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**IN THE CIRCUIT COURT  
OF THE  
FIFTEENTH JUDICIAL CIRCUIT**

Order entered \_\_\_\_\_, 2007.

Effective April 1, 2007, the Rules of the Circuit Court of the Fifteenth Judicial Circuit are amended as follows:

**PART 1 ORGANIZATION**

**Rule 1.1 Rules of Court**

(a) **Power of Court to Adopt Rules.** These rules are promulgated pursuant to section 1-104(b) of the Code of Civil Procedure (735 ILCS 5/1-104(b)) providing that the Circuit Courts may make rules regulating their dockets, calendars, and business and 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 Supreme Court Rules and statutes of the State.

(b) **Existing Rules Repealed.** These rules shall become effective on April 1, 2007. All prior rules of the Circuit Court of the Fifteenth Judicial Circuit are hereby repealed.

(c) **Amendment of Rules.** Any amendment of these rules shall be passed by a majority vote of all circuit judges of the Fifteenth Judicial Circuit, with each voting judge being mailed a copy of the proposed amendment at least ten (10) days prior to the vote thereon.

**Rule 1.2 Chief Judge**

(a) **Selection.** A majority of the circuit judges of the Fifteenth Judicial Circuit shall select, by secret ballot, one of their number to serve as Chief Judge for a three (3) year term, having commenced on the first Monday in January of 2005, and shall select a Chief Judge in the same manner every three (3) years thereafter. No Chief Judge may succeed himself or herself in office.

(b) **Acting Chief Judge.** The Chief Judge shall designate one of the circuit judges to act as Acting Chief Judge in his or her absence or when the Chief Judge is unable to serve. The designation shall be in writing and promulgated to all circuit judges. The Acting Chief Judge shall have the same powers and duties as the Chief Judge at such times when the Chief Judge is absent or unable to serve.

(c) **Vacancy.** Whenever a vacancy occurs in the office of the Chief Judge, a majority of the Circuit Judges shall select a circuit judge to fill the unexpired term. Any two circuit judges may call a meeting of the circuit judges for the purpose of electing a Chief Judge to fill the unexpired term of office. A judge elected under this section may succeed himself or herself in office for one full three-year term. The election shall be held within three weeks of the vacancy

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and at least seven (7) days notice shall be given to all circuit judges.

**(d) Chief Judge's Powers and Duties.** The Chief Judge is responsible for the administration of all courts in the circuit and shall direct the operations of the Circuit Court. A Chief Judge has general administrative authority over the Circuit Court, including authority to provide for divisions, general or specialized, for functional units and for designating appropriate times and places of holding court. The Chief Judge is subject to, and responsible for, the implementation and enforcement of the rules, orders, policies and directives of the Supreme Court, the Chief Justice and Director, Administrative Office of the Illinois Courts.

All orders entered by the Chief Judge shall be kept on file in the Office of the Circuit Court Administrator, the office of the Circuit Clerk in each county in the circuit. The Court Administrator shall maintain the orders and permanent court records, which will be available for inspection as public documents. Copies will be available for a nominal fee.

**(e) Removal of the Chief Judge.** A majority of the circuit judges may, at any time, by written order call a meeting of the judges at a time and place stated for the purpose of considering the removal of the Chief Judge from office. A copy of such order shall be delivered or mailed postage prepaid to each circuit judge at least five days before the time fixed for the meeting. At such meeting the judges shall vote by secret ballot on the question "Shall the present Chief Judge be removed from office?" If a majority of such judges vote for such removal, the Chief Judge is thereby removed from office and the judges shall thereupon proceed to elect a new Chief Judge to take office at once.

### Rule 1.3 Presiding Judge

**(a) Designation.** The Chief Judge shall designate a judge in each county of the Fifteenth Judicial Circuit as the Presiding Judge in that county by written administrative order. 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 or she sits.

**(b) Powers and Duties of the Presiding Judge.** The Presiding Judge or his or her designee shall call and impanel Grand and Petit Juries, submit budgets, administer the Judicial Department of the county in which he or she is presiding and perform such other duties as may be required for the proper administration of justice. He or she may promulgate Administrative Orders within his or her county not inconsistent with these rules or the Administrative Orders of the Chief Judge. All Administrative Orders issued by the Presiding Judge shall be tendered to the Chief Judge fourteen (14) days prior to their effective date during which time the Chief Judge may approve, or withhold approval, of the proposed Administrative Order.

### Rule 1.4 Judicial Assignments

**(a) Assignments by the Chief Judge.** The Chief Judge shall assign circuit judges and associate judges to the various counties within the circuit and may

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further assign all judges on a case-by-case basis.

**(b) Assignments by the Presiding Judge.** The Presiding Judge within each county may assign judicial duties to the circuit and associate judges regularly assigned to that county by the Chief Judge.

### **Rule 1.5 Court Personnel**

**(a) Court Complement.** A full court complement consists of the judge, courtroom clerk, and bailiff when court is in session. A full complement shall be maintained whenever directed by the presiding judge.

**(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 court is 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 docket sheets for cases to be heard that day, swear witnesses, 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.

### **Rule 1.6 Associate Judges: Appointment, Terms of Service**

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

**(a)** After applications are closed pursuant to Supreme Court Rule 39, the Chief Judge shall make the names of the applicants public for a period of 28 days to allow for public comment. All such public comment shall be in writing and addressed to the Office of the Chief Judge. The Chief Judge's office shall make a packet of all such public comment available to each Circuit Judge prior to a formal interview process.

**(b)** During the time for public comment, the Chief Judge's office shall do a background investigation on each candidate, including but not limited to Attorney Registration and Disciplinary Commission (ARDC) Records, LEADS, credit history, and other pertinent records.

**(c)** The Circuit Judges shall conduct an en banc interview with each candidate. If a candidate has been interviewed en banc within the previous 24 months, no additional interview will be necessary.

**(d)** It shall be within the discretion of each circuit judge whether he or she will allow contact with a candidate during the application process to address the candidate's application.

**(e)** The actual vote shall be in accord with Supreme Court Rule 39.

### **Rule 1.7 Judicial Meetings**

**(a) Circuit Judges.** The Chief Judge shall convene a meeting of the circuit judges at least three (3) times per year.

**(b) Associate Judges.** The Chief Judge shall convene a meeting of the associate judges at least three (3) times per year.

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(c) **All Judges.** The Chief Judge shall convene at least one joint meeting per year of the circuit and associate judges.

### **Rule 1.8 Jurors, Terms of Service, Summons and Excuse**

(a) **Grand Jurors.** Grand jurors shall be called by the Presiding Judge or Jury Commission, as the case may be, for a specified period not to exceed eighteen (18) months. After being impaneled, instructed, and sworn, the Grand Jury shall sit from time to time until permanently discharged by the Court. The Presiding Judge shall direct that the Grand Jury, or a committee thereof, inspect the jail and juvenile detention facility, if any, at least annually, and submit its report to the Presiding Judge.

(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 the Jury Commission, as the case may be, shall certify to the Clerk of the Court the number of petit jurors required, together with the date, time and place of reporting and period of service. Jury Commissions are authorized to employ computers or similar devices to assemble and draw general, active and period jury lists from voter registration and driver's license lists, as otherwise provided by law.

(c) **Jury Summonses.** The Circuit Clerk shall issue and cause to be served a jury summons on all Grand Jurors and Petit Jurors at least fifteen (15) days prior to the first day of service. Jury summonses may be served by U.S. Mail, Postage prepaid, to the address as listed in the voter registration or driver's license files.

(d) **Jury Excuses.** The Presiding Judge, his or her designee or the Jury Commissioner, as the case may be, is authorized to excuse summoned jurors or to continue their service, and to 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.

### **Rule 1.9 Soliciting and Loitering Prohibited**

(a) Solicitation of business relating to employment as counsel in the courthouses is prohibited.

(b) Loitering in or about the rooms or corridors of the courthouses is prohibited. Unapproved groups congregating or the causing of a disturbance or nuisance in the courthouses are prohibited. Picketing or parading outside of the building housing the Court within the immediate proximity of the Court is prohibited only when such picketing or parading obstructs or impedes the orderly administration of justice.

(c) The Sheriff of each county in the Fifteenth Judicial Circuit, his deputies, and court bailiffs shall enforce this rule, either by ejecting violators from the courthouses or by causing them to appear before one of the judges for a hearing and for imposition of such punishment as the court may deem proper.

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### Rule 1.10 Decisions Within Sixty (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 that judge for a period of time greater than sixty (60) days from the date such matter is taken under advisement. A judge taking a case under advisement shall set the case for a date certain within that time for the purpose of entry of the decision.

(b) For the purposes of this Rule, a matter is taken under advisement:

(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 Court has received briefs as may have been ordered by the Court and heard arguments as may have been ordered;

(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 taken under advisement which has not been decided by the sitting judge within sixty (60) days after being taken under advisement shall be reported to the Presiding Judge or Chief Judge together with an explanation of the reason such decision has not been rendered.

(d) Any person may report a violation of this rule to the Presiding Judge of the county or the Chief Judge.

### Rule 1.11 Courtroom Decorum

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

(b) **Opening of Court.** All persons who are able should stand when court is opened and recessed, reconvened or adjourned.

(c) **Courtroom Attire.**

(1) Male attorneys shall wear coat and tie and female attorneys appropriate business attire for courtroom proceedings.

(2) Court clerks and probation officers shall wear uniforms or appropriate business attire. No jeans or T-shirts.

(3) Court reporters shall wear appropriate business attire.

(4) Bailiffs shall 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 shall wear appropriate attire, which does not include short shorts, tank-tops or bare midriffs.

(7) No vulgar language shall be visible on attire.

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(8) No outerwear such as overcoats shall be worn in the courtroom.

**(d) Food, drink and tobacco products.** No food, candy, beverages, or tobacco products may be consumed in the courtroom during the business day except with leave of the Court. Leave will be given for the consumption of medical necessities.

**(e) Conduct During Proceedings:**

(1) Counsel should stand when addressing the Court unless medically unable to do so.

(2) Counsel may not engage opposing counsel in a colloquy. All comments or arguments should be addressed to the Court.

(3) Counsel may not approach the bench, the court reporter, clerk, or a witness without leave of the Court.

(4) Counsel may not request the court reporter to go off the record or to read back a portion of the proceedings. Such requests should be made to the Court.

(5) No one may possess or use cell phones or pagers in the audible mode nor should any person receive or make cell phone calls in courtroom while court is in session.

(6) No one may read newspapers or magazines in the courtroom while court is in session.

(7) Counsel should maintain a reasonable distance from the jury box during jury trials. Counsel should avoid physical contact with the jury box and jurors.

(8) Attorneys and court personnel should avoid conversation among themselves or with clients while waiting to be called when court is in session.

**(f) Exhibits:**

(1) Counsel should mark exhibits in advance of trial with exhibit stickers when available. Exhibits should be marked as “Plaintiff’s,” “Petitioner’s,” “Defendant’s,” or “Respondent’s” as appropriate.

(2) When practicable, copies of exhibits and a list thereof should be furnished to the Court and opposing counsel.

(3) Exhibits may not be displayed to the jury without leave of Court and until received in evidence.

(4) Possession and responsibility for exhibits remains with the proponent until such time as the exhibits are received into evidence, at which time the Clerk shall become responsible for the possession of the exhibits, unless otherwise ordered by the Court.

### **Rule 1.12 Photographing, Recording, Broadcasting, or Televising in or near Courtrooms**

**(a)** Pursuant to Supreme Court Rule 63A(7), it is hereby ordered that the taking of photographs, audio or video recordings, or broadcasting by radio, television or other electronic means, in connection with any judicial proceeding, in any courtroom or in areas immediately adjacent to any courtroom, including public hallways of any courthouse of this circuit are prohibited. This

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prohibition includes the audio or video transmissions or recordings of judicial proceedings made by telephones, personal data assistants, laptop computers and other wired or wireless data transmission and recording devices.

(b) Access to the courtrooms, chambers and court offices shall be denied to persons possessing cameras or recording devices other than “personal electronic devices” identified below. Any person found possessing a camera or prohibited recording device within the courtroom, chambers or court offices in violation of this Rule shall have his or her name and address recorded by security staff and shall be escorted out of the building. A second such violation by the same person may result in confiscation of the equipment. Cellular telephones are not barred, but their use in any of the courtrooms is strictly prohibited. Anyone found to be using cellular telephones in a courtroom or equipment to record or transmit court proceedings in a courtroom shall be subject to prosecution for contempt.

(c) All personal electronic devices brought into a courtroom must be turned off, unless the Court specifically orders otherwise. As used in the Rule, the term “electronic devices” includes cameras, video recorders, audio recorders, PDA’s, computers and all similar electronic, cable, digital, computerized or other forms and methods of recording, transmitting, or communicating.

(d) The provisions of this Rule shall apply during the regular business hours of the Court, except that:

(1) Court reporters may make recordings of courtroom proceedings in the performance of their regular duties;

(2) Incidental to ceremonial proceedings, any judge of this circuit, with the permission of the Presiding Judge of that county or the Chief Judge may permit the taking of photographs, audio or video recordings, and broadcasting by radio and television, within the area of the judge’s courtroom, chambers or court offices;

(3) In special circumstances as authorized by the Chief Judge.

(e) The purpose of this rule is to implement the provisions of the Supreme Court Rules and for the orderly administration of justice. This rule shall not be applied in such a way as to conflict with any Supreme Court Rule.

#### **Rule 1.13 Chief Judge Personnel**

No Chief Judge personnel shall be changed except by majority vote of the circuit judges.

#### **Rule 1.14 Electronic Court Reporting**

(a) Pursuant to Illinois Supreme Court Rule 46 and the Administrative Regulations in regard to Standards of Security of the Official Record of Court Proceedings effective December 13, 2005, electronic reporting systems have been approved for use and installed in the 15th Judicial Circuit. Pursuant to these regulations personnel shall be trained and certified to operate the electronic recording system.

(b) The production of the physical medium storing the electronic recording

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of any court proceedings shall be monitored by certified operators of the electronic reporting system who shall tag with their initials each such electronic recording at the time of recordation. The electronic recording medium shall be securely preserved in an unaltered and unalterable condition.

(c) Digital computer recordings of testimony are created only for the purpose of preserving the words spoken in formal courtroom proceedings, hearings and trials in a particular case, so that a transcript, which is the Official Record, may be subsequently produced. The digital computer recordings are owned by the Circuit Court of the 15th Judicial Circuit, and may only be used pursuant to rule or administrative order.

(d) Any spoken words in the courtroom that are not a part of the proceeding, hearing or trial of a specific case are not intended recordings. Other than by certified operators of the electronic recording system to orient themselves on recording content, they may not be listened to or used in any way.

(e) Playback of any portion of the computer recording of a proceeding, hearing, or trial of a specific case is authorized only:

(1) During the proceeding, hearing, or trial at the direction of the Court.

(2) By certified court reporting personnel for the purpose of creating a transcript as the Official Record.

(3) At the direction of the Court for use by the Court.

(f) A request for a transcript from either the electronic recording systems or from a court reporter may be obtained by completing a “Transcript Request Form,” available in the court reporter’s office. Transcripts generated from the electronic recording systems shall be prepared in accordance with applicable statutory authority, rule and administrative regulation and shall be certified.

## PART 2. APPEARANCES

### Rule 2.1 Appearances

(a) **Written Appearances.** The Court shall require that a written appearance be filed by a party or the attorney for the party in every contested case before the party or attorney addresses the Court. Every such written appearance shall contain the legible name, address and telephone number of the appearing party, or the attorney, if represented by an attorney, and must be signed by the attorney of record or the appearing party if not represented. Each party or attorney is required to seasonably update the aforementioned information should changes occur. Copies of the written appearance shall be served in the manner required for the service of copies of pleadings. All appearances by way of pleading or otherwise if filed by a law firm shall indicate the specific attorney or attorneys responsible for the case.

(b) **Time to Plead.** A party who appears without having been served with summons is required to plead within the same time as if served with summons on the day he or she appears.

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### Rule 2.2 Appearance Fees

(a) **Number of Fees.** If a single appearance is filed for several parties, a single appearance fee shall be paid. If separate appearances are entered for several parties, either by the same or different attorneys, separate appearance fees shall be paid.

(b) **Supplementary Proceedings.** No appearance fee shall be required of a person cited in supplementary proceedings under the provisions of section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401).

(c) **Time of Payment.** The appearance fee shall be paid when the appearance is effected.

## PART 3. MOTIONS

### Rule 3.1 Notice of Hearing of Motions

(a) **Notice Required.** Except in actions appearing during the course of trial, written notice of the hearing of all motions shall be given to all parties who have appeared and have not theretofore been found by the court to be in default for failing to plead, and to all parties whose time to appear has not expired on the date of notice. Notice that additional relief has been sought shall be given in accordance with Supreme Court Rule 105.

(b) **Content of Notice.** The notice of hearing shall show the title and number of the action, the name of the judge before whom, and the time and date when the motion will be presented. If the motion is made orally, the notice shall state the nature of the motion. If the motion is presented in writing, a copy of the motion or a statement that it has previously been served shall be served with the notice. Copies of all papers presented to the court with the motion shall be served with the notice or the notice shall state that copies have been served.

(c) **Manner of Service.** Notice shall be given in the manner and to the persons described in Supreme Court Rule 11.

(d) **Time of Notice.** Unless otherwise ordered by the Court, notice by personal service or facsimile transmission if agreed to by the parties pursuant to Supreme Court Rule 11(b)(4) shall be made not less than 72 hours prior to the time set for the hearing, and notice by U.S. Mail shall be complete four days after mailing-Proof of service or mailing shall be made of record.

(e) **Good Faith Effort to Cooperate in Scheduling.** It is the responsibility of the attorney setting a matter for hearing to make a good faith effort to coordinate with the Court and all opposing counsel to set the hearing at a date and time that is mutually convenient. The filing of the notice of hearing shall constitute a certification by the attorney filing the notice of compliance with this Rule.

### Rule 3.2 Ex Parte and Emergency Motions

(a) **Filing Required.** Every complaint or petition requesting an ex parte order of the appointment of a receiver, temporary restraining order, prelimi-

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nary injunction, domestic violence order or other emergency relief, shall be filed in the office of the clerk, if during court hours, before application to the court for the order.

**(b) Notice Not Required.** Emergency motions and motions which, by law, may be heard ex parte may, at the discretion of the court, be heard without giving notice. Emergency motions shall, so far as practicable, be given precedence over other matters before the court.

**(c) Notice After Hearing.** If a motion is heard without prior notice under this rule, written notice of the motions, showing the title and number of the action, the name of the judge who heard the motion, the date of the hearing, and the ruling of the court thereon, shall be served, by the attorney obtaining the order, upon all parties who have appeared and have not theretofore been found by the court to be in default for the failure to plead, and upon all parties whose time to appear has not expired on the date of the hearing, and proof of service shall be filed with the clerk within forty-eight (48) hours after the hearing. Notice shall be given in the manner and to the persons described in Supreme Court Rule 11.

**(d) Order Upon Denial.** If a motion heard without prior notice is denied, an order of the denial shall be spread of record.

### **Rule 3.3 Failure to Call Motions for Hearing.**

The burden of calling for hearing any motion filed is on the party making the motion. If any such motion is not called for hearing within ninety (90) days from the date it is filed, the Court may enter an order dismissing the motion.

### **Rule 3.4 Motions 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.

### **Rule 3.5 Dispositive Motions**

**(a) Time for filing.** All dispositive motions (e.g., motions to dismiss, motions for judgment on the pleadings, motions for summary judgment, etc.) must be filed and brought to argument (pursuant to notice) before the Court no later than ninety (90) days before the assigned trial date. The Court has the discretion to limit or extend the time provided herein in the interests of justice.

**(b) Briefs.** Briefs in support of dispositive motions shall be filed at the time of the filing of the motion. Answers and responsive briefs in opposition to dispositive motions shall be filed no later than twenty eight (28) days after the filing date of the brief in support pursuant to a schedule set by the Court. Replies to said responsive briefs may be allowed in the discretion of the Court and if so allowed shall be filed no later than fourteen (14) days of the filing date of the responsive brief. The Court has the discretion to limit or extend the times provided for herein in the interest of justice.

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(c) **Oral argument.** At the discretion of the judge assigned to the case, motions may be taken by the Court by mail only, with each party submitting briefs and the Court then ruling by mail with no oral argument or hearing.

### PART 4. PROCEEDINGS BEFORE TRIAL

#### Rule 4.1 Discovery Documents

(a) **Restrictive filing.** Pursuant to Supreme Court Rule 201(m), and unless otherwise ordered by the Court, depositions, interrogatories, requests to produce, answers or responses thereto and other similar discovery documents shall not be filed with the Clerk of the Circuit Court except as necessary to resolve disputed issues of procedure, fact, or substantive law or pursuant to Supreme Court Rule 207(b)(1). This rule does not apply to requests to admit facts or the genuineness of documents or the answers or responses thereto.

(b) **Proof of serving and answering discovery documents.** 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.

#### Rule 4.2 Civil Case Management Conference.

(a) **Initial Case Management Conference.** Other than as provided herein, an initial Case Management Conference shall be set in all civil cases pursuant to Supreme Court Rules 218 and 904 and as set forth herein:

(1) The dates and times shall be prearranged on the schedule of the judges assigned to hear respective cases.

(2) The date and time of the initial Case Management Conference shall be affixed to the original pleading and on all copies served upon or retained by the parties, or indicated in a separate document completed by the Clerk to be delivered to the plaintiff and to be served with the summons on all parties.

(3) The date of the initial Case Management Conference in proceedings wherein a summons requiring an appearance on a specified date is authorized (e.g. SC's, LM's, etc.) or for which a notice of hearing is included in the original filing shall be that date set for return or the date set forth in the notice, and the parties shall be notified as set forth above.

(4) The judges of each county shall meet with their respective Circuit Clerks and establish Case Management Conference dates for a period of at least six (6) months in advance for their respective calendars.

(5) All parties or their counsel shall appear at the initial Case Management Conference. Failure to appear may result in a dismissal or default, as the case may be.

(6) At the initial Case Management Conference the Court shall proceed

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in accordance with Supreme Court Rules 218 and 904.

(7) Other than as set forth herein, the following time standards shall be followed in scheduling the initial Case Management Conference: L and ED cases: 90-120 days after filing; CH, MR, D, AD and F cases: 60-90 days after filing; P cases: 9-10 months after filing.

(b) **Continuances.** All continuances of a Case Management Conference shall be to a date certain for a subsequent Case Management Conference and made pursuant to a written order.

(c) **Telephone conferences.** Pursuant to Supreme Court Rule 185 the hearing of routine matters and Case Management Conferences may be done by telephone conference at the discretion of the trial judge. It is not expected that these conferences will be reported and therefore no contested matter will be heard by telephone conference except by agreement of all parties and the trial judge.

### **Rule 4.3 Settlement Conference.**

In each pending civil case it is recommended that a Settlement Conference be held within thirty (30) days after the completion of discovery to explore the possibility of settlement and to determine if the issues can be narrowed.

### **Rule 4.4 Final Pretrial Conference.**

(a) **Requirement of final pretrial conference.** A final pretrial conference may be held in any civil case as set forth herein.

(b) **Duty to prepare.** In actions in which a final pretrial conference is scheduled, the attorneys for each of the parties and each litigant not represented by an attorney shall file and serve such pretrial documents as required by the trial judge at least seven court days prior to the final pretrial conference. Unless otherwise ordered, the pretrial documents shall include the following:

- (1) exhibit lists;
- (2) voir dire questions;
- (3) jury instructions;
- (4) trial memoranda (see Appendices A and B);
- (5) statements of the case including the time and place of the alleged occurrence, a brief description thereof, the names of the parties and their counsel and a list of witnesses whom the parties expect to call;
- (6) motions *in limine* (to be heard at the pretrial conference);
- (7) evidence deposition transcripts and objections.

(c) **Settlement prior to trial.** In the event of a settlement prior to a scheduled pretrial conference or prior to trial, the attorneys for the parties and each individual litigant not represented by an attorney shall forthwith notify the trial judge that the cause has been settled.

(d) **Attendance at final pretrial conference.** Unless excused by the Court, the following representatives shall be present at the final pretrial conference:

- (1) trial attorneys for each party;
- (2) all parties not represented by counsel;

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(3) the plaintiff(s);

(4) a representative of the defendant(s) who has authority to settle the case.

(e) **Exhibits.** At the final pretrial conference or at any other time as may be designated by the Court, the Court may direct that the parties produce all of the exhibits they expect to offer into evidence. Each of the exhibits shall thereupon 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 not be kept in the custody of the Clerk of the Court unless otherwise directed by the Court.

#### **Rule 4.5 Discovery in Criminal Cases.**

Whenever the Court, pursuant to Supreme Court Rules 411-415, orders a party to a criminal proceeding to disclose facts, materials, exhibits, documents, statements, reports or other relevant matters to other counsel involved in the case, the following procedure shall be followed:

(a) Counsel shall prepare the materials ordered by the Court to be disclosed either by providing copies or by arranging a meeting where the materials will be exhibited to opposing counsel; counsel should also prepare a receipt or acknowledgment to be signed by opposing counsel indicating those materials supplied to or exhibited to him or her.

(b) Counsel receiving or reviewing the materials shall receipt or acknowledge that fact by signing the document provided by the disclosing party.

(c) Unless a dispute has arisen concerning the extent of disclosure, all parties at the time of trial or other disposition of the case shall file the receipt or acknowledgment showing compliance with the Court's ruling on discovery.

(d) The Clerk of the Court shall not accept for filing any exhibits, reports or other materials in response to discovery orders entered by the Court.

#### **Rule 4.6 Dismissal for Want of Prosecution**

(a) **Failure to Prosecute.** All civil cases in which no appeal is pending and in which no motion or order has been made for nine (9) months, or in small claims after six (6) months, may be summarily dismissed by the Court for want of prosecution. The Clerk of the Court shall give notice of the pendency of dismissal not less than thirty (30) days prior to the date set for dismissal. After dismissal, the Clerk of the Court shall give notice of such by mail.

(b) **Inactive status of probate matters.** Whenever a judge of the circuit court determines that a probate case (decedent's estate or guardianship) has remained inactive for a considerable time, he or she may direct the clerk of the court to place the case on a docket call, and the clerk shall give notice, as directed by the judge, to the last known attorney of record or personal representative, or both of the time and place of the docket call. Should the judge determine at the docket call that the case cannot be conveniently terminated,

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he or she may enter an order directing the clerk to transfer the case to an inactive docket, and the case file shall thereafter be filed with the closed probate files. A case may be removed from the inactive docket to the active docket on motion and order.

### PART 5. TRIAL

#### Rule 5.1 Continuances.

Continuances are to be allowed only in extraordinary cases where justice would otherwise be denied.

(a) **By the Court.** Continuances may be granted *only* by the Court.

(b) **Compliance.** All motions for continuance shall fully comply with section 2-1007 of the Code of Civil Procedure (735 ILCS 5/2-1007), Supreme Court Rule 231, and section 114-4 of the Code of Criminal Procedure of 1963 (720 ILCS 5/114-4), as applicable.

(c) **Notice.** Notice of any request or stipulation to continue must be sent to all attorneys of record and to the judge assigned to the particular case, and the original shall be filed immediately with the Clerk of the Court.

(d) **Stipulation.** Agreed-upon continuances shall be reduced to writing, submitted at least forty-eight (48) hours before the time appointed, and allowed only upon good cause shown except in cases of jury settings.

(e) **Jury Settings.** Any request of a continuance of a jury trial shall be filed and written notice given at least ninety-six (96) hours in advance of the date set for trial, and said request shall be set for hearing on a date not less than forty-eight (48) hours before the trial date.

(f) **Conflicting settings.** A request for a continuance because of a conflicting setting shall be accompanied by an affidavit of counsel setting forth the name of the other cause, the judge before whom it is pending, the time and place of such conflicting setting and the date the conflicting setting was set.

#### Rule 5.2 Sanctions.

Failure of a party or counsel to comply with the rules contained herein may, in the discretion of the trial court, result in sanctions under Supreme Court Rules 137 and 219 as well as the assessment of costs incurred including juror fees, witness fees, attorneys' fees, lost wages and any other reasonable expense or associated sanction as may be deemed appropriate. These costs may be assessed against the party and/or his counsel, in the discretion of the court. This rule does not in any way limit the court's contempt power.

### PART 6. DRAFT ORDERS AND POST-JUDGMENT NOTICES

#### Rule 6.1 Written Draft Orders.

When the court enters a final judgment in any cause of action, it may require that a written order be submitted. All orders shall be tendered to counsel for approval as to form before being signed by the court. In the event of a

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dispute as to form, the court shall decide the controversy after hearing from all counsel. Approval in form shall not be construed as approval in substance and the court may sign the order even though approval is withheld. The name, address and telephone number of the attorney drafting the order shall be placed at the lower left portion of the last page of the order. An agreed order should be so designated.

### **Rule 6.2 Post-Judgment Notices: When Warnings Are Required.**

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

## PART 7. BONDS – SURETIES

### **Rule 7.1 Definitions.**

(a) **Bond Certificate.** A certificate acceptable in lieu of bail for traffic violations, as authorized under provisions of Supreme Court Rules 501 et seq.

(b) **Civil Sureties.** Any company currently licensed as a surety under the Illinois Insurance Code.

(c) **Personal Surety.** Any individual not licensed as a surety and not regularly engaged in the business of acting as surety or guarantor for the performance of an act of another.

### **Rule 7.2 Authorization to Serve as Surety.**

(a) **Civil Sureties.** Bond with a civil surety will be approved only if a current, certified copy of the surety's license (issued under the Illinois Insurance Code or the Illinois Bail Bond Act) is on file with the Clerk of the Circuit Court, and a verified power of attorney or certificate of authority for each person authorized to execute bonds for the surety is attached to the bond.

(b) **Personal Sureties.** The Court may require that any personal surety execute a schedule of property in a form approved by the Court. If the person offered assurity is accepted by the Court, the schedules of property shall be filed with the bond, and shall be served upon all opposing parties in the manner prescribed by Supreme Court Rule 11, within 48 hours after the Court accepts the surety.

(c) **Period of Authorization.** Authorization to act as a surety shall be granted not to exceed one year, and in any event shall expire on the first day of the July next following the authorization.

(d) **Renewal of Authorization.** A petition for renewal of authorization shall be filed between the first and fifteenth days of April preceding the expiration of authorization.

(e) **Interim Authorization.** Upon the filing of a petition, the Court may grant the petitioner authority to act as a surety on bonds in the Court pending

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determination of the petition.

### **Rule 7.3 Petition and Hearing for Authorization.**

(a) **Civil Surety.** To obtain authorization to act as a civil surety in the Court, the applicant shall file a verified petition for authorization stating that the petitioner has complied with all applicable laws and regulations. There shall be attached to the petition:

(1) A certified copy of the license issued to the petitioner, attested by the Director of Insurance;

(2) A verified statement of its assets and liabilities at the close of business on the 31st day of December of the preceding year or at any subsequent date prior to the filing of the petition;

(3) Power of attorney or certificates of authority for all persons authorized to execute bonds for the petitioner in the Court, in a form approved by the Court;

(4) A verified schedule of all actions pending in any court against the petitioner at the time of the filing of the petition upon bonds executed by it in the courts of record in Illinois; the schedule shall state the title and number of the action, the names of the attorneys of record, the amount claimed, the nature of the claim, and the reasons for contesting the claim; and

(5) A verified schedule of all claims of liability, not the subject of any pending action, which have been made against the petitioner and are undischarged at the time of the filing of the petition, upon bonds executed by the petitioner in the court of record in Illinois; the schedule shall state the name of the claimant, the amount claimed, the nature of the claim, and the reasons for contesting the claim.

(b) **Foreign Acknowledgments.** Acknowledgments and affidavits presented under Rule 7.3 which have been executed outside the State shall be accompanied by a certificate of the proper keeper of records, under the seal of the keeper of records' office, stating that the person before whom the acknowledgment was made or by whom the oath was administered was duly authorized to take acknowledgments or to administer oaths, and that that person's signature is believed to be genuine.

(c) **Notice.** Upon the filing of the petition, the Movant will set the petition for hearing at a specified time not earlier than fifteen (15) days after the date of filing. The Movant shall then publish notice in a newspaper of general circulation in the County of the pendency of the petition showing the date set for hearing.

(d) **Objection.** Any person may file written objections to the petition with the Clerk of the Court not less than ten (10) days before the date set for hearing, stating the reasons why the petition should not be allowed. The petitioner may file its answer to the objections not later than five (5) days before the date set for hearing. A copy of the objections shall be served upon the petitioner, and a copy of the answer shall be served upon the objector, not later than the time of the respective filings.

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(e) **Hearing.** The petitioner and the objector may introduce evidence at the hearing. If the Court finds that the petitioner has not complied with Rule 7.3 or that the petition should be disallowed, the petitioner shall be disqualified from acting as surety in the court until further order of the Court.

(f) **Change of Agents.** A civil surety may file a supplemental petition to change the persons authorized to execute bonds in its behalf.

### **Rule 7.4 Revocation of Authorization.**

The Court, upon its own motion or upon request of any person, may at any time enter a rule upon any civil surety in the Court to show cause why its authorization should not be revoked. The order entering the rule shall set a date, not less than thirty (30) days after the entry of the rule, for hearing upon the return of the rule. The Clerk of the Court shall serve notice of the entry of the rule and of the date set for hearing of the return upon the surety. The return shall contain the information required by Rule 7.3 for original petition for authorization to act as surety. It shall be grounds for revocation that the surety failed, without justification, to discharge an obligation without delay when liability became absolute or was determined by final judgment or interposed a frivolous or unmeritorious defense upon a bond executed by it.

### **Rule 7.5 Justification of Sureties.**

Any person assured by a bond executed in the Court may by motion request the sureties to justify. The motion shall be accompanied by an affidavit showing grounds for believing the sureties to be insufficient, the manner of inquiry, and the facts ascertained. If the Court finds that the affiant's belief is well-founded, it may order that either the sureties shall justify within a time specified or a new bond be furnished with sufficient sureties.

## **PART 8. RECEIVERS**

### **Rule 8.1 Qualifications of Receivers.**

(a) **Disqualification.** Except as provided in section (b) of this rule or any applicable statute, an appointment as receiver shall not be granted to an individual, or to a corporation having a principal officer, who (1) is related by blood or marriage to a party or attorney in the action, (2) is an attorney for, or of counsel for, any party in the action, (3) is an officer, director, stockholder, or employee of a corporation the assets of which are in question, or (4) stands in any relation to the subject of the controversy that would tend to interfere with the impartial discharge of his duties as an officer of the court.

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

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### **Rule 8.2 Attorneys for Receivers**

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

### **Rule 8.3 Inventories of Receivers**

(a) **Complete Inventory.** Unless the Court orders otherwise, a receiver shall, as soon as practicable after appointment, but in any event no later than thirty (30) days thereafter, file an inventory of all property – real, personal, or mixed – of the estate, designating the property of which the receiver has taken possession or control.

(b) **Liabilities of the Estate.** Unless the Court orders otherwise, the receiver shall file with the inventory required by Rule 8.3(a) a list of the then-known liabilities of the estate.

### **Rule 8.4 Appraisers.**

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

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

### **Rule 8.5 Reports of Receivers.**

(a) **Time of Filing.** The receiver shall file a first report at the time of filing the inventory, and additional reports annually thereafter. Special reports may be ordered by the Court and a final report shall be filed upon the termination of the receivership.

(b) **Forms.** The court may prescribe forms to be used for reports of a receiver.

### **Rule 8.6 Receivers' Bank Accounts.**

Where any amount of money is collected during the period of the receivership a separate bank account for that receivership must be carried.

### **Rule 8.7 Bonds of Receivers.**

(a) **Personal Sureties.** Bonds with personal sureties shall be approved by the Court. Unless excused by the Court, sureties shall execute and file schedules of property in a form approved by the Court.

(b) **Surety Companies.** Bond with a corporation or association licensed to transact surety business in this State as surety will be approved only if a current certified copy of the surety's authority to transact business in the State, as issued by the Director of Insurance, is on file with the Clerk of the Court, and verified power of attorney or certificates of authority for all persons authorized to execute bonds for the surety is attached to the bond.

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### PART 9. DOMESTIC RELATIONS

#### Rule 9.1 Special Rules Pertaining to Family Law Cases.

(a) **Family Law Cases Defined.** For purposes of this rule, family law cases are defined as any proceeding for an order of judgment relating to dissolution, legal separation or invalidation of marriage, or paternity including all ancillary and post-judgment proceedings.

(b) **Support Payments.** Unless otherwise provided in any order for support, all support payments in matrimonial cases shall be made to the State Disbursement Unit.

(c) **Conflicts of Interest.** No attorney or law firm shall represent or advise both parties to a dissolution action.

(d) **Financial Affidavit.** In all proceedings in which there is a dispute involving property, temporary or permanent maintenance, or temporary or permanent child support, each party shall file a Financial Affidavit, similar to that found in Appendix C of these rules at least five (5) days prior to the hearing on the issue, or when otherwise ordered by the Court. If such Affidavit has been filed for purposes of a hearing on temporary relief, an additional affidavit need not be filed prior to hearing for permanent relief if the affiant affirms that there has been no substantial change at the time of the final hearing. The failure of one party to file a financial Affidavit within the time required by this rule may constitute good cause for the Court to grant a motion to continue the hearing made by a party who has filed a Financial Affidavit within the time required by this rule.

(e) **Statement of Proposed Property Apportionment.** If the issue of property apportionment is in dispute, in addition to the Financial Affidavit, the parties shall submit a Statement of Proposed Property Apportionment which shall include an itemization of all property which is claimed as marital and non-marital, together with a proposed fair cash market value of each item and a summary statement of authorities relied upon by the proponent, at least five (5) days prior to the hearing. If the issue of marital indebtedness is in dispute, the statement shall also include a listing of any non-marital indebtedness for which either party is currently liable. The failure of one party to file a statement within the time required by this rule may constitute good cause for the Court to grant a motion to continue the hearing made by a party who has filed a statement within the time required by this rule.

(f) **Waiver of Child Support Prohibited.** The court shall not waive child support.

(g) **Written Judgment Order.** If the court requires a written judgment order, the prevailing or otherwise appropriate party shall prepare and submit a written judgment order to the court pursuant to Rule 6.1 of these rules within thirty (30) days of the final hearing. If the order is not submitted to the court within thirty (30) days, the party charged with drafting the order shall advise the court of the reason for the delay.

(h) **Transcripts of Evidence.** In any proceeding for entry of a judgment in a

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family law case, the testimony shall be recorded. The proceedings shall not be transcribed unless requested by a party or ordered by the Court.

### **Rule 9.2 Appearances in Dissolution Proceedings**

Any party intending to appear and participate in a dissolution proceeding shall file a written entry of appearance. Such party shall also pay any fees required by law unless otherwise excused by the Court.

## **PART 9A. MEDIATION IN CASES INVOLVING CHILD CUSTODY OR VISITATION**

### **Rule 9A.1 Mediation Defined.**

(a) Mediation under this Part shall be a process by which the parties to a proceeding governed by Supreme Court Rule 905 may submit custody and visitation issues to a court-approved mediator who shall not decide the dispute but who shall impartially assist the parties in reaching their own fair settlement.

(b) Mediation hereunder shall be based upon the full disclosure of all facts related to the dispute.

(c) Mediation hereunder shall be based upon principles of problem-solving which focus on the needs and interests of the parties, fairness, privacy, self-determination, safety and the best interest of the children involved.

(d) Mediation hereunder shall not be a substitute for independent legal advice.

(e) Mediation hereunder is not appropriate when one of the parties is unable to participate competently because of the existence of family violence or intimidation, substance abuse, mental illness, or any other condition which adversely affects the ability of that party to represent himself or herself.

### **Rule 9A.2 Statement of Purpose.**

The Rules of this Part 9A are intended to comply with the mandate of Supreme Court Rule 905. The Supreme Court Rule and the Rules of this Part recognize that healthy parent-child custody and visitation relationships are more likely to emerge from a mediated agreement obtained under proper conditions than from the adversarial judicial process. Such mediation will help ensure that the parties consider fully the best interests of the children and that they understand the consequences of decisions they reach concerning these issues. The mediation will assist the parties in examining the separate and individual needs of the children and to consider those needs apart from their own desires.

### **Rule 9A.3 Subject Matter of Mediation under this Part.**

Custody and visitation of children are based upon the best interests of the children and are not related to the financial or property issues between the parties. Therefore, issues of child support, child-related expenses, health care, medical coverage, division of property, maintenance and all other like issues shall be excluded from the subject of mediation.

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### Rule 9A.4 Duties of the Mediator.

(a) **Information at Initial Session.** At the initial session the mediator shall:

- (1) Determine the issues to be mediated;
- (2) Explain that the mediator will not provide legal advice, therapy, or counseling;
- (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) Advise each party to obtain independent legal counsel to assist and to advise them throughout the mediation;
- (5) Inform the parties that:
  - (i) mediation can be suspended or terminated at the request of either party after three hours of mediation;
  - (ii) the mediator may suspend or terminate the mediation if either party is acting in bad faith or appears not to understand the negotiation, 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 consultation;
- (6) Explain that the mediation process is confidential as outlined in Rule 9A.7;
- (7) Inform the parties that the mediation process requires voluntary full disclosure of all relevant facts;
- (8) Explain the fees for mediation and reach an agreement with the parties for payment as previously ordered by the court;
- (9) Reach an understanding with the parties as to whether the mediator may communicate with either party or their independent legal counsel or with other persons to discuss the issues in mediation in the absence of the parties. Any separate communication which does not occur shall be disclosed to the parties at the first opportunity;
- (10) Advise each party that legal counsel, advocates or support persons shall not be present at any mediation session though such individuals may be available for consultation for each party while mediation is in progress.

(b) **Ethical conduct.** Inclusion of a mediator on the list of persons approved to serve as mediators in this program indicates the explicit agreement by that mediator to abide by the standards of practice herein set forth. It is the duty of each mediator to maintain high standards of ethical practice. Failure to comply may result in removal of the mediator's name from the approved list.

(1) Advertising. A mediator shall make accurate statements about the mediation process, its costs and benefits, and about the mediator's qualifications.

(2) Relationships with Others.

(i) Relationships with other mediators. A mediator shall not mediate any dispute which is being mediated by another mediator without first endeavoring to consult with the person or persons conducting such mediation.

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(ii) Relationships with other Professionals. A mediator shall respect the complementary relationship between the fields of mediation, law, mental health and other social services and shall promote cooperation with other professionals.

(c) **Fair Agreements.** The objective of mediation is not a settlement at any cost; rather it is an achievement of a fair and reasonable agreement. While there is no one definition of fair and reasonable, mediators shall disassociate themselves from agreements that they perceive to be outside the parameters of fairness. In such situations, mediators shall withdraw from mediation and terminate the process.

(d) **Written Agreements.** The mediator shall summarize, in writing, the agreements reached by the parties. A copy shall be given to the parties and their attorneys, if any. The mediator shall advise each party to obtain legal assistance in drafting any final agreement or in reviewing any agreement drafted by the other party. The mediator shall advise the parties that decisions reached during mediation are not binding until reviewed by the attorneys, if the parties are represented by counsel, and approved by the court in accordance with Rule 9A.13

(e) **Report to the Court.** The mediator shall report the outcome to the court on the prescribed form. No reasons for the absence of an agreement shall be disclosed.

(f) **Safety Protocols.** Mediators shall abide by the safety protocols adopted by the court.

(g) **Co-mediation or Shuttle Mediation.** Co-mediation or shuttle mediation may be utilized as deemed appropriate by the mediator.

(h) **Statistical Information.** Mediators shall provide statistical information to the court as required to assist in measuring and monitoring the performance of the mediation program.

### **Rul 9A.5 Independent Legal Advice**

(a) **Advising Parties.** At the beginning of the mediation process the mediator shall encourage the parties to obtain independent legal counsel. Any documents used in the mediation shall be made available to counsel.

(b) **Unrepresented Party.** If legal counsel is not obtained by a party, the court must be so advised when the mediated agreement is presented for approval.

(c) **Referrals.** While the mediators must encourage the parties to obtain independent legal counsel, they shall not refer them to specific attorneys or attempt in any other manner to influence the choice of counsel. Mediators may, however, encourage the parties to use any attorney referral service.

### **Rul9A.6 Qualifications for Mediators.**

(a)**Requirements.** Mediators shall meet all of the following requirements:

(1) Formal Education. A degree in law or a graduate degree in a field that includes the study of psychiatry, psychology, social work, human development,

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family counseling or other behavioral science substantially related to marriage and family interpersonal relationships; and

(2) Training. Specialized training in family mediation consisting of a court approved course of study or certification, to consist of at least 40 hours in the following areas:

- (i) Conflict resolution;
- (ii) Psychological issues in separation, dissolution, and family dynamics;
- (iii) Issues and needs of children in dissolutions; and
- (iv) Mediation process and techniques;

(3) Insurance. Professional liability insurance which covers the mediation process.

**(b) Continuing Education.** Mediators are encouraged to educate themselves about the dynamics of family violence, mental health, and drug addiction.

### **Rule 9A.7 Confidentiality.**

**(a) Information Provided to Parties.** Except for documents made available to legal counsel, no information obtained from and about the parties through mediation shall be disclosed by the mediator to any third party, including legal counsel. However, where there is a clear danger of imminent harm to a child or to a party, the obligation of the mediator to maintain confidentiality will not apply as to the danger of imminent harm.

**(b) Subpoenaed Mediator.** If subpoenaed or otherwise noticed to testify, the mediator shall inform the parties or their legal counsel immediately so as to afford him or her an opportunity to quash the process. Any subpoena or other process shall be quashed unless the court determines that a clear danger of imminent harm to a child or to a party exists.

**(c) Mediator Ex-part Communication.** The mediator shall not communicate with either party alone or with any other person to discuss mediation issues without the consent of the parties as set forth in Rule 9A.4(a)(9).

### **Rule 9A.8 List of Mediators.**

The Chief Judge shall establish a list of court approved mediators. All applicants for inclusion on the list shall possess the minimum qualifications set out in Rule 9A.6. The Chief Judge, in his or her discretion, may require any biographical or other relevant information from the applicant in order to determine whether the applicant should be included on the list. For good cause shown, the Chief Judge 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 Chief Judge shall not be considered a warranty that such mediator can successfully mediate any specific dispute.

### **Rule 9A.9 Referral to Mediation.**

**(a) Application.** A judge may order mediation upon application of either party or when the court deems it appropriate.

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(b) **Initial Sessions.** If the parties are referred to mediation, they shall be required to attend a minimum of three hours of mediation to be completed within 30 days. Further participation shall be voluntary and consistent with the purposes, standards and principles of mediation. Mediation may be terminated or suspended prior to completion of the three hour mediation process upon resolution of all mediated issues or pursuant to Rule 9A.4 (a) (5) or Rule 9A.11.

(c) **Status Date.** At the time the court orders mediation, the court shall set a court date in the near future to encourage the parties' prompt attention to the mediation process and to prevent the use of mediation as a delaying tactic. The court shall also apportion payment of mediation costs at that time, subject to review at the conclusion of all pending issues in the case.

(d) **Temporary Orders.** The court may issue temporary orders prior to, or during, mediation.

(e) **Fee Reductions.** Court approved mediators shall serve on a no fee or reduced fee basis on a rotating schedule for those cases in which the court determines that mediation would otherwise be unavailable for financial reasons.

### Rule 9A.10. Referral Procedure

(a) **Agreed Selection of Mediator.** The parties shall select a mediator from the court approved list which shall be available in the circuit clerk's office, together with complete resumes and individual fee schedules. In pro bono or reduced fee cases the mediator shall be appointed by the court.

(b) **Disputed Selection of Mediator.** The attorneys and parties must agree on a mediator from the court approved list. In the event that the attorneys and parties cannot agree on a mediator, the Court shall direct mediation to be completed by a person from the approved list.

(c) **Scheduling Appointments.** The parties shall promptly contact the mediator to schedule appointments.

(d) **Attorney Letter to Mediator.** Each attorney may submit a to the mediator providing information with regard to the legal status of the case, including temporary or permanent orders which have been entered by the court and a statement of the unresolved legal issues. The attorney shall provide a copy of such letter to the opposing counsel or party. The letter provided by the attorney to the mediator shall not be confidential and may be disclosed by the mediator to both participants. The attorneys and mediator shall not have further communication with regard to the mediation process except if allowed by the parties pursuant to Rule 9A.4 (a) (9).

### Rule 9A.11. Exclusion from or Termination of Mediation.

(a) **Judicial Exclusion.** Parties shall not be referred to mediation if the judge has reason to believe that:

(1) child or spousal abuse has occurred in the recent past or is occurring on an ongoing basis unless such abuse is addressed and resolved; or

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(2) one or both of the parties are chemically dependent to the extent that such dependence would interfere with mediation unless the dependence is addressed and resolved; or

(3) one or both of the parties are emotionally or mentally impaired to the extent that such impairment would interfere with mediation unless the impairment is addressed and resolved; or

(4) the physical safety of either party would be jeopardized unless the safety issue is addressed and resolved; or

(5) either party is acting in bad faith or appears not to understand the negotiation, the prospects of achieving a responsible agreement appear unlikely, or the needs and interests of the minor children are not being considered.

#### **Rule 9A.12. Termination of Mediation on Motion of a Party.**

(a) **Judicial Determination.** Any party may move the court at any time for a ruling that a case is ineligible for mediation based upon the factors set forth in Rule 11 notwithstanding a contrary determination by a mediator.

(b) **Filing a Motion.** Any such motion must be supported by affidavit setting forth specific facts as to why mediation would be inappropriate.

#### **Rule 9A.13. Entry of Judgement or Order**

(a) **Presentation of Order.** Each mediated agreement shall be presented to the court within 30 days following the conclusion of mediation.

(b) **Approval by Court.** The court may in its discretion 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 interest 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 physically or by reference, the agreement so that the terms of such agreement are also the terms of the judgment or order.

### **PART 9B. ATTORNEY QUALIFICATIONS IN CHILD CUSTODY AND VISITATION**

#### **Rule 9B.1 Criteria for Placement on Approved List of Attorneys.**

(a) Counsel who are appointed by the court to participate in child custody and visitation matters as delineated in Illinois Supreme Court Rule 900 (b)(2) must possess the ability, knowledge and experience to do so in a competent and professional manner

(b) Attorneys seeking appointment in child custody and visitation cases shall apply in writing to the Chief Judge of the circuit. The applicant should set forth his or her qualifications as set forth herein. A list of attorneys so qualified shall be maintained by the Chief Judge's Office.

(c) Attorneys appointed by the court to represent children in child custody cases and guardianship cases when custody and visitation is an issue shall have the following minimum qualifications

(1) Be licensed and in good standing with the Illinois Supreme Court; and

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(2) Prior to the appointment the attorney shall have 10 hours in the two years prior to the date the attorney qualifies for appointment in approved continuing legal education courses in the following areas: child development, roles of guardian ad litem and child representative; ethics in child custody cases; relevant substantive state, federal and case-law in custody and visitation matters; family dynamics, including substance abuse, domestic violence and mental health issues; however, in lieu of the foregoing, an attorney may initially qualify if she or he has acted as a guardian ad litem, child representative, or attorney for children in at least 5 cases in the two-year period preceding initial qualification; and

(3) One *pro bono* representation in the year prior to appointment; and

(d) To remain on the approved list, each attorney shall attend approved continuing legal education courses of at least 10 hours in every two-year period following initial qualification, and such courses shall be in the following areas: child development; roles of guardian ad litem and child representative; ethics in child custody cases; relevant substantive state, federal and case-law in custody and visitation matters; family dynamics, including substance abuse, domestic abuse, and mental health issues. Verification of such attendance shall be submitted to the Chief Judge at the time of attendance or upon request.

(e) Each attorney shall submit a Child Representative Information Sheet provided by the circuit along with a statement or other verification of attendance at continuing education.

(f) Each attorney must adhere to the minimum duties and responsibilities of attorneys for minor children as delineated in Supreme Court Rule 907.

(g) Each attorney placed on the approved list and subsequently appointed shall be paid by the parties to the litigation as ordered by the judge handling the file or as agreed between the litigants. Such fees shall be paid as ordered and the court may enforce the orders and judgments as in other proceedings, including the imposition of sanctions. Where possible, such fees shall be paid prior to engagement in the form of a retainer and accounted- for by the appointed attorney where appropriate.

(h) The court may appoint an attorney from the approved list to serve on a pro bono basis, but no attorney shall be so appointed and serve more than once in any year.

(i) The Chief Judge may remove any attorney from the list of approved attorneys based upon failure to meet or maintain the listed qualifications or for good cause shown, including failure of the attorney to perform as provided in Supreme Court Rule 907.

### PART 10. DISPOSITION OF CASES OF MINOR OR DISABLED PERSONS

#### **Rule 10.1 Settlement of Minor's or Ward's Personal Injury Claim, Wrongful Death Claim or Claim under the Survival Statute.**

(a) **Petition.** To settle a cause of action for personal injuries sustained by a

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minor or ward, or any other action in which a minor or ward will receive any or all of the settlement proceeds, a verified petition shall be filed executed by the legal representative of the minor, ward or the decedent's estate, and shall recite:

(1) A description of the occurrence giving rise to the cause of action.

(2) The name and address of the person or entity against whom the cause of action has accrued.

(3) The name and address of the liability insurance carrier, if any, affording coverage to the person or entity against whom the cause of action has accrued, and the monetary limits of the liability insurance policy issued by said insurance carrier in effect at the time of the occurrence.

(4) A brief description of the injuries sustained by the minor and a list of hospital and medical expenses incurred on behalf of said minor as a result of the occurrence. A current medical certificate or letter executed by the attending physician stating the nature and extent of the injuries sustained by the minor or ward and the prognosis for the minor or ward, if it exists or if it is requested by the Court. The Court may waive the provisions of this subparagraph 4 upon good cause shown.

(5) The petition shall contain a statement by the petitioner or the attorney for the petitioner as to the fairness of the offer and a recommendation as to whether the offer should be approved or rejected.

**(b) Judge Assigned if Injury Action is Pending.** Where the proposed settlement relates to a pending case for personal injury, the verified petition shall be heard by the judge assigned to the case.

**(c) Judge Assigned if No Injury Action is Pending.** Where the proposed settlement does not relate to a pending Law case for personal injury, the verified petition shall be heard by the judge regularly assigned to hear probate matters.

**(d) Appointment of Guardian ad Litem.** In cases where no independent attorney has been employed by the legal representative of the minor or ward, the Court may appoint an attorney as guardian ad litem to investigate the merits of the proposed settlement and to report his or her findings and recommendations before approval of the proposed settlement. In the event the appointed guardian ad litem does not recommend the approval of the proposed settlement, the appointed guardian ad litem shall not represent as a private attorney the legal representative or any of the parties having an interest in the case, but may continue as such guardian ad litem with reference to any revised offer of settlement so long as the legal representative has not employed independent counsel for the case. The Court shall fix an appropriate fee for the guardian ad litem to be taxed as costs in the case.

**(e) Attorneys' Fees.** In minor's personal injury cases, an allowance for attorneys' fees shall not exceed 33 1/3% of the gross settlement amount unless the attorney representing the minor in a sworn petition recites the work and hours involved or other special circumstances which would justify a higher attorney's fee to compensate the attorney fairly for the work performed, in which case the Court may fix the fee in excess of the 33 1/3% limitation.

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**(f) Evidence of Receipt.** The order entered approving settlement shall provide for the distribution of the settlement funds and the filing of vouchers, which evidence receipt of any portion of the fund, with the Court within a time prescribed by the Court.

**(g) Use of Bank Accounts.** When any settlement funds are to be received by a parent or legal representative on behalf of a minor child, such funds shall be required to be deposited in an account in a financial institution approved by the Court for the benefit of the minor, and shall not be withdrawn without approval by court order. The financial institution so approved by the Court shall be insured either by the Federal Deposit Insurance Corporation (F.D.I.C.) or by the Federal Savings and Loan Insurance Corporation (F.S.L.I.C.).

The Court shall continue the case to a specific date for the purpose of having a voucher from the financial institution filed. The voucher from the depository shall acknowledge receipt of the funds and a copy of the order of the Court approving settlement, and shall include the express language that “No withdrawals shall be made from this account, unless authorized by order of Court, at any time prior to (date upon which the minor will reach the age of majority).”

**(h) Appointment of Guardian of the Estate.** The order entered approving settlement shall provide for the appointment of a guardian for the minor’s estate and shall require the appointed guardian to file a bond pending proper deposit of the minor’s funds in the financial institution approved by the Court. Upon the filing of the voucher from the financial institution acknowledging receipt of the funds and a copy of the order approving settlement, the bond may be cancelled.

The requirement of a surety on the bond to be filed by the guardian of the minor’s estate may be waived when the Court finds it is in the best interests of the minor’s estate. In such instances, the attorney representing the interests of the minor shall have personal responsibility for depositing the funds in the approved financial institution in accordance with the order entered.

**(i) Dismissal of Action.** A stipulation dismissing the cause of action shall be filed with the filing of the voucher from the financial institution acknowledging receipt of the funds.

**(j) Annuities.** Where the agreement involves a structured settlement, the company providing the annuity shall be one which holds a current rating of “A” or better by Best’s Insurance Guide.

**(k) Settlements involving Minors 14 Years or Older.**

(1) If the amount distributable to a minor fourteen (14) years of age or older is \$750.00 or less, the Court in its discretion may order the amount distributed directly to the parent or guardian with whom the minor permanently resides for the benefit of the minor, or may order deposit into a financial institution approved by the Court.

(2) If the amount distributable to a minor fourteen (14) years of age or older exceeds \$750.00 and is \$10,000.00 or less, the Court in its discretion may

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order the amount distributed on behalf of the minor to be deposited into a financial institution approved by the Court or may order that proceedings be instituted pursuant to the Probate Act.

(3) If the amount distributable to a minor exceeds \$10,000.00, or the minor is less than fourteen (14) years of age, or the distribution to the minor is to be made pursuant to a structured settlement, a proceeding shall be initiated pursuant to the Probate Act of 1975, as amended. This provision may be waived by the Court on good cause shown.

(l) Any settlement approved which is required to be administered pursuant to the Probate Act shall be paid to the guardian of the minor and the order approving the distribution shall be effective only after the entry of any order by the Judge assigned to Probate matters approving the bond or other security required to administer the settlement and distribution.

(m) **Petitions to Withdraw Funds.** A petition for withdrawal from said account prior to the minor reaching the age of majority shall be in writing and shall state the amount in the account at the time of presenting the petition, the annual income available to the minor, the amount and purpose for the withdrawal, and the amount of the last authorization for withdrawal from the account for the same purpose.

#### **Rule 10.2 Distribution of Funds to a Minor Pursuant to Judgment.**

The proceeds of any judgment from which a minor or ward is to receive funds shall be distributed in a manner in accord with Rule 10.1.

### **PART 11. CONTEMPT OF COURT**

#### **Rule 11.1 Contumacious Conduct Defined.**

Contumacious conduct consists of verbal or non-verbal acts which (1) embarrass or obstruct the court in its administration of justice or derogate from its authority or dignity, (2) bring the administration of justice into disrepute, or (3) constitute disobedience of a court order of judgment.

#### **Rule 11.2 Direct Criminal Contempt.**

(a) **Direct Criminal Contempt Defined.** Contumacious conduct constitutes a direct criminal contempt if it is committed in such a manner that no evidentiary hearing is necessary to determine the facts establishing such conduct and is committed in an integral part of the court while the court is performing its judicial functions.

(b) **Court's Alternatives.** Upon the commission of an act constituting a direct criminal contempt, the court may (1) summarily find the contemnor in contempt and impose sanctions instantaneously, (2) summarily find the contemnor in contempt and impose sanctions within a reasonable time, or (3) delay the finding of contempt and the imposition of sanctions until a later time. When the finding of contempt is delayed, the contempt proceeding shall be conducted in the same manner as an indirect criminal contempt as provided in Rule 11.3 of these rules.

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(c) **Conduct Specified/Statement in Mitigation.** Prior to an entry of a finding of contempt, the court shall inform the contemnor of the specific conduct forming the basis of the finding. Prior to the imposition of sanctions, the court shall permit the contemnor an opportunity to present a statement in mitigation.

(d) **Sanctions.** Upon a finding of direct criminal contempt, the court may impose a fine not to exceed \$500, incarceration in a penal institution other than a penitentiary for a term not to exceed six (6) months, or both, unless the contemnor is afforded the right to trial by jury, in which case, if the jury finds the contemnor guilty of contempt, the court is not limited in the fine or incarceration it may impose. The court, in the exercise of its discretion, may impose such other sanctions as it deems appropriate.

(e) **Written Order Required.** Upon imposition of sanctions, the court shall enter a written judgment order setting forth the factual basis of the finding and specifying the sanctions imposed.

(f) **When Referral to Another Judge Required.** Where a controversy between the judge and the contemnor is integrated with the alleged contumacious conduct and embroils the judge to a degree that the judge's objectivity can reasonably be questioned, referral to another judge on both the issue of contempt and the issue of an appropriate sanction is required. In this event, the judge before whom the alleged contempt transpired shall specify in writing the nature of the alleged acts of contempt, shall direct that a record of the proceedings surrounding the said acts be prepared, and shall transfer the matter to the appropriate assignment judge for reassignment. The judge hearing the proceeding after the reassignment shall base his findings and adjudication of the contempt charge solely on the transferred written charge and the record.

### Rule 11.3 Indirect Criminal Contempt.

(a) **Indirect Criminal Contempt Defined.** A contumacious act constitutes indirect criminal contempt when it occurs outside the presence of the court or in an area that is not an integral or constituent part of the court, or the elements of the offense are otherwise not within the personal knowledge of the judge. A contumacious act committed in the presence of the court, but not summarily treated as a direct criminal contempt as provided in Rule 11.2 of these rules, may be prosecuted as an indirect criminal contempt.

(b) **Petition for Adjudication.** An indirect criminal contempt proceeding shall be initiated by the filing of a petition for adjudication of indirect criminal contempt. The petition shall be verified and set forth with particularity the nature of the alleged contemptuous conduct. The charge may be prosecuted by the state's attorney or, if he declines, by an attorney appointed by the court.

(c) **Notice of Hearing.** If the court finds that the petition sets forth allegations which support the charge, it shall set the matter for hearing and order notice to be given the respondent. Notice of the hearing and a copy of the petition shall be served and returned in the manner as provided in Supreme Court Rule 105(b) or, if the court so directs, the Clerk of the Court or petitioner's

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attorney may give notice by regular U.S. Mail, postage prepaid, to the respondent's last known address. If notice is made by regular U.S. Mail, proof of mailing notice shall be made part of the record. Notice by personal service shall be served not less than seven (7) days prior to the hearing and notice by U.S. Mail shall be mailed not less than ten (10) days prior to the hearing. The provision of Rule 6.2 of these rules shall apply to this notice. If the respondent fails to appear after due notice or, if the court has reason to believe the respondent will not appear in response to the notice, the court may issue a bench warrant directed to the respondent. When a warrant issues, the court shall set bail as authorized in criminal cases. The amount of bail shall be indicated on the order of attachment.

**(d) Explanation of Rights.** Upon the first appearance of the respondent, the court shall inform the respondent of his rights to (1) notice of the charge and of the time and place of hearing thereon, (2) an evidentiary hearing, including the right to subpoena witnesses, confront the witnesses against him or her, and make a response to the charge, (3) counsel and, if indigent, to the appointment thereof, (4) freedom from self-incrimination, (5) the presumption of innocence, (6) the right to be proven guilty only by proof of guilt beyond a reasonable doubt, and (7) trial by jury if the court, prior to the commencement of the hearing, declares that a sentence of incarceration of more than six (6) months, a fine of more than \$500, or both, may be imposed as a sanction upon a finding of guilty.

**(e) When Referral to Another Judge Required.** Referral of the petition to another judge for the hearing on the issues of contempt and the imposition of sanctions is required where a controversy between the judge and the alleged contemnor is integrated with the alleged contumacious conduct and embroils the judge to the degree that the judge's objectivity may be reasonably questioned.

**(f) Statement in Mitigation.** Upon an adjudication of contempt, the judge shall afford the contemnor the opportunity to make a statement in mitigation prior to the imposition of any sanction.

**(g) Sanctions.** The court, in the exercise of its discretion, may impose sanctions as it deems appropriate.

**(h) Written Order Required.** Upon an adjudication of contempt, the court shall enter a written judgment order setting forth the factual basis for the finding and specifying the sanctions imposed.

**(i) Appeal.** An appeal from a judgment of indirect criminal contempt may be taken as in the case of direct criminal contempt as specified in Rule 11.2(g) of these rules.

### Rule 11.4 Civil Contempt.

**(a) Civil Contempt Defined.** A contumacious act constitutes a civil contempt if (1) the act consists of the failure to obey a court order or judgment; and (2) coercive rather than punitive sanctions are sought to compel compliance with the order or judgment.

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(b) **Civil Contempt Petitions.** Except as provided in these rules, a rule to show cause for indirect civil contempt shall be issued only upon a verified petition which clearly sets forth the facts upon which the petition is based, or upon testimony of the complaining party given in open court. Any such verified petition or testimony shall make at least a *prima facie* showing that the respondent is in contempt. The petitioner may give notice to the respondent before presenting such a petition to the Court for issuance of a rule to show cause, but is not required to give such notice unless otherwise directed by the Court.

(c) **Issuance Instantly.** The Court may issue a rule to show cause *instantly*, on its own motion or on the motion of a party, for failure to respond to or comply with a citation, subpoena, court order, or other mandatory process which has been served upon the respondent by any method authorized by law. Upon a showing of exigent circumstances or of prior failure to respond or comply with the process and orders of the Court, the Court may issue an attachment for contempt.

(d) **Response/Burden of Proof.** No later than three (3) days prior to the hearing, the respondent may file a written answer denying, with specificity, any of the allegations together with any affirmative defense. Subsequent written or oral denials and affirmative defenses may be made only with leave of court. Those allegations on the petition not specifically denied may be deemed admitted and the remaining allegations in issue shall be proven by a preponderance of the evidence. If the basis of the charge of civil contempt is the failure of the respondent to make court-ordered payments to the Clerk of the Court or the State Disbursement Unit, the records of the Clerk shall be *prima facie* evidence of the amount paid and disbursed by the Clerk or the State Disbursement Unit.

(e) **Service of Rules.** A rule to show cause shall be personally served upon the respondent unless otherwise ordered by the Court. Unless otherwise ordered by the Court, a rule to show cause shall be served upon the respondent not less than five (5) days prior to hearing. Notices of hearings for rule to show cause shall include, in addition to the time, date and place of hearing, 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.**”

(f) **Hearings.** All hearings on rules to show cause shall be heard in open court.

(g) **Failure to Appear.** If the respondent has been personally served with the rule to show cause, or has been served with the rule to show cause by an alternate method approved by the Court, and the respondent does not appear, the Court may, in addition to any other appropriate action:

- (1) Continue the cause to a date certain and either issue an attachment with bond, or give notice by mail of the continued date; or,
- (2) Proceed to hearing if the complaining party appears; or,
- (3) Discharge the rule to show cause if the complaining party does not appear.

(h) **Written Order Required.** Upon an adjudication of civil contempt a writ-

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ten judgment order shall be prepared by the Movant specifying the contumacious conduct, sanctions imposed, and the means by which the respondent may purge himself or herself. A copy of the judgment shall be provided to the contemnor.

(i) **Bond Forfeiture.** If the respondent does not appear after posting bond on an attachment, the Court may declare the respondent's bond forfeited and may proceed as in cases of failure to appear as provided in subsection (f) of this rule.

(j) **Setting Bond.** Bond on attachments shall not be oppressive, and shall be solely for the purpose of securing the appearance of the respondent.

(k) **Disposition of Bond.** No bond or portion of a bond posted on an attachment for contempt shall be paid over to the complaining party unless:

(1) The respondent agrees in writing that the bond deposit, or some portion thereof, be paid to the complaining party; or,

(2) The Court orders the bond deposit, or some portion thereof, to be paid to the complaining party upon motion by the complaining party requesting turnover and notice of hearing on said motion to the respondent.

## PART 12. PROBATE PROCEEDINGS

### Rule 12.1 Admission of Will to Probate When Holographic or in Language Other than in English.

(a) **Holographic Will.** When a will is handwritten, the petitioner shall file a typewritten copy of the will along with the petition to probate and an affidavit of the petitioner or his attorney that the typewritten copy is true and correct to the best of his knowledge.

(b) **Will in language other than English.** When a will is in a language other than English, the petitioner shall file a typewritten copy of the will along with a petition to probate and a certification by a qualified translator that the translation of the will is true and correct.

### Rule 12.2 Supplemental Proceedings

(a) **Invoking jurisdiction.** Supplemental proceedings shall be invoked by the filing of a petition in the probate proceedings for the administration of the estate and by the issuance of process thereon as in other civil cases except that jurisdiction over claims for personal injury, wrongful death, or other tort shall be invoked as provided by Rule 12.14 of these rules. The petition shall designate the type of proceeding and shall employ the same case number as the estate to which it relates with suffix "A", "B", "C", etc. The fee required by law shall be paid at the time of filing the petition.

(b) **Scope of rule.** Supplemental proceedings within the meaning of this rule shall include, but are not limited to, actions and proceedings concerning the contest of wills, contracts to make wills, constructions of wills and appointment of testamentary trustees during the period of administration.

### Rule 12.3 Reserved

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### Rule 12.4 Safety Deposit Box

(a) **When written approval of access required.** On the petition of the surety on a bond of a representative, or on the court's own motion, access to a safety deposit box containing assets of the estate or withdrawal from a bank account of the estate may be subject to written approval of the court.

(b) **Procedure in opening.** Upon order of court, an individual guardian who takes possession of a safety deposit box of his ward ~~shall may be required to~~ initially open it in the presence of the surety on his bond or a representative of the depository and shall prepare an itemized inventory of the entire contents. ~~He~~ All guardians shall present to the court a sworn inventory of ~~it's the~~ the contents of opened safety deposit boxes, which shall be filed with the Clerk.

### Rule 12.5 Investment by Guardian

(a) **Requirements of the petition.** A petition of a guardian to invest the ward's property shall identify the category of the investment pursuant to section 21-2, et seq., of the Probate Act of 1975 in which the proposed investment falls and shall state that the proposed investment complies with the limitations applicable in that category. If the proposed investment is to be purchased directly or indirectly from the guardian or from any firm of which he is an officer or director, the petition shall so state.

(b) **Retaining investments.** A guardian desiring to retain any investment (including a life, endowment or annuity policy) or any increase thereof, not expressly authorized by section 21-2 of the Probate Act of 1975 shall petition the court for approval thereof.

(c) **Material changes.** Before making any material change in the terms of any life, endowment or annuity policy purchased pursuant to the authority of section 21-2 of the Probate Act of 1975, the guardian shall petition the court for approval.

### Rule 12.6 Expenditures from Ward's Estate

A petition of a guardian or conservator to apply any part of the ward's estate for the support, comfort or education of the ward or other person entitled to support from his estate shall state the present value of the estate, the annual income available to the ward, and the purpose of the proposed expenditure. It shall further list all payments being received by the ward or by petitioner either individually or as guardian or conservator on behalf of the ward, including Social Security payments, disability benefit payments from the Veteran's Administration or other governmental agency or department, relief or other assistance from a charitable or relief organization, payments from a trust, and from one having an obligation to support the ward.

### Rule 12.7 Inventories – Descriptions Required

In all cases other than under independent administration the following shall apply:

(a) **Real estate.** Descriptions of real estate shall include the legal description

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and address, if any, of the property. If a beneficial interest in real estate is an asset of the estate, the name and address of the trustee and other identifying information shall be stated.

**(b) Stocks-bonds-notes.** Descriptions of stock shall include the number of shares, class of stock, exact corporate title and state of incorporation if necessary for the purpose of identification. Descriptions of bond shall include the total face value, name of the obligor, kind of bond, rate of interest, date of maturity, interest dates, coupons attached or date to which interest is paid, and endorsements. Descriptions of notes owed to the decedent shall include the face amount and unpaid balance, date of note, date of maturity, name of matter, interest dates, rate of interest, date to which interest is paid, endorsements, and, if secured, a description of the security.

**(c) Partnership interests.** To the extent practicable, descriptions of partnership interests shall include the partnership name and address and the approximate value and interest of the estate, if known.

**(d) Causes of action.** Descriptions of causes of action shall include the name of the person against whom the cause of action exists, its nature, and if suit has been instituted, the title, case number and court where pending.

**(e) Filing of inventory required.** Unless excused by the court, each inventory and amended or supplemental inventory shall be presented to the court for filing. The first inventory shall be filed within sixty (60) days after issuance of letters.

**(f) When amended or supplemental inventory required.** An amended or supplemental inventory shall be presented to the court and filed if (1) real or personal property has been erroneously described in the prior inventory, (2) asserts have been improperly included or excluded from a prior inventory, or (3) additional assets have been received by the representative or have come to his knowledge. A supplemental inventory or an amendment to an inventory need not repeat assets correctly described in a prior inventory.

**(g) Contents of inventory.** Each inventory shall list, as of the date of death of the decedent or the date of appointment of the guardian of the ward, as the case may be, the real and personal property which has come to the knowledge of the representative and any cause of action on which the representative has a right to sue. The inventory in a decedent's estate under supervised administration or in the estate of a minor or disabled person shall be verified and shall comply with the provisions of this rule.

#### Rule 12.8 Disposition of Claims – Procedure

**(a) Presentment to the estate.** The claimant shall mail or deliver his claim to the legal representative of the estate and to the attorney of record, if any, unless the legal representative or his attorney waives, in writing, the mailing or delivery of a copy of the claim or consents in writing to the allowance of the claim.

**(b) Filing proof with clerk.** The claimant shall file with the Clerk of the Court proof of mailing or delivery of the claim, or a waiver thereof, within ten

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(10) days after filing the claim.

(c) **Setting claim for hearing.** The court, or if the court so designates, the clerk, **may** set the claim for hearing. If mailing or delivery of the claim is waved and the claim is consented to in writing, the clerk shall forthwith notify the court and judgment for the amount claimed shall be entered there on.

(d) **Filing answer contesting claim.** The legal representative or any other person whose right may be affected by the allowance of the claim may file an answer contesting the claim.

(e) **Contested hearing.** If an objection to the claim has been filed, on the return date as previously set by the Court under Rule 12.8(c). The claim will be allotted for hearing and the court shall order at least (10) days notice to be given my regular male to the claimant by the legal representative, the attorney for the estate, or the Clerk of the Court, as the court may direct. If a counter-claim has been filed, it shall be heard on the date set for hearing on the contested claim.

### 12.9 Reserved

#### Rule 12.10 Dismissal for Want of Action

(a) **No action for five (5) years.** If there has been no action of record without good cause for a period of five (5) years in any probate cause, the court may remove the personal representative pursuant to section 23-2 of the Probate Act of 1975 or may dismiss and strike the cause for want of action.

(b) **Notice of dismissal.** Upon dismissal of the cause, the Clerk shall send notice by regular male to the last known address of the personal representative and the attorney of record specifying that the case may be reinstated within thirty (30) days from the date of the notice for good cause shown.

(c) **Procedure upon dismissal.** Upon dismissal of the cause, claims shall be barred in accordance with section 18-12 of the Probate Act of 1975. If no assets are remaining in the estate, costs may be waved, and other fees and expenses unpaid may be barred pursuant to section 15 of the Probate Act of 1975. If the estate has assets remaining, they should be used to pay all the costs of administration of the estate, and the balance shall be deposited with the treasurer of the county in which the estate was probated.

#### Rule 12.11 Account of Disbursements

(a) **When summary accounting accepted.** With respect to an unincorporated business or real estate or beneficial interest in real estate in the possession of the representative, the court may accept a summary accounting of the operation.

(b) **When guardians accounting required.** Each guardian shall present an account of his or her administration within thirty (30) days after the expiration of one (1) year after the issuance of the letters and, unless otherwise ordered, at least once year thereafter. If the guardian is a bank or trust company, it shall not be required to file such account (after filing its first account) more often

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then once every three (3) years, unless specifically required by the court. Such accounting shall disclose to the Court a listing of all disbursements from the estate.

**(c) Executor's Account.** Each executor and administrator shall account for his administration as required pursuant to section 24-1 of the Probate Act of 1975.

**(d) Notice of Accounting.** Unless waived by the person entitled thereto, notice of the hearing on a final account or an account intended to be binding pursuant to section 24-2 or section 24-11(b) of the Probate Act of 1975, shall be given as follows:

(1) On an account of a guardian or guardian to collect; to the ward, to each claimant whose claim is filled and remained undetermined or unpaid, and to other persons entitled to notice. If a person entitled to notice other than the ward is represented by an attorney whose appearance is on file, notice as required for motions shall be sent to the attorney not less than ten (10) days before the date set before hearing;

(2) Notice to all other persons entitled to notice shall be given as follows: (I) notice, accompanied by a copy of the account, shall be given in person or sent by mail to the last known address not less than ten (10) days before the hearing, except if the post office address of the person is outside the United States or Canada, the notice shall be sent not less than fourteen (14) days prior to the hearing; (ii) if the name or present post office address of the person is not known to the representative or his or her attorney, notice shall be given by one publication in a newspaper of general circulation in the county of the hearing not less than fourteen (14) days before the date of the hearing, unless waived by the court; (iii) the notice shall contain the time, date, place and nature of the hearing in substantially the following sentence: "If the account is approved by the judge upon hearing, in the absence of fraud, accident or mistake, the account as approved is binding upon all persons to whom this notice is given."

**(e) Estate Tax Receipts.** Before the discharge of a representative, there shall be presented to the clerk or court, as the court directs documentation showing that all ~~inheritance-estate~~ taxes are paid, or, (2) a memorandum signed by the proper authorities or a verified statement of the personal representative that the estate is not subject to ~~inheritance-estate~~ taxes.

**(f) Contents of guardian's report.** A report of a guardian or a guardian to collect shall disclose (1) the physical location of the ward and his physical and mental condition and (2) the ward's attendance in school or occupation.

**(g) Final account of ward's estate.** On the final settlement of a ward's estate, if the person entitled to the estate is the ward, the guardian will not be discharged unless the ward appears in court and acknowledges the settlement. The personal attendance of the ward or his acknowledgment of the settlement may be waived if the court is satisfied, by affidavit of the ward or by other evidence, that the settlement is correct, that the ward is in possession of all his estate, and that the personal attendance of the ward is impracticable.

## Rules of the Circuit Court—15th Judicial Circuit

(h) **Death of distributee.** If the distributee of a decedent's estate dies after the decedent's death but before the receipt of his entire distributive estate, evidence of his death and such other documents as may be required for the entry of an order of distribution shall be presented to the court.

### Rule 12.12 Periodic Accounts

In all cases except matters handled under independent administration:

(a) **When required – Executors and Administrators .** Every executor and administrator shall present the account required by section 24-1 of the Probate Act of 1975: (1) within sixty (60) days after the expiration of six (6) months after the issuance of letters, (2) annually after the date of the first account, and (3) at such other times as the court may order.

(b) **When required-Guardians.** Every guardian shall present the account required by section 24-11 of the Probate Act : (1) within thirty (30) days after the expiration of one (1) year after the issuance of letters, (2) annually after the date of the first account, (3) within thirty (30) days after the termination of his office, and (4) at such other times as the court may order.

(c) **Requests for extension of time to file.** Requests for an extension of time to a definite date or for an order allowing accounting in a particular estate less frequently than above provided shall be filed by verified petition of the personal representative specifying the reasons for the request. If a petition for extension is granted, the order shall set a definite date for accounting.

(d) **Periodic accounting not filed-notice and citation.** In any case in which an account has not been filed within the times specified by this Rule 12.12 or by the date certain set by court order, the following procedure is prescribed:

(1) The Clerk shall mail to the attorneys of record in the estate a notice that the account is due;

(2) If the account is not presented within sixty (60) days after that date such notice was mailed, the Clerk shall issue a citation directing the personal representative to account as required or to appear on a date fixed by the court to show cause why he should not do so, or be removed as personal representative;

(3) If the personal representative fails to account or to appear as directed, or if, having appeared, he fails or refuses to account as required or to show cause why he should not do so his letters ~~shall~~ may be revoked and he may be subject to contempt of court.

(4) As the time of the issuance of a citation required by this rule, the Clerk shall mail notices of the pendency of the citation proceeding, and return date thereof, to all persons interested in the administration of the estate, including unpaid creditors.

### Rule 12.13 Jury Demands.

A petitioner or claimant desirous of a trial by jury pursuant to sections 8-1, 11a-11, 16-3 or 18-6 of the Probate Act of 1975, or any other section, must file a jury demand with the clerk and pay the fee as required by law at the time he

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files his petition of claim. A representative or other party in interest opposing the petition or claim or desirous of a trial by jury must file a jury demand and pay the fee at the time he files his answer or other responsive pleading. If the petitioner or claimant files a jury demand and thereafter waives jury, the opposing party will be granted a jury trial upon demand promptly made after being advised of the waiver and payment of the fee. Otherwise, the party waives a jury. The jury fee, once paid, shall not be reimbursed upon a subsequent waiver of jury.

#### **Rule 12.14 Settlement of Personal Injury or Death Action.**

(a) **Petition for leave to settle.** If a petition for leave to settle a cause of action for personal injuries sustained by a ward or decedent or cause of action for the wrongful death of a person whose estate is in the court ~~of~~ for administration is presented by a representative, his attorney shall certify in writing, as part of the petition, that is his opinion, based on the facts and law, the proposed settlement is just and proper.

(b) **Appointment of guardian ad litem.** If no attorney is employed by the representative, the court may on its own motion appoint a guardian ad litem to investigate the merits of the proposed settlement.

(c) **Notice of hearing.** At least ten (10) days notice of the hearing on the petition of the approval and distribution of the proceeds of the settlement of an action for the death of a decedent shall be given to the surviving spouse and any next of kin who have not consented thereto in writing. The court shall appoint a guardian ad litem for any minor or disabled adult next of kin, unless such appointment is not deemed necessary for the protection of such person or his estate. If the decedent left no surviving spouse or next of kin entitled to recover, notice of the filing of a petition for settlement under the Wrongful Death Act and of the hearing thereon shall be given by the representative of his attorney to the persons named in paragraphs (a), (b), and © of section 2 of that Act, including persons furnishing hospital, medical or funeral services of the decedent, unless payment for the services is shown.

(d) **Statement of attending physician required.** No settlement on behalf of aor disabled adult will be authorized unless a statement of the attending physician or surgeon is filed with the petition and impounded by the court, stating the extent of the injury and current medical condition of the ward.

(e) **Court's approval fee required.** If an attorney enters into a contingent fee contract with a representative for prosecuting a cause of action for personal injuries (other than a claim under the Workmens' Compensation Act or Workmens' Occupational Disease Act) or for death, such fee is subject to the approval of the court.

(f) **Reimbursement of other than fees for medical experts.** If any attorney asks for any expense beyond his fee, other than fees for medical experts, he shall furnish the court with his affidavit certifying to the reasonableness, necessity and propriety of the expense. Reimbursement for expense of an independent investigator will be allowed only if his employment was necessary to pre-

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pare the action and if payment is solely for services rendered by the investigator in investing the action after the attorney was retained. The court may order a hearing to determine the propriety and reasonableness of the expense.

**(g) Disbursement of proceeds.** If as a result of the entry of a judgment in or the settlement of a case pending in another division of the court, money or property because distributable, other than the pursuant to section 25-2 of the Probate Act of 1975, to or for the benefit of a minor or disabled adult, the court hearing or settling the case shall determine the expenses, proper disbursement and reasonable compensation to be paid the attorney for his services, and application shall then be made to open an estate for the minor or disabled adult. The application shall have incorporated in or disabled adult. The application shall have incorporated in or attached thereto a copy of the order of the hearing judge. Thereafter, the estate shall be administered as any other estate of a minor or disabled adult, or the judge may direct that the funds be deposited or invested subject to order of the court, in accordance with the provisions of section 24-21 of the Probate Act of 1975 as the court deems appropriate. If the judgment distributable to the ward is less than \$10,000, the judge hearing the case may by order provide for the distribution to a parent or person standing in loco parent is to the minor or the spouse or relative having the responsibility of the support of the disabled person in accordance of the provisions of section 25-2 of the Probate Act of 1975, as amended.

### **Rule 12.15 Withdrawal of Funds Deposited with Treasurer.**

Before a petition is presented for an order directing the country treasurer to pay money deposited by order of the court, notice shall be given to (1) the State's Attorney, (2) the former representative and his attorney, and (3) all other persons entitled to notice under any order entered in the proceeding. If the State's Attorney or the former representative fails or refuses to answer the petition, the court may appoint a special administrator to defend.

### **Rule 12.16 Withdrawal of Ward's Money**

**(a) Petition to withdraw.** A petition to withdraw funds deposited or invested, as provided in section 24-21 of the Probate Act of 1975 or pursuant to this rule, shall be presented in person by the parent, spouse, person standing in loco parent is, or person having the responsibility of custody of the ward, unless personal presentation is waived by the court. The petitioner may be required to furnish evidence that the sums to be withdrawn proceedings of sale or redemption are necessary for the ward's comfort, education or other benefit to the ward or his dependents. Unless excused from doing so, within thirty (30) days after the entry of the order for withdrawal, the petitioners shall file receipts for all sums expended. All unexpended funds shall be redeposited in accordance with section 22-21 of the Probate Act of 1975.

**(b) When minor beneficiary of decedent's estate.** If a minor is entitled to a distributive share of a decedent's estate and (1) the share consists entirely of money, and (2) no guardian has been appointed for his estate, the court upon

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a showing under oath that it is in the best interests of the minor may direct that the distributive share be deposited and paid out in accordance with section 22-21 of the Probate Act of 1975. The receipt of the bank or other financial institution is a voucher for accounting purposes.

(c) **When value of a ward's estate less than "small estate."** If the value of the ward's estate being administered is or becomes less than the "small estate" amount specified in section 25-2 of 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 his spouse, or 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 a parent or a person standing in loco parentis. If it appears there is no unpaid creditor and that it is 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.

### **Rule 12.17 Assignment of Interest.**

Each assignment of interest or power of attorney with respect to a distributee's interest in an estate of a decedent may be presented to the court for filing and approval. The petition for approval shall be verified and state (1) the names and addresses of the assignor and assignee, (2) the nature and value of the interest involved, (3) in the case of an assignment, the consideration, if any, paid to or to be paid to the assignor, and the fees and expenses charged or to be charged in connection therewith, and (4) in the case of a power of attorney, the fees and expenses charged or to be charged by the attorney in fact and his agents and representatives. If the court finds that the consideration paid or to be paid by the assignor is inadequate or the fees or expenses charged or to be charged are excessive, or for other good cause shown, it may refuse to permit the assignment of interest or power of attorney to be filed, or may approve filing upon such terms as it deems just and equitable.

### **Rule 12.18 Attorneys-in-fact and Foreign Representatives**

**Payment of distributive share to citizen and resident of foreign country.** The distributive share of a citizen and resident of a foreign country may be paid to the official representative of the foreign country (referred to as the "foreign representative"), attorney-in-fact or assignee of a distributee if the foreign representative, attorney-in-fact or assignee is a bona fide resident of Illinois, in the following manner:

(a) The foreign representative, attorney-in-fact or assignee shall present satisfactory evidence that his principal is the person entitled to receive the distributive share. Each power of attorney or assignment shall be signed by the distributee and properly authenticated and acknowledged before an American consul, unless a judge is satisfied with other evidence of the authenticity of the power of attorney or assignment;

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(b) The foreign representative or attorney-in-fact shall present his petition for leave to receive the share in the form prescribed by the court;

(c) Unless waived by the court, the foreign representative or attorney-in-fact shall furnish bond with surety in an amount set and in a form prescribed by the court and conditioned upon the payment and delivery of the distributive share to the distributee;

(d) The foreign representative or attorney-in-fact shall acknowledge receipt in writing of the distributive share received from the representative and shall certify in the receipt that his authority to receive the distributive share has not been revoked. The representative shall file the receipt and certificate with his vouchers;

(e) Within ninety (90) days after the entry of the order or within such further time as the court allows, the foreign representative or the attorney-in-fact shall present to the court his report of compliance, with the receipt of the distributee evidencing payment and delivery of the distributive share;

(f) In the event of the failure, refusal or inability of the foreign representative or attorney-in-fact to pay and deliver the distributive share to the distributee within the ninety (90) day period, or in such further time as the court allows, the distributive share shall be deposited with the county treasurer subject to further order. Upon presentation of the receipt of the county treasurer evidencing the deposit of the distributive share, the foreign representative or attorney-in-fact will be discharged from further duty;

(g) If the attorney representing the attorney-in-fact is not the attorney for the estate, he shall file an affidavit stating that he will properly supervise the distribution of funds held by the attorney-in-fact.

#### **Rule 12.19 Fees.**

In all cases except matters handled under independent administration:

(a) Unless waived by or approved by all parties, no fees in any estate proceeding shall be allowed without a written petition or a statement in a report or account requesting the allowance of fees, and an order directing payment by the court.

(b) The request shall be accompanied by a statement briefly setting forth (1) the gross value of the estate, (2) a summary of the work completed and that which will be reasonable expected in the future, including time expended, (3) the amount of fee requested, and (4) the expenses advanced for which reimbursement is requested.

(c) Fees allowed in estates of disabled persons and minors only when current or final reports are presented for approval, unless all interested persons are competent and approve allowance of fees from time to time.

(d) Written petitions, reports or accounts requesting the allowance of fees shall be served upon all interested heirs, legatees, devisees, incompetents, minors and creditors whose claims remain unsatisfied, along with a notice of the time and place of hearing on the same. Notice shall be in accordance with Rule 3.1 of these rules.

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(e) Entries of appearances will be accepted in lieu of the notice provided in the preceding paragraph if said entry or entries indicate on their face that the person executing the same has read the petition or account or report and approves the fees requested.

### **PART 13. CLERKS OF THE CIRCUIT COURT**

#### **Rule 13.1 Duties of the Office of the Clerk**

In addition to the duties listed in Paragraph 1.5(b) of these Rules, it shall be the duty of the Clerks of the Circuit Court of the Fifteenth Judicial Circuit to:(a) Immediately notify the presiding judge and the State's Attorney of the filing of a Petition for Post-Conviction Relief, and upon the judge's direction set the petition for hearing on a date certain in accordance with Illinois Compiled Statutes;(b) Upon the filing of a Notice of Appeal in any matter, immediately deliver copies of said notice to the responsible court reporters;(c) Retain all exhibits received in evidence unless otherwise ordered by the trial court;(d) Prepare lists of pending civil and criminal cases as requested by the Court; (e) Comply with all administrative orders of the Presiding Judge of the County and the Chief Judge.

#### **Rule 13.2 Pleadings and Court Files**

(a) All pleadings shall set out the name of the circuit and county and the designation of the parties.

(b) The Clerk of the Court shall not accept a pleading for filing unless accompanied by (1) the appropriate filing fee or (2) an application to sue or defend as an indigent person pursuant to Supreme Court Rule 298 and section 5-105 of the Code of Civil Procedure (735 ILCS 5/5-105). A pleading accompanied by a petition to sue or defend as an indigent person is considered filed when it is presented to the Clerk for filing. The Clerk shall promptly present all such petitions to the Court for consideration.

(c) Every pleading, notice or other paper filed with the court shall be legibly signed by at least one attorney of record in his or her individual name or by the *pro se* party filing the same.

(d) No pleading, exhibit, file or other document shall be removed from the office of the Circuit Clerk except by leave of court.

(e) The Clerk of the Court shall not file documents received by facsimile transmission unless otherwise authorized by Supreme Court Rule or by court order entered of record.

#### **Rule 13.3 Hours of the Office of the Clerk**

The offices of the Clerks of the Court of the various counties of the Fifteenth Circuit shall be closed on each Saturday and Sunday and on holidays as designated by the Chief Judge. The time for filing all notices, pleadings and suits is extended to the next business day of the court. The offices of the Clerks of the Fifteenth Circuit shall be open for business eight hours per business day.

## Rules of the Circuit Court—15th Judicial Circuit

### Rule 13.4 Subpoenas

Subpoenas shall be issued only by the Clerk of the Circuit Court or his or her authorized deputies pursuant to statute (see sections 115-17 of the Code of Criminal Procedure (725 ILCS 5/115-17) and 2- 1101 of the Code of Civil Procedure (735 ILCS 5/ 2-1101)). A docket entry shall be made at the time of issuance and at the time of return recording that those events have occurred. Unless for good cause shown, the party obtaining the issuance of a subpoena shall promptly provide a copy thereof to each party or attorney of record.

### Rule 13.5 Interpreters

All persons appointed by the court to serve as official interpreters shall be compensated at the rate of \$50.00 for any part of a day up to half a day and \$100.00 for a full day, to be paid from county funds pursuant to the Criminal Proceeding Interpreter Act (725 ILCS 140/1 *et seq.*) Additional payment may be authorized in the discretion of the Court.

### Rule 13.6 Lists of Pending Cases

The clerk shall prepare lists of pending civil and criminal cases as requested by the court.

## PART 14. WARRANTS AND ATTACHMENTS

### Rule 14.1 Warrant Calendar

(a) **Transfer of Cases.** The Clerk of the Circuit Court shall maintain a warrant calendar in criminal cases. Any circuit judge or associate judge may, by order entered in the case on the court's own motion, transfer to the warrant calendar any pending case in which a warrant of arrest of the defendant has been outstanding and unserved for a period of six (6) months. Cases transferred to the warrant calendar pursuant to this rule shall not be considered as pending cases for statistical purposes.

(b) **Reinstatement to Active Calendar.** Upon the arrest of any defendant in a cause previously transferred to the warrant calendar, any circuit judge or associate judge concerned shall, by order in the case, transfer said cause to the active calendar of the court to be disposed of accordingly, and considered as a pending case for statistical purposes.

(c) **Call of Warrant Calendar.** Annually in the month of May the circuit clerk of each county shall prepare a list of all cases transferred to the warrant calendar for over twelve (12) months. A copy of the list shall be delivered by the clerk to the office of the State's Attorney of the county and to the Presiding Judge. The Presiding Judge of a division receiving a list of cases pending on the warrant calendar for more than twelve (12) months shall order a call of the cases so pending in the month of June annually. On the annual call of the warrant calendar, determination shall be made whether the case should remain on the calendar, be dismissed, or be reinstated as an active case.

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### Rule 14.2 Bench Warrants and Body Attachments

In all situations wherein a party is seeking the arrest of an opposing party in a civil action because of the failure of the opposing party to appear in court as directed by a rule to show cause or citation, the following procedures shall be followed:

(a) The attorney for the party seeking the bench warrant or body attachment shall prepare and present to the court (1) an order directing the issuance of a bench warrant or body attachment, and (2) the bench warrant or body attachment itself.

(b) The bench warrant or body attachment shall be directed to the Sheriff of the county in which the proceedings are pending and to all law enforcement officers in the State of Illinois.

(c) The order and bench warrant or body attachment shall contain a blank thereon for the judge to set a bond, thereby allowing the person who is to be taken into custody an opportunity to secure his release pending a hearing on the matters before the court.

(d) The Clerk shall deliver the bench warrant or body attachment to the Sheriff of the county in which the proceedings are pending who will then enter it upon his records and forward a copy of the same to the county wherein the person sought might be found, which said information shall be supplied to the Sheriff by the attorney representing the party seeking the custody.

(e) Upon service of the bench warrant or body attachment, the Sheriff shall notify the attorney for the party seeking custody of the person seized that that person is in custody.

(f) If the person seized is able to post bond he or she shall be required to appear at a hearing within ten (10) court days of the arrest. If the person seized is unable to post bond, he or she shall be brought before the court on the next date that court is in session.

## PART 15. FORECLOSURE PROCEEDINGS

### Rule 15.1 Foreclosure Sales

(a) **Officer to Conduct Sales.** All judgments directing the sale of real estate shall designate the Sheriff or judicial officer approved by the Court as the officer to conduct such sale. The Sheriff or judicial officer is hereby authorized to retain the services of an actioneer and assess the costs of the same.

(b) **Services of Plaintiff's Attorney.** In all real estate sales in foreclosure the attorney for the plaintiff, unless otherwise directed, shall prepare the appropriate documents and otherwise aid the court and Sheriff in carrying out the sale, which documents and services shall include (but not be limited to) the following:

- (1) Preparation of the publication notice for sale and arranging for publication of such notice as required by law;
- (2) Preparation of a foreclosure estimate;
- (3) Preparation of the Sheriff's report of sale and distribution to be ex-

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cuted by the Sheriff as well as the Sheriff's deed or deeds, if needed;

(4) Preparation of the certificate of sale in duplicate to be executed by the Sheriff as well as the Sheriff's deed or deeds, if needed;

(5) Preparation of orders approving the report of sale and distribution for entry by the court, as well as a deficiency decree where applicable.

**(c) Other Services by Plaintiff's Attorney.** In addition to the services above mentioned, the attorney for the plaintiff shall, prior to the date of sale, supply the Sheriff with:

(1) A certified copy of the judgment directing sale;

(2) A certificate of publication notice of sale;

(3) A certificate showing mailing of copies of notices of sale to parties to the action, where applicable.

**(d) Record of Fees and Commissions on Sales.** The Sheriff shall prepare and keep on file in his office, open to inspection by the court and other parties in interest, a full and complete record of all fees and commissions received by reason of sales conducted by the Sheriff under authority of the court, which record shall show the dates and amounts received, the title and number of the cases.

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APPENDIX A.  
PLAINTIFF'S PRETRIAL MEMORANDUM  
CIRCUIT COURT OF ILLINOIS  
FIFTEENTH JUDICIAL CIRCUIT

\_\_\_\_\_, )  
Plaintiff, )  
V. ) NO. \_\_\_\_\_  
\_\_\_\_\_, )  
Defendant. )

PLAINTIFF'S PRETRIAL MEMORANDUM

- Name Age
1. Plaintiffs: (a) \_\_\_\_\_  
(b) \_\_\_\_\_
  2. Nature of cause of action: \_\_\_\_\_
  3. Factual Summary and Theory(s) of Liability:  
\_\_\_\_\_  
\_\_\_\_\_
  4. Damages:  
(a) Nature of Damages Claimed by Each Plaintiff: \_\_\_\_\_  
\_\_\_\_\_  
(b) Special or Liquidated Damages by Each Plaintiff: \_\_\_\_\_  
\_\_\_\_\_  
(c) Other Damages Claimed (Type and Amount): \_\_\_\_\_  
\_\_\_\_\_  
(d) Total Damages Claimed: \_\_\_\_\_
  5. Trial Matters:  
(a) Estimated Number of Witnesses: \_\_\_ Occurrence and \_\_\_ Damages  
(b) Names of Physicians/Expert Witnesses: \_\_\_\_\_  
\_\_\_\_\_  
(c) Estimated Number of Exhibits: \_\_\_ Occurrence and \_\_\_ Damages  
(d) Unusual Legal, Evidentiary or Medical Questions Which May Arise: \_\_\_\_\_  
\_\_\_\_\_  
(e) Estimated Trial Time for Plaintiff's Case: \_\_\_\_\_ Days
  6. Plaintiff's Low Dollar Demand for Settlement: \$ \_\_\_\_\_
  7. Suggestions in aid of settlement or simplifying trial procedures: \_\_\_\_\_  
\_\_\_\_\_
  8. Is this case ready for trial? ( ) Yes ( ) No. If not, state why: \_\_\_\_\_  
\_\_\_\_\_

**Note:** The pretrial conference must be attended by the attorney who will try the case. One copy of this memorandum shall be submitted to the court and one copy mailed to opposing counsel at least five (5) days prior to the conference. Please refer to Rule 4.4 of the Rules of Practice, 15th Judicial Circuit, concerning the requirements of a Summary Statement of Points and Authorities.

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APPENDIX B.  
DEFENDANT'S PRETRIAL MEMORANDUM  
CIRCUIT COURT OF ILLINOIS  
FIFTEENTH JUDICIAL CIRCUIT

\_\_\_\_\_, )  
Plaintiff, )  
V. ) NO. \_\_\_\_\_  
\_\_\_\_\_, )  
Defendant. )

DEFENDANT'S PRETRIAL MEMORANDUM

Name Age

1. Defendants:

(a) \_\_\_\_\_

(b) \_\_\_\_\_

2. Defendant's Allegations: (a) Disputed Occurrence Facts: \_\_\_\_\_

(b) Liability Theory Disputes: \_\_\_\_\_

(c) Damages Questioned (type and amount): \_\_\_\_\_

3. Trial Matters:

(a) Estimated Number of Witnesses: \_\_\_ Occurrence and \_\_\_ Damages

(b) Names of Physicians/Expert Witnesses:

\_\_\_\_\_

(c) Estimated Number of Exhibits: \_\_\_ Occurrence and \_\_\_ Damages

(d) Is there a counterclaim: ( ) Yes ( ) No. If yes, state the nature thereof,  
theory of liability and the amount claimed: \_\_\_\_\_

(e) Unusual Legal, Evidentiary or Medical Questions Which May Arise: \_\_\_\_\_

(f) Estimated Trial Time for Defendant's Case: \_\_\_\_\_ Days

4. Defendant's Insurance Coverage:

Company: \_\_\_\_\_ Policy Limits: \$

5. Defendant's Top Offer of Settlement: \$ \_\_\_\_\_

Conditions: \_\_\_\_\_

6. Suggestions in aid of settlement or simplifying trial procedures: \_\_\_\_\_

\_\_\_\_\_

7. Is this case ready for trial? ( ) Yes ( ) No. If not, state why: \_\_\_\_\_

**Note:** The pretrial conference must be attended by the attorney who will try the case. One copy of this memorandum shall be submitted to the court and one

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copy mailed to opposing counsel at least five (5) days prior to the conference. Please refer to Rule 4.4 of the Rules of Practice; 15th Judicial Circuit, concerning the requirements of a Summary Statement of Points and Authorities.

APPENDIX C.  
AFFIDAVIT IN SUPPORT OF and  
AFFIDAVIT IN ANSWER TO PETITION FOR  
ATTORNEY'S FEES, MAINTENANCE, SUPPORT AND  
CUSTODY OF CHILDREN  
CIRCUIT COURT OF ILLINOIS  
FIFTEENTH JUDICIAL CIRCUIT

\_\_\_\_\_, )  
Plaintiff, )  
V. ) NO. \_\_\_\_\_  
\_\_\_\_\_, )  
Defendant. )

(Strike out inappropriate portions) \_\_\_\_\_, on oath, states:

1. I am the \_\_\_\_\_ (Plaintiff-Defendant)
2. The parties have been married \_\_\_\_\_ years; my age is \_\_\_\_\_ years.
3. The parties have been separated \_\_\_\_\_ months, during which the husband has paid \$ \_\_\_\_\_ to the wife.
4. There are \_\_\_\_\_ children of the marriage, aged respectively \_\_\_\_\_, in the custody of \_\_\_\_\_.
5. The \_\_\_\_\_ has \_\_\_\_\_ children by a prior marriage, living with \_\_\_\_\_.

6. Living Expenses:

Rent (Mtgd.): \$ \_\_\_\_\_ per \_\_\_\_\_  
Food: \$ \_\_\_\_\_ per \_\_\_\_\_  
Auto: \$ \_\_\_\_\_ per \_\_\_\_\_  
Utilities: \$ \_\_\_\_\_ per \_\_\_\_\_  
Heat: \$ \_\_\_\_\_ per \_\_\_\_\_  
Insurance: \$ \_\_\_\_\_ per \_\_\_\_\_  
Clothes: \$ \_\_\_\_\_ per \_\_\_\_\_  
Other (Specify): \$ \_\_\_\_\_ per \_\_\_\_\_

Insurance Policies: \_\_\_\_\_  
\_\_\_\_\_

7. Places of Employment: \_\_\_\_\_  
Hours of Employment: \_\_\_\_\_  
Hourly Wage(s): \_\_\_\_\_  
Less Deduction for: \_\_\_\_\_  
No. Dependents Claimed: \_\_\_\_\_ (a) Taxes \_\_\_\_\_ (b) Medical \_\_\_\_\_

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(c) Other \_\_\_\_\_  
Weekly Net (Take-home pay): \$ \_\_\_\_\_  
Other Earned Income: \$ \_\_\_\_\_ per \_\_\_\_\_

8. Debts Total Owed Payment(s)  
\_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ per \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ per \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ per \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_ per \_\_\_\_\_

9. Other Assets: (List below the amounts on deposit in the nature of savings or checking accounts, listing names of institutions and amount on deposit):

\_\_\_\_\_  
\_\_\_\_\_  
Plaintiff / Defendant  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Teleph: \_\_\_\_\_

Signed and sworn to before me  
\_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public

Name: \_\_\_\_\_  
Attorney for: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_  
Teleph: \_\_\_\_\_

**APPENDIX D  
FORMS FOR USE IN RELATION  
TO MEDIATION PURSUANT TO PART 9A.  
CIRCUIT COURT OF ILLINOIS  
FIFTEENTH JUDICIAL CIRCUIT**

\_\_\_\_\_, )  
Plaintiff, )  
V. ) NO. \_\_\_\_\_  
\_\_\_\_\_, )  
Defendant. )

**MEDIATION ORDER**

This cause coming to be heard on an issue relating to child custody, visitation or removal and the Court being fully advised;

**Rules of the Circuit Court—15th Judicial Circuit**

IT IS THEREFORE ORDERED AS FOLLOWS:

1. The parties are to participate in mediation.
2. \_\_\_\_\_ is appointed as mediator in this cause.
3. Pursuant to local court rule, this cause is set for status and mediator’s report on \_\_\_\_\_ at \_\_\_\_\_.
4. Plaintiff to be responsible for \_\_\_\_\_% of the mediation costs; Defendant to be responsible for the remaining portion of said costs.

\_\_\_\_\_  
Judge

DATE:

**CIRCUIT COURT OF ILLINOIS  
FIFTEENTH JUDICIAL CIRCUIT**

\_\_\_\_\_, )  
 Plaintiff, )  
 V. ) NO. \_\_\_\_\_  
 \_\_\_\_\_, )  
 Defendant. )

**CONFIDENTIALITY AGREEMENT**

It is hereby agreed by and between the mediation participants, \_\_\_\_\_, plaintiff herein, and \_\_\_\_\_, defendant herein, that all matters discussed during any and all of the mediation sessions shall be confidential and shall not be disclosed by the participants or the mediator in any court proceeding or any court of law, except as provided by law.

\_\_\_\_\_  
Plaintiff

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Mediator

**CIRCUIT COURT OF ILLINOIS  
FIFTEENTH JUDICIAL CIRCUIT**

\_\_\_\_\_, )  
 Plaintiff, )  
 V. ) NO. \_\_\_\_\_  
 \_\_\_\_\_, )  
 Defendant. )

**Rules of the Circuit Court—15th Judicial Circuit**

**MEDIATOR'S REPORT**

I mediated with \_\_\_\_\_, plaintiff herein, and \_\_\_\_\_, defendant herein. I scheduled meetings on the following dates: \_\_\_\_\_.

I met with them for a total of \_\_\_\_\_ hours for the purpose of mediation.

The mediation now has been concluded because:

\_\_\_\_\_ The parties have reached an agreement as to all disputed issues.

\_\_\_\_\_ The parties have reached an agreement as to some of the disputed issues and are at an impasse in regard to the remaining issues.

\_\_\_\_\_ Pursuant to court rule, mediation has been terminated.

The appointment of a guardian ad litem is recommended.

Mediation continues with the next session scheduled on \_\_\_\_\_ and it is anticipated that an additional \_\_\_\_\_ days will be needed to complete the mediation process.

\_\_\_\_\_  
Mediator

THE UNDERSIGNED judges of the Circuit Court of Illinois, Fifteenth Judicial Circuit, pursuant to the authority vested in them by Rule 21(a) of the Rules of the Supreme Court, State of Illinois, do hereby adopt the rules herein as the Rules of Practice of the Fifteenth Judicial Circuit, to become effective April 1, 2007.

\_\_\_\_\_  
William A. Kelly  
Chief Judge

\_\_\_\_\_  
Stephen C. Pemberton  
Circuit Judge

\_\_\_\_\_  
Michael T. Mallon  
Circuit Judge

\_\_\_\_\_  
Val Gunnarsson  
Circuit Judge

\_\_\_\_\_  
John E. Payne  
Circuit Judge

\_\_\_\_\_  
Theresa L. Ursin  
Circuit Judge

\_\_\_\_\_  
Ronald M. Jacobson  
Circuit Judge

\_\_\_\_\_  
Michael P. Bald  
Circuit Judge