RULES OF PRACTICE OF THE CIRCUIT COURT
THIRTEENTH JUDICIAL CIRCUIT
LASALLE, BUREAU & GRUNDY COUNTIES

AS ADOPTED BY THE JUDGES OF THE THIRTEENTH JUDICIAL CIRCUIT
EFFECTIVE AUGUST 1, 1984

INCLUDING AMENDMENTS RECEIVED THROUGH
October 30, 2020

H. CHRIS RYAN, JR.
CHIEF JUDGE

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UNIFORM RULES OF PRACTICE
CIRCUIT COURT OF ILLINOIS
THIRTEENTH JUDICIAL CIRCUIT

The Following rules are adopted as rules of practice of the Circuit Court, Thirteenth Judicial Circuit, State of Illinois.

PART I. ORGANIZATION

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 Procedures providing that the Circuit Court 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 rules and statutes.

(b) Existing Rules Repealed. These rules shall become effective August 1, l984. All prior rules of the Circuit Court of the Thirteenth Judicial Circuit, State of Illinois, are hereby repealed.

(c) Amendment of the Rules. Any amendment of these rules shall be passed by a majority vote of all circuit judges of the Thirteenth Judicial Circuit, with each voting judge being mailed a copy of the proposed amendment at least ten (10) days after the adoption thereof pursuant to Supreme Court Rule 21(a).

(d) Copy of Rules to be Transmitted to the Director of the Administrative Office. All rules of this court and amendments thereto shall be filed with the Director of the Administrative Office of the Illinois Courts, Springfield, Illinois, within (10) days after adoption thereof pursuant to Supreme Court Rule 21(a).

(e) Construction of these Rules. In the construction of these rules, the law governing the construction of the statutes (Chapter 1, paragraph 1001 through paragraph 1106, Illinois Revised Statutes, 1981) shall apply.

1.2 CHIEF JUDGE

(a) Selection of the Chief Judge. The Chief Judge shall be a circuit judge elected by a majority of the circuit judges within the Thirteenth Judicial Circuit for a term of two years commencing on the last Friday of January, 1983. The balloting shall be at least two (2) weeks prior to the conclusion of the term. Nothing in these rules shall prevent a Chief Judge from succeeding himself in office.

(b) Acting Chief Judge. The Chief Judge shall designate one of the circuit judges to serve as Acting Chief Judge in his absence or when the Chief Judge is unable to serve. The Acting Chief Judge shall have the same powers and duties as the Chief Judge.

(c) Vacancy in the Office of Chief Judge. Whenever a vacancy in the office of Chief Judge occurs, any two circuit judges shall call a meeting of the circuit judges for the purpose of electing a Chief Judge to fill the unexpired term of office. The election shall be within three (3) weeks of the vacancy and at least five (5) days notice shall be given to all circuit judges.

(d) When Vacancy Occurs. A vacancy in the office of Chief Judge shall be deemed to have occurred when the Chief Judge has been unable to serve for a period of three consecutive months.

1.3 PRESIDING JUDGE

(a) Designation of Presiding Judge. The Chief Judge shall appoint one circuit judge within each county of the circuit, except the county in which the Chief Judge sits, as Presiding Judge of that county. The Presiding Judge shall sit at the pleasure of the Chief Judge. The Chief Judge shall serve as Presiding Judge of the county in which he sits. Whenever the term "Presiding Judge" is used in these rules, it refers to the Presiding Judge of a county, appointed by the Chief Judge of the Thirteenth Judicial Circuit.

(b) Duties of the Presiding Judge. The Presiding Judge or his designate shall call and impanel Grand and Petit Juries, administer the Judicial Department of the county in which he is presiding and perform such other duties as may be required for the proper administration of justice. He may promulgate Administrative Orders within his county not inconsistent with these rules or the Administrative Orders of the Chief Judge if so authorized by a General Administrative Order from the Chief Judge. All Administrative Orders issued by the Presiding Judge shall be tendered to the Chief Judge ten (10) days prior to their effective date during which time the Chief Judge may approve, or withhold approval, of the proposed Administrative Order.

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 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.

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 at all times unless waived by the court for good cause.

(b) Courtroom Clerk. The courtroom clerk shall be the Circuit Clerk or 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, maintain custody of all exhibits which have been marked for identification until further order of court, and perform such other duties as may be directed by the court.

(c) Bailiff. The Bailiff shall open and close court, preserve order in the courtroom, attend upon the jury when placed in his custody, and perform such other duties as may be directed by the court unless such is excused by the Presiding Judge of that county.

1.6 JUDICIAL MEETINGS

(a) Quarterly Meetings. The circuit judges shall meet at least quarterly each year to discuss and take such action as may be required in connection with the business of the Court of the Thirteenth Judicial Circuit. Such meeting may include the associate judges of the Thirteenth Judicial Circuit, and such others as the Chief Judge may invite. The associate judges of the circuit shall meet, as a group, at least once annually or as the Chief Judge may direct.

(b) Special Meetings. Special meetings may be called at any time by the Chief Judge or by a majority of the circuit judges within the Thirteenth Judicial Circuit upon five (5) days notice to all circuit judges.

1.7 DOCUMENTS AND COURT FILES

(a) Filing and Clerk's File Mark. All documents shall be filed with the Clerk of the Court pursuant to Supreme Court Rule 10 prior to their presentment to the court with the exception of proposed orders. Upon presentment to the Clerk, the Clerk shall place a file mark on the first page of each document in the upper right-hand corner. All pleadings shall include a cause entitlement and number, contain a space at least 2 by 2 inches at the upper right portion of the first page for the Clerk's file mark, shall not contain a backing sheet and, if such pleading contains more than one page, shall be stapled at the upper right and left corners. With the exception of forms and exhibits, only one side of each page shall be used. The case number shall not be placed in such a position that it will be obliterated by the

Clerk's file mark. The Clerk shall not file a pleading unless accompanied by the proper filing fee, if any.

(b) Acknowledgment of Pleading by an Attorney. No pleading or entry of appearance shall be acknowledged by an attorney or member or employee of his firm, for an opposing party.

(c) Removal of Files. Original files, documents or exhibits shall not be removed from the office of the Circuit Clerk or courtroom.

(d) Redaction of Social Security Numbers. An individual's social security number which appears in any pleading, attachment to pleading, order, exhibit, or other document filed in the court file or filed in open court shall be redacted so only the last four digits are visible with the following exceptions:

1) Any original Qualified Domestic Relations Order filed in divorce files in the Thirteenth Judicial Circuit which contain social security numbers shall be impounded by the Circuit Clerk, only to be opened by order of the court.

2) The "Child Support Data Sheet", attached as an Exhibit to the Uniform Order of Support, shall contain social security numbers and be impounded by the Circuit Clerk and used for child support enforcement according to law.

1.8 COUNTY PROBATION OFFICE AND COURT SERVICES DEPARTMENT

(a) General Rules and Appointments. The Chief Judge shall promulgate general rules for the Circuit Court Services Department and appoint a Director of Court Services. The Chief Judge and all of the circuit judges of the Thirteenth Judicial Circuit hereby delegate to the Director of Court Services of the Thirteenth Judicial Circuit the authority to appoint and discharge probation officers and employees within his department.

(b) Duties of the Director of Court Services. Director of Court Services shall appoint, discharge, and supervise probation officers and employees on his staff, administer the Probation Office and Court Services Department of the Thirteenth Judicial Circuit, and carry out the direction of the Chief Judge and the general rules and policy as promulgated by a majority of the circuit judges within the circuit. The Director of Court Services may issue regulations upon approval thereof by the Chief Judge not inconsistent with the general rules governing the Probation Office or Court Services Department.

(c) Reports. The Director of Court Services shall prepare and submit to the Chief Judge an annual report relating to the prior year's operation of the Probation

Office and Court Services Department, including line item expenditures for each county of the circuit not later than April 30 of the following year.

1.9 COUNTY LAW LIBRARY

(a) (Reserved).

(b) Law Library Fund. Pursuant to 55 ILCS 5/5-39001, disbursements of the county law library fund shall be by the County Treasurer on order of a majority of the Resident Judges of the Circuit Court of the county.

(c) Law Library Budget. The annual budget for the County Law Library shall be included in the budget of the Judicial Department of that county.

1.10 COURT FACILITIES

(a) Designation of Court Facilities. The Chief Judge, Thirteenth Judicial Circuit, shall designate when and where court shall be held within the Thirteenth Judicial Circuit pursuant to Article VI, Section 7(c) of the Constitution of the State of Illinois (1970).

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

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

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

(d) Appointment of Counsel. When appropriate, the Attorney General or the State's Attorney of the county in which the proceedings are held may represent the court in the hearing before the Chief Judge and in the complaint for mandamus. If the Attorney General or State's Attorney is not able to represent the court, the Chief Judge may designate another licensed attorney at law of this State.

1.11 COURTROOM DECORUM

(a) Judicial Responsibility. It shall be the responsibility of each judge sitting within the Thirteenth Judicial Circuit to enforce proper courtroom decorum of all court staff, attorneys and persons within the courtroom in which he is presiding.

(b) Enforcement. Improper behavior shall immediately be brought to the attention of the particular individual involved and, if not corrected, the court may take appropriate action pursuant to Rule 10.1 of these rules.

1.12 COURT APPEARANCE

(a) Court Hours. Unless otherwise directed by the Chief Judge court hours shall be Monday through Friday of each week inclusively except when court is closed in observance of a legal holiday pursuant to an order of the Chief Judge. Dates upon which court will be closed shall be posted in the courthouse of the individual counties within the Thirteenth Judicial Circuit.

(b) Prompt Attendance Required. All attorneys and parties shall appear promptly before the court. In the event that a party or attorney fails to appear promptly, the court may impose such sanction or take such remedial action as it deems appropriate. In the event that the failure of a party or attorney to appear promptly renders it impossible to proceed, the court may order the party or attorney failing to appear promptly, to pay the reasonable costs and expenses, including attorney's fees, to the opposing party or attorney.

1.13 JURORS, TERMS OF SERVICE, SUMMONS AND EXCUSE

(a) Grand Jurors. Grand Jurors shall be called by the Chief Judge or the presiding judge of the county for a period not to exceed six (6) months. After being impaneled, instructed, and sworn, the Grand Jury shall sit from time to time until permanently discharged by the court.

(b) Petit Jurors. Petit Jurors shall be called by the Chief Judge for a period of time to be designated by the Chief Judge.

(c) Jury Summons. The Jury Commission or Chief Judge shall issue and cause to be served a jury summons on all Grand Jurors and Petit Jurors at least thirty (30) days prior to the first day of service. Jury summons may be served by U.S. Mail, postage prepaid, to the address as listed in the voter registration files.

(d) Jury Excuses. The Chief Judge or Jury Commission, as the case may be, is authorized to excuse summoned jurors or to continue their service and regulate their assignments to the various courtrooms within the county.

(e) Rules Applicable. The Grand Jury and petit jury are subject to the rules of the County Jury Commission if such commission has been established within the county.

1.14 TERM OF APPOINTIVE OFFICIALS

All officials appointed by the Judges of the Circuit Court, Thirteenth Judicial Circuit, including, but not limited to, the Chief Managing Officer, Probation Department, Chief Adult Probation Officer, Chief Juvenile Officer, Superintendent of Detention Home and Public Defender; shall serve for a term of two years, commencing from the date of their original appointment. However, such appointive officials serve at the pleasure of the Judges of the Circuit Court, Thirteenth Judicial Circuit as authorized by statute, and may be removed at any time from office.

Such Appointive officials may be appointed to succeed themselves for additional two-year terms with no limitation on the number of terms they may serve.

The Chief Judge shall set the date for initial review of such appointive officials upon notice to such officials of not less than thirty (30) days nor more than sixty (60) days preceding the anniversary date of the second year following appointment. The appointive officials shall furnish to the Circuit Judges at time of review such records and materials as the Circuit Judges or the Chief Judge may require.

PART 2. MOTIONS

2.1 MOTION PRACTICE

(a) Filing. All motions shall be filed with the Clerk of the Court prior to their presentment to the court. In any cause of action, the court may designate a date by which all motions are to be on file. A motion may not be filed subsequent to that date except by leave of court. The title to each motion shall indicate the relief sought.

(b) Allotment for Hearing. With the exception of emergency matters, no motion shall be heard unless previously allotted for hearing on the court's calendar.

(c) Notice. Notice of hearing on all motions shall be given by the party requesting the hearing to all parties who have appeared and have not theretofore been defaulted for failure to plead, and to all parties whose time to appear has not expired on the date of notice. Notice shall be given in the manner and to those prescribed in Supreme Court Rule 11.

(d) Content of Notice. The notice of hearing shall contain the title and number of the cause of action, date and time when the motion will be heard and designated courtroom, and shall include a short statement of the nature of the motion. A copy of any written motion and of all papers presented therewith, or a statement that they have been previously served, shall be served with the notice.

(e) Time of Notice. Unless otherwise ordered by the court, the following times of notice shall be observed:

(1) Notice by personal service shall be made not less than three (3) days prior to the hearing;
(2) Notice by U.S. Mail shall be mailed not less than seven (7) days prior to the hearing;
(3) Notice by third-party commercial carrier shall be made by deposit in the carrier's pick-up box or drop off with the carrier's designated contractor not less than seven (7) days prior to the hearing;
(4) Notice by fax, if permitted pursuant to Supreme Court Rule 11(b)(6), shall be made not less than three (3) days prior to the hearing;
(5) Notice by e-mail, if permitted pursuant to Supreme Court Rule 11(b)(7), shall be not less than three (3) days prior to the hearing.

Proof of notice by personal service, mailing, delivery by third-party commercial carrier, fax or e-mail shall be made of record.

(f) Summary Judgment. A motion for summary judgment shall not be heard until ten (10) days after service of the notice of motion under Supreme Court Rule 11.

(g) Ex parte and Emergency Motions. Every complaint or petition requesting an ex parte order for the appointment of a receiver, temporary restraint, preliminary injunction, or any other emergency relief, shall be filed in the Office of the Circuit Clerk, if during court hours, before application to the court for the order.

Emergency motions and motions which, by law may be made ex parte may, at the discretion of the court, be heard without giving notice. Motions for temporary relief shall, so far as practicable, be given precedence over other matters before the court.

If a motion is heard without prior notice under this rule, written notice of the hearing shall be served personally or by U.S. Mail upon all parties not theretofore found by the court to be in default for failure to plead, and proof of service thereof shall be filed with the Clerk of the Court within two (2) days of the hearing thereon. The notice shall state the title and number of the cause of action, name of the judge who heard the motion, date of hearing, and the order of the court.

(h) Motion to Continue. No motion to continue shall be allowed for other than good cause shown. Agreements of counsel as a motion to continue shall not be binding on the court. The court may require affidavits of the parties and counsel.

(i) Renewal of Motions. Motions presented and ruled upon before one judge shall not be renewed before another judge without leave of court and a statement in the notice of hearing that the motion has previously been ruled upon, naming the judge who ruled on the motion.

(j) Failure to Call Motions for Hearing. The burden of obtaining an allotment for hearing in a civil case is on the party making the motion. If an allotment for hearing is not obtained by the moving party within ninety (90) days from the date it is filed, the court may deem the motion withdrawn and deny the relief requested with or without, prejudice.

PART 3. PROCEEDINGS BEFORE TRIAL

3.1 PLEADINGS TO BE READILY COMPREHENSIBLE

(a) Multiple Count Pleadings. If a pleading contains multiple counts or affirmative defenses, each count or defense shall bear a short title concisely stating the theory of liability or defense. If the pleading is filed on behalf of or against multiple parties and all such parties are not asserting the same claims or defenses as to all opposing parties, the title of each count or defense shall concisely designate the subgroup of parties to whom it pertains.

(b) Incorporation by Reference. If the incorporation of facts by reference to another pleading or to another part of the same pleading will cause a pleading not to be readily comprehensible, such facts shall be realleged verbatim. This rule does not prohibit the incorporation of facts as permitted by Supreme Court Rule 134 provided that the pleading remains readily comprehensible.

3.2 WRITTEN INTERROGATORIES

(a) Standard Form and Procedure. The party serving written interrogatories shall provide two copies to each party required to answer the interrogatories. The interrogatories shall be reasonably spaced so as to permit the answering party to make his answer on the interrogatories served on him. The answering party may attach an addendum to the copies if the space provided is insufficient. If an addendum is attached, it must clearly refer to the question being answered.

3.3 DISCOVERY DOCUMENTS

(a) Restrictive Filing. Unless otherwise ordered by the court, depositions, interrogatories, requests, answers or responses thereto and other discovery documents shall not be filed with the Clerk of the Court except as necessary to resolve disputed issues of procedure, fact, or substantive law or pursuant to Supreme Court Rule 207 (b) (1). No requests to admit or answers thereto pursuant to Supreme Court Rule 216 shall be filed with the Clerk of the Court other than by order of the Court. Proof of Service may be filed pursuant to Rule 3.3(b).

(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.

3.4 DAYS FOR TAKING DEPOSITIONS - ON COURT DAYS EXCLUDED

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

3.5 CRIMINAL CASES - FELONY ARRAIGNMENTS

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

3.6 PRE-TRIAL CONFERENCES

(a) Requirement of Pre-trial Conference. At least one pre-trial conference shall be held in all civil jury actions and the attorneys who expect to try the case shall attend the pre-trial conference. The court shall set the time, date and place of the pre-trial conference and direct that notice be given to all interested parties. Upon motion of any party, or on its own motion, the court may order additional pre-trial conferences.

(b) Pre-trial Memorandum. It shall be the duty of the attorneys for each of the parties involved in a cause of action to prepare a full and complete typewritten pre-trial memorandum similar in form to Appendix A and B of these rules. At least five (5) days prior to the pre-trial conference, each attorney shall mail the original of the memorandum to the pre-trial judge and a copy to each opposing counsel.

(c) Summary Statement of Points and Authorities. Unless waived by the court, at least five (5) days prior to a contested trial, the parties shall submit to the court and opposing counsel a summary statement of points and authorities citing all cases and statutes which they expect to argue. The statement may be in summary form similar to that provided in Supreme Court Rule 341(e)(1). Unless otherwise directed by the court, this rule shall not apply to traffic, ordinance, and small claims cases.

(d) Settlement Prior to Trial. In the event of settlement prior to a scheduled pre-trial conference or prior to trial, the attorneys shall forthwith notify the judge that the cause has been settled.

(e) Criminal Misdemeanor and Traffic Docket Call. In all criminal misdemeanor and traffic cases where there has been a demand for trial by jury, the court may schedule cases on its docket for trial by jury and direct that notice be given to the defendant's attorney of record, or, if the defendant is unrepresented, the defendant's last known address. The notice shall be given by the Clerk of the Court by regular U.S. Mail at least ten (10) days prior to the scheduled date of trial.

CASE MANAGEMENT CONFERENCES

The following cases are excepted from the "initial case management conference" of Supreme Court Rule 218(a):

Tax	
Small Claims	(Supreme Court Rule 281)
Family	(750 ILCS all acts)
Probate	(735 ILCS 5/1 et seq.)
Forcible Entry and Detainer	(735 ILCS 5/9-101 et seq.)
Mental Health	(405 ILCS 5/1-100 et seq.)
Replevin	(735 ILCS 5/19-101 et seq.)

In all of the above categories of cases, the Court shall conduct a peremptory court call at intervals not to exceed six months except for Probate which should be within 12 months.

In all other civil cases filed after January 1, 1996, the Circuit Clerk shall affix the following information:

Other cases are to be handled pursuant to Administrative Order 95-75.

3.7 MARKING OF EXHIBITS - PRE-TRIAL MARKING OF EXHIBITS

At the pre-trial 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 be kept in the custody of the Clerk of the Court unless otherwise directed by the court.

3.8 DISMISSAL FOR WANT OF PROSECUTION

(a) Procedure. In all cases where no appeal is pending and there has been no action of record for a period of two (2) years, the court may summarily dismiss the cause of action and it shall not thereafter be redocketed without both good cause shown and leave of court.

(b) Notice. Unless the Court directs a party to provide a copy of an order of dismissal, upon dismissal of any cause for want of prosecution, except dismissals of Small Claims cases or first appearance LM cases and post-termination proceedings, the Clerk of the Court shall give all pro se parties, if served as noted in the Court file, and all attorneys of record notice of the dismissal by regular U.S. Mail within ten (10) days of the dismissal. Such cases shall not be redocketed if a motion to reinstate is not filed within thirty (30) days from the date of dismissal.

PART 4. TRIALS

4.1 JURY TRIALS - STATEMENT OF THE NATURE OF THE CASE

(a) Preparation and Use. In all jury cases, the State's Attorney in criminal cases, and the plaintiff's Attorney in civil cases, shall prepare and submit to the court and opposing parties a Statement of the Nature of the Case to be read by the court to the venire prior to voir dire examination. The statement shall include the time, date and place of the alleged occurrence or offense and a brief description thereof, the name of the parties involved and their counsel, and, when requested by the court, a list of witnesses whom the parties expect to call. Opposing counsel may suggest amendments to the statement prior to it being read to the venire.

(b) Voir Dire Examination of Prospective Jurors. If the court does not permit direct examination of prospective jurors by counsel pursuant to Supreme Court Rule 234, counsel may submit written questions to the court for its consideration for use in voir dire examination. If the court asks a question submitted by counsel, the court shall write the word "asked" beside the question. If the court refuses to ask a submitted question, the word "refused" shall be written thereon. Even though the court allows counsel to supplement its voir dire examination, counsel may submit a question or questions to the court and request the court to ask such question of the prospective jurors during the court's examinations.

PART 5. DRAFT ORDERS AND POST-JUDGMENT NOTICES

5.1 WRITTEN DRAFT ORDERS

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

5.1A DECISIONS WITHIN 60 DAYS

(a) All judges are encouraged to render their decisions promptly when matters are ready for decision, and except as hereinafter provided, no judge of this Circuit shall keep a matter under advisement or fail to render a decision in a matter submitted to that judge for a period of time greater than sixty (60) days from the date such matter is taken under advisement.

(b) For the purpose of Rule 5.1A, 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.

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 by the Presiding Judge to the Chief Judge together with an explanation of the reason such decision has not been rendered.

5.2 POST-JUDGMENT NOTICES - WHEN WARNINGS REQUIRED

Notices of hearing 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: <u>"Your failure to appear at this hearing may result in the issuance of a warrant for your arrest."</u>

5.3 HEARING: PETITIONS FOR POST-TERMINATION RELIEF

The burden of calling for hearing petition for post-termination relief is on the petitioning party. If any such petition is not called for hearing within one hundred-twenty (120) days from the date it is filed, or if there has been no action on a post-termination file for one hundred-eighty (180) days, the Clerk of the Circuit Court is directed to close the file without prejudice and put the case on the terminated list. Any warrant not served in a post-termination, civil case shall be returned by the Sheriff's office to the Circuit Clerk's Office as stale after one hundred-eighty (180) days, requiring re-issuance.

PART 6. BONDS - SURETIES

6.1 PERSONAL SURETIES

(a) Schedules. Bonds with personal sureties shall be approved by the court. Sureties shall execute and file verified schedules of property when so directed by the court.

(b) Attorneys-Prohibition Against Signing as Surety. If an attorney represents a personal or corporate entity signing as a principal on a bond, that attorney and members of his firm are prohibited from signing as surety on that bond.

PART 7. SMALL CLAIMS ACTION

7.1 PROCEDURE

(a) Response by the Defendant. After service of summons in a small claims action, the defendant may do one of the following:

1) file a written motion or answer, or

2) appear in person or by attorney on the appearance date, and admit or deny allegations of the complaint.

If a defendant fails to respond as stated above, a default may be entered and judgment for the amount claimed, plus costs, may be taken against him.

(b) Summons-Appearance Date. Defendant shall appear on the date and at the time set forth in the summons served upon him by the plaintiff unless answer has previously been filed pursuant to 8.1(a), or unless excused by the court. Appearance on the date:

1) Should Plaintiff fail to appear, Plaintiff's complaint will be dismissed for Want of Prosecution.

2) Should Plaintiff appear and Defendant not appear, a judgment will be entered against Defendant in the event that there is on file a verified complaint or unverified complaint supported by affidavit, either of which sets forth sufficient factual allegations to establish a prima facie case for recovery by Plaintiff.

3) Should Plaintiff appear and Defendant fail to appear and the only pleading on file is an unverified complaint, Defendant shall be adjudged in default and the cause continued for a prove-up on a date to be designated by the court.

4) If Plaintiff is present and there is on file by Defendant an answer or other responsive pleading, the Court shall continue the cause for trial or other hearing as appropriate.

5) Should Plaintiff and Defendant appear and Defendant deny the allegations of Plaintiff's complaint the cause shall be set for trial.

(c) Setting of Trial Date. The court shall fix a trial date and cause all parties to be notified of the time, date and place of trial.

(d) Summons-Appearance Date Not Considered the Trial Date. Unless otherwise ordered by the court, the appearance date as noted on the summons shall not be the date of trial.

(e) Demand for Trial by Jury. Upon Defendant's demand for trial by jury and payment of the jury fee, the court shall automatically set the cause for trial and cause notice to be given. If jury demand is made by the plaintiff, the date for trial shall not be set until after the appearance date as noted on the summons.

(f) (Reserved).

PART 8. DOMESTIC RELATIONS

8.0 (RESERVED)

8.01 DEFINITION

(a) For purposes of the Rules under this Article, a domestic relations case is defined as any proceeding arising under the provisions of 750 ILCS which seeks an order or judgment, or modification thereof, relating to dissolution of marriage, declaration of invalidity of marriage, legal separation, or parentage, including all proceedings concerning such matters as temporary or permanent support, maintenance, custody, visitation, removal, orders of the *ne exeat*, or applicable petitions for orders of protection. Whenever the terms "custody" or "child custody," "visitation," and "removal" are used in the Rules under this Article, including in this section, the said terms, consistent with Public Act 99-90, include and are synonymous with the terms "parental responsibilities" (includes "significant decision-making responsibilities" and "parenting time") and "relocation."

(b) The Rules set forth in this Article are promulgated in accordance with authority conferred by the Illinois Marriage and Dissolution of Marriage Act, the Parentage Act, the Code of Civil Procedure, and Illinois Supreme Court Rules.

8.02NOTICE

(a) Service of Notice of Motion or Petition shall be in accordance with the Rules of Practice of the Circuit Court as provided in Part 2 of these Rules; that is, unless otherwise ordered by the Court, notice by personal service shall be made not less than three (3) days prior to the hearing, notice by U.S. Mail shall be made not less than seven (7) days prior to hearing, notice by third-party commercial carrier shall be made not less than seven (7) days prior to the hearing, notice by fax shall be made not less than three (3) days prior to the hearing and notice by e-mail shall be made not less than three (3) days prior to the hearing. Proof of notice by personal service, mailing, delivery by third-party commercial carrier, fax or e-mail shall be made of record.

(b) Notice to Appear. In all family law cases the appearance of a party at a hearing held within sixty (60) days of the filing of the petition may be required by serving the party with a notice requiring them to appear. This notice also may require the production of documents at the hearing relating to the income of the party so noticed.

8.03 WALK-INS

(a) It shall be the responsibility of the person seeking to affect the marital status, or his or her attorney, to present to the prove-up judge, in a single package, prior to the commencement of testimony the following:

1) Judgment Order

2) Fully completed Certificate of Dissolution, Declaration of Invalidity or Legal Separation

3) (Reserved)

4) Fully completed supplemental order for payment of support or maintenance through the Office of the Circuit Clerk unless waived by the parties.

5) Signed original of any written agreement of the parties that has been testified to, received in evidence and is to be incorporated in the Judgment or Declaration.

6) Obligor order for fee to Circuit Clerk pursuant to 750 ILCS 5/711, if support or maintenance obligation.

7) Certificate that the parties have completed the "For Your Children" program as provided in Rule 8.12 herein if appropriate unless waived in advance by the Court.

(b) Failure to provide said package to the Court prior to the hearing shall result in the Court not hearing the matter at the requested time for hearing.

8.04 SERVICE BY PUBLICATION

(a) Service by publication shall be in accordance with 735 ILCS 5/2-206 and 5/2-207 as from time to time amended.

(b) The person or entity seeking to obtain jurisdiction by publication shall provide copies of all necessary documents to the Circuit Clerk, including copies for mailing.

(c) The responsibility for the prompt filing of appropriate Certificates of Publication and/or Certificates of Mailing shall be that of the person seeking such service except as to those matters which are the responsibility of the Circuit Clerk.

8.05 JUDGMENTS FOR DISSOLUTION OF MARRIAGE, LEGAL SEPARATION OR DECLARATION OF INVALIDITY

(a) All documents purporting to affect the status of marriage shall conform to the provisions of:

1) 750 ILCS 5/301 et seq. or

2) 750 ILCS 5/401 et seq. or

3) 750 ILCS 5/402 et seq., all as from time to time amended,

and shall contain findings relating to:

4) Jurisdiction of the subject matter and of the parties.

5) The date and place of marriage.

6) Whether any children were born or adopted to the marriage, their names and birthdates, and whether the wife is pregnant.

7) Such additional findings as may be appropriate.

(b) It shall be the responsibility of the person seeking to affect the marital status, or his or her attorney, to present to the trial Judge, in a single package, the documents as set forth in 8.03 of these rules.

(c) The written judgment order and accompanying documents as provided in 8.03 and 8.04 of these rules shall be prepared and submitted within and no more than fourteen (14) days of the final hearing. If the order is not submitted to the Court within fourteen (14) days, the party charged with drafting the order shall advise the Court of the reason for the delay.

8.06 CASE MANAGEMENT AND HEARINGS

(a) Pre-Judgment Proceedings

1) Financial Affidavit

In all proceedings in which there is a dispute involving property and/or debts, temporary or permanent maintenance, and/or temporary or permanent child support, each party shall file a Financial Affidavit with supporting documentary evidence (using in all proceedings the form with documentary evidence as required by 750 ILCS 5/501(a)(1)). In all hearings seeking temporary relief, the moving party shall file the Financial

Affidavit at the time the motion or petition for temporary relief is filed and shall file proof of service at least fourteen (14) days before the hearing. The responding party shall file the Financial Affidavit and proof of service at least seven (7) days before the hearing. In all hearings seeking permanent relief, each party shall file the Financial Affidavit and proof of service at least five (5) days before the final pre-trial conference. The final pre-trial conference shall be at least ten (10) days before the hearing on permanent relief unless otherwise ordered by the court. Consistent with section 501(a)(1), no Financial Affidavit and supporting documentary evidence shall be made part of the public record unless otherwise ordered by the court.

2) Final Pre-Trial Stipulation and Statement of Proposed Property Apportionment

In all proceedings for permanent relief where the issue of child custody and/or property apportionment is in dispute, including issues of child support and apportionment of marital indebtedness, a Final Pre-Trial Stipulation and Statement of Proposed Property Apportionment and Apportionment of Marital Indebtedness (similar to that found in Appendix D) shall be filed by the parties not less than five (5) days prior to the final pre-trial conference scheduled by the Court unless otherwise directed by the Court. Said Final Pre-Trial Stipulation shall include all stipulations of the parties as to all permanent issues, 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 proposed distribution of marital and not-marital debt. All exhibits to be submitted by each party shall be identified on the Pre-Trial Stipulation.

3) Final Pre-Trial Conference

The Court shall schedule a pre-trial conference not less than ten (10) days prior to the hearing on permanent relief in any proceeding where there are contested issues to be resolved by the Court. In addition to the requirements of (1) and (2) above, the Court may direct the parties to submit at this conference the following:

i. A Summary Statement of Points and Authorities citing all cases and statutes expected to be argued.

ii. A list of potential witnesses and expected duration of trial.

iii. Any motions that any party anticipates will be addressed at trial, including Motions in Limine.

(b) No Summons Issues for 30 Days. If a pre-judgment petition is filed and no summons issued for 30 days from the date of filing and no other action is taken by the petitioning party, the Court shall issue a Rule to Show Cause as to why no summons has been issued within said time period, and a hearing date shall be set by the Court for the petitioning party to either issue summons or take other action as directed by the Court on said date. If the petitioning party fails to appear on the date scheduled by the Court, the petition shall be dismissed for want of prosecution without prejudice.

(c) Summons Issues but No Action Taken for 60 Days. If a pre-judgment petition is filed and service of summons issues within a 30-day period but no action is taken by the petitioning party no more than 60 days from the date of filing, the Court shall either schedule a date for the petitioning party to appear and show cause why no action has been taken or the Court shall take other action as he/she deems appropriate to expedite the proceeding in a reasonable manner. The failure of the petitioning party to appear on the date scheduled by the Court shall result in the petition being dismissed for want of prosecution without prejudice.

(d) Post-Judgment Proceedings

1) Post-Judgment Proceedings
In all post-judgment proceedings involving financial matters, other than for enforcement of a judgment order, the moving party shall, at the time the motion or petition is filed, file a Financial Affidavit with supporting documentary evidence (using in all proceedings the form with documentary evidence as required by 750 ILCS 5/501(a)(1)). Proof of service of the petition, Financial Affidavit, and notice of hearing shall be filed at least fourteen (14) days prior to the hearing. The responding party shall file a Financial Affidavit (same form and documentary evidence as stated above) and proof of service at least seven (7) days prior to the hearing. Consistent with section 501(a)(1), no Financial Affidavit and supporting documentary evidence shall be made part of the public record unless otherwise ordered by the court.

2) Rules to Show Cause. Indirect civil contempt proceedings shall be conducted in accordance with Rule 10.1(d), but nothing herein shall prohibit or otherwise limit enforcement proceedings pursuant to 750 ILCS 5/508(b) and 750 ILCS 5/713.

3) In all proceedings on Rules to Show Cause where the issue of delinquent child support is at issue, an "Affidavit of Amount Due" (similar to that found in Appendix E) shall be filed, contemporaneously with the filing of the petition.

4) In the event no action is taken on a post-judgment petition no more than 60 days from the date of filing, the Court shall proceed to expedite the proceedings and act in the manner as provided in 8.06 (c) of these local rules (Prejudgment Petitions).

8.07 EMERGENCY MATTERS

(a) Designation of a matter as an "emergency" is determined to be an extraordinary measure.

(b) The proponent of an alleged "emergency" matter shall have the initial burden of proving the emergency, which burden shall include, at least, all of the following:

1) Inability to obtain an assignment on the regularly scheduled call within a reasonable time given the circumstances for which or from which relief is sought.

2) Notice to the opposing party pursuant to Rule 8.02.

3) That immediate and irreparable injury, loss or damage will result if the relief is not granted and that there exists no adequate remedy at law.

(c) Matters designated "emergency" shall be heard at the discretion of the judge assigned to the case or such other judge as may be designated by the presiding judge.

(d) Upon a determination by the Court that a matter does not meet the criteria for "emergency" matters, an order so finding shall be entered and the matter may be set on a regular call. A party or their counsel who respond to a motion propounded as but found not to be an "emergency" shall be entitled to reimbursement by the proponent for actual expenses and fees and costs incurred in responding to said motion.

8.08 CHILD SUPPORT

(a) Levels of support shall be established pursuant to statute (750 ILCS 5/505).

(b) The Court shall consider the affidavit of the parties as well as such additional testimony and documents as may be appropriately before the Court.

8.09 ORDERS FOR SUPPORT AND MAINTENANCE

(a) Definitions

1) Obligor

A person who has been ordered by the Court to pay child support, maintenance, or both.

2) Obligee

A person or agency which by court order, is to receive child support payments, maintenance payments, or both.

3) Custodial parent

A parent or other person who has been given temporary or permanent custody of a child or children by the Court.

(b) When Applicable Procedure

In all cases in which child support has been ordered by the Court, and in other cases as the Court may direct, all child support payments shall be made through the Clerk of the Court, unless otherwise ordered by the Court.

(c) Duties of the Clerk of the Court

The Clerk of the Court shall maintain records of each payment received and disbursed, which shall constitute prima facie evidence of the amount received and disbursed by the Court.

(d) Payees Receiving Public Aid

It shall be the duty of the parties, and counsel if any, to advise the Department of Public Aid at the time of the entry of the payment order for child support if the custodial parent of the child(ren) is a recipient of Aid for Dependent Children or has an active application for such aid in order that the Department can take appropriate action with the Clerk of the Court concerning the order of payment or further intervention in the proceedings.

(e) Income of Obligor. All orders for support and/or maintenance submitted to the Court shall set forth, in addition to the requirements of 750 ILCS 5/505, the net income and/or gross income of the obligor upon which the child support is based.

Require an income withholding notice to be prepared and served immediately upon any payor of the obligor by the obligee or public office, unless a written agreement is reached between and signed by both parties providing for an alternative arrangement, approved and entered into the record by the court, which ensures payment of support. In that case, the order for support shall provide that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support; and

approved and entered into the record by the court, which ensures payment of support. In that case, the order for support shall provide that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support; and

Contain a dollar amount to be paid until payment in full of any delinquency that accrues after entry of the order for support. The amount for payment of delinquency shall not be less than 20% of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support; and

Include the obligor's Social Security Number, which the obligor shall disclose to the court. If the obligor is not a United States citizen, the obligor shall disclose to the court, and the court shall include in the order for support, the obligor's alien registration number, passport number, and home country's social security or national health number, if applicable.

Provide for a termination date for said support and/or maintenance.

Failure to provide the above information in the order shall prevent entry of the order by the court.

(f) Redaction of Social Security Numbers. An individual's social security number which appears in any pleading, attachment to pleading, order, exhibit, or other document filed in the court file or filed in open court shall be redacted so only the last four digits are visible with the following exceptions:

1) Any original Qualified Domestic Relations Order filed in divorce files in the Thirteenth Judicial Circuit which contain social security numbers shall be impounded by the Circuit Clerk, only to be opened by order of the court.

2) The "Child Support Data Sheet", attached as an Exhibit to the Uniform Order of Support, shall contain social security numbers and be impounded by the Circuit Clerk and used for child support enforcement according to law.

8.10 ATTORNEY'S FEES

(a) No award of attorney's fees on behalf of an attorney against his client shall be made without the prior filing of a verified petition for attorney's fees and an itemization of the billing, including the hourly cost, the time spent on the case, and an itemization of the tasks performed.

(b) Notice for any Petition for attorney's fees on behalf of an attorney against his client shall be in substantial compliance with the following:

You are hereby notified that on _____, _____ day of _____, at _____ or as soon thereafter as counsel may be heard, the undersigned shall appear before the Honorable Judge _____, in Room _____, at the LaSalle County Courthouse, Ottawa, Illinois, and then and there present a Petition for Attorney's Fees pursuant to Section 508 of the IMDMA,

The law requires that you be advised of your right to a copy of that Petition and an itemized copy of the bill, copies of which are attached, and further provides for a right to a hearing on the Petition and a right to be represented at your expense at that hearing by an attorney other than one associated with the undersigned. If you do not appear, a judgment may be entered in accordance with the Petition.

(c) No agreed order for attorney's fees on behalf of an attorney against his client, or consent judgment, shall be entered unless the requirements of subparagraph (a) have been met and the client is present in open court and knowingly waives his/her right to a hearing and separate representation.

8.11 ATTORNEY'S FEES (INTERIM AND CONTRIBUTION PETITIONS)

In all proceedings involving a petition for interim attorney fees and costs or for contribution to attorney fees and costs brought pursuant to the Illinois Marriage and Dissolution of Marriage Act or the Parentage Act of 2015, the moving party shall, at the time the petition and supporting affidavit(s) is filed, file a Financial Affidavit with supporting documentary evidence (using in all proceedings the form with documentary evidence as required by 750 ILCS 5/501(a)(1)). Proof of service of the petition, Financial Affidavit, and notice of hearing shall be filed at least fourteen days (14) days prior to the hearing. The responding party shall, at the time of filing the responsive pleading, file a Financial Affidavit (same form and documentary evidence as stated above) and proof of service at least seven (7) days prior to the hearing. Consistent with section 501(a)(1), no Financial Affidavit and supporting documentary evidence shall be made part of the public record unless otherwise ordered by the court.

8.12 IMPLEMENTATION OF AN EDUCATIONAL PROGRAM FOR PARENTS IN DISSOLUTION AND POST-JUDGMENT PROCEEDINGS IN THE CIRCUIT COURTS OF THE 13TH JUDICIAL CIRCUIT

Pursuant to Supreme Court Rule 924, the Thirteenth Judicial Circuit has implemented the requirement to attend an Educational Program for Parents in Dissolution or other custody or visitation proceedings effective January 1, 2007. The following Rules shall apply:

(a) All programs shall be approved by the Judges of the Thirteenth Judicial Circuit by providing for Judicial review the following:

1) Outline of the program

2) Facilitator credentials and resumes

3) Brochures explaining the program procedures to clients

(b) That the parties shall participate in the Parenting Education Program sponsored by an approved program in the Thirteenth Judicial Circuit in the County where the action is pending.

(c) A final Judgment will not be entered between the parties until a certificate is presented to the Court indicating that the parties have completed the program.

(d) That the cost of said program shall be paid by the parties and determined by the income of the parent. No services will be provided.

(e) The parties are required to execute a release of information as to participation in the Program to the Court and Attorneys.

(f) Participation in the program will be excused by the Judge only upon a finding:

1) That the findings of this order do not apply in the particular case before the Judge;

2) That the parties are currently involved in counseling with a mental health professional or agency which the Court determines to be appropriate to satisfy the provisions of the Act;

3) That there is an apparent conflict involving the Provider of the Program and one or more of the parties; Or

4) In other cases, only upon a specific finding that there are serious and compelling circumstances of one or both of the parties which excuses participation in the Program

(g) That upon receipt of the Provider's original certificates of completion, the Office of the Circuit Clerks shall promptly cause receipt of the same to be recorded as a computer entry noting the particular party so certified as having successfully completed the Parenting Education Program, and shall promptly stamp and file the same in the appropriate Court files.

8.13 ASSIGNMENT OF CHILD CUSTODY PROCEEDINGS

In accordance with Supreme Court Rule 903, whenever possible and appropriate, all child custody proceedings relating to an individual child shall be conducted by a single judge. Whenever a child custody proceeding (as defined by Rule 900 of the Supreme Court Rules) is filed, and there is a child custody matter already pending before another judge involving the same child, the judges involved shall confer as often as needed and jointly determine which court(s) shall control and hear said issues and shall consider the impact of such orders on siblings, relatives and parties in each case as well as whether consolidation of such cases may be impracticable because of the arrangement of courtrooms, facilities and assignment of auxiliary court personnel.

8.14 ATTORNEY QUALIFICATIONS IN CHILD CUSTODY MATTERS

(a) The Thirteenth Judicial Circuit shall maintain a list of approved attorneys qualified to be appointed in child custody and visitation matters covered under Section IX of the Supreme Court Rules as guardians ad litem, child representatives, or attorneys for children.

(b) In order to qualify for the approved list, each applicant for the list shall meet the following requirements:

1) Each attorney shall be licensed and in good standing with the Illinois Supreme Court.

2) Each attorney shall have attended the education program created by the Illinois State Bar Association for education of attorneys appointed in child custody cases or equivalent education programs consisting of a minimum of ten hours of continuing legal education credit within the two years prior to the date the attorney qualifies to be appointed. 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.

3) To remain on the approved list, each attorney shall attend continuing legal education courses consisting of at least ten hours every two year period and submit verification of attendance to the Office of the Chief Circuit Judge at the time of attendance or upon request. The ten hours should include courses in child development; ethics in child custody cases; relevant substantive law in custody, guardianship and visitation issues; domestic violence; family dynamics including substance and mental health issues; and education on the roles and responsibilities of guardians ad litem, child representatives, and attorneys for children. Attendance at programs sponsored by this circuit may be included as a portion of this continuing education requirement.

4) Each attorney must complete the Child Representative Information Sheet provided by this circuit and return it with a statement or other verification of attendance at continuing education.

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

6) A public defender or an assistant public defender serving in the Thirteenth Judicial Circuit who is licensed and in good standing with the Illinois Supreme Court and is deemed by the appointing judge to possess the ability, knowledge and experience to participate as a guardian ad litem and/or an attorney for the child or children in a proceeding initiated under Article II, III or IV of the Juvenile Court Act of 1987 is initially and currently qualified to be appointed and act as a guardian ad litem and/or as an attorney for the child or children in said juvenile proceeding.

(c) Each attorney placed on the approved list and appointed shall be paid by the parties to the litigation as ordered by the judge handling the file or as agreed between the litigants. The costs of the appointed attorneys shall be paid as ordered and the court may enforce the orders and judgments as in other proceedings, including the imposition of sanctions.

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

(e) The Chief Judge and/or the Presiding Judge of the Family Division shall maintain the list of the approved attorneys and shall rotate the appointment of pro bono representations.

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

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

8.15 QUALIFICATIONS/TRAINING OF NON-JUDICIAL MEDIATORS

(a) Requirements: Mediators must meet all of the following requirements:

1) Formal Education: Possess a degree in law or master's or other advanced degree in a field that includes the study of psychiatry, psychology, social work, human development, family counseling or other behavioral science substantially related to marriage and family interpersonal relationships or a related field or other degree program approved by the Chief Judge or his/her designee. If engaged in a licensed discipline, the mediator must maintain said license in full force and effect.

2) Training: Complete a specialized training in family mediation consisting of a circuit-approved course of study or certification, to consist of at least 40 hours in the following areas:

   a. Conflict resolution
   b. Psychological issues in separation, dissolution and family dynamics
   c. Issues and needs of children in dissolution
   d. Mediation process, skills and techniques, and
   e. Screening for and addressing domestic violence, child abuse, substance abuse and mental illness.

3) Insurance: Court-approved mediators must secure and maintain professional liability insurance which covers the mediation process and provide evidence of insurance to the Chief Judge annually.

(b) Continuing Education: Approved mediators are required to complete ten (10) hours of circuit-approved continuing education every two (2) years of which two (2) hours must cover domestic violence issues and provide evidence of completion to the Chief/Presiding Judge every two (2) years.

(c) Establishment of List: The Thirteenth Judicial Circuit shall establish a list of court-approved mediators. All applicants for inclusion on the list shall possess the minimum qualifications set out in this Circuit Rule. The Chief Judge or his/her designee in his/her discretion may require any biographical or other relevant information from an applicant in order to determine the applicant's qualifications for inclusion on the list. For good cause shown, the Chief Judge or his/her designee reserves the right to reject the application of any person who applies and to remove any mediator from the list. Inclusion on the list by the court shall not be considered a warranty that such mediator can successfully mediate any specific dispute.

(d) Denial/Removal from List: An applicant denied inclusion on or removed from the court-approved list may appeal the decision in writing within ten (10) days to the Chief Judge or his/her designee. The Chief Judge or his/her designee shall decide the appeal after an opportunity for the applicant or mediator to be heard.

(e) Pro Bono Requirement: Each circuit-approved mediator shall agree to mediate a minimum of 1 pro bono case per year, if assigned by the Court, in order to remain on the approved list.

8.16 NON-JUDICIAL CHILD CUSTODY AND VISITATION MEDIATION

(a) Definitions.

1) Mediation. When the word "mediation" is used herein, it means a cooperative process for resolving conflict with the assistance of a trained court-appointed, neutral third party, whose role is to facilitate communication, to help define issues, and to assist the parties in identifying and negotiating fair solutions that are mutually agreeable. Fundamental to the mediation process, described herein, are principles of safety, self determination, procedural informality, privacy, confidentiality, and full disclosure of relevant information between the parties.

2) Impediment. When the word "impediment" is used herein, it means any condition, including but not limited to domestic violence or intimidation, substance abuse, or mental illness, the existence of which, in an individual or in a relationship, hinders the ability of any party to negotiate safely, competently, and in good faith. The identification of forms of impediment is designed not to require treatment, but to insure that only parties having a present, undiminished ability to negotiate are directed by court order to mediate. Mediation is based on a full disclosure of all facts related to the disputes so that a fair and equitable agreement can be achieved by the parties.

8.17 MEDIATION MANDATORY

(a) Matters Subject to Mediation. The designated judge shall order mediation (pursuant to the Court-Approved Order form) of any contested issue of parental responsibility, custody, visitation, removal or access to children arising in any action not otherwise determined to be ineligible pursuant to this program. The parties may not proceed to a judicial hearing on permanent contested issues arising in that case without leave of court, or until the mediation process has been concluded and its outcome has been reported to the court.

(b) Parenting Education Program. Pursuant to Supreme Court Rule 924(b) Mandatory Attendance. Except when excused by the court for good cause shown, all parties shall be required to attend and complete an approved parenting education program as soon as possible, but not later than 60 days after an initial case management conference. In the case of a default or lack of jurisdiction over the respondent, only the petitioning party is required to attend but if the respondent later enters an appearance or participates in post judgment roceedings, then the party who has not attended the program shall attend. The court shall not excuse attendance unless the reason is documented in the record and a finding is made that excusing one or both parents from attendance is in the best interests of the child.

(c) Commencement of Mediation The mediation process shall commence as provided by Supreme Court Rule. In no event shall mediation occur before a case has been screened for eligibility pursuant to safety protocols for mediators. The designated judge shall be advised by counsel and/or the parties concerning:

1) Impediment of the parties as defined in 8.16(A)(2). Reason to believe that impediment exists should result in referrals that may address the impediment(s) to mediation.
2) Other circumstances exist which would unreasonably interfere with mediation.
3) Mediation shall not be required if the court determines, upon motion of a party, that a case is ineligible for mediation. Said motion shall be supported by affidavit setting forth specific facts detailing why mediation would be inappropriate.

(d) Discovery Discovery may continue throughout the mediation.

8.18 ASSIGNMENT PROCEDURE

(a) Referral. Upon the court's order for the parties to participate in mediation, a mediator may be selected by agreement of the parties from the list of qualified mediators maintained by the Chief Judge or his/her designee. Absent an agreement, the trial judge shall select the mediator and assign the mediator a 45-day status date on the issue of progress of the mediation. The mediators shall be compensated by the parties at the rate agreed to by the parties and the mediator, unless the court determines the case to be an indigency case.

1) The attorneys shall encourage the parties to mediate in good faith. The parties shall participate in mediation in good faith.
2) On or before the status date, for parties who are participating in mediation, the mediator shall submit a report to the court and the parties' legal counsel, which shall include the information required by 8.22.
3) The parties shall contact the mediator within seven (7) days after the referral order is signed for the purpose of setting an appointment.

(b) Conflict of Interest

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

(c) Ethical Conduct: Inclusion of a mediator in the 13th Judicial Circuit approved mediators list indicates explicit agreement by that mediator to maintain high standards of ethical practice. Failure to comply may result in removal of the mediator's name from the approved list.

8.19 MEDIATION PROCESS

(a) Commencement: At or prior to the initial session, the mediator shall:

1) Determine the issues to be mediated;
2) Explain that no legal advice, therapy or counseling will be provided;
3) Disclose the nature and extent of any existing relationships with the parties or their attorneys and any personal, financial, or other interests that could result in bias or conflict of interest on the part of the mediator;
4) Inform each party of his/her right to obtain independent legal counsel;
5) Inform the parties that:
    a. mediation can be suspended or terminated at the request of either party after three (3) hours of mediation, or in the discretion of the mediator as outlined in 8.20(B) and 8.22(B);
    b. the mediator may suspend or terminate the mediation if an impediment exists, if either party is acting in bad faith or appears not to understand the negotiation, the prospects of achieving a responsible agreement appear unlikely, or if the needs and interests of the minor children are not being considered. In the event of a suspension or termination, the mediator may suggest a referral for outside professional services;
6) Explain that the mediation process is confidential as outlined in 8.21;
7) Confirm the parties' understanding regarding the fee for services and any reduced fee arrangements for eligible parties with financial hardship; and
8) Reach an understanding with the parties as to whether the mediator may communicate with either party or their legal counsel or with other persons

to discuss the issues in mediation in the absence of the parties. Any separate communication which does occur shall be disclosed to the parties at the first opportunity.

9) Advise each party that legal counsel, advocates, or other persons may be present only if both parties and the mediator agree in advance. Such individuals may be available for consultation for each participant while mediation is in progress.
10) Advise each party that children may be allowed to participate in mediation so long as all parties and the mediator consent to said participation, in writing, and that each parent or the child's representative or guardian ad litem, if applicable, has the right to withhold consent.

(b) Reporting Risk of Bodily Harm: While mediation is in progress, the mediator may report to an appropriate law enforcement agency any information revealed in mediation necessary to prevent an individual from committing an act that is likely to result in imminent, serious bodily harm to another. When the identity of an endangered person is known to the mediator, the mediator may warn that person and his attorney of the threat of harm; such notification shall not be considered a breach of confidentiality mandated by this rule.

8.20 APPLICATION OF SAFEGUARDS IN CASE OF IMPEDIMENT

(a) Duty to Assess: While mediation is in progress, the mediator shall assess continuously whether the parties manifest any impediments affecting their ability to mediate safely, competently and in good faith.

(b) Safety: If an impediment affecting safety arises during the course of mediation, the mediator shall adjourn the session to confer separately with the parties, may implement appropriate referrals to community service providers, shall advise the parties of their right to terminate and either shall:
1) Terminate mediation when circumstances indicate that protective measures are inadequate to maintain safety; or
2) Proceed with mediation after consulting separately with each party to ascertain whether mediation in any format should continue.

(c) Competency or Good Faith: If an impediment affecting competency or good faith, but not safety, arises during the course of mediation, the mediator may make any appropriate referrals to community service providers and either:
1) Suspend mediation when there is a reasonable likelihood the impaired condition of an affected party is only temporary; or
2) Terminate mediation when circumstances indicate an affected party's ability to negotiate cannot be adequately restored.

(d) Effect of Termination: No mediation terminated shall proceed further unless ordered by the court upon motion of a party. In the absence of such an order, the case shall be returned to the docket for adjudication in the manner prescribed by law.

8.21 CONFIDENTIALITY

(a) Privacy of Sessions: Mediation sessions shall be private. Except as otherwise provided in 8.19(A)(9), the mediator shall have authority to exclude all persons other than the parties from sessions at which negotiations are to occur.

(b) Confidentiality: Except as otherwise provided by law, all written and verbal communications made in a mediation session conducted pursuant to these rules are confidential and may not be disclosed by the mediator or any other participant or observer of the mediation, except that the parties may report these communications to their attorneys or counselors. Prior to the commencement of mediation, all participants in the mediation shall sign the confidentiality agreement prescribed by these rules.

(c) Disclosure

1) Limitation: Admissions, representations, statements and other communications made, or disclosed in confidence by any participant in the course of a mediation session shall not be admissible as evidence in any court proceeding. Except as identified herein, a mediator may not be called as a witness in any proceeding by any party or by the court to testify regarding matters disclosed in a mediation session, nor may a party be compelled to testify regarding matters disclosed during a mediation session as to privileged communications. These restrictions shall not prohibit any person from obtaining the same information independent of the mediation, or from discovery conducted pursuant to law or court rule.

2) Exceptions: Admissions, representations, statements and other communications are not confidential if:

a. all parties consent in writing to the disclosure; or
b. the communication reveals either an act of violence committed against another during mediation, or an intent to commit an act that may result in bodily harm to another; or
c. the communication reveals evidence of abuse or neglect of a child; or
d. non-identifying information is made available for research or evaluation purposes approved by the court; or
e. the communication is probative evidence in a pending action alleging negligence or willful misconduct of the mediator.

8.22 ATTENDANCE AND TERMINATION OF MEDIATION

(a) Attendance: The parties shall attend the mediation session(s) and shall attend a minimum of three (3) hours of mediation. Further participation may be extended by order of court or agreement of the parties. Mediation may be terminated or suspended prior to completion of the three (3) hours upon resolution of all mediated issues.

(b) Termination or Suspension: The mediation may be terminated or suspended at the option of the mediator or the court.

(c) Notice to Court: The mediator shall immediately advise the court in writing if he or she suspends or terminates mediation or in the event that either or both parties fail to comply with the terms of this Rule.

(d) Sanctions for Failure to Appear: If a party fails to appear without good cause at a previously agreed upon mediation conference or a mediation conference ordered by the court, the court upon motion may impose sanctions, including an award of mediator and attorney fees and other costs against the party failing to appear.

(e) Termination with Agreement: When agreements or partial agreements are reached by the parties during mediation, the mediator shall provide a written account of the agreements to the parties and their attorneys (if any), but the mediator shall not provide this written account to the court. The mediator shall advise each party to obtain legal assistance in drafting or reviewing any final agreements. The mediator shall advise the parties that agreements reached during mediation will not be legally binding until they are reviewed by the court and signed by the judge.

(f) Termination Without an Agreement: Upon termination without agreement, the mediator shall file with the court a final mediator report stating that the mediation has concluded without disclosing any reasons for the parties' failure to reach an agreement.

(g) Reporting Procedures:

1) Mediator's Report: The mediator shall prepare a Mediator's Report on the prescribed form within ten (10) days of the termination of the last mediation session. These reports will be filed with the circuit clerk.
2) Statistics: The mediator shall prepare a statistical report for each case on the prescribed form and file them at least quarterly with the trial court administrator.
3) Reports to the Supreme Court: The trial court administrator or his/her designee shall provide for the maintenance of records of mediations conducted pursuant to these rules. The information shall include the number of mediations conducted, the number of mediations resulting in an agreement and those resulting in no agreement. Such information shall be

furnished to the Supreme Court through its administrative office once a year or at such other interval as may be directed.

(h) Appointment of Child Representative/Guardian ad litem: If the mediator has concerns for the welfare or safety of the minor child(ren) or feels that it is in the best interests of the minor, the mediator shall recommend to the court in the Mediator's Report that a child representative or guardian ad litem be appointed for the minor(s).

8.23 ENTRY OF JUDGMENT OR ORDER

(a) Presentation of Order: Each mediated agreement shall be presented by the parties or their attorneys (if any) to the court within forty-five (45) days following the filing of the final Mediator's Report.

(b) Approval by Court: The court shall examine the parties as to the content and intent of the agreement and shall reject the agreement if any of its provisions are found by the court to be unconscionable or contrary to the best interests of a minor child. Unless the agreement is rejected, the court shall enter an appropriate judgment or order stating its findings and shall incorporate, either explicitly or by reference, the agreement so that the terms of such agreement are also the terms of the judgment or order.

8.24 CIRCUIT COURT ADVISORY COMMITTEE

(a) Membership: The Chief Judge or his/her designee may establish an advisory committee, and if established, the membership shall consist of at least six (6) persons, including a family division judge, a member of the Thirteenth Judicial Circuit bar, a practicing attorney-mediator, a practicing mental health professional mediator, and a representative of the domestic violence advocacy community. Members of the committee shall be appointed by the Chief Judge or his/her designee.

(b) Duties of the Committee: The circuit court mediation advisory committee shall advise the Chief Judge or his/her designee in establishing and implementing administrative policy consistent with these rules for the fair and efficient delivery of mediation services, including local rules of procedure, standards of conduct for mediators, and systematic review of program performance.

(c) Authority of the Presiding Judge: Nothing contained in this rule shall be construed as a limitation on the authority of the Chief Judge or his/her designee to exercise administrative authority conferred by law.

PART 9. CHILD SUPPORT

9.1 PAYMENTS ORDERED THROUGH THE CLERK OF THE COURT

(a) Definitions.

1) Payor. A person who has been ordered by the Court to pay child support, maintenance, or both.

2) Payee. A person or agency which, by court order, is to receive child support payments, maintenance payments, or both.

3) Custodial parent. A parent or other person who has been given temporary or permanent custody of a child or children by the Court.

(b) When Applicable-Procedure. In all cases in which child support has been ordered by the Court, and in other cases as the Court may direct, all child support payments shall be made through the Clerk of the Court, unless otherwise ordered by the Court.

(c) Duties of the Clerk of the Court. The Clerk of the Court shall maintain records of each payment received and disbursed which shall constitute prima facie evidence of the amount received and disbursed by the Court.

(d) Payees Receiving Public Aid. It shall be the duty of the parties, and counsel if any, to advise the Court at the time of the entry of the payment order for child support if the custodial parent of the child(ren) is a recipient of Aid for Dependent Children or has an active application for such aid, and likewise any time thereafter the custodian of the child(ren) shall notify the Clerk of the Court within 72 hours of such change.

PART 10. CONTEMPT OF COURT

10.1 PROCEEDINGS IN CONTEMPT

(a) 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 or judgment.

(b) 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.

1) Court's Alternatives. Upon the commission of an act constituting a direct criminal contempt, the court may:

i. summarily find the contemnor in contempt and impose sanctions instanter:
ii. summarily find the contemnor in contempt and impose sanctions within a reasonable time; or
iii. 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 paragraph (c) of this rule.

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

3) Sanctions. Upon finding of direct criminal contempt, the court may impose a fine not to exceed $500.00, incarceration in a penal institution other than the 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 respondent 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.

4) 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.

5) 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 the 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 Chief 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.

6) Appeal. An appeal from a judgment of direct criminal contempt may be taken as in criminal cases. Upon the filing of a notice of appeal, the court may fix bond and may stay the execution of any sanction imposed pending the disposition of the appeal.

(c) Indirect Criminal Contempt Defined. A contumacious act constitutes an 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 paragraph (b), may be prosecuted as an indirect criminal contempt.

1) 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.

2) 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 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 attorney may give notice by regular U.S. Mail, proof of 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 (10) days prior to the hearing. The provision of Rule 5.2 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.

3) Explanation of Respondent's Rights. Upon the first appearance of the respondent, the court shall inform the respondent of his right to:

   i. notice of the charge and of the time and place of the hearing thereon;
   ii. an evidentiary hearing, including the right to subpoena witnesses, confront the witnesses against him, and make a response to the charge;
   iii. counsel and, if indigent, to the appointment thereof;
   iv. freedom from self-incrimination;
   v.the presumption of innocence;
   vi. be proven guilty only by proof of guilt beyond a reasonable doubt; and
   vii. a trial by jury if the court, prior to the commencement of the hearing, declares that a sentence of incarceration of more than six months, a fine of $500.00, or both, may be imposed as a sanction upon finding of guilty.

4) 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.

5) 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.

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

7) 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.

8) Appeal. An appeal from a judgment of indirect criminal contempt may be taken as in the case of direct criminal contempt as specified in paragraph (b)(6) of this rule.

(d) Civil contempt defined. A contumacious act constitutes a civil contempt if:

i. the act consists of the failure to obey a court order or judgment; and
ii. coercive rather than punitive sanctions are sought to compel compliance with the order or judgment.

(1) 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.

(2) Issuance Instanter. The court may issue a rule to show cause instanter, on its own motion or on the motion of a party, for failure to respond to or comply with a citation, subpoena 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.

(3) Service of Rules. A rule to show cause shall be personally served upon the respondent unless otherwise ordered by the court for good cause shown. 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.

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

(5) 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 for good cause shown, and the respondent does not appear, the court may, in addition to any other appropriate action:

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

(6) Bond Forfeiture. If the respondent does not appear after posting bond on an attachment, the court may take any further action which is permitted under Rule 10.1(5).

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

(8) 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:

(a) The respondent agrees in writing that the bond deposit, or some portion thereof, be paid to the complaining party; or,
(b) 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 11. PROBATE PROCEEDINGS

11.1 ADMISSION OF WILL TO PROBATE WHEN HOLOGRAPHIC OR IN LANGUAGE OTHER THAN ENGLISH

(a) Holograph 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 the petition to probate and a certification by a qualified translator that a translation of the will is true and correct.

11.2 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 the Code of Civil Procedure.

The petition shall designate the type of proceeding and shall employ the same case number as the estate to which it relates with the suffix "A", "B", "C", etc. The fee required by law shall be paid at the time of filing the petition.

Supplemental proceedings within the meaning of this rule include, but are not limited to, actions and proceedings concerning the contest of wills, contract to make wills, construction of wills and appointment of testamentary trustees during the period of administration.

11.3 BONDS-SECURITIES

(a) Bonds Required. An individual bond of an executor is required even though the will waives bond or security. Upon motion of an interested person or the court, security may be required on the bond as provided by Section 12-4 and 12-10 of the Probate Act of 1975. Unless excused by the judge for good cause, surety on the bond of a nonresident individual executor or a deposit of the personal assets with a trust company pursuant to Section 12-7 of the Probate Act of 1975 will be required.

(b) When Schedules Required. If so ordered by the court, each person signing as personal surety on a bond shall present a verified schedule in the form prescribed by the court and agree in writing that he will not convey or encumber the real estate described therein until he is released from liability.

11.4 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 safe 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. An individual guardian who takes possession of a safe deposit box of his ward shall 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, which shall be filed with the Clerk.

11.5 INVESTMENT BY GUARDIAN

(a) Requirements of the Petition. A petition of a guardian to invest the ward's property shall identify the category of 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 or corporation in which the guardian has an interest or of which he is an officer or director, the petition shall so state.

(b) Purchase of Endowment. An endowment or annuity policy purchased by a guardian upon the life of the ward must be made payable to the ward or his estate. No material change may be made in the terms of the policy except by order of a judge, and every policy so purchased shall embody this limitation. An endowment or annuity policy may be purchased by a guardian only from a company, association or fraternal organization doing business in Illinois and which has made no default in the payment of any policy or contract of insurance in the United States during the 15 years preceding the purchase.

11.6 EXPENDITURES FROM WARD'S ESTATE

(a) Requirements of Petition. 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 further shall 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 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.

11.7 INVENTORIES-DESCRIPTIONS REQUIRED

(a) Real Estate. Descriptions of real estate shall include the legal description 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 bonds shall include the total face value, name of 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 maker, interest dates, rate of interest, date to which interest is paid, endorsements, and, if secured, a description of the security.

(c) Partnership Interests. 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. Each inventory and amended or supplemental inventory shall be presented to the court for filing. The first inventory shall be filed within 60 days after issuance of letters.

(f) When Amended/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; or

2) assets have been improperly included in 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.

11.8 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 Claim with Clerk. The claimant shall file with the Clerk of the Court proof of mailing or delivery of the claim, or waiver thereof, within 10 days after filing the claim.

(c) Setting Claim for Hearing. The court, or if the court so designates, the clerk, shall automatically set the claim for hearing not less than thirty-five (35) days after the filing of the proof of mailing. If mailing or delivery of the claim is waived and the claim is consented to in writing, the clerk shall forthwith notify the court and judgment for the amount claimed shall be entered thereon.

(d) Allowance of Claim. On the date set for the hearing of the claim, if no objection has been filed within thirty (30) days from the date of filing the proof, the claim may be allowed by the court and judgment entered pursuant to Section 18-7 of the Probate Act of 1975 in accordance with statutory classification.

(e) Filing Answer Contesting Claim. The legal representative or any other persons whose right may be affected by the allowance of the claim may file an answer contesting the claim within thirty (30) days after the claimant has filed his proof with the clerk.

(f) Contested Hearing. If an objection to the claim has been filed, on the return date as previously set under subsection (c) of this rule, the claim will be allotted for hearing and the court shall order at least ten (10) days notice to be given by regular mail 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 counterclaim has been filed, it shall be heard on the date set for hearing on the contested claim.

11.9 ESTATE CLAIMS

(a) When Founded on a Written Instrument. A claim founded upon a written instrument shall be accompanied by a copy of the instrument. Unless the original is lost or destroyed, it shall be exhibited to the court at the hearing. If the claim is allowed, the clerk shall note the allowance on the original instrument.

(b) When Founded on a Cause of Action. If a claim consists of a cause of action for personal injury, wrongful death, or other tort, the statement of the claim and proceedings shall conform to the provisions of the Code of Civil Procedure.

(c) Claim Filed by Personal Representative. If the representative or his attorney files a claim against the estate, he shall apply to the court at least 30 days prior to the hearing on the claim for the appointment or waiver of appointment of a special administrator to appear and defend for the estate.

(d) When Counterclaim Filed. If a counterclaim is filed, a copy shall be delivered or mailed by ordinary mail to the counterdefendant and his attorney. A hearing on the counterclaim shall not be held less than 30 days after mailing or delivery of the counterclaim unless the counterdefendant or his attorney waives in writing the delivery or mailing and 30 day period.

(e) When Interest Due on a Claim. If a claimant is entitled to interest, he shall prove the amount of interest due to the date of allowance.

11.10 DISMISSAL FOR WANT OF ACTION

(a) No Action for Five Years. If there has been no action of record without good cause for a period of five (5) years in any probate case 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 mail 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 waived, 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 shall be used to pay all costs of administration of the estate, and the balance shall be deposited with the treasurer of the county in which the estate was probated.

11.11 ACCOUNT OF DISBURSEMENTS

(a) Procedure. Each disbursement stated in an account shall be numbered and supported by vouchers or canceled checks. Vouchers or canceled checks shall be arranged in the order of the disbursements and presented to the court, or if it so directs, to the Clerk of the Court, at the time of hearing on the account. If receipts

of, or waivers and consents by all interested parties are filed, the court may waive the requirement for presenting vouchers or canceled checks for disbursements other than distributions. If the account is presented by a bank or trust company, the court may waive the requirement of presenting vouchers for disbursements (other than distributions) upon presentation of a certificate of an officer stating that the vouchers are on file at the bank or trust company. Said vouchers and canceled checks, except those for distribution, may be withdrawn after approval of the account.

(b) 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.

(c) When Guardian's Accounting Required. Each guardian shall present an account of his or her administration within 30 days after the expiration of one year after the issuance of letters and, unless otherwise ordered, at least once each 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 than once every three years, unless specifically required by the Court.

(d) 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.

(e) 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 filed and remains 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 days before the date set for 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 10 days before the hearing except if the post office address of the person is outside of the United States or Canada, the notice shall be sent not less than 14 days prior to the hearing.

ii. If the name or present post office address of the person is not known to the representative of 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 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."

(f) Inheritance Tax Receipts. Before the discharge of a representative there shall be presented to the court, or clerk, as the court directs:

1) a receipt of the County Treasurer, countersigned by the State Treasurer, showing that all inheritance 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 taxes.

(g) Contents of Guardian's Account. An account of a guardian or a guardian to collect shall disclose:

1) the physical location of the ward and his physical and mental condition:

2) the ward's attendance in school or occupation:

3) the pendency of any suit or proceeding known to him by or against the estate or the representative of the estate, and:

4) to the judge's satisfaction the existence of all assets stated.

(h) Final Account of Ward's Estate. On the final settlement of 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 final settlement is correct, that the ward is in possession of all of his estate, and that the personal attendance of the ward is impracticable.

(i) Death of Distributee. If the distributee of a decedent's estate dies after decedent's death but before the receipt of his entire distributive share, 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.

11.12 PERIODIC ACCOUNTING

(a) When Required-Executor/Administrator. Every executor and administrator shall present the account and evidence of disbursements required by Section 2-1-1 of the Probate Act of 1975:

1) within 60 days after the expiration of 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-Guardian. Every guardian shall present the account and evidence required by Section 24-11 of the Probate Act of 1975:

1) within 30 days after the expiration of one year after the issuance of letters;

2) annually after the date of the first account;

3) within 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. The petition may be heard without notice if it requests an extension:

1) in any case in which it appears from the record that an annual accounting is not necessary;

2) for any reason which is apparent from the record of the estate and which exists without fault of the petitioner;

3) because of succession, tax has not been determined, and the petition states that the return was filed or will be filed within the time required by law, and that the other obligations of the estate have been paid, and that distribution has been made to the extent possible consistent with the responsibilities of the personal representative; or

4) for other good cause

If the petition seeks an extension for any other reasons, the court shall set the petition for hearing and the clerk shall mail notice of the hearing to all persons interested in the administration of the estate, including all unpaid creditors, said notice to be mailed at least 14 days before the hearing date.

The court shall consider the evidence presented at the hearing by the petitioner and by any person interested in the administration of the estate. Lack of sufficient time on the part of the personal representative or his attorney will not constitute sufficient cause for extension. If the prayer of the petition 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 time specified in paragraphs (a) and (b) above or on 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 60 days after the 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 be revoked and he may be subject to contempt of court. Lack of sufficient time on the part of the personal representative or his attorney will not constitute good cause for failure to account as required by this rule.

4) At 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.

11.13 JURY DEMANDS

(a) Procedure When Jury Demanded. A petitioner or claimant desirous of a trial by jury pursuant to Section 8-1, 11a-11, 16-3 and 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 files his petition or 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 upon payment of the fee. Otherwise, the parties waive a jury. The jury fee, once paid, shall not be reimbursed upon a subsequent waiver of jury.

11.14 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 a cause of action for the wrongful death of a person whose estate is in the course of administration is presented by a representative, his attorney shall certify in writing, as part of the petition, that in his opinion, based upon the facts and law, the proposed settlement is just and proper.

(b) Appointment of Guardian Ad Litem. The judge may, on his own motion, appoint a Guardian ad Litem to investigate the merits of the proposed settlement.

(c) Notice of Hearing. At least 10 days notice of the hearing on the petition for the appointment 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 or his attorney to the persons named in paragraphs (a), (b), and (c) of Section 2 of that Act, including persons furnishing hospital, medical or funeral services for the decedent, unless persons payment for the payment for the services is shown.

(d) Statement of Attending Physician Required. No settlement on behalf of a minor or disabled adult will be authorized unless a statement of the attending physician or surgeon is filed with the petition stating the nature and extent of the injury and the current medical condition of the ward. Unless waived, the minor shall appear in open court.

(e) Court's Approval of 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 Workmen's Compensation Act or the Workmen's Occupational Disease Act) or for death, such fee is subject to the approval of the court.

(f) Reimbursement of Expenses. If an attorney asks for any expense beyond his fee, 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 prepare the action and if payment is solely for services rendered by the investigator in investigating 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 becomes distributable, other than 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 to 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 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 judge deems appropriate.

11.15 WITHDRAWAL OF FUNDS DEPOSITED WITH COUNTY TREASURER

(a) Notice Required. Before a petition is presented for an order directing the county treasurer to pay money deposited by order of 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.

11.16 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 parentis, or person having 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 or proceeds of sale or redemption are necessary for the ward's support, comfort, education, or other benefit to the ward or his dependents. Unless excused from doing so, within 30 days after 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 24-21 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 a showing under oath that it is in the best interests of a minor, may direct the distributive share to be deposited and paid out in accordance with Section 24-21 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 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 of 1975 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 by 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 that there is no unpaid creditor and that it is for the best interest of the estate and the ward, the judge may order the guardian to file his final account and make distribution as the judge directs.

11.17 ASSIGNMENT OF INTEREST

(a) Petition for Approval. 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 assignees;

2) the nature and value of the interest involved;

3) in the case of an assignment, the consideration, if any, paid 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 the assignor is inadequate or the fees or expenses charged or to be charged are excessive or for other good cause shown, the judge may refuse to permit the assignment of interest or power of attorney to be filed, or may approve filing upon such terms as he deems just and equitable.

11.18 ATTORNEYS-IN-FACT AND REPRESENTATIVES OF FOREIGN COUNTRIES

(a) 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 "foreign representative"), attorney-in-fact, or assignee of the distributee if the foreign representative, attorney-in-fact, or assignee is a bona fide resident of Illinois, in the following manner:

1) 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 the judge is satisfied with other evidence of the authenticity of the power of attorney or assignment.

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

3) Unless waived by a 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 payment and delivery of the distributive share to the distributee.

4) 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.

5) Within 90 days after entry of the order or within such further time as the court allows, the foreign representative or 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.

6) 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 a 90-day period or with such further time as the court allows, the distributive share shall be deposited with the County Treasurer subject to further order. Upon presentation of receipt of the County Treasurer evidencing the deposit for the distributive share, the foreign representative or attorney-in-fact will be discharged from further duty.

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

PART 12. MANDATORY RESIDENTIAL FORECLOSURE MEDIATION RULES

12.1 PURPOSE OF MEDIATION PROCESS

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

12.2 ACTIONS ELIGIBLE FOR MEDIATION

From the effective date of this Rule, the parties in all residential foreclosures (as defined by the Illinois Mortgage Foreclosure Act 735 ILCS 15/1501 et seq.) and Supreme Court Rule 99.1 will be subject to mediation as set forth herein. Cases filed in Bureau County will not be subject to mediation.

12.3 MEDIATION PROCEDURE

(a) Upon the filing of a complaint for foreclosure eligible for mandatory mediation, the clerk of court shall automatically set the case for a mandatory pre-mediation conference that is to be set on a date, time and at a location as designated by the Chief Judge, but in no event later than sixty (60) days from the filing of the complaint. The pre-mediation conference shall be attended by the plaintiff's counsel, the defendant borrowers and an outside mediator.

(b) The Clerk shall furthermore provide a form, to be included with the summons, notifying the defendant borrowers of the mandatory mediation program, which form must be served upon the defendants with the summons and evidenced by a proof of service the same as the summons.

(c) The form shall include a provision that the case will be evaluated by an outside mediator for possible loan modification or other loan workout. The notice shall further state that if such modification is not deemed feasible, or the borrower does not desire to save his or her home, then mediation may still be used to assist the parties in discussing a consent foreclosure, short sale or deed-in-lieu of foreclosure in which the lender will waive any deficiency against the borrowers.

(d) The form shall include language advising the defendant borrower to bring certain financial information (such as the borrower's monthly income, work status and expenses) that may assist in discussions for a loan modification and should contain a list of local counseling agencies that may be available to assist borrowers in foreclosure.

(e) Lastly, the notice shall indicate that the financial information shall be held in strict confidence by the mediator and not disclosed to any other party without the consent of the defendant.

(f) At the pre-mediation hearing, an independent mediator shall have the defendant borrowers fill out a questionnaire to determine if the borrower meets initial criteria of having greater monthly income than expenses in order to qualify for a loan workout or modification. If the information provided shows that the borrower does not meet the initial criteria, or if the defendant indicates in his/her response that he does not desire to keep the house, then the mediator may use the scheduled mediation conference to determine whether the borrower can deed the property to the lender or consent to a judgment waiving any deficiency judgment against the borrower. Alternatively, the mediator may assist the parties to determine whether the property can be sold to a third party that will result in the dismissal of the foreclosure action.

(g) At the pre-mediation conference, the mediator shall provide information to borrowers about assistance available from all HUD certified Housing Counselors in the 13th Circuit area. If no such HUD certified Housing Counselors are available in the 13th Circuit, then the mediator shall provide information about the nearest available Housing Counseling Agency. Further, if the mediator determines that some form of workout is possible, then the mediator shall refer the borrower to a HUD Certified Housing Counselor to aid in the preparation of the necessary forms required by the lender. The mediator shall provide an opportunity for borrower to talk to a HUD certified Housing Counselor at the pre-mediation or schedule a meeting for the form preparation and other housing counseling.

(h) At the pre-mediation conference, the mediator shall inform borrowers of their right to have counsel present during the mediation. The mediator shall also make available contact information for the LaSalle and Grundy County Bar Associations as well as Prairie State Legal Services, so that borrowers who are unable to afford counsel may have a meaningful opportunity to obtain counsel. Any borrower who requests additional time to obtain counsel prior to the mediation shall be given a reasonable opportunity to do so.

(i) The plaintiff's counsel and any defendant borrower must attend the pre-mediation conference. If the borrower meets the initial criteria, or expresses a desire to surrender the property in a deed-in-lieu, consent foreclosure or other arrangement, then the mediator shall set the matter for a mediation status conference on a date

not more than 45 days thereafter. At the mediation status conference, the mediator shall inquire as to the status of required documents and if everything required for a meaningful mediation is completed, the mediator shall schedule a mediation conference within 30 days. At the mediation conference the defendant borrowers as well as a representative of the lender must appear with full settlement authority. Failure of the lender or its agent to attend at either the pre-mediation, status or the mediation conference will result in sanctions by the court, including possible dismissal of the action, with the lender unable to recoup its costs of re-filing in any subsequent new action. If the defendant borrower fails to appear, then the mediator shall terminate the mediation and refer the matter back to the trial court. If the defendant borrower can demonstrate that its failure to attend was excusable, then the circuit court may refer the matter back for a pre-mediation or mediation conference.

(j) Upon the conclusion of the mediation conference (or the pre-mediation or status conferences, if the defendant borrower fails to appear or does not meet any criteria for loan workout or resolution of the action), the mediator shall file a report with the court terminating mediation services and indicating the outcome of the conferences. If an agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any, and at the request of the parties, the circuit court may retain jurisdiction of the case to accommodate any "trial period" which the parties enter into prior to a loan modification being effective. If the lender notifies the circuit court within the "trial period" that the borrower has failed to successfully modify its loan, or, if no agreement is reached, the foreclosure action shall resume.

(k) The Chief Judge shall maintain statistical data on the results of the mediation, including but not limited to the number of cases where the initial criteria was met and the number of cases where the loans were modified or otherwise had workouts between the parties and shall report same to the Administrative Office of the Illinois Courts at such times and in such manner as may be required.

(l) The Borrower is responsible for costs associated with a translator. The Chief Judge's office maintains a list of translators that can be employed by the Borrower.

12.4 QUALIFICATIONS, APPOINTMENT AND COMPENSATION OF MEDIATORS

(a) The Chief Judge shall maintain a list of mediators who have sought appointment and been certified for approval by the Court as mediators. For approval as a mediator, an individual must:

1) Be a retired judge; or

2) Be a member in good standing of the Illinois Bar with at least five years of litigation experience in foreclosures or at least ten years of real estate and/or litigation experience;

3) Demonstrate completion of mediation training approved by the Minimum Illinois Continuing Legal Education Board or such other program as approved by the Chief Judge;

4) Submit an application for approval by the Chief Judge. The eligibility of each mediator to retain its status shall be periodically reviewed by the Chief Judge. The mediators shall comply with general standards as may from time to time be established by the Chief Judge and failure to adhere to these general standards may be grounds for decertification of the mediator by the Chief Judge. The Chief Judge may contract with an outside mediation service (provided the mediators meet the above qualifications) to provide these services.

(b) The mediators shall be compensated $150 per court file for each file that is subject to mandatory mediation. Effective March 1, 2014, the filing fee paid by plaintiffs in all foreclosure cases shall increase by $150. The additional $150 filing fee shall be placed in a fund for this mandatory foreclosure mediation program subject to disbursement by the Chief Judge in accordance with this Rule which program shall also begin on that date.

(c) The Chief Judge of the Circuit Court shall be empowered to enter into a contract with an entity to provide the mediation services subject to all Court Rules and Procedures. It is contemplated that the Mandatory Residential Foreclosure Mediation program is subject to quarterly review by the Administrative Office of the Illinois Courts (AOIC) and that contracting with an entity for Mediation Services will result in services being provided at neither cost to the taxpayers nor the expenditure of any Public Funds with the exception of the Filing Fee authorized by the Illinois Supreme Court.

12.5 DISCOVERY

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

12.6 CONFIDENTIALITY

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

12.7 IMMUNITY

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

PART 13 E-FILING

13.1 AUTHORITY

On January 22, 2016, the Supreme Court amended M.R. 18368, mandating electronic filing in civil case types effective January 1, 2018 through the utilization of a centralized electronic filing manager (EFM) authorized by the Supreme Court. On May 30, 2017, the Supreme Court amended M.R. 18368 In Re: Electronic Filing in Civil and Criminal Cases and Remote Access Systems which allows the Circuit Courts to e-file criminal case types in a permissive manner through eFileIL.

13.2 EFFECTIVE DATE

These rules shall become effective on March 31, 2017 and remain in effect until further order of this Court.

13.3 DESIGNATION OF ELECTRONIC FILING

(a) This Court hereby authorizes electronic filing in all civil case types as authorized by the Supreme Court. This Court hereby authorizes electronic filing in criminal case types (Criminal Felony (CF), Criminal Misdemeanor (CM), Driving Under the Influence (DT) and juvenile case types (Juvenile (J), Juvenile Abuse and Neglect (JA), and Juvenile Delinquency (JD)) in a permissive manner through e-File IL. Permissive e-Filing of criminal and juvenile cases through e-FileIL applies only to filings after the case has been initiated and assigned a case number. Criminal and juvenile case initiation in the circuit courts should continue using current practices. Permissive e-filing through eFileIL does not include quasi-criminal case types: Traffic (TR), Ordinance Violation (OV), Conservation (CV) and Civil Law (CL).

(b) Wills or other testamentary documents shall not be accepted for filing electronically. Any unapproved case or document type filed electronically by a filer may be rejected by the Clerk of the Court.

(c) Self-represented litigants incarcerated in a federal, state or local correctional facility shall not be required to e-File documents but are encouraged to do so if e-Filing is available within the facility.

13.4 DEFINITIONS

The following terms in these rules are defined as follows:

(a) *Conventional filing* – The filing of paper documents or information with the Clerk of the Circuit Court.

(b) *Electronic Document (E-document)* – an electronic file containing informational text.

(c) *Electronic Filing (E-filing)* – An electronic transmission of information or documents between the Clerk of the Circuit Court and an EFSP for the purposes of case processing.

(d) *Electronic Filing Manager (EFM)* – The service approved by the Supreme Court and used by circuit courts to manage the flow of documents and data among registered filers, court clerks & personnel, and the judiciary. (http://efile.illinoiscourts.gov)

(e) *Electronic Filing Service Provider (EFSP)* – Web portals operated by independent companies that collect filings from filers and transmit them to the EFM.

(f) *Electronic Image (E-image)* – An electronic representation of a document or information that has been transformed to a graphical or image format.

(g) *Electronic Service (E-service)* – An electronic transmission of documents to a party, attorney or representative in a case. However, E-service is not capable of conferring jurisdiction under circumstances where personal service is required as a matter of law.

(h) *Electronic Signature (E-signature)* – Symbols or other data form attached to an electronically transmitted document as authentication of the sender's intent to sign the document.

(i) *Filer* – An individual who has registered a username and password with the Electronic Filing Manager.

(j) *Portable Document Format (PDF)* – A file format that preserves all fonts, formatting, colors, and graphics of any source document regardless of the application platform used.

(k) *Rejection* – The court clerk may reject any electronic filing for any procedural or technical nonconformance and may identify the deficiency to be corrected.

13.5 AUTHORIZED USERS

(a) All filers shall register with the EFM through an authorized EFSP, prior to filing any document electronically.

(b) To facilitate electronic filing, the Clerk of the Circuit Court shall provide a computer workstation for use for any filer to register and file electronic documents.

13.6 METHOD OF FILING

(a) The Circuit Court hereby requires electronic filing in all civil case types effective January 1, 2018 and encourages criminal e-filing, although conventional filings in these case types will continue to be accepted.

(b) The method of filing shall not affect the right of access to court documents. The Clerk shall maintain public access viewing terminals to allow electronic records and electronic documents to be displayed to the public. Electronic access and dissemination of court records shall be in accordance with the *Electronic Access Policy for Circuit Court Records of the Illinois Courts*.

13.7 FILING OF EXHIBITS

Physical items for which a photograph may be substituted may be electronically imaged and E-filed. Items not conducive to electronic filing, such as physical exhibits for which an image will not suffice shall be filed in their physical form at the Clerk's office or in the courtroom, as directed by order of court and in conformity with the Supreme Court's Order M.R. 18368 filed January 22, 2016. The Motion and Notice of Motion for permission to file any of these physical items may be done electronically.

13.8 MAINTENANCE OF ORIGINAL DOCUMENTS

(a) Anyone filing an electronic document that requires an original signature certifies by so filing, that the original signed document exists in the filing person's possession. Unless otherwise ordered by the Court, the filing party shall maintain and preserve all documents containing original signatures that are filed electronically. The filing party shall make those signed originals available for inspection by the Court, the Clerk of the Court or by other counsel in the case within 14 days of order of Court or request by clerk or counsel. At any time, the Clerk of the Court may request from the filing party a hard copy of an electronically filed document, which shall be provided within 14 days upon reasonable notice.

(b) All documents that are required to be maintained and preserved must be kept for one year after the appellate process period has been completed.

13.9 PRIVACY ISSUES

It is the responsibility of the filing party or counsel to insure that documents or exhibits filed electronically do not disclose previously or statutorily impounded or sealed information or private information as defined in Supreme Court Rules 15 and 138. The Clerk is not responsible for the content of filed documents and has no obligation to review, redact or screen any expunged, sealed or impounded information.

13.10 FORMAT OF DOCUMENTS

(a) All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the requirements set by the EFM.

(b) If a document exceeds the maximum size allowed, the filer will file multiple documents, each under the maximum file size. In such case, the filer will be responsible for dividing the document into appropriately sized parts. Currently the maximum file size allowed for each document is 25MB, with a total maximum size of all documents filed in one transaction at 35MB. Maximum file size allowances may increase as technology advances allow.

(c) Documents filed by attorneys that do not comply with the format specified by the applicable order, statute, or rule may be rejected. Documents filed by pro se parties that do not comply with the format specified by the applicable order, statute, or rule shall be reviewed for acceptance by the court prior to rejection.

13.11 SIGNATURES AND AUTHENTICATION

Any document electronically signed pursuant to the Standards, Rule or Order satisfies Supreme Court Rules and statutes regarding original signatures on court documents.

13.12 TIME OF FILING, ACCEPTANCE BY THE CLERK AND ELECTRONIC FILING STAMP

(a) Any document filed electronically shall be considered as filed with the Clerk of the Circuit Court upon review and acceptance, and the transmission has been completed with the Clerk's electronic filing stamp.

(b) The transmission date and time of transfer shall govern the electronic filing mark. Pleadings received by the Clerk before midnight on a day the Circuit Clerk's

office is open shall be deemed filed that day. If filed on a day the Circuit Clerk's office is not open for business, the document will be deemed filed the next business day.

(c) The EFM shall provide notification of a receipt, acceptance, or rejection of electronically filed documents.

(d) Upon acceptance by the clerk, the EFM shall apply the file stamp to the electronic document. Filings so endorsed shall have the same force and effect as documents file stamped in the conventional manner.

13.13 ELECTRONIC SERVICE AND FILING PROOF OF SERVICE

(a) Electronic service is not capable of conferring jurisdiction. Therefore regarding electronically filed cases, documents that require personal service to confer jurisdiction as a matter of law may not be served electronically, but must be served in the conventional manner.

(b) E-service shall be made in accordance with Supreme Court Rule 12, and shall be deemed complete at the posted date and time of transmission listed by the E-service vendor. The electronic service of a pleading or other document shall be considered as valid and effective service on all parties and shall have the same legal effect as personal service of an original paper document.

(c) All filers must immediately notify other parties, the Clerk and the EFM of any change of name, address, phone or fax number, or E-mail address.

(d) Courtesy copies of documents customarily required to be provided to the Court shall continue to be required in E-file cases, absent a specific court order to the contrary.

(e) Service of documents on parties not registered as an E-filing or E-service participant shall be made as otherwise provided by order, rule, or statute.

13.14 COLLECTION OF FEES

(a) The payment of statutory filing fees to the Clerk of the Court in order to achieve valid filing status, unless otherwise waived, shall be as authorized through the EFM.

(b) When the electronic filing includes a request for waiver of court fees pursuant to Supreme Court Rule 298, payment of the requisite fees shall be stayed until the court rules on the petition.

13.15 SYSTEM OR USER ERRORS

In the case of a filing error, absent extraordinary circumstances, anyone prejudiced by the court's order to accept a subsequent filing effective as of the date filing was first attempted, shall be entitled to an order extending the date for any response, or the period within which any right, duty or other act must be performed.

APPENDIX

A. Plaintiff's Pre-Trial Memorandum

B. Defendant's Pre-Trial Memorandum

C. Financial Affidavit – See Rules 8.06(a)(1) and 8.06(d)(1)

D. Final Pre-Trial Stipulation

E. Affidavit of Amount Due in Rule to Show Cause

Prescribed forms for use in Child Custody Mediation
Mediation Referral Form
Order for Mediation
Mediator's Report

Appendix A – Plaintiff's Pre-Trial Memorandum

Appendix B – Defendant's Pre-Trial Memorandum

Appendix C – Financial Affidavit

Appendix D – Final Pre-Trial Stipulation

Appendix E – Affidavit of Amount Due in Rule to Show Cause

Mediation Referral Form

Order for Mediation

Mediator's Report