforce proper courtroom decorum of all court staff, attorneys and persons within the courtroom in which he is presiding. Each judge should be attired in a judicial robe whenever he presides in a courtroom.

(b) Opening of Court:

1. All persons who are able should stand when court is opened and recessed, reconvened or adjourned.
2. There should be no talking by anyone other than the bailiff when court is opened or closed.

(c) Court attire:

1. Male attorneys should wear coat and tie and female attorneys appropriate business attire for courtroom proceedings.
2. Court clerks and probation officers should wear uniforms or appropriate business casual attire. No jeans or T-shirts.
3. Court reporters should wear appropriate business attire.
4. Bailiffs should wear attire to identify themselves as court security personnel.
5. No caps or hats may be worn by males or females while court is in session except for religious or medical purposes except that females may wear traditional formal hats.
6. Litigants, witnesses and jurors should wear appropriate attire, which does not include short shorts, tank tops, or bare midriffs.
7. No vulgar language should be visible on attire.
8. No outerwear such as overcoats should be worn in the courtroom.

(d) Food, drink and tobacco products:

1. No food should be consumed during court proceedings except with leave of court for medical reasons such as diabetes.
2. No coffee or soft drinks should be consumed in the courtroom during jury trials and during other occasions only with leave of court.
3. No gum or ice should be chewed within the well of the courtroom.
4. No tobacco products of any kind should be used within the courtroom.

(e) Conduct during court proceedings:

1. Counsel should stand when addressing the court unless medically unable to do so.
2. Counsel should not engage opposing counsel in a colloquy. All comments or arguments should be addressed to the court.
3. Counsel should not approach the bench, court reporter or a witness without leave of court nor should they request the reporter to go off the record or read back a portion of the proceedings. Such request should be made to the judge.
4. No one should possess or use cell phones or pagers in the audible mode nor should they receive or make cell phone calls in the courtroom while court is in session.
5. No one should read newspapers or magazines in the courtroom while court is in session.
6. Counsel should maintain a reasonable distance from the jury box during jury trials, avoiding physical contact with the jury box and jurors.
7. Counsel should not personalize argument to a jury.
8. Attorneys and court personnel should avoid casual conversation among themselves or with clients while waiting for a case to be called when court is in session.

(f) Exhibits:

1. Counsel should mark exhibits in advance of trial with exhibit stickers when available.
2. They should be marked as Plaintiff/Petitioner or Defendant/Respondent exhibit with the date and case number included, leaving the number of the exhibit to be filled in at the time the exhibit is first referred to during the court proceeding.
3. When practical, copies of exhibits and a list thereof should be furnished to the court and opposing counsel.
4. Exhibits should not be displayed to the jury without leave of court or until received in evidence.
5. Possession and responsibility for exhibits remains with the proponent until such time as received in evidence

at which time such responsibility shifts to the court clerk.

#### 1.12 COURT APPEARANCE.

- (a) Court hours. The Presiding Judge of each county within the Eighth Judicial Circuit shall provide for the regular court hours Monday through Friday of each week, except when court is closed in observance of a legal holiday pursuant to an order of the Chief Judge. Dates upon which court will be closed in observance of holidays shall be posted in the courthouse of the individual counties within the Eighth Judicial Circuit.
- (b) Prompt attendance required. Judges shall begin court promptly at the designated time. All attorneys and parties shall appear promptly before the court. In the event that a party or attorney fails to appear promptly, the court may impose such sanction or take such remedial action, as it deems appropriate. In the event that the failure of a party or attorney to appear promptly renders it impossible to proceed, the court may order the party or attorney failing to appear promptly to pay the reasonable costs and expenses, including attorney's fees, to the opposing party or attorney.

#### 1.13 JURORS

- (a) Grand Jurors. The Grand Jury in each county of the Eighth Judicial Circuit shall be called to serve for a twelve month period beginning on the first day of each calendar year.

In all counties other than Adams County, all orders for selection of a Grand Jury shall be submitted to the County Board or Jury Commission prior to their regular meeting immediately preceding January 1 of each year; such orders shall be made by the Presiding Judge of each county.

In Adams County, the selection and call of the Grand Jury shall be done by the Jury Commission pursuant to the Statutes of the State of Illinois. Such orders for selection of a Grand Jury shall be submitted to the Jury Commission prior to its regular meeting immediately preceding January 1 of each year; such orders shall be made by the Presiding Judge of Adams County or his designate.

The Grand Jurors, although selected and served with notice, shall not be ordered to report until a Grand Jury is needed. When a Grand Jury is needed to report on a date certain, the Presiding Judge shall prepare a short order directing the Clerk of the Circuit Court to notify the Grand Jurors to report.

- (b) **Petit Jurors.** Petit jurors shall be called by the Presiding Judge or the Jury Commission, as the case may be, for a period of time to be designated by the Presiding Judge. The Presiding Judge or Jury Commission shall certify to the Clerk of the Circuit Court the number of petit jurors required, together with the date, time and place of reporting and period of service.
- (c) **Jury Summons.** Each prospective Grand Juror and Petit Juror shall be summoned by the delivery of a jury summons by U.S. mail at least 15 days prior to the first day of service. Each such summons shall be sent with postage prepaid to the address as listed in the voter registration files.
- (d) **Jury Excuses.** The Presiding Judge of each county may excuse summoned jurors for good cause, may continue their service, and may regulate their assignments to the various courtrooms within the county.
- (e) **Rules Applicable.** The Grand Jury and Petit Jury are subject to the Rules of the County Jury Commission if such commission has been established within the county.

## PART 2. MOTIONS

### 2.1 MOTION PRACTICE

- (a) **Filing.** All motions shall be filed with the Clerk of the Court before their presentment to the court. In any cause of action, the court may designate a date by which all motions must be filed. A motion may not be filed after that date, except by leave of court. The title to each motion shall indicate the relief sought.
- (b) **Date for Hearing.** With the exception of emergency matters, no motion shall be heard unless previously set for hearing on a specific date on the court's calendar.
- (c) **Notice.** Written notice of hearing on all motions shall be given by the party requesting the hearing to all parties who have appeared and have not previously been defaulted for failure to plead and to all parties whose time to appear has not expired on the date of notice. Notice shall be given in the manner described in Supreme Court Rule 11.
- (d) **Content of Notice.** The Notice of Hearing shall contain the title and number of the cause of action, date and time when the motion will be heard and designated courtroom, and shall include a short statement of the nature of the motion. A copy of any written motion and of all papers presented as a part of said motion, or a statement that they have been previously served shall be served with the notice.

- (e) Time of Notice. Unless otherwise ordered by the court, notice by personal service shall be made not less than two court days prior to the hearing, and notice by U.S. mail shall be mailed not less than seven court days prior to the hearing. Proof of service or mailing shall be made part of the record.
- (f) Summary Judgment. A Motion for Summary Judgment shall not be heard until ten days after service of the notice of motion pursuant to Supreme Court Rule 11.
- (g) Ex parte and Emergency Motions. Every complaint or petition requesting an ex parte order for the appointment of a receiver, temporary restraint, preliminary injunction, or any other emergency relief, shall be filed with the Clerk of the Court, if during court hours before application to the court for the order. Emergency motions and motions which, by law, may be made ex parte, may at the discretion of the court, be heard without giving notice. Motions for temporary relief shall, if practical, be given preference over other matters before the court.

If a motion is heard without prior notice under this rule, written notice of the hearing shall be served personally or by U.S. mail upon all parties not previously found by the court to be in default for failure to plead, and proof of service thereof shall be filed with the Clerk of the Court within two court days of the hearing thereon. The notice shall state the title and number of the cause of action, name of the judge who heard the motion, date of hearing, and the order of the court.

- (h) Motion to Continue. No Motion to Continue shall be allowed for other than good cause shown. Agreements of counsel as to a Motion to Continue shall not be binding on the court. The court may require affidavits of the parties and counsel.
- (i) Renewal of Motions. Motions presented upon and ruled upon before one judge shall not be renewed before another judge without leave of court and a statement in the notice of hearing that the motion has previously been ruled upon, naming the judge who ruled on the motion.
- (j) Failure to Call Motions for Hearing. The burden of obtaining a date for hearing on any motion previously filed is on the party making the motion. If a date for hearing is not obtained by the moving party within ninety days from the date of filing, the court may deem the motion withdrawn and deny the relief requested, with, or without, prejudice.

## PART 3. PROCEEDINGS BEFORE TRIAL

## 3.1 PLEADINGS TO BE COMPREHENSIBLE

- (a) Multiple counts. If a pleading contains multiple counts or affirmative defenses, each count or defense shall bear a short title stating the theory of liability or defense. If a 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 designate the subgroup of parties to whom it pertains.
- (b) Incorporation by reference. If the incorporation of facts by reference to another pleading or to another part of the same pleading will cause a pleading not be readily comprehensible, such facts shall be re-alleged verbatim. This rule does not prohibit the incorporation of facts as permitted by Supreme Court Rule 134 provided that the pleading remains readily comprehensible.

## 3.2 WRITTEN INTERROGATORIES

- (a) Standard form and procedure. The parties serving written interrogatories shall provide two copies to each party required to answer the interrogatories. The interrogatories shall be reasonably spaced so as to permit the answering party to make his answer on the interrogatories served on him. The answering party may attach any addendum to the copies, if the space provided is insufficient. If an addendum is attached, it must clearly refer to the question being answered.
- (b) Except in those cases wherein the Supreme Court has approved standard forms of interrogatories for different classes of cases, no party shall serve more than 30 interrogatories, including sub-parts, on any other party except upon agreement of the parties or leave of court granted upon a showing of good cause. A motion for leave of court to serve more than 30 interrogatories must be in writing and shall set forth the proposed interrogatories and the reasons establishing good cause for their use.

Dated March 29, 2000

## 3.3 DISCOVERY DOCUMENTS

- (a) Restrictive filing. Unless otherwise ordered by the court, depositions, interrogatories, requests, answers or response thereto and other discovery documents shall not be filed with the Clerk of the Court except as necessary to resolve disputed issues or pursuant to Supreme Court Rule 207(b)(1).

- (b) Proof of service. Discovery documents may be served and answered personally or by U.S. mail. Proof of service of answering discovery documents shall be filed with the Clerk of the Court and shall contain the case title and number, date mailed or personally served, the sending and receiving parties and adequately identify the particular discovery document being served or answered. The proof of service of answer, upon being filed with the Clerk of the Court, shall be prima facie evidence that such document was served or answered.

#### 3.4 DAYS FOR TAKING DEPOSITIONS

Unless otherwise agreed by the parties or ordered by the court, depositions shall not be taken on Saturdays, Sundays, or court holidays.

#### 3.5 FELONY ARRAIGNMENTS IN CRIMINAL CASES

At the arraignment of defendants charged with a felony and upon a plea of not guilty, the court may enter discovery orders on the state and defense counsel with a time designated for compliance, shall direct that all motions be on file within a time specified by the court, and shall place the cause on a judge's trial calendar.

#### 3.6 PRETRIAL CONFERENCES

- (a) Requirement of pretrial conference. At least one pretrial conference shall be held in all civil jury actions and the attorneys who expect to try the case shall attend said conference. The court shall set the time, date and place of said conference and direct that notice be given to all interested parties. Upon motion of any party, or on its motion, the court may order additional pretrial conferences.
- (b) Statement of points and authorities. Unless waived by the court, at least five days prior to a contested trial, the parties shall submit to the court and opposing counsel a statement of points and authorities citing all cases and statutes which they expect to rely upon or argue. The statement may be in summary form similar to that provided in Supreme Court Rule 341(e)(1). Unless otherwise directed by the court, this rule shall not apply to traffic, ordinance, or small claims cases.
- (c) Criminal and Traffic cases. In all criminal and traffic cases where there has been a demand for jury trial, the court may schedule a pretrial conference and direct that notice be given to all parties and attorneys of record. The notice shall be given by the Clerk of the Court by regular U.S. mail at least 10 days before the pretrial conference. Counsel of record who will try the case, and

all defendants are required to be present at the pretrial conference.

### 3.7 MARKING OF EXHIBITS

- (a) At the pretrial conference or at any other time designated by the court, the court may direct that the parties produce all the exhibits they expect to offer into evidence. Each of the exhibits shall at that time be marked for identification either by the court reporter, clerk or attorneys as the court may direct. The parties shall then stipulate as to the exhibits to which there are no objections, and such exhibits shall be admitted into evidence without the necessity of further foundation. Any exhibit identified before or during the course of a trial shall thereafter be kept in the custody of the Clerk of the Court unless otherwise directed by the court.

### 3.8 DISMISSAL FOR WANT OF PROSECUTION

In all cases where no appeal is pending and there has been no action of record for a period of two years, the court may summarily dismiss the cause of action and it shall not thereafter be re-docketed without both good cause shown and leave of court. Upon dismissal of any cause for want of prosecution, the Clerk of the Court shall give notice of said dismissal to all counsel of record and pro se parties by regular U.S. mail within 10 days of said dismissal. A copy of the notice with the Clerk's Certificate of Mailing shall be made of record. Such case shall not be re-docketed if a motion to reinstate is not filed within 30 days from the date of dismissal.

### 3.9 PENDING CASE CALLS

- (a) Schedule. Pending case calls shall be scheduled yearly in all counties of the Eighth Judicial Circuit. These case calls shall be scheduled by the Administrative Assistant on the master calendar for each year, shall be conducted by the judge assigned by the Chief Judge, and shall include a review by the judge assigned of all cases pending in the county in all divisions of the court, except cases filed within the last nine months prior to the pending case call in the categories of L, LM, D, F, P, CH, MR, MC, TX, ED, and SC. In Adams County, there shall be a separate pending case call for all the pending cases in the Probate and Small Claims divisions. The clerk shall give notice of each pending case call at least 14 days before the date scheduled to all of the attorneys regularly practicing in the respective county.

- (b) Procedure. The court shall examine each of the files on the pending case call and enter appropriate orders and rules, if necessary in each file. A hearing shall be scheduled no less than 42 days after the pending case call to review all action and dispose of all rules. Any rules entered shall be specific and shall describe in detail the action required stating the time allowed for such action. Any rules entered, as a result of the pending case call shall be acted upon and disposed of by the judge entering the rule or by agreement, by the Presiding Judge or Resident Judge of the county.

#### PART 4. TRIALS

##### 4.1 JURY TRIALS

- (a) Statement of the nature of the case. In all civil jury cases, the plaintiff's attorney shall prepare and submit to the court and opposing counsel a statement of the nature of the case to be read by the court to the venire prior to voir dire examination. The statement shall include the time, date, and place of the alleged occurrence and a brief description thereof, the name of the parties involved and their counsel, and, when requested by the court, a list of witnesses whom the parties expect to call. Opposing counsel may suggest amendments to the statement prior to it being read to the venire. In all criminal jury cases, the court shall read the information or indictment to the venire prior to voir dire examination, along with a list of witnesses whom the parties expect to call.
- (b) Voir Dire examination. If the court does not permit direct examination of prospective jurors by counsel pursuant to Supreme Court Rule 234, counsel may submit written questions to the court for its consideration for use in voir dire examination. If the court does allow counsel to supplement its voir dire examination, counsel may also submit questions to the court and request the court to ask those questions of the prospective jurors during the court's examination.

#### PART 5. JUDGMENT AND ORDERS

##### 5.1 WRITTEN DRAFT ORDERS

When the court enters a final judgment of record in any cause of action, it may direct that a written order be submitted. All orders shall be tendered to opposing counsel for approval as to form before being signed by the court. If a dispute as to form arises, the court shall decide the dispute after hearing from all counsel. Approval of form shall not be construed as approval of substance and the court may sign the order even though approval is withheld.

## 5.2 POST-JUDGMENT NOTICES

Notices of hearings to discover assets, petitions for adjudication of contempt, and any other hearing where a warrant for arrest may issue for a party's failure to appear after receipt of notice shall, in addition to the time, date, and place of hearing, include the following words in bold type or underlined: "Your failure to appear at this hearing may result in the issuance of a warrant for your arrest."

## 5.3 SUPPLEMENTARY PROCEEDINGS IN SMALL CLAIMS

- (a) Citations. Supplementary Proceedings under Section 2-1402 of the Code of Civil Procedure (735 ILCS 5/2-1402) are for the purpose of examining the judgment debtor or any other person to discover assets or income of the debtor not exempt from the enforcement of the judgment, a deduction order or garnishment, and of compelling the application of non-exempt assets or income discovered toward the payment of the amount due under the judgment, and not for the purpose of monitoring or enforcing payments by the judgment debtor. After the initial appearance on a citation, there shall be allowed only one continuance. Any further continuance shall be for good cause only. The fact that a judgment debtor is making payments shall not be considered good cause for the continuance of a citation. Pursuant to Section 2-1402(f), proceedings under a citation are terminated by motion of the judgment creditor, order of the court, or satisfaction of the judgment, but terminate automatically 6 months from the date of (1) the respondent's first personal appearance on the citation or (2) the respondent's first personal appearance pursuant to subsequent process issued to enforce the citation, whichever is sooner.
- (b) Rules to Show Cause. The purpose of a rule to show cause is to determine if the judgment debtor is in contempt of court for failing to comply with a court order. Only one continuance of a rule to show cause or a petition for a rule to show cause shall be allowed. Any further continuances shall be for good cause only. The fact that a judgment debtor is making payments shall not be considered good cause for continuing a petition or rule.
- (c) Notice. It shall be the obligation of the judgment creditor to serve notice of a rule to show cause upon the judgment debtor.

Dated: March 19, 1997

## 5.4 JUDGMENTS AND ORDERS: CASES TAKEN UNDER ADVISEMENT

- (a) All matters taken under advisement for interim ruling or final judgment involving issues of child visitation, custody, or support, neglect or abuse of a child, termination of parental rights, or adoptions, shall be decided and an opinion issued within thirty (30) days from the date the case was taken under advisement, or within thirty (30) days from the date allotted for receipt of final written arguments or memoranda if requested by the parties or directed by the court, whichever is later.
- (b) All matters taken under advisement for interim ruling or final judgment involving issues other than set forth above, shall be decided and an opinion issued within sixty (60) days from the date the case was taken under advisement.
- (c) In the event that written argument and/or memoranda are allowed or directed by the court, the dates set forth herein for decision and opinion shall be calculated from the date said written arguments and/or memoranda are received.
- (d) In the event that a decision or opinion is not rendered in a case taken under advisement within the time limitations set forth herein, the judge responsible for such shall report in writing, to the Chief Judge on or before the seventh (7<sup>th</sup>) day following the expiration of the time limitation prescribed by these rules. The report shall contain the case name, number, county, the matter taken under advisement, the date taken under advisement, the reasons why an opinion or decision has not been rendered in said case, and the date projected for issuance of said opinion or decision.

## PART 6. BONDS AND SURETIES

## 6.1 PERSONAL SURETIES

- (a) Schedules. Bonds with personal sureties shall be approved by the court. Sureties shall execute and file verified schedules of property when so directed by the court.
- (b) Attorneys as surety. If an attorney represents a personal or corporate entity signing as a principal on a bond, that attorney and members of his firm are prohibited from signing as surety on that bond.

## PART 7. DOMESTIC RELATIONS

## 7.1 MATRIMONIAL CASES

- (a) Definition. For purposes of this rule, matrimonial cases are defined as any proceedings for an order, judgment, or decree relating to dissolution of marriage, separate

maintenance, or annulment, including proceedings regarding such matters as maintenance, temporary support and maintenance, child custody or support, or other writs.

- (b) Transcripts. In any proceeding upon default or without contest for the entry of a decree of dissolution of marriage, separate maintenance or annulment, the testimony shall be recorded on tape or by court reporter, but not transcribed.
- (c) Motions. All motions, petitions, and applications made after entry of a final order or decree in matrimonial cases shall be in writing and shall be presented to the judge hearing dissolution motions.
- (d) Affidavits. In all proceedings involving petitions for attorneys fees, court costs, maintenance, support, or custody of children, and modification of any previous orders relating thereto, the moving party shall file an affidavit with proof of service, pursuant to Supreme Court Rule 11, not less than 3 court days before setting said application for hearing, unless for good cause shown the court directs otherwise. The party responding to said petition shall file, prior to or on the day of hearing, a written response and affidavit.
- (e) Orders of Support. Under all decrees of dissolution of marriage or separate maintenance, all support payments shall be made to the Clerk of the Circuit Court except that the court may, pursuant to Illinois Revised Statutes, Chapter 750, Sections 5/507 and 5/705, order payments to be made to the Illinois Department of Public Aid or an assignment may be made as provided below. When such a written assignment has been filed, the circuit clerk shall forward child support and/or maintenance payments to the Illinois Department of Public Aid pursuant to the instructions on the assignment form. The clerk shall continue to forward those payments to the department until a written release of assignment is filed in the case or until otherwise ordered by the court. Upon the filing of the release, the clerk shall forward the payments pursuant to procedures otherwise established for support payments.
- (f) Certificate required. Pursuant to ILCS Chapter 750, Section 5/707, the clerk shall not accept for filing any complaint for dissolution of marriage or annulment, and the court shall not enter any decree of dissolution of marriage or annulment unless and until the certificate required by said Statute has been filed.
- (g) Waiting period. No proceedings for dissolution of marriage, based on an entry of appearance consenting to immediate entry of judgment, shall be held within 24 hours of the filing of the Petition for Dissolution of Marriage.

This waiting period may be waived by the court upon a showing of good cause.

## 7.2 ATTORNEY QUALIFICATIONS IN CHILD CUSTODY AND VISITATION MATTERS

- (a) Purpose: Pursuant to Supreme Court Rule 906 to insure that counsel who are appointed by the Court to participate in the child custody and visitation matters in any proceeding possess the ability, knowledge, and experience to do so in a competent and professional manner.
- (b) Implementation and Procedure: The Chief Judge of the Eighth Judicial Circuit shall maintain a list of approved attorneys qualified to be appointed in child custody and visitation matters covered under Section IX of the Supreme Court Rules as guardians ad litem, child representatives, or attorneys for children.

The Chief Judge shall provide a list of the approved attorneys to the Resident Circuit Judge of each county or the Presiding Judge of the Family Division who shall then rotate the appointment of pro bono representations in his or her county.

The Chief Judge maintains the authority to remove any attorney from the list of approved attorneys based upon the failure to meet the listed qualifications or for good cause, including the failure of any appointed attorney to perform as provided in Supreme Court Rule 907.

- (c) Qualifications: In order to qualify for the approved list, each applicant for the list shall meet the following minimum requirements:
  1. Each attorney shall be licensed and in good standing with the Illinois Supreme Court.
  2. Each attorney shall have attended the education program created by the Illinois State Bar Association for education of attorneys appointed in child custody cases or equivalent education programs consisting of a minimum of ten (10) hours of continuing legal education credit within the two years prior to the date the attorney qualifies to be appointed.
  3. To remain on the approved list, each attorney shall attend continuing legal education courses consisting of at least ten (10) hours every two year period and submit verification of attendance to the Office of the Chief Judge at the time of attendance or upon request. The ten hours should include courses in child development; ethics in child custody cases; relevant substantive law in custody, guardianship and visitation issues; domestic violence; family dynamics including substance abuse and mental health issues; and education

on the roles and responsibilities of guardians ad litem, child representatives, and attorneys for children. Attendance at programs sponsored by this circuit may be included as a portion of this continuing education requirement.

4. Each attorney must complete the Child Representation Information Sheet provided by this circuit and return it with a statement or other verification of attendance at continuing education.
  5. Each attorney must adhere to the minimum duties and responsibilities of attorneys for minor children as delineated in Supreme Court Rule 907.
- (d) **Compensation:** Each attorney placed on the approved list and appointed shall be paid by the parties to the litigation as ordered by the judge presiding or as agreed between the litigants. The cost for the appointed attorneys shall be paid as ordered and the court may enforce the orders and judgments as in other proceedings, including the imposition of sanctions.

In the event the court deems it is in the best interests of the child or the children to have any attorney appointed in a proceeding under Section IX of the Supreme Court Rules, but finds that the parties are both indigent, the Court may appoint an attorney from the approved list to serve pro bono.

Each attorney on the approved list for the Eighth Judicial Circuit shall only be required to accept one pro bono appointment each calendar year.

Adopted July 26, 2006

### 7.3 PARENTING EDUCATION

- (a) **Purpose:** Pursuant to Supreme Court Rules 924, to inform parties of the impact of dissolution of marriage, and/or custody and visitation issues on children, and provide beneficial alternatives to address these issues.
- (b) **Applicability:** Compliance with this Rule is mandatory in all proceedings involving children initiated under the Illinois Marriage and Dissolution of Marriage Act, and in all proceedings initiated under the Illinois Parentage Act of 1984. The Presiding Judge shall have the discretion to mandate compliance with this Rule in all other cases involving issues of child custody or visitation.
- (c) **Approved Programs:** Only programs determined acceptable by the Judges of the Eighth Judicial Circuit and consisting of a minimum of four (4) hours education covering the subjects of visitation and custody, and their impact on children

will be approved. The list of such approved programs shall be maintained in the Office of the Chief Judge.

Adopted: July 26, 2006

#### 7.4 MEDIATION PROGRAM FOR DOMESTIC RELATIONS AND FAMILY LAW CASES

##### I. DEFINITIONS

- (a) Mediation: When the word "mediation" is used herein, it means a cooperative process for resolving conflict with the assistance of a trained, court-appointed, neutral third party, whose role is to facilitate communication, to help define issues, and to assist the parties in identifying and negotiating fair solutions that are mutually agreeable. Fundamental to the mediation process described herein are principles of safety, self-determination, procedural informality, privacy, confidentiality, and full disclosure of relevant information between the parties.
- (b) Impediment: When the word "impediment" is used herein, it means any condition including, but not limited to, domestic violence or intimidation, substance abuse, or mental illness, the existence of which, in an individual or in a relationship, hinders the ability of any party to negotiate safely, competently, and in good faith. The identification of forms of impediment is designed not to require treatment, but to insure that only parties having a present, undiminished ability to negotiate are directed by court order to mediate. Mediation is based on a full disclosure of all facts related to the dispute so that a fair and equitable agreement can be achieved by the parties.

##### II. QUALIFICATION OF MEDIATORS

- (a) Requirements: Mediators must meet all of the following requirements:
1. Formal education: Possess a degree in law or master's or other advanced 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, or other degree program approved by the Chief Judge or his/her designee. If engaged in a licensed discipline, the mediator must maintain said license in full force and effect.
  2. Experience: All mediators must have a minimum of 3 years of work experience as a professional in dissolution or family counseling matters.

3. Training: Complete a specialized training in family mediation consisting of a circuit-approved course of study or certification, to consist of at least 40 hours in the following areas:
- a. Conflict resolution
  - b. Psychological issues in separation, dissolution and family dynamics
  - c. Issues and needs of children in dissolution
  - d. Mediation process, skills and techniques
  - e. Screening for and addressing domestic violence, child abuse, substance abuse and mental illness.
- (b) Continuing education: Mediators must satisfy all continuing legal education requirements established by the Supreme Court with at least 25% of the hours required devoted to dissolution or family law matters. Evidence of completion must be provided to the Chief Judge every two years.
- (c) Establishment of list: The Judicial Circuit shall establish a list of court-approved mediators. All applicants for inclusion on the list shall possess the minimum qualifications set out in this Circuit Rule. The Chief Judge or his/her designee in his/her discretion may require any biographical or other relevant information from an applicant in order to determine the applicant's qualifications for inclusion on the list. For good cause shown, the Chief Judge or his/her designee reserves the right to reject the application of any person who applies and to remove any mediator from the list. Inclusion on the list by the court shall not be considered a warranty that such mediator can successfully mediate any specific dispute.
- (d) Denial/Removal from list: An applicant denied inclusion on or mediator removed from the court-approved list may appeal the decision in writing within 10 days to the Chief Judge or his/her designee. The Chief Judge or his/her designee shall decide the appeal after an opportunity for the applicant or mediator to be heard.
- (e) Pro Bono requirement: Each court-approved mediator shall agree to mediate reduced fee or pro bono cases as assigned by the court.

### III. MEDIATION MANDATORY

- (a) Matters subject to Mediation: The designated judge shall order mediation (pursuant to the court-approved order form) of any contested issue of parental responsibility, custody, visitation, removal or access to children arising in any action not otherwise determined to be ineligible pursuant to this program, as well as any other issues the parties

agree to mediate. The parties may not proceed to a judicial hearing on contested issues arising in that case without leave of court, or until the mediation process has been concluded and its outcome has been reported to the court.

- (b) Commencement of Mediation: Within 30 days after service upon the respondent, or in family law cases within 30 days after paternity is established, the parties must appear and advise the court on the record as to whether or not they have an agreed parenting plan as required by Supreme Court Rule 923(a)(2).

If there is no agreed parenting plan, the court shall order mediation pursuant to Supreme Court Rule 905. The court shall provide parties and counsel with a list of approved mediators from which they may select a mediator and shall set a mediation status conference no less than 30 days after the initial case management conference to assure the mediation is progressing. Within 10 days after the court orders mediation, the parties or, if represented by counsel, their counsel shall file with the Circuit Clerk a letter stating the mediator selected.

At the mediation status conference the parties or counsel shall advise the judge of whether or not the mediation was successful or may be successful if additional time is allowed. Extensions may be granted for good cause shown.

A full case management conference must be within 30 days after the mediation has been completed or is determined to be unsuccessful pursuant to Supreme Court Rule 923.

The parties are to show proof of completion of an approved parenting education program as required by Supreme Court Rule 924 within 60 days after the respondent has been served. The Circuit Clerk shall provide notice to both parties of this requirement upon filing the dissolution and with the service of summons on the respondent.

Failure to comply with these rules may result in the imposition of sanctions on any party willfully failing to comply.

Discovery pursuant to Supreme Court Rules and applicable statutes may continue throughout the mediation, and any information resulting therefrom considered by the mediator.

Any judge may alter the time periods under this Circuit Rule in order to best serve the litigants and the docket.

#### IV. CONFLICT OF INTEREST AND ETHICAL CONDUCT

- (a) If the mediator appointed has or had any possible conflict of interest including, but not limited to, a current or

previous therapeutic, personal or economic relationship with mother, father, child, sibling, step-parent, grandparent, household member, counsel or anyone else directly involved in the case, he or she shall decline the appointment or disclose that relationship to the attorneys and may be removed for that reason. If there is a conflict, the parties may select or the court shall appoint another mediator.

- (b) Inclusion of a mediator in the 8<sup>th</sup> Judicial Circuit approved mediators' list indicates explicit agreement by that mediator to maintain high standards of ethical practice. Failure to comply may result in removal of the mediator's name from the approved list.

#### V. COSTS OF MEDIATION

The parties are to divide costs of mediation, unless, in the judge's discretion, the cost should be allocated on an unequal basis due to the respective finances of either party. All mediators who are hired by parties ordered to attend mediation will be required to take a certain percentage of cases on a pro bono basis.

The judges of the 8<sup>th</sup> Circuit are mindful of the fact that the parties will incur substantial cost with the cost for the Parenting Education Requirement under Supreme Court Rule 924, cost for retaining counsel, and the cost for mediation. However, it appears that the cost of these programs will be less than the cost of protracted custody litigation.

The Chief Judge shall maintain a record of the number of mediations conducted by each mediator, the cost incurred by the parties, and whether or not the mediation resolved the issues between the parties.

#### VI. MEDIATION PROCESS

- (a) Commencement: At or prior to the initial session, the mediator shall:
1. Determine the issues to be mediated;
  2. Explain that no legal advice, therapy or counseling will be provided;
  3. Disclose the nature and extent of any existing relationships with the parties or their attorneys, and any personal, financial, or other interests that could result in bias or conflict of interest on the part of the mediator.
  4. Inform each party of his/her right to obtain independent legal counsel;

5. Inform the parties that:
    - a. mediation can be suspended or terminated at the request of either party after 3 hours of mediation, or in the discretion of the mediator, or
    - b. the mediator may suspend or terminate the mediation if an impediment exists, if either party is acting in bad faith or appears not to understand the negotiation, if the prospects of achieving a responsible agreement appear unlikely, or if the needs and interests of the minor children are not being considered. In the event of a suspension or termination, the mediator may suggest a referral for outside professional services;
  6. Explain the mediation process is confidential as outlined under VIII of this Circuit Rule;
  7. Confirm the parties' understanding regarding the fee for services and any reduced fee arrangements for eligible parties with financial hardship;
  8. Reach an understanding with the parties as to whether the mediator may communicate with either party or their legal counsel or with other persons to discuss the issues in mediation in the absence of the parties. Any separate communication which does occur shall be disclosed to the parties at the first opportunity;
  9. Advise each party that legal counsel, advocates, or other persons may be present only if both parties and the mediator agree in advance. Such individuals may be available for consultation for each participant while mediation is in progress;
  10. Advise each party that children may be allowed to participate in mediation so long as all parties and the mediator consent to said participation in writing, and that each parent or the child's representative or guardian ad litem, if applicable, has the right to withhold consent.
- (b) Reporting risk of bodily harm: While mediation is in progress, the mediator may report to an appropriate law enforcement agency any information revealed in mediation necessary to prevent an individual from committing an act that is likely to result in imminent, serious bodily harm to another. When the identity of an endangered person is known to the mediator, the mediator may warn that person and his attorney of the threat of such harm; such notification shall not be considered a breach of confidentiality mandated by this Circuit Rule.

#### VII. APPLICATION OF SAFEGUARDS IN CASE OF IMPEDIMENT

- (a) Duty to assess: While mediation is in progress, the mediator shall assess continuously whether the parties manifest any impediments affecting their ability to mediate safely, competently and in good faith.
- (b) Safety: If an impediment affecting safety arises during the course of mediation, the mediator shall adjourn the session to confer separately with the parties, may implement appropriate referrals to community service providers, shall advise the parties of their right to terminate, and either shall:
  - 1. Terminate mediation when circumstances indicate that protective measures are inadequate to maintain safety; or
  - 2. Proceed with mediation after consulting separately with each party to ascertain whether mediation in any format should continue.
- (c) Competency or good faith: If an impediment affecting competency or good faith, but not safety, arises during the course of mediation, the mediator may make any appropriate referrals to community service providers and either:
  - 1. Suspend mediation when there is a reasonable likelihood the impaired condition of an affected party is only temporary; or
  - 2. Terminate mediation when circumstances indicate an affected party's ability to negotiate cannot be adequately restored.
- (d) Effect of termination: No mediation terminated shall proceed further unless ordered by the court upon motion of a party. In the absence of such an order, the case shall be returned to the docket for adjudication in the manner prescribed by law.

#### VIII. CONFIDENTIALITY

- (a) Privacy of sessions: Mediation sessions shall be private. The mediator shall have authority to exclude all persons other than the parties from sessions at which negotiations are to occur.
- (b) Confidentiality: Except as otherwise provided by law, all written and verbal communications made in a mediation session conducted pursuant to these rules are confidential and may not be disclosed by the mediator or any other participant or observer of the mediation, except that the parties may report these communications to their attorneys or counselors. Prior to the commencement of mediation, all participants in the mediation shall sign the

confidentiality agreement prescribed by these Circuit Rules.

1. Limitation of disclosure: Admissions, representations, statements and other communications made or disclosed in confidence by any participant in the course of a mediation session shall not be admissible as evidence in any court proceeding. Except as identified herein, a mediator may not be called as a witness in any proceeding by any party or by the court to testify regarding matters disclosed in a mediation session, nor may a party be compelled to testify regarding matters disclosed during a mediation session as to privileged communications. Should a mediator receive a subpoena for their appearance or production of records for any issues regarding the mediation, the mediator shall immediately notify the participants, counsel for the participants, the Chief Judge of the Eighth Judicial Circuit and the judge to whom the case was assigned so that an appropriate response may be made to insure confidentiality.
  
2. Exceptions: Admissions, representations, statements and other communications are not confidential if:
  - a. all parties consent in writing to the disclosure or the communication reveals either an act of violence committed against another during mediation, or an intent to commit an act that may result in bodily harm to another; or
  - b. the communication reveals evidence of abuse or neglect of a child; or
  - c. non-identifying information is made available for research or evaluation purposes approved by the court; or
  - d. the communication is probative evidence in pending action alleging negligence or willful misconduct of the mediator.
  
3. Maintenance of files: All mediators must develop a maintenance system for all mediation files and confidential information derived from the mediation to insure that the files and information remain confidential and are not accessible to other members of the mediator's firm/practice for any reason.

#### IX. ATTENDANCE AND TERMINATION OF MEDIATION

- (a) Attendance: The parties shall attend the mediation session(s) and shall attend a minimum of 3 hours of mediation. Further participation may be extended by order of court or agreement of the parties. Mediation may be

terminated or suspended prior to completion of the 3 hours upon resolution of all mediated issues.

- (b) Termination or suspension: The mediation may be terminated or suspended at the option of the mediator or the court.
- (c) Notice to court: The mediator shall immediately advise the court within 10 days in writing if he or she suspends or terminates mediation or in the event that either or both parties fail to comply with the terms of this Circuit Rule.
- (d) Sanctions for failure to appear: If a party fails to appear without good cause at a previously agreed upon mediation conference or a mediation conference ordered by the court, the court upon motion, may impose sanctions, including an award of mediator and attorney fees and other costs, against the party failing to appear.
- (e) Termination with agreement: When agreements or partial agreements are reached by the parties during mediation, the mediator shall provide a written account of the agreement to the parties and their attorneys (if any), within 10 days, but the mediator shall not provide this written account to the court. The mediator shall advise each party to obtain legal assistance in drafting or reviewing any final agreement. The mediator shall advise the parties that agreement reached during mediation will not be legally binding until it is reviewed by the court and signed by the judge.
- (f) Termination without an agreement: Upon termination without agreement, the mediator shall file with the court within 10 days, a final report stating that the mediation has concluded without disclosing any reasons for the parties' failure to reach an agreement.
- (g) Reporting procedures:
  1. Mediator's Report: The mediator shall prepare the "Mediator's Report" on the form prescribed by the Chief Judge within ten (10) days of the termination of the last mediation session, and file such with the Circuit Clerk.
  2. Statistical Report: The mediator shall prepare a statistical report for each case on the form prescribed by the Chief Judge and file such not less than quarterly with the Trial Court Administrator.
  3. Reporting to the Supreme Court: The Trial Court Administrator shall maintain records of the mediations conducted pursuant to these Rules. From these records, the Trial Court Administrator shall compile information which shall include, but is not limited to, the total

number of mediations conducted, the number of mediations which result in an agreement, and the number of mediations which fail to result in an agreement. This information, as well as any additional information requested by the Supreme Court, shall be furnished on an annual basis or at such other intervals as directed.

#### X. ENTRY OF JUDGMENT OR ORDER

- (a) Presentation of order: Each mediated agreement shall be presented by the parties or their attorneys (if any) to the court within 15 days after the agreement has been reached.
- (b) Approval by the court: The court shall examine the parties as to the content and intent of the agreement and shall reject the agreement if any of its provisions are found by the court to be unconscionable or contrary to the best interests of a minor child. Unless the agreement is rejected, the court shall enter an appropriate judgment or order stating its findings and shall incorporate, either explicitly or by reference, the agreement so the terms of such agreement are also the terms of the judgment or order.

### PART 8. PROBATE PROCEEDINGS

#### 8.1 PROBATE PROCEEDINGS

- (a) The responsibility for giving proper notice, presenting evidence, and conducting probate proceedings, is that of the legal representative of the estate or his attorney, except where such responsibility is placed on the court or the clerk by law.
- (b) Pursuant to Section 27-9 of the Probate Act, a direction shall be given to the clerk specifying the newspaper in which notices shall be published or the date letters of office are issued.
- (c) Proof of heirship. On Petition of Letters of Administration to Collect, proof of heirship shall be given before letters of office are issued, unless such procedure is waived by the court. Testimony as to heirship shall be given in any of the methods recognized in the Probate Act. The court in its discretion may allow a person not related to the decedent to give evidence regarding heirship.

#### 8.2 BONDS AND SURETIES

- (a) Individuals. When an individual is offered as security on a bond of a legal representative, he shall state his residence address below his signature, and when requested by the court, shall furnish a verified affidavit and shall agree in writing he will notify the court before he conveys

or encumbers the real estate described in said affidavit, until he is discharged by order of the court.

- (b) Upon the request of the Surety of a Bond of a legal representative or upon the court's own motion, access to a safe deposit box containing assets of the estate or withdrawal from a bank account shall be subject to written approval of the surety or approval of the court, and the proceeds of settlement of a cause of action for the death of a decedent or for personal injuries to a minor or incompetent shall be paid to the joint order of the legal representative and the surety, subject to order of the court.

### 8.3 INVENTORY AND APPRAISAL

- (a) The inventory must describe the real estate and the improvements thereon, any indebtedness on the real estate, and also the amount of money on hand and list all the personal estate. Each item shall be given an inventory number and the same number shall be used in the final accounting in the estate to show the disposition or distribution of each item.
- (b) Under independent administration, the representative is not required to file the inventory with the court.

### 8.4 CLAIMS AGAINST THE ESTATE

- (a) Each claim based on a written instrument shall be accompanied by a copy of said instrument. Unless the original is lost or destroyed, it shall be presented to the court at the hearing. If the claim is allowed a notation shall show the allowance on the original instrument. When a claim is based on a cause of action for personal injury, wrongful death, or other tort, the statement of the claim and the proceedings shall conform to the provisions of the Civil Practice Act.
- (b) When the legal representative or his attorney files a claim against the estate he is administering, he shall apply to the court for the appointment of a guardian ad litem or special administrator to appear and defend for the estate. When the legal representative or his attorney waives the mailing or delivery of the copy of the claim, the time for filing pleadings pursuant to Section 18-5 of the Probate Act shall be 28 days after the waiver or the filing of the claim, whichever is later. If pleadings are filed pursuant to Section 18-5 of the Probate Act, the clerk shall set the claim for hearing.

### 8.5 GUARDIAN AD LITEM

- (a) Unless the court waives the appointment, a guardian ad litem shall appear on behalf of a minor or incompetent in the following cases:
- (1) When a petition has been filed for admission of a will to probate or for letters of administration, and it appears that not all of the names and addresses of the heirs are known;
  - (2) On the hearing of a final account of an executor or administrator;
  - (3) On the hearing of a final account of a guardian, if at the time of the hearing the minor has not attained majority age, or the incompetent has not been declared competent by order of court.
- (b) Unless waived by the court, a guardian ad litem shall be appointed on the hearing of a final account or of a current account on which a partial or complete distribution of the estate is made, or all or any part of the estate is received from, or is to be distributed to, the same person, or corporation in a fiduciary capacity serving as legal representative of the estate, except when said legal representative is a duly qualified trust department of a financial institution or trust company.

#### 8.6 ATTORNEYS-IN-FACT AND REPRESENTATIVE OF FOREIGN COUNTRIES

- (a) The distributive share of a citizen and resident of a foreign country may be paid to the official representative of that foreign country (hereafter referred to as "representative"), attorney-in-fact, or assignee if a resident of the State of Illinois, in the following manner:
- (1) Such representative shall present evidence to the court that his principal is in fact the person entitled to receive the distribution, and that such representative has been authorized to receive the distribution.
  - (2) Such representative shall present his petition for leave to receive in the form required by the court and furnished by the clerk. When such petition is allowed by the court, an appropriate order shall be entered.
  - (3) Unless waived by the court, such representative shall furnish bond with surety as required by the court, in an amount set by the court and on a form furnished by the clerk and shall be conditioned upon the payment and delivery of the distribution to the principal.

Upon final distribution and proof of same, the bond shall be discharged.

- (4) Such representatives shall acknowledge receipt in writing of the distribution received from the legal representative, and he shall certify on the receipt that his authority to receive the distribution has not been revoked. The legal representative shall file that receipt and certificate with his vouchers.
- (5) Such representative shall within 90 days, or any extension thereof allowed by the court, present his report of compliance, together with the receipt or voucher of the principal showing payment and delivery of the distribution to the principal lawfully entitled thereto.
- (6) In the event of the failure, refusal or inability of such representative to pay and deliver the distribution to the principal lawfully entitled thereto within the time allowed by the court, said distribution shall be deposited with the treasurer of Adams County subject to further order of the court, and the receipt of the county treasurer showing deposit of said distribution shall be filed with the court by such representative, whereupon he shall be discharged and the distribution shall be held by the county treasurer until further order of court.

#### 8.7 SETTLEMENT OF PERSONAL INJURY AND WRONGFUL DEATH CASES

- (a) Each petition for leave to settle a cause of action for personal injuries sustained by a ward or a cause of action for the wrongful death of a decedent shall be executed by the legal representative or any other interested person. The attorney for the representative shall certify in writing as a part of the petition that in his opinion, the proposed settlement is fair and proper based upon the facts and law which apply.
- (b) If no attorney is employed by the representative the court on its own motion may appoint a guardian ad litem to investigate the merits of the proposed settlement.
- (c) No settlement on behalf of a minor, disabled adult or incompetent will be authorized unless a certificate of the attending physician is filed with the petition stating the nature and extent of the injury and in the case of a minor, unless the minor appears in open court.

#### 8.8 TERMINATION OF SMALL ESTATES OF WARDS

- (a) If the value of a ward's estate being administered becomes less than the "small estate" amount specified in the Probate Act, and no part of the estate consists of real estate or a pending cause of action for personal injuries, a petition may be filed requesting the distribution of the estate without further administration. In the case of a

disabled adult, application shall be made by his guardian or spouse, and if he has no spouse, by a relative having responsibility for his support. In the case of a minor application shall be made by his guardian, or by parent, or by a person standing in loco parentis. If it appears that there is no unpaid creditor and that it is for the best interest of the estate and the ward, the court may order the guardian to file his final account and make distribution as the court directs.

#### 8.9 ACCOUNTS

- (a) Notice of hearing on a final account of an executor or administrator, or on a current account that is intended to be binding pursuant to Section 24-1 of the Probate Act shall be given to the persons described in that Section. Such notice shall be in writing accompanied by a copy of the account, except where notice is given by publication. The notice shall contain the date, time, place and nature of the hearing and substantially the following sentence: "If the account is approved by the court, in the absence of fraud, accident or mistake, the account as approved is binding upon persons to whom this notice is given." Proof of notice shall be filed with the clerk on or before the date of the hearing, except that no notice need be given to any person from whom a receipt in full is filed with the court, or who enters his appearance in writing and waives notice.
- (b) Notice of hearing on a final account of a guardian, conservator, or guardian of a disabled adult or a current account that is intended to be binding, pursuant to Section 24-11(b) of the Probate Act shall be given to the ward, if living, to each claimant whose claim has been filed and remains unpaid, to the heirs or legal representative of a deceased ward, and any other person entitled to notice pursuant to the Probate Act. Each current account shall state the status of any claim, suit, or proceeding, by or against the estate or representative of the estate and, in the estates of deceased persons, any other reason which prevents final distribution and termination of the estate. No final report or account of any estate shall be approved unless there is filed with the court the receipt of the clerk for final court costs, a statement or copies of documents showing that any and all applicable taxes, executors or administrators fees, and attorneys fees have been paid, and the certificate of the clerk showing that all claims have been allowed or dismissed and listing those claims allowed and not yet shown paid of record.

#### 8.10 FINAL SETTLEMENT OF GUARDIAN OR GUARDIAN FOR DISABLED ADULT

- (a) Upon the final settlement of a ward's estate, the guardian or guardian for disabled adult will not be discharged

unless the ward appears before the court and acknowledges the settlement in open court and gives his written receipt for all items received. The personal attendance of the ward may be waived by the court whenever the court is satisfied by affidavit, or other evidence, that the final settlement is fair and proper, that the ward is in possession of all his estate, and that personal attendance of the ward is not practical.

- (b) The guardian or guardian for disabled adult seeking to be discharged shall give notice at least 10 days before the date of his intended application to all unpaid claimants, and to the heirs of a deceased ward or to any known acting administrator or executor of his estate.

#### 8.11 FEES

- (a) No fees in estates of deceased persons shall be allowed by the court without a written petition or statement in a report or account briefly listing all matters in support of such fees including, but not limited to, the value of the estate for tax purposes, a summary of services performed and the number of hours spent on those services, the hourly charge for those services and the fee being requested, and the costs advanced for which reimbursement is requested, unless all parties in interest enter their appearance and agree that the fees are to be allowed.
- (b) Fees shall be allowed in estates of incompetents, disabled adults and minors only when current or final reports are presented for approval, and a petition or statement is presented as in estates of deceased persons.
- (c) The order closing an estate and discharging the legal representative shall be in writing and may be prepared in draft form and submitted by the legal representative of the estate or his attorney.

#### 8.12 ALL OTHER PROCEEDINGS

- (a) All other probate proceedings not specifically provided for in the above rules shall be performed pursuant to the provisions of the Probate Act of the State of Illinois.

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