PART 1. ORGANIZATION

Rule 1.1 Definitions. The following terms in these Rules are defined as follows:

(a) "Circuit" means and refers to the Circuit Court of the Fifteenth Judicial Circuit, Illinois.

(b) "Court" means and refers to the circuit court and, if applicable, the judge presiding over a case.

(c) "Clerk" means and refers to the Clerk of any Court in the Circuit.

(d) "Rules" means and refers to these Local Rules of the Circuit.

(e) "Supreme Court Rules" and "S. Ct. R." mean and refer to the Rules of the Illinois Supreme Court.

(f) "SRL" means and refers to a self-represented litigant, who is a person who does not retain an attorney and appears in court proceedings on his or her own behalf.

Rule 1.2 Rules of Court

(a) Power of Court to Adopt Rules. These Rules are promulgated pursuant to 735 ILCS 5/1-104(b), which provides that circuit courts may make rules regulating their dockets, calendars, and business, and S. Ct. R. 21(a), which provides that a majority of the circuit judges in each circuit may adopt rules governing civil and criminal cases consistent with the Supreme Court Rules and Illinois statutes.

(b) Effective Date; Existing Rules Repealed. These Rules shall become effective March 12, 2021. All prior rules of the Circuit are hereby repealed.

(c) Amendment of Rules. Any amendment of these Rules shall be passed by a majority vote of all circuit judges of the Circuit, with each voting judge being mailed a copy of the proposed amendment at least 10 days before the vote.

Rule 1.3 Chief Judge

(a) Selection. A majority of the circuit judges of the Circuit shall select, by secret ballot, one of their number to serve as Chief Judge for a four-year term, having commenced January 1, 2020, and shall select a Chief Judge in the same manner every four years thereafter. No Chief Judge may succeed himself or herself in office.

(b) Acting Chief Judge. The Chief Judge shall designate one of the circuit judges to act as Acting Chief Judge in his or her absence or when the Chief Judge is unable to serve. The designation shall be in writing and promulgated to all circuit judges. The

Acting Chief Judge shall have the same powers and duties as the Chief Judge when the Chief Judge is absent or unable to serve.

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

(d) Chief Judge's Powers and Duties. The Chief Judge is responsible for the administration of all courts in the Circuit and shall direct the Circuit's operations. A Chief Judge has general administrative authority over the Circuit, including authority to provide for general or specialized divisions, to provide for functional units, and to designate appropriate times and places of holding court. The Chief Judge is subject to, and responsible for, the implementation and enforcement of the rules, orders, policies, and directives of the Illinois Supreme Court, the Chief Justice of the Illinois Supreme Court, and the Director of the Administrative Office of the Illinois Courts. All orders entered by the Chief Judge shall be kept on file in the office of the Court Administrator and the office of each Clerk. The Court Administrator shall maintain the orders as permanent court records, which will be available for inspection as public documents. Copies will be available for a nominal fee.

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

Rule 1.4 Presiding Judge

(a) Designation. The Chief Judge shall by administrative order designate a judge in each county of the Circuit as the Presiding Judge in that county. The Presiding Judge shall sit at the pleasure of the Chief Judge. The Chief Judge may serve as the Presiding Judge of the county in which he or she presides.

(b) Powers and Duties of the Presiding Judge. The Presiding Judge or his or her designee shall call and impanel grand and petit juries, submit budgets, administer the judicial department of the county in which he or she presides, and perform such other duties as may be required for the proper administration of justice. He or she may promulgate administrative orders within his or her county not inconsistent with these Rules or the

administrative orders of the Chief Judge. All administrative orders issued by the Presiding Judge shall be tendered to the Chief Judge 14 days before their effective date. An administrative order shall take effect on its effective date unless the Chief Judge disapproves the proposed administrative order.

Rule 1.5 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 may assign judicial duties to the circuit and associate judges regularly assigned to that county by the Chief Judge.

Rule 1.6 Committees

(a) Formation of Committees. The Chief Judge may create and dissolve standing or *ad hoc* committees and may appoint judges and/or administrative staff to any committee. Any standing committee shall be established by administrative order.

(b) Judicial Liaison Committee. Until such time as it is dissolved by the Chief Judge, the Circuit shall maintain a Judicial Liaison Committee. A circuit judge and an associate judge appointed by the Chief Judge and representatives of county bar associations in the Circuit will comprise the Committee. The Committee's goals are to enhance communication between the bench and the bar in the Circuit, propose and review changes to these Rules, and otherwise foster an effective and collegial relationship between the bench and the bar.

Rule 1.7 Court Personnel

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

(b) Courtroom Clerk. The courtroom clerk shall be the Clerk or a deputy 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 Court. The clerk shall obtain all necessary files and docket sheets for cases to be heard, swear witnesses, and perform other duties as the Court directs.

(c) Bailiff. The bailiff shall open and close court, preserve order in the courtroom, attend to the jury when placed in his or her custody, and perform other duties as the Court directs.

Rule 1.8 Selection of Associate Judges

(a) Application Process. Election to the office of associate judge will be in accordance with S. Ct. R. 39 and the following additional local procedures:

(1) After applications are closed pursuant to S. Ct. R. 39, the Chief Judge shall make the applicants' names public for a period of at least 28 days to allow for public comment. All public comment shall be in writing and addressed to the Chief Judge's office. The Chief Judge's office shall make all public comments available to each circuit judge before interviews.

(2) During the time for public comment, the Chief Judge's office shall investigate the background of each candidate, including but not limited to reviewing ARDC, LEADS, credit history, and other pertinent records.

(3) The circuit judges shall conduct an *en banc* interview with each candidate. If a candidate has been interviewed within the previous 24 months, the circuit judges by majority vote may agree to forgo an additional interview.

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

Rule 1.9 Judicial Meetings

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

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

(c) All Judges. The Chief Judge shall convene a joint meeting of the circuit and associate judges at least once each year.

Rule 1.10 Jurors, Terms of Service, Summons, and Excuse

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

(b) Petit Jurors. Petit jurors shall be called by the Presiding Judge or the jury commission for a period of time to be designated by the Presiding Judge. The Presiding

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

(c) Jury Summonses. The Clerk shall issue and cause to be served a jury summons on all grand jurors and petit jurors at least 15 days before the first day of service. Jury summonses may be served by regular mail to the addresses as listed in the voter registration or driver's license files.

(d) Jury Excuses. The Presiding Judge, his or her designee, or the jury commissioner is authorized to excuse summoned jurors, continue their service, and regulate their assignments to the various courtrooms within the county.

(e) Applicable Rules. The grand jury and petit jury are subject to the jury commission's rules.

Rule 1.11 Court Accessibility

(a) Physical Facilities. Judges and court personnel shall endeavor to make the physical facilities and services of the courthouse available to persons with disabilities or those who request accommodation under the Americans with Disabilities Act.

(b) Reasonable Accommodations. When appropriate and necessary, the Court may enter orders to provide for, among other things, emergency designation of additional courtrooms, the rendering of physical assistance to individuals, recessing of court to a more appropriate location, designation of interpreters, and the temporary or permanent provision of essential equipment.

(c) Reasonable Efforts. Court personnel shall make every reasonable effort to effectively communicate to senior citizens and persons with disabilities that special services and equipment will be made available to them to ensure their access to the due administration of justice.

(d) Interpreters. Whenever reasonably possible, language interpreters or a language interpretation service will be made available to litigants and witnesses who are unable to communicate effectively in English. Each county shall maintain a policy for whether and when the cost of the language interpreter or a language interpretation service shall be charged to a party.

Rule 1.12 Assistance for Self-Represented Litigants

(a) Expectations. An SRL, under the law, is held to the same standards and duties as an attorney. An SRL is expected to know what the law requires and how to proceed in accordance with applicable statutes and these Rules.

(b) No Legal Advice. In the performance of their official duties, court personnel and staff of the Clerk may not give legal advice to an SRL.

(c) Permitted Information. Court personnel and staff of the Clerk may assist an SRL regarding procedural matters by referring the individual to these Rules and/or providing the SRL an electronic or printed version of all or part of these Rules. Court personnel and staff of the Clerk also may refer an SRL to the law library in the courthouse, pre-printed forms maintained by the Clerk, local and state bar associations, and/or any organization providing legal advice or services to SRLs.

Rule 1.13 Soliciting and Loitering Prohibited

(a) Prohibited Solicitation. Attorneys may not solicit business in the courthouses.

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

(c) Enforcement. The sheriff of each county in the Circuit, his or her deputies, and court bailiffs shall enforce this Rule, either by ejecting violators from the courthouse or causing them to appear before one of the judges for a hearing and imposition of punishment as the Court deems proper.

Rule 1.14 Decisions Within 60 Days

(a) Prompt Decisions Encouraged. All judges are encouraged to render their decisions promptly when matters are ready for decision, and, except as hereinafter provided, no judge shall keep a matter under advisement or fail to render a decision in a matter submitted to that judge for longer than 60 days after the matter is ready for decision. For the purposes of this Rule, a matter is ready for decision when the Court has received all written submissions and heard all arguments ordered by the Court. A judge taking a case under advisement shall set the case for a date certain within that time for entering the decision or conducting a status conference.

(b) Reporting by Judge. Any case taken under advisement that has not been decided by the judge within 60 days shall be reported by the judge to the Presiding Judge or Chief Judge with an explanation of the reason the decision has not been rendered.

(c) Reporting by Others. Any person may report a violation of this Rule to the Presiding Judge or the Chief Judge.

Rule 1.15 Courtroom Decorum

(a) Judicial Responsibility. It shall be the Court's responsibility to enforce proper courtroom decorum of all court staff, attorneys, and persons within the courtroom in which he or she is presiding. Each judge should be attired in a judicial robe whenever he or she presides. Any provision in this Rule 1.15 may be waived by the Court or by appropriate administrative order entered by the Presiding Judge.

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

(c) Courtroom Attire. Persons present in court shall dress as follows:

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

(2) Court clerks and probation officers shall wear uniforms or appropriate business attire.

(3) Court reporters shall wear appropriate business attire.

(4) Bailiffs shall wear attire to identify themselves as court security personnel.

(5) Except for religious or medical purposes, no caps or hats may be worn while court is in session.

(6) SRLs, litigants, witnesses, and jurors shall wear appropriate attire, which does not include short shorts, tank-tops, or clothing that exposes bare midriffs.

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

(8) No outerwear, such as overcoats, shall be worn in the courtroom while court is in session.

(d) Food, Drink, and Tobacco Products. No food, candy, beverages, or tobacco products may be consumed in the courtroom during the business day except when food or drink is allowed with leave of the Court. Leave will be given for the consumption of medical necessaries.

(e) No Entry if Under the Influence of Alcohol or Drugs. No person shall enter or remain in a court facility while under the influence of alcohol or drugs. This prohibition shall not apply in cases in which a drug is being used as prescribed for a patient by a licensed physician.

(f) No Animals. Dogs and other animals, except licensed and certified service animals, shall not be brought into any court facility without leave of Court.

(g) No Solicitation. Distribution, posting, or affixing materials such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere within or on any court facility is prohibited, except as authorized.

(h) No Nuisances. The following conduct is prohibited in all courthouses in the Circuit:

(1) Any conduct that creates loud or unusual noise or a nuisance;

(2) Any conduct that unreasonably obstructs the usual entrances, foyers, lobbies, corridors, offices, elevators, work areas, stairways, or courtrooms;

(3) Any conduct that otherwise impedes or disrupts the performance of official duties by employees in the courthouse; and

(4) Any conduct that prevents the general public from obtaining the services provided in the courthouse in a safe and timely manner.

(i) Conduct During Proceedings. Persons present in court shall conduct themselves as follows:

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

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

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

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

(5) No one may possess or use a cellphone or pager in the audible mode, nor may any person receive or make cellphone calls in the courtroom while court is in session.

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

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

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

(j) Exhibits

(1) Marking Exhibits. Counsel and SRLs should mark exhibits in advance of trial with exhibit stickers when available. Exhibits should be marked as "Plaintiff's," "Petitioner's," "Defendant's," or "Respondent's" as appropriate.

(2) Copying Exhibits. When practicable, copies of exhibits should be furnished to the Court, opposing counsel, and any opposing SRL no later than when the exhibit is offered in evidence. When practicable, a list of exhibits should be furnished to the Court, opposing counsel, and any opposing SRL no later than the beginning of the hearing. Unless use of an exhibit was not reasonably anticipated, counsel and SRLs should make their own copies of exhibits. Except in limited circumstances, photocopiers provided in courtrooms are not intended to be used for photocopying of exhibits.

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

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

Rule 1.16 E-Mail Communication with Judges. Unless specifically requested to do so by a judge or court personnel, attorneys and SRLs should not send *ex parte* e-mails to judges regarding pending matters. Unless otherwise requested by the judge or court personnel, e-mails regarding scheduling or other procedural matters should be sent to the judge's court reporter, specialist, or assistant. A copy of any permitted e-mail sent to a judge or other e-mail sent to a judge's court reporter, specialist, or assistant should at the same time be sent to all opposing counsel and SRLs who have appeared in the case.

Rule 1.17 Use of Portable Electronic Devices (amended January 2022)

(a) Definitions. As used in this Rule 1.17:

(1) "Portable Electronic Devices" means mobile devices capable of electronically storing, accessing, or transmitting information and includes personal computers, tablet computers, mobile telephones (including cellphones and any form of telephone with cameras and audio and video recording and transmission capabilities),

electronic calendars, e-book readers, smartwatches, or future generations of similarly developed devices; and

(2) "Court Visitor" means any individual present at a courthouse in the Circuit.

(b) Use in Common Areas. All Court Visitors may use Portable Electronic Devices in the common areas of a courthouse, such as lobbies and hallways; provided, however, that no speakerphone or similar function of a Portable Electronic Device is allowed. The Presiding Judge may impose further restrictions, including restricting mobile telephone conversations to designated areas, as needed to maintain safety, security, proper behavior, order, and the administration of justice. All Portable Electronic Devices must be placed in silent mode at all times within a courthouse.

(c) Use in Courtrooms. Case participants, including lawyers, SRLs, parties, and witnesses may use Portable Electronic Devices inside a courtroom to check calendars or present case-related information. All other uses of Portable Electronic Devices inside a courtroom may be prohibited by the Court. All Portable Electronic Devices must remain in silent mode at all times within a courtroom, and no speakerphone or similar function of a Portable Electronic Devise is allowed.

(d) Prohibited Uses in Common Areas and Courtrooms. No Court Visitor may take photographs, make audio and/or video recordings, or livestream any occurrence or event without prior approval of the Court or as governed by S. Ct. R. 44. No Court Visitor may use a Portable Electronic Device to communicate or attempt to communicate with any potential juror or juror. No Court Visitor may use a Portable Electronic Device to harass, intimidate, or communicate about given testimony with any witness.

(e) Other Electronic Devices. Cameras, video cameras, video recording equipment, and recording devices not classified as Portable Electronic Devices are not allowed in any courthouse in the Circuit.

(f) Confiscation of Equipment and Ejection. A Court Visitor using a Portable Electronic Device or possessing other electronic devices in violation of this Rule is subject to removal from the courthouse, contempt of court, and penalties as provided by law. Any Portable Electronic Device used in violation of this Rule may be confiscated and held until the possessor leaves the courthouse. Court personnel shall not be responsible or liable for any damage to or loss of a confiscated Portable Electronic Device.

(g) Restrictions on Portable Electronic Devices. If the Chief Judge determines that Portable Electronic Devices interfere with the administration of justice or cause a threat to safety or security, he or she may prohibit Portable Electronic Devices from being carried into specific courtrooms (for example, courtrooms hearing certain criminal cases) or an entire courthouse if the courthouse provides storage for the devices at no cost to the Court Visitor at the security entrance. Storage of Portable Electronic Devices may

be limited to persons who represent to security personnel that they have no other means of storage available to them, such as a parked vehicle on or near the courthouse.

(h) Exceptions. The provisions of this Rule shall apply during the regular business hours of the Court, except:

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

(2) Incidental to ceremonial events such as marriages, investitures, and graduations in problem-solving courts, any judge, with the permission of the Presiding Judge or the Chief Judge, may permit the taking of photographs, audio or video recording, and broadcasting by radio and television within the area of the judge's courtroom, chambers, or court offices;

(3) As outlined in the Policy for Extended Media Coverage in the Circuit Courts of Illinois and S. Ct. R. 44; and

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

Rule 1.18 Chief Judge Personnel. No Chief Judge personnel may be changed except by majority vote of the circuit judges.

Rule 1.19 Electronic Court Reporting

(a) Approval for Use. Pursuant to S. Ct. R. 46 and the regulations in regard to Standards of Security of the Official Record of Court Proceedings effective December 13, 2005, electronic reporting systems are approved for use in the Circuit. Pursuant to these regulations, personnel shall be trained and certified to operate the electronic recording system.

(b) Preserving Electronic Recordings. The production of the physical medium storing the electronic recording of court proceedings shall be monitored by certified operators of the electronic reporting system, who shall tag with their initials each electronic recording at the time of recording. The electronic recording medium shall be securely preserved in an unaltered and unalterable condition.

(c) Use of Recordings. Digital computer recordings of testimony are created only for the purpose of preserving the words spoken in formal courtroom proceedings, hearings, and trials, so that a transcript, which is the official record, may be subsequently produced. The digital computer recordings are owned by the Circuit and may be used only pursuant to Rule or administrative order.

(d) Unintended Recordings. Any spoken words in the courtroom that are not a part of the proceeding, hearing, or trial are not intended recordings. Other than by certified

operators of the electronic recording system to orient themselves on recording content, they may not be listened to or used in any way.

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

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

(2) By certified court reporting personnel to create a transcript as the official record; or

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

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

PART 2. E-FILING

Rule 2.1 Authority. The Circuit has been approved to accept the electronic filing of documents in civil proceedings. Specific authority has been granted for electronic filing by Illinois Supreme Court Order M.R. 18368 amended January 22, 2016, mandating electronic filing in civil case types effective January 1, 2018, through the utilization of a centralized electronic filing manager (EFM) authorized by the Illinois Supreme Court.

Rule 2.2 Requirement of Electronic Filing

(a) Requirement. Except as otherwise set forth in these Rules and the Supreme Court Rules, the Court requires electronic filing in all civil cases. With approval of the Director of the Administrative Office of the Illinois Courts, the Court by written

administrative order may authorize or require electronic filing of additional types of cases. The Clerk shall direct any phasing in of case types.

(b) Testamentary Documents. Wills and other testamentary documents shall not be accepted for electronic filing. Any unapproved case or document type filed electronically by a Filer may be rejected by the Clerk.

Rule 2.3 Definitions. The following terms in these Rules are defined as follows:

(a) "Conventional Filing" means and refers to the filing of paper documents or information with the Clerk.

(b) "E-document" means and refers to a document electronically filed under these Rules.

(c) "Electronic Filing" and "E-filing" mean and refer to the electronic transmission of information or documents between the Clerk and an electronic filing service provider for the purposes of case processing.

(d) "Electronic Filing Manager" and "EFM" mean and refer to the service approved by the Illinois Supreme Court and used by circuit courts to manage the flow of documents and data among Filers, clerks, and the judiciary.

(e) "Electronic Service" and "E-service" mean and refer to an electronic transmission of documents to an SRL, attorney, or representative in a case. However, E-service shall not confer jurisdiction when personal service is required by law.

(f) "Filer" means and refers to an individual who has registered a username and password with the EFM.

(g) "Portable Document Format" and "PDF" mean and refer to a file format that preserves all fonts, formatting, colors, and graphics of any source document regardless of the application platform used.

(h) "Vendor" means and refers to an internet-based service provider that provides an online platform for scanning and filing court documents.

Rule 2.4 Registration; Authorized Users

(a) Registration Requirement. Before E-filing any document, a user must register with the Clerk and the Court's authorized E-filing Vendor.

(b) Required Attorney Information. Attorneys must register with the Clerk and shall at a minimum provide the following information: firm name; attorney names and ARDC registration numbers; address; phone number; e-mail address for E-service; staff contact information; and an approved method for paying filing fees.

(c) ARDC Registration Numbers. ARDC registration numbers will be used to identify an attorney and to verify that an attorney is licensed and in good standing with the Illinois Supreme Court. The Clerk is authorized to verify whether an attorney who registers as a Filer is authorized to practice in Illinois.

(d) SRLs. SRLs may utilize E-filing through a Vendor in the manner prescribed by the Clerk.

(e) Registration with Vendor. All Filers shall be registered through their Vendor. All registrations will be used to identify the source of any document submitted electronically to the Clerk.

(f) Workstation. The Clerk shall provide attorneys and SRLs in e-filed cases access to an e-file computer workstation. The E-filing workstation shall be available during normal business hours and without charge.

Rule 2.5 Method of Filing

(a) Acceptance and Approval. The Clerk shall accept and approve filings electronically, through a Vendor or through the Clerk's computer workstation.

(b) Conventional Filing. At no time shall the E-filing program prevent or exclude the ability to file any pleading or document that is required to be filed by Conventional Filing.

(c) Scanning by Clerk. If the Court excuses a party from the obligation to electronically file documents, the Clerk shall scan documents filed by Conventional Filing by that party into the electronic file.

(d) Access to Court Documents. The method of filing shall not affect the right of access to court documents. The Clerk shall maintain public access viewing 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 applicable policies of the Illinois courts.

Rule 2.6 Privacy. It is the responsibility of the Filer to ensure documents or exhibits filed electronically do not disclose information previously or statutorily impounded or sealed under these Rules or private information as defined in Supreme Court Rules 15 and 138. The Clerk is not responsible for the content of e-filed documents and has no obligation to review, redact, or screen any expunged, sealed, or impounded information.

Rule 2.7 Format of Documents; E-Filing of Multiple Documents; Rejection

(a) Required Information. All E-documents shall, to the extent practicable, be formatted in accordance with the applicable Supreme Court Rules and these Rules

governing the formatting of paper pleadings. Additionally, each E-document shall include the case title, case number, and nature of the filing.

(b) Identifying Information. Each E-document shall include the typed name, e-mail address, mailing address, and telephone number of the Filer. Attorneys shall include their ARDC registration number on all E-documents.

(c) Formatting. Documents shall be formatted as follows:

(1) The size of the type in the body of the text must be no less than 12-point font.

(2) The size of the pages must be 8 ½ by 11 inches.

(3) The margins on each side of the page must be a minimum of 1 inch.

(4) The top right 2-inch by 2-inch corner of the first page of each pleading must be left blank for the Clerk's stamp.

(d) PDF Format. All electronically filed documents must be in PDF format.

(e) Maximum File Size. The maximum file size allowable is as determined by a Vendor's program. If a document exceeds the maximum size allowed, the Filer must divide the document into appropriately sized parts and file multiple documents, each under the maximum file size.

(f) Protection Against Alteration. Filers shall take all reasonable steps to ensure E-documents are unalterable by the Vendor and can be printed with the same content and format as if printed from the authoring program. The Vendor is required to make each E-document that is not infected by a virus available for transmission to the Clerk immediately after successful receipt and virus checking of the document.

(g) Bulk Filings. Bulk filings of multiple cases or multiple documents combined into one PDF document shall not be accepted by the Clerk; however, multiple citations being electronically filed may be transmitted to the Clerk as a single transaction directly from a law enforcement agency. Documents with different case numbers must be filed individually in separate transactions. Filing of individual documents within a case shall be accepted in a single Electronic Filing transaction; however, each individual document must be uploaded and titled individually.

(h) Rejection. The Clerk may reject a document submitted for E-filing if the document does not comply with the format specified by applicable statute, these Rules, applicable Supreme Court Rules, or the Statewide Standards.

(i) Links. E-documents containing links to material either within the filed document or external to the filed document are for convenience purposes only. The external material behind the link is not considered part of the filing or the basic record.

Rule 2.8 Signatures

(a) Signatures by Attorneys. E-documents requiring the signature of an attorney may be signed by the attorney or bear a facsimile or typographical signature of the attorney authorizing the filing. If an E-document bears a facsimile or typographical signature, the E-document shall be deemed to have been signed by the attorney identified.

(b) Signatures by Non-Attorneys. Certificates, proofs, or affidavits of service in E-documents signed by a non-attorney under the supervision of an attorney may be signed by the non-attorney or bear a facsimile or typographical signature of the non-attorney serving the E-document. If an E-document bears a facsimile or typographical signature of a non-attorney serving the E-document, the certificate, proof, or affidavit of service shall be deemed to have been signed by the non-attorney identified.

(c) Absence of Signature. In the absence of a facsimile or typographical signature, any E-document filed with user identification and password shall be deemed to have been personally signed by the holder of the user identification and password.

(d) Other Signatures. Except as set forth in Rules 2.8(a) and 2.8(b), E-documents requiring a signature or signatures shall be signed by each person whose signature is required.

(e) Signatures by Judges. Orders submitted by E-filing may be signed by the judge through a facsimile signature placed on the order by the judge.

Rule 2.9 Maintenance of Original Documents. Anyone E-filing a document that requires an original signature certifies that, by so filing, the original signed document exists in the Filer's possession. Unless otherwise ordered by the Court, the Filer shall maintain and preserve all documents containing original signatures that are filed electronically until one year after the date that any judgment or dismissal order has become final and unappealable. The Filer shall make signed originals available for inspection by the Court, the Clerk, or other attorneys in the case on seven days' notice. At any time, the Clerk may request from the Filer a hard copy of an electronically filed document, which shall be provided within seven days of reasonable notice.

Rule 2.10 Time of Filing; Acceptance by the Clerk and Electronic Filing Stamp

(a) Transmission Date. Except as set forth in Rule 2.13, the transmission date and time of transfer shall determine the date and time of the E-filing. Pleadings received by the Clerk before midnight on a day the Clerk's office is open shall be deemed filed that day. If filed on a day the Clerk's office is not open, the document will be deemed filed the next business day.

(b) Notification of Acceptance or Rejection. The EFM shall provide notification of a receipt, acceptance, or rejection of E-documents.

(c) File Stamp. On acceptance by the Clerk, the EFM shall apply the file stamp to the E-document. Filings so endorsed shall have the same force and effect as documents file stamped in the conventional manner.

Rule 2.11 Electronic Service and Filing Proof of Service

(a) Jurisdiction. Electronic Service does not confer jurisdiction. Therefore, documents that require personal service to confer jurisdiction may not be served electronically and must be served in the conventional manner.

(b) E-Service. E-service shall be made in accordance with Supreme Court Rules 11 and 12 and shall be deemed complete at the posted date and time of transmission listed by the Vendor. The E-service of a pleading or other document shall be considered valid and effective service on all parties that are registered to receive E-service and shall have the same legal effect as personal service of an original paper document.

(c) Change of Address. All Filers must immediately notify other parties, the Clerk, and the EFM of any change of name, mailing address, phone or fax number, or e-mail address.

(d) Courtesy Copies. If requested by the Court, parties shall provide courtesy copies of documents to the Court.

(e) Service on Parties not Registered. 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.

Rule 2.12 Collection of Fees

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

(b) Waiver. When the E-filing includes a request for waiver of fees pursuant to S. Ct. R. 298, payment of the fees shall be stayed until the Court rules on the request.

Rule 2.13 System or User Errors

(a) No Liability. Neither the Court nor the Clerk shall be liable for malfunction or errors occurring in electronic transmission or receipt of E-documents.

(b) Effect on Filing Dates. If a document intended to be electronically filed is not deemed filed by the Clerk on the date the document was transmitted to the Clerk for filing because of (1) an error in the transmission of the document to the Vendor that was unknown to the sending party, (2) a failure to process the electronic filing when received by the Vendor, (3) rejection by the Clerk under Rule 2.7(h), (4) other technical problems experienced by the Filer, or (5) the party was erroneously excluded from the service list, the Court may on satisfactory proof enter an order permitting the document to be subsequently filed effective as of the date filing was first attempted.

(c) Filing Errors. In the case of a filing error, absent extraordinary circumstances, anyone prejudiced by the requirement in these Rules 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 period within which any right, duty, or other act must be performed.

PART 3. CLERKS OF THE CIRCUIT COURT

Rule 3.1 Clerk's Duties. In addition to the duties listed in Rule 1.7(b), it shall be the duty of the Clerk to: (1) immediately notify the Presiding Judge and the state's attorney of the filing of a petition for post-conviction relief and, at the Presiding Judge's direction, set the petition for hearing in accordance with Illinois law; (2) immediately deliver copies of any notice of appeal to the responsible court reporters; (3) retain all exhibits received in evidence unless otherwise ordered by the Court; (4) prepare lists of pending civil and criminal cases as requested by the Court; and (5) comply with all administrative orders of the Presiding Judge and the Chief Judge.

Rule 3.2 Pleadings and Court Files

(a) Caption. Each pleading shall set out the name of the circuit and county and the designation of the parties.

(b) Filing Fee. The Clerk shall not accept a pleading for filing or electronic filing unless the pleading is accompanied by any required filing fee or an application to sue or defend as an indigent person pursuant to S. Ct. R. 298 and 735 ILCS 5/5-105. A pleading accompanied by a petition to sue or defend as an indigent person is considered filed when it is electronically filed or properly presented to the Clerk for filing. The Clerk shall promptly present all petitions to sue or defend as an indigent person to the Court for consideration.

(c) Signature. Every pleading, notice, or other paper filed with the Clerk that is not electronically filed shall be legibly signed by at least one attorney of record in his or her individual name or by the SRL.

(d) Removal. No pleading, exhibit, file, or other document shall be removed from the Clerk's office except by leave of Court.

(e) No Filing by Facsimile. The Clerk shall not file documents received by facsimile transmission unless otherwise authorized by Supreme Court Rule or the Court.

Rule 3.3 Sealing and Impoundment

(a) Presumption of Openness. A strong statutory presumption of public access to the Court's files and records exists that may be overcome only on a compelling showing that the public's right of access is outweighed by the interests of the public and the parties in protecting files, records, or documents from public view. Nothing in this Rule shall be construed to expand or restrict statutory provisions for sealing files, records, or documents or those rules promulgated by the Illinois Supreme Court or the Administrative Office of the Illinois Courts pursuant to the Manual on Recordkeeping. For purposes of this Rule, "sealing" means to remove all access to the file, record, or document except for users authorized by the Court or these Rules. "Impoundment" means to remove all access to the file, record, or document except for users authorized by statute or the Court.

(b) Written Order Required. Except as otherwise provided by statute, the Manual on Recordkeeping, or these Rules, files, records, or documents may be impounded or sealed only on order of the Court.

(c) Specific Exceptions. The following exceptions are specifically identified and controlled by statute or rule. Except as set forth in exceptions (1), (2), and (3), impoundments shall be limited to the identified record or document:

(1) Juvenile files shall be impounded subject to the terms of 705 ILCS 405/1-8 and 705 ILCS 405/5-901. An attorney who represents a client in a pending criminal

matter may without leave of the Court review the file from any juvenile court delinquency proceeding in which the client was the respondent minor, except to the extent any document in the file was specifically sealed by the Court during that proceeding.

(2) Adoption files shall be impounded subject to the terms of 750 ILCS 50/18.

(3) Proceedings under the Parental Notice of Abortion Act shall be sealed pursuant to the terms of 750 ILCS 70/25.

(4) Fitness reports and psychological and/or psychiatric evaluations shall be impounded subject to the terms of 725 ILCS 5/104-19.

(5) Presentence investigation reports shall be impounded subject to the terms of 730 ILCS 5/5-3-4 (a) and (b).

(6) Mental health records shall be impounded subject to the terms of 740 ILCS 110/1 *et seq*.

(7) Reports filed with respect to adjudication of disability and appointment of guardian shall be impounded subject to the terms of 755 ILCS 5/11a-9.

(8) Financial affidavits and other documents described in Rule 8.1(d) shall be impounded as described in the Rule.

(9) Judge's notes as described in Rule 3.8 shall be impounded as described in the Rule.

(10) Pre-trial bond reports and substance abuse evaluations shall be impounded unless otherwise directed by the Court.

(d) Procedure for Sealing or Impounding. All motions to seal or impound a file, record, or document must be made in writing and presented to the Court after appropriate notice to all parties. The motion must explain the basis for sealing or impounding the file, record, or document and specify the proposed duration of the sealing or impounding order. Any motion to seal or impound, on specific request, may also be sealed or impounded if it contains a discussion of the confidential material. The Court shall enter a written order granting, granting in part, or denying the request. If the Court grants the motion in whole or in part, the order shall designate whether the entire file, record, or document or only a portion of the entire file, record, or document shall be sealed or impounded. The order shall further designate whether it includes removing the parties' names from public access and the duration the file is to be sealed or impounded.

(e) Review of Sealed and Impounded Files. Unless otherwise specified in the order, the Clerk annually shall present for each judge's review a list of all files, records, or documents sealed or impounded by the judge. If the judge ordering the file, record, or

document to be sealed or impounded is no longer available, then the case shall be referred to the Chief Judge or his or her designee for review. The judge ordering the case, record, or document sealed or impounded shall review the file to determine whether the case, record, or document will remain sealed or impounded. A judge may unseal and open a case, record, or document if a party fails to object to unsealing or opening within 30 days following written notice of the intent to unseal or open. For purposes of this Rule, review of files sealed or impounded as described in Rule 3.3(c) is not required.

(f) Motion to Rescind Sealing or Impounding Order. A person or entity seeking access to a sealed or impounded case, record, or document, regardless of whether they were a party in the original case and regardless of whether the case is pending or closed, may, on the proper filing of an appearance and if required, paying the appropriate filing fee, file a motion requesting the order sealing or impounding the case, records, or document be vacated. The Clerk within 14 days shall set the motion for hearing before the judge who ordered the case, record, or document to be sealed or impounded. If the judge ordering the case, record, or document sealed or impounded is no longer available or cannot hear the motion within the 14 days, the case shall be referred to the Chief Judge or his or her designee for review.

Rule 3.4 Hours of the Office of the Clerk. Each Clerk's office shall be closed on Saturdays and Sundays and on holidays designated by the Chief Judge. If the deadline for filing a notice, pleading, or action is on a Saturday, Sunday, or designated holiday, the time for filing the notice, pleading, or action is extended to the next business day of the Court. Each Clerk's office shall be open eight hours per business day.

Rule 3.5 Forms and Legal Assistance

(a) Forms. Each Clerk shall provide forms approved by the Illinois Supreme Court, the Conference of Chief Judges, or the Circuit to parties and attorneys or direct those requesting forms to the appropriate location or website to obtain the forms.

(b) Prohibition Against Giving Legal Advice. No Clerk, deputy clerk, or court personnel shall provide legal advice or make specific referrals to attorneys. These employees, however, may assist those who are illiterate or cannot read or write in the English language in completing forms. This Rule does not prevent any employee from referring a person to programs that provide legal assistance to indigent persons and/or to state or local bar associations.

Rule 3.6 Issuance of Subpoenas; Docket Entries

(a) Issuance. Subpoenas shall be issued only by the Clerk or his or her authorized deputies or licensed attorneys in accordance with 725 ILCS 5/115-17, 735 ILCS 5/2-1101, and Rule 5.6. Subpoenas of the Clerk or of attorneys may issue only in pending proceedings on file with the Clerk and shall be returnable only for dates set before the Court, except as otherwise provided for subpoenas issued in the course of discovery pursuant to Illinois law.

(b) Docket Entries. When the Clerk or his or her authorized deputy issues a subpoena, the Clerk or deputy shall make docket entries at the times of issuance and return recording that those events have occurred.

Rule 3.7 Custody of Evidence

(a) Duty to Preserve. The Clerk shall take custody of all items admitted in evidence by the Court at any proceeding, hearing, or trial. The Clerk shall preserve, safeguard, and account for each piece of admitted evidence until specifically relieved of that duty by court order and shall bring the evidence back into the courtroom as required by the judge. When court is not in session, every effort shall be made by the Clerk to secure all contraband items or items of intrinsic value or danger in a secure safe or a locked storage area, and the Clerk shall not entrust them to another's possession. At the conclusion of a case, the Clerk shall retain custody of all items in evidence, preserving, safeguarding, and accounting for them until the Clerk may be relieved of custody by court order.

(b) Removal of Evidence. Items in evidence removed from the Clerk's custody shall be specifically listed in a written order or enumerated orally on the record, and entrusted to a named individual, such as a deputy sheriff, bailiff, or attorney. When alternate custody is no longer needed, all removed items shall be immediately returned to the Clerk's custody, and the return of each item shall be memorialized by written order or enumerated orally on the record.

(c) Items Offered but not Admitted. Items offered but not admitted in evidence shall be retained by the proffering party, unless ordered to be taken into the custody of the Clerk for purposes of future review. Once taken into custody by the Clerk, an item shall be preserved, safeguarded, and accounted for in the same manner as an item in evidence.

Rule 3.8 Judge's Notes. At the request of any judge, the Clerk may, for the sake of convenience and judicial economy, keep and maintain a judge's trial and/or hearing notes in the court file. These notes are the property of the judge and shall not be filed of record by the Clerk. A judge's notes shall be placed in an envelope, which shall be sealed and marked "Judicial Notes - Impounded Documents," together with the name of the judge requesting the notes be preserved and stored. The Clerk may, at the time of file destruction, dispose of a judge's notes found in a court file by returning them to the judge, or, if the judge approves, is retired, or deceased, by destroying them using approved methodology pursuant to the Local Records Act and the retention schedules established by the Illinois Supreme Court.

PART 4. APPEARANCES

Rule 4.1 Appearances

(a) Written Appearances by Attorneys. An attorney for a party shall file a written appearance, by pleading or otherwise, before the attorney addresses the Court. Every written appearance must contain the attorney's legible name, address, telephone number, and e-mail address. If the appearance is filed by a law firm, the appearance shall indicate the specific attorney or attorneys responsible for the case. The attorney shall serve copies of the written appearance in the manner required for the service of pleadings. The

attorney must seasonably update information contained in the appearance. This Rule 4.1(a) and Rule 4.2 also shall apply to limited scope appearances.

(b) Written Appearances by SRLs. An SRL shall file a written appearance, by pleading or otherwise, before participating in any hearing before the Court. Every appearance must contain the SRL's legible name, address, telephone number, and, if required, e-mail address. If the appearance is not e-filed, the SRL must sign the appearance, and the SRL's signature must be acknowledged before a notary public or other person authorized to administer oaths under Illinois law. If the appearance contains a waiver of notice or consent to immediate hearing, the SRL shall set forth in the appearance that the SRL has received a copy of any pleading seeking relief with respect to him or her and attach a copy of that pleading to the appearance. The SRL shall serve copies of his or her appearance in the manner required for the service of pleadings.

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

Rule 4.2 Appearance Fees

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

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

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

Rule 4.3 Application for Waiver of Court Fees. An Application for Waiver of Court Fees in a civil action shall be in writing, on the form adopted by the Illinois Supreme Court, and signed by the applicant or, in the case of a minor or an incompetent adult, by another person having knowledge of the facts, and shall be e-filed in accordance with the Rules, unless e-filing is excused by the Court. If an applicant must personally appear to present the application and any supporting evidence to the Court, the Clerk shall inform the applicant of the time and place of the appearance when the applicant files the application.

Rule 4.4 Court Appearances by Two-Way Audio/Video Communication System in Criminal Cases

(a) Permitted Audio/Video Appearances. An incarcerated defendant may appear by means of two-way audio-visual communication, including closed circuit television, internet system, computerized video conference, or other audio-visual means in any civil case and in the following criminal proceedings:

(1) An initial appearance before the Court on a criminal contempt complaint;

(2) an arraignment;

(3) a waiver of preliminary hearing;

(4) an entry of a not guilty plea;

(5) a presentation of a jury waiver;

(6) any status hearing;

(7) any hearing conducted under the Sexually Violent Persons Commitment Act at which no witness testimony is taken;

(8) any hearing on a motion to continue;

(9) the setting of any hearing on a pre-trial or post-trial matter; and

(10) any other non-critical proceeding at which no witness testimony is taken.

(b) Audio/Video Appearances Not Permitted. In criminal cases, an incarcerated defendant must be personally present for all guilty pleas, trials, evidentiary hearings, and other critical proceedings.

(c) System Requirements. The two-way audio/video communication system must provide two-way audio/video communication between the Court and the place of custody or confinement and include a private and secure means by which the incarcerated defendant and his or her counsel, if any, may communicate. If no counsel has been appointed or if no counsel has entered an appearance, however, no means of separate private communications need be provided.

Rule 4.5 Virtual Court Appearances in Civil Cases. As permitted by Illinois Supreme Court Rule, any Court by Administrative Order or otherwise may permit persons to appear virtually in civil cases.

Rule 4.6 Hearings by Telephone

(a) When Permitted. Pursuant to S. Ct. R. 185, routine, uncontested motions and pre-trial conferences may be held in civil cases by telephone if requested by all attorneys or SRLs of record, supported by existing technology, and allowed by the Court.

(b) No Record. Unless arranged with the Court before a telephone conference, no verbatim record will be taken or maintained of any telephone conference conducted pursuant to Rule 4.6(a).

PART 5. MOTIONS AND OTHER PRE-TRIAL PROCEEDINGS

Rule 5.1 Motion Practice

(a) Form of Motions. Every motion shall identify in its title or introductory paragraph the relief sought and the section of the Code of Civil Procedure, Code of Criminal Procedure, Supreme Court Rule, or Rule under which the motion is brought. Every motion also shall set forth its factual and legal bases and be accompanied by the citation to any legal authority the moving party desires the Court to consider.

(b) Notice of Hearing of Motions

(1) Notice Required. Except during trial, written notice of the hearing of a motion shall be given to all parties who have appeared and have not been found by the Court to be in default and to all parties whose time to appear has not expired on the date of notice. Notice that additional relief is being sought shall be given in accordance with S. Ct. R. 105.

(2) Content of Notice. In the notice, the party shall provide the title and number of the action, the name of the judge expected to hear the motion, the time and date when the motion will be presented, and, if the hearing is to be conducted remotely, any other information the Court requires when a remote hearing is allowed. The party shall serve a copy of the motion with the notice or state the motion previously has been served. If the motion is for a finding of a default under Rule 5.2(1), either the notice or the motion must inform the defendant that if the defendant is found to be in default at the hearing, the defendant shall not be entitled to notice of further proceedings in the action.

(3) Manner of Service. Notice shall be given in the manner and to the persons described in S. Ct. R. 11. Unless otherwise allowed by the Court or expressly consented to in writing by the receiving party, electronic transmission by a Clerk's Electronic Filing Manager does not constitute service of any notice or other pleading.

(4) Good Faith Effort to Cooperate in Scheduling; Time of Notice. Whenever reasonably possible, an attorney or SRL setting a matter for hearing shall make a good-faith effort to work with the Court and all opposing attorneys or SRLs to set the hearing at a time and date that is mutually convenient and consistent with the Court's docket. If an attorney or SRL has made this good-faith effort and obtained a mutually convenient time and date acceptable to the Court, the hearing may be set at that time, and notice shall be served accordingly. Unless otherwise allowed by the Court, if an attorney or SRL has not made this good-faith effort or an opposing party has not cooperated in determining a mutually agreeable time and date, notice of the hearing must be served at least 10 days before the hearing; provided, however, that if the notice is served on any party by regular mail, the notice of hearing must be mailed at least 14 days before the hearing. The filing of a notice of hearing for a hearing less than 10 days after service (or 14 days if a notice is mailed) shall constitute the attorney's or the SRL's certification that he or she has complied with this Rule.

(c) Exhibits to Motions. All exhibits to a motion should be filed with the motion; provided, however, that parties are discouraged from attaching previously filed pleadings as exhibits to motions.

(d) Failure to Call Motions for Hearing. The burden of calling a motion for hearing is on the moving party. If a motion is not called for hearing within 90 days from the date it is filed, the Court may enter an order striking the motion.

(e) Oral Argument. At the discretion of the Court, a motion may be taken by the Court by submission only, with each party submitting briefs and the Court ruling without oral argument or hearing.

Rule 5.2 Specific Motions

(a) Motions for Default

(1) Determination of Default. If a defendant fails to file a written appearance or appear in person or through an attorney in response to a summons returnable on a date certain, the Court may find the defendant in default on the return date without further notice or proceeding. In all other instances, a plaintiff seeking a finding that a defendant is in default for failing to appear, answer, or otherwise plead must file a written motion asking that the defendant be found in default and specifying what other relief, if any, the plaintiff will seek during the hearing on the motion. If the plaintiff seeks entry of a judgment or order (other than an order finding the defendant in default), the plaintiff shall serve a copy of the proposed judgment or order with the motion for default. Service of a notice of motion and motion for default shall be made in accordance with Rule 5.1.

(2) Damages on Default. When a defendant is in default or found in default under Rule 5.2(a)(1), proof of damages may be made by a verified complaint, affidavit, sworn witness testimony, or other proof the Court deems sufficient. Verified complaints and affidavits must be signed by the plaintiff or an agent of the plaintiff, not by the plaintiff's attorney.

(b) *Ex Parte* and Emergency Motions

(1) Filing Required. Every complaint or petition requesting an *ex parte* order appointing a receiver, a temporary restraining order, a preliminary injunction, a domestic violence order, or any other emergency relief shall be filed with the Clerk, if during business hours, before presentation to the Court.

(2) Notice Not Required. Emergency motions and motions that, by law, may be heard *ex parte* may, at the discretion of the Court, be heard without giving notice. Emergency motions deemed by the Court to be a valid emergency shall, when practicable, be given precedence over other matters before the Court.

(3) Notice After Hearing. If a motion is heard without prior notice under this Rule, written notice of the motion, showing the title and number of the action, the name of the judge who heard the motion, the date of the hearing, and the ruling of the Court, shall be served by the attorney or SRL obtaining the order on all parties who have appeared or have not been found by the Court to be in default and on all parties whose time to appear had not expired on the date of the hearing. Proof of service shall be filed with the Clerk within 48 hours after the hearing. Notice shall be given in the manner and to the persons described in S. Ct. R. 11.

(4) Order on Denial. If a motion heard without prior notice is denied, the Court shall spread of record an order of the denial.

(c) Motions for Consolidation of Cases. When the cases are of the same case type, a motion for consolidation shall be presented to the judge to whom the oldest case is assigned. When the cases are not of the same case type, a motion for consolidation shall be brought before the judge assigned to the case with the higher designation. For the purpose of this Rule, L is the highest designation, followed by MR, CH, ED, D, F, TX, MH, P, OP, LM, and SC.

(d) Motions to Continue. No motion to continue shall be allowed for other than good cause. Agreements of counsel as to a motion to continue shall not be binding on the Court. The Court may require affidavits of the parties and attorneys.

(e) Dispositive Motions

(1) Time for Filing. All dispositive motions (*e.g.*, motions to dismiss, motions for judgment on the pleadings, motions for summary judgment) must be filed and brought to argument (pursuant to notice) before the Court no later than 90 days before the assigned trial date. The Court may limit or extend this time in the interests of justice.

(2) Briefs. Briefs in support of dispositive motions shall be filed with the motion. Unless otherwise ordered by the Court, responsive briefs in opposition to dispositive motions shall be filed no later than 28 days after the dispositive motion is filed. Replies to responsive briefs may be allowed in the discretion of the Court and, if allowed, shall be filed within the time allowed by the Court.

Rule 5.3 Civil Case Management Conference

(a) Initial Case Management Conference. An initial case management conference shall be scheduled in all civil cases pursuant to Supreme Court Rules 218 and 904 as follows:

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

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

(3) The date of the initial case management conference in proceedings for which a date certain summons is served or for which a notice of hearing is included in the original filing shall be the date set for return or the date set forth in the notice, and the parties shall be notified as set forth above.

(4) The judges of each county shall meet with their respective Clerks and establish case management conference dates at least six months in advance.

(5) All parties or their attorneys shall appear at the initial case management conference. Failure to appear may result in a dismissal or default, as applicable.

(6) At the initial case management conference, the Court shall proceed in accordance with Supreme Court Rules 218 and 904.

(7) Other than as set forth above, initial case management conferences shall be scheduled as follows: L and ED cases: 90-120 days after filing; CH, MR, D, AD, and F cases: 60-90 days after filing; P cases: 9-10 months after filing.

(b) Continuances. All continuances of a case management conference shall be to a date certain for a subsequent case management conference and made pursuant to a written order or docket entry.

Rule 5.4 Discovery Documents

(1) Filing. Pursuant to S. Ct. R. 201(m), and unless otherwise ordered by the Court, depositions, interrogatories, requests to produce or inspect, answers, responses, and other similar discovery documents shall not be filed with the Clerk. This Rule does not apply to requests to admit facts or the genuineness of documents or the answers or responses to those requests. However, if relief is sought concerning any deposition, interrogatory, request for production or inspection, answer to interrogatory, or response, copies of the portion of the deposition, interrogatory, request, answer, or response shall be attached to the request for relief as an exhibit and filed with the Clerk.

(2) Proof of Serving and Answering Discovery Documents. Discovery documents shall be served in accordance with S. Ct. R. 11. Proof of serving or answering discovery documents shall be filed with the Clerk and shall identify the discovery document being served or answered and contain the case title and number, date served, and the sending and receiving parties.

Rule 5.5 Discovery in Criminal Cases. Whenever the Court, pursuant to Supreme Court Rules 411-415, orders a party to a criminal proceeding to disclose facts, materials, exhibits, documents, statements, reports, or other relevant matters to other attorneys or SRLs involved in the case, the following procedure shall be followed:

(a) Disclosure. The party shall disclose the materials ordered by the Court to be disclosed either by providing copies or by arranging a meeting during which the materials will be exhibited to the opposing attorney or SRL; the disclosing attorney or SRL should also prepare a receipt or acknowledgment to be signed by the receiving attorney or SRL indicating those materials supplied to or exhibited to him or her.

(b) Receipt. The attorney or SRL receiving or reviewing the materials shall acknowledge that fact by signing a receipt provided by the disclosing party.

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

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

Rule 5.6 Subpoenas

(a) Issuance. On request, the Clerk shall issue a subpoena for testimony or for the production of specified documents, objects, or tangible things. Any testimony or item may be sought that constitutes or contains evidence relating to any matter within the scope of examination permitted under the Supreme Court Rules. No subpoena may be returnable less than 10 days following its date of service. Any subpoena seeking documents shall bear the following legend on the face of the subpoena or conspicuously attached to the subpoena:

> YOU MAY COMPLY WITH THIS SUBPOENA BY MAILING LEGIBLE AND COMPLETE COPIES OF ALL REQUESTED DOCUMENTS TO THE PARTY OR ATTORNEY WHOSE ADDRESS APPEARS BELOW. IF YOU WISH TO COMPLY WITH THIS SUBPOENA BY MAIL, YOU ALSO MUST CERTIFY IN WRITING THAT THE DOCUMENTS MAILED ARE COMPLETE AND ACCURATE AND CONSTITUTE GOOD FAITH COMPLIANCE WITH THE MATERIALS REQUESTED BY THE SUBPOENA. THIS CERTIFICATION CAN BE PROVIDED IN LETTER FORM. **DO NOT MAIL DOCUMENTS MORE THAN TWO BUSINESS DAYS BEFORE THE DATE STATED ON THE SUBPOENA.**

(b) Service. Subpoenas issued under this Rule shall be served in accordance with Supreme Court Rules. A copy of the subpoena and proof of service shall be served on all parties within 48 hours of issuance. Service of a subpoena by mail may be proved *prima facie* by return receipt showing delivery to the recipient or the recipient's authorized agent by certified or registered mail at least 10 days before the date on which compliance is required and an affidavit setting forth that the mailing was prepaid and addressed to the recipient, restricted delivery, return receipt required, when the subpoena was mailed, and that a check for the witness and mileage fee was provided with the subpoena.

(c) Objection. Before a subpoena's return date, any party may object to the subpoena and, for good cause shown by the objecting party, the Court may quash the subpoena or impose conditions or limitations the Court deems appropriate.

(d) Costs; Additional Copies. The party causing the subpoena to be issued shall be liable to the party subpoenaed for the reasonable costs of copying and any required witness fee and/or mileage. The Court may enter orders as necessary to enforce the payment of these copying costs. Any party may request copies of all materials obtained by a party pursuant to this Rule. Expenses of copying shall be borne by the party requesting copies, and the materials shall be reproduced and forwarded to the requesting party not less than 10 days following receipt of the subpoenaed materials.

(e) Response. The recipient of a subpoena requesting testimony shall appear at the time and place indicated on the subpoena, if payment of the witness fee and mileage has been tendered. The recipient of a subpoena requesting specified documents, objects, or tangible things who has actual or constructive possession or control of the materials shall respond by the date indicated on the subpoena, if payment of the witness fee and mileage has been tendered, either in person or by mail with appropriate certification.

Rule 5.7 Written Draft Orders. When the Court enters a ruling in any case, it may require that a written order be submitted through e-filing or otherwise, and the attorney or SRL directed to submit the order shall do so within 30 days or other time established by the Court. Before submitting the order to the Court, the attorney or SRL preparing the order shall first tender the proposed order to all other attorneys and SRLs of record. If the parties do not agree as to the form of the order, the Court shall decide the issue after hearing. Approval as to form shall not be construed as approval as to substance, and the Court may enter the order even if approval is withheld. The attorney or SRL preparing the order shall place his or her name, address, and telephone number at the lower left portion of the last page of the order. An agreed order should be so designated.

Rule 5.8 Settlement Conference. Within 30 days of discovery being completed in a civil case, it is recommended that a settlement conference be conducted with the Court to explore the possibility of settlement and to determine if the issues can be narrowed. All settlement conferences shall be undertaken pursuant to S. Ct. R. 63A(5)(c). When a settlement conference is to be conducted, each attorney or SRL shall prepare a written memorandum setting forth the relevant facts of the case, the party's settlement position, and the bases for that position and deliver a copy of the memorandum to the Court at least seven days before the conference. Unless the parties agree that the memoranda may be submitted to the Court confidentially, the party preparing a memorandum shall serve the memorandum on all other attorneys or SRLs but shall not file the memorandum with the Clerk. Unless specifically excused by the Court, the attendance of parties with the ability to meaningfully negotiate toward a settlement agreement on behalf of a party and, if successful, to bind that party to an enforceable settlement agreement is required. The Court may order the trial attorneys, the parties, and/or a representative of a defendant's insurer to attend the settlement conference, in person or by telephone or video conference. Because parties participating in a settlement conference may learn a judge's thoughts and impressions about the case, any party who agrees to participate in a settlement conference under this Rule waives the right to substitute the judge participating in the conference as a matter of right. All parties, however, retain the right to seek to substitute the judge for cause.

Rule 5.9 Final Pretrial Conference

(a) Required Documents. When a final pretrial conference is scheduled, the attorneys for each of the parties and each SRL shall file and serve pretrial documents as required by the Court at least 10 days before the final pretrial conference. Unless otherwise ordered, the pretrial documents shall include the following:

(1) exhibit lists;

(2) *voir dire* questions;

(3) jury instructions;

(4) special interrogatories;

(5) trial memoranda;

(6) statements of the case setting forth the time and place of the alleged occurrence, a brief description the occurrence, the names of the parties and their attorneys, and a list of witnesses the parties expect to call;

(7) motions *in limine* (to be heard at the final pretrial conference); and

(8) evidence deposition transcripts and objections.

(b) Settlement Before Trial. If a case settles before a scheduled final pretrial conference or before trial, the attorneys for the parties and each SRL shall notify the Court of the settlement as soon as reasonably possible.

(c) Attendance at Final Pretrial Conference. Unless excused by the Court, the following representatives shall attend the final pretrial conference:

(1) trial attorneys for each party;

(2) all SRLs;

(3) the plaintiff(s); and

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

(d) Exhibits. At the final pretrial conference or at any other time as may be designated by the Court, the Court may direct the parties to produce all exhibits they expect to offer in evidence. Each of the exhibits shall be marked for identification by the court reporter, clerk, or attorneys, as the Court directs. The parties shall then stipulate as to the

exhibits to which there are no objections, and those exhibits shall be admitted in evidence without the necessity of further foundation.

Rule 5.10 Trial Continuances

(a) Requests for Continuances. All motions to continue a trial shall fully comply with this Rule and 735 ILCS 5/2-1007, S. Ct. R. 231, and 725 ILCS 5/114-4, as applicable. The motion shall be filed, and written notice given to all attorneys and SRLs of record, at least seven days before the trial date and set for hearing at least four days before the trial date. If the motion is based on a conflicting setting, the motion shall be accompanied by an affidavit of the attorney setting forth the name of the other case, the name of the judge before whom the case in pending, the time and place of the conflicting setting, and the date the conflicting setting was set. Even if a motion to continue a jury trial is agreed or uncontested, a continuance will be allowed only when justice otherwise would be denied. An agreed or stipulated motion to continue a bench trial will only be allowed on good cause shown and, whenever practicable, an agreed or stipulated motion to continue a bench trial must be heard at least four days before the trial is to begin. Only the Court can grant a motion to continue a trial.

(b) Conditions; Sanctions. The Court, on its motion or on motion of the party not seeking the continuance, may condition a continuance on the moving party's payment of juror fees, witness fees, attorneys' fees, lost wages, and/or other reasonable expenses associated with continuing the trial. If justice requires that a trial be continued because of the conduct of the non-moving party, the Court may assess sanctions against the non-moving party under S. Ct. R. 137 and/or S. Ct. R. 219. This Rule does not in any way limit the Court's contempt power.

Rule 5.11 Foreclosure Sales

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

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

(1) Preparation of the publication notice for sale and arranging for publication of the notice as required by law;

(2) Preparation of the sheriff's report of sale to be executed by the sheriff as well as the sheriff's deed or deeds, if needed;

(3) Preparation of the certificate of sale in duplicate to be executed by the sheriff; and

(4) Preparation of orders approving the report of sale for entry by the Court, as well as a memorandum of judgment when applicable.

(c) Other Services by Plaintiff. In addition to the services above mentioned, the plaintiff or attorney for the plaintiff shall, before the date of sale, supply the sheriff with:

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

(2) A certificate of publication of the notice of sale; and

(3) A certificate showing copies of the notices of sale have been mailed to parties to the action, when applicable.

(d) Record of Fees and Commissions on Sales. The sheriff shall prepare and keep on file, open to inspection by the Court and others, a full and complete record of all fees and commissions received for sales conducted by the sheriff under authority of the Court, which record shall show the dates and amounts received and the title and number of each case.

Rule 5.12 Warnings on Post-Judgment Notices. Notices of hearings to discover assets, petitions for adjudication of contempt, and any other hearing during which a warrant of arrest may issue for a party's failure to appear after receipt of notice shall, in addition to the time, date, and place of hearing, include the following words in bold type or underlined: "Your failure to appear at this hearing may result in the issuance of a warrant for your arrest."

Rule 5.13 Dismissal for Want of Prosecution

(a) By a Defendant. If a defendant or defendant's attorney appears on a return date or at the time of the trial and the plaintiff or the plaintiff's attorney fails to appear, the Court may dismiss the action for want of prosecution. If the Court determines it appropriate to reinstate a complaint previously dismissed or vacate any dismissal or default judgment, the Court may impose sanctions or condition of the reinstatement or vacation on appropriate terms.

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

PART 6. CIVIL MEDIATION

Rule 6.1 Purpose of Mediation. Mediation under these Rules involves a confidential process through which a neutral mediator, selected by the parties or appointed by the Court, assists the litigants in reaching a mutually acceptable agreement. It is an informal and non-adversarial process. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, exploring settlement alternatives, and reaching an agreement. Parties and their representatives are expected to mediate in good faith. These Rules in Part 6 shall not apply to dissolution of marriage and family law cases, and mediation in those cases shall be as set forth in Rule 8.5.

Rule 6.2 Referral by Judge or Stipulation. Except as otherwise provided in these Rules, the Court may order mediation in any civil matter in which the plaintiff asserts a claim having a value, irrespective of defenses or set-offs, in excess of the amount set out for applicability of S. Ct. R. 222. In addition, the parties to any matter may file a written stipulation to mediate any issue between them at any time. This stipulation shall be incorporated into the order of referral.

Rule 6.3 Scheduling Mediation

(a) Conference or Hearing Date. Unless otherwise ordered by the Court, the first mediation conference shall be held within eight weeks of the order of referral. At least 10 days before the conference or as otherwise required by the mediator, each party shall present to the mediator a brief written summary of the case containing a list of issues as to each party. If the party or attorney filing the summary wishes its contents to remain confidential, he or she should advise the mediator in writing when the summary is filed. The summary shall include the facts of the occurrence, opinions on liability, all damages and injury information, and any offers or demands regarding settlement. Names of all participants in the mediation shall be disclosed to the mediator in the summary.

(b) Notice of Time, Date, and Place. Within 28 days after the entry of the order of referral, the mediator shall notify the parties in writing of the time, date, and place of the mediation conference.

(c) Motion to Dispense with Mediation. A party may move, within 14 days after the entry of the order of referral, to dispense with mediation if:

(1) The issue to be considered previously has been mediated between the same parties;

(2) The issue presents a question of law only;

(3) The matter is not eligible for mediation under Rule 6.2; or

(4) Other good cause is shown.

(d) Motion to Defer Mediation. Within 14 days after entry of the order of referral, any party may move to defer the mediation. The movant shall notice the motion for hearing before the mediation's scheduled date. Notice of the hearing shall be provided to all interested parties, including any mediator who has been appointed. The motion shall set forth, in detail, the facts and circumstances supporting the motion. Mediation shall be tolled until the Court decides the motion.

Rule 6.4 Mediation Rules and Procedures

(a) Appointment of Mediator

(1) Designation by Stipulation. Within 14 days after the entry of the order of referral, the parties may designate by stipulation a certified mediator or a mediator who does not meet the certification requirements of these Rules but who, in the opinion of the parties and on review by and approval of the Court, is otherwise qualified by training or experience to mediate all or some of the issues in the case.

(2) Appointment by Court. If the parties cannot agree on a mediator within 14 days after the entry of the order of referral, the plaintiff or plaintiff's attorney (or another attorney agreed on by all attorneys) shall notify the Court within the next seven days, and the Court shall appoint a certified mediator.

(b) Compensation of Mediator

(1) When Parties Select Mediator. When the mediator is selected by the parties, the mediator's compensation shall be paid by the parties as agreed between the parties and the mediator.

(2) When Court Appoints Mediator. When the Court appoints a mediator, the mediator's compensation shall be shared proportionately by all parties participating in the mediation at a rate consistent with the usual and customary fees charged by approved mediators. Once a mediator has been appointed, the mediator shall be entitled to a minimum of one hour's compensation.

(3) *Pro Bono* Appointment. If any party has been granted leave to sue or defend as a poor person, the Court shall appoint a mediator who shall serve *pro bono* without compensation from any party to the action.

(4) Enforcement. The fee of an appointed mediator shall be subject to appropriate order or judgment for enforcement.

(c) Disqualification of Mediator. Any party may move the Court to disqualify a mediator for good cause. If the Court disqualifies a mediator, the Court shall enter an order naming a qualified replacement. Nothing in this provision shall preclude mediators from disqualifying themselves or refusing an assignment. The time for mediation shall be tolled during any periods during which a motion to disqualify is pending.

(d) Interim or Emergency Relief. A party may apply to the Court for interim or emergency relief at any time. Mediation shall continue while an emergency motion is pending absent a contrary order of the Court or a decision of the mediator to adjourn pending a disposition of the motion.

(e) Attendance at Mediation Conference

(1) Required Participants. All parties, attorneys, representatives with settlement authority, and other individuals necessary to facilitate settlement of the dispute shall be present at each mediation conference unless excused by the Court or mediator. A

party is deemed to appear at a mediation conference if the following persons are physically present:

(i) The party or its representative having full authority to settle without further consultation, and in all instances, the plaintiff must appear at the mediation conference; and

(ii) The party's counsel of record, if any; and

(iii) A representative of the insurance carrier for any insured party who is not the carrier's outside counsel and who has full authority to negotiate and recommend settlements to the limits of the policy or the most recent demand, whichever is lower, without further consultation.

(2) Sanctions. On motion, the Court may impose sanctions against any party or attorney who fails to comply with this Rule, including, but not limited to, mediation costs and reasonable attorney's fees relating to the mediation process.

(f) Adjournments. The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference. No further notification is required for parties present at the adjourned conference.

(g) Counsel. The mediator shall be in control of the mediation and the procedures to be followed in mediation. Attorneys shall be permitted to communicate privately with their clients during the mediation conference.

(h) Communication with Parties. The mediator may meet and consult privately with either party and his or her representative during the mediation.

(i) Termination of Mediation

(1) Expected Date of Completion. Mediation shall be completed with seven weeks of the first mediation conference unless extended by order of the Court or by stipulation of the parties.

(2) Exceptions. Mediation shall terminate before the end of seven weeks in the following circumstances:

(i) All issues referred for mediation have been resolved;

(ii) The parties have reached an impasse; or

(iii) The mediator concludes that the willingness or ability of a party to participate meaningfully is so lacking that an agreement on voluntary terms is unlikely to be reached by prolonging the negotiations.

(j) Report of Mediator. Within 14 days after the termination of a mediation, the mediator shall file with the Clerk a report as to whether an agreement was reached, in whole or in part.

(k) Imposition of Sanctions. In the event of any breach or failure to perform under a settlement agreement, the Court on motion may impose sanctions, including costs, attorney's fees, or other appropriate remedies, including entry of judgment on the agreement.

(l) Discovery. Whenever possible, the parties before completing mediation are encouraged to limit discovery to the development of information necessary to facilitate a meaningful mediation conference. Unless otherwise ordered by the Court, discovery may continue during mediation.

(m) Confidentiality of Communications. All oral or written communications in a mediation conference, other than executed settlement agreements, shall be exempt from discovery and shall be confidential and inadmissible as evidence in the underlying case unless all parties agree otherwise. Evidence with respect to alleged settlement agreements shall be admissible in proceedings to enforce the settlement. Subject to the foregoing, unless authorized by the parties, the mediator may not disclose any information obtained during the mediation.

(n) Immunity. Mediators shall be entitled to immunity as provided by S. Ct. R. 99.

(o) Mechanism for Reporting. The Court Administrator shall keep and maintain statistics and records on all cases referred to mediation and shall file reports with the Administrative Office of the Illinois Courts as directed by the Chief Judge, which shall include an annual count of the number of cases referred to mediation and the results achieved.

Rule 6.5 Mediator Qualifications

(a) Certification of Mediators. The Court Administrator shall certify attorneys as approved to serve as mediators under these Rules who meet the following criteria:

(1) The attorney has submitted to the Court Administrator a signed, written request for certification.

(2) The attorney is licensed to practice law in Illinois, is in good standing, of good moral character, and has practiced law for at least eight years or is a

retired judge, except the Chief Judge may approve the request of an attorney who is otherwise qualified and has practiced for at least three years if the Chief Judge is satisfied the attorney has demonstrated the ability to perform the functions of a mediator.

(3) The attorney has received certification from a formal mediation training program consisting of at least 24 hours' instruction.

(b) Fee Schedule. Once approved, the attorney must advise the Court Administrator of his or her current mediation fee schedule.

(c) Mediator General Standards. In each case, the mediator shall comply with the general standards as may, from time to time, be established and promulgated in writing by the Chief Judge.

(d) Decertification of Mediator. The eligibility of each mediator to retain the status of a certified mediator shall be periodically reviewed by the Chief Judge. Failure to adhere to the rules governing mediation may result in the decertification of the mediator, by the Chief Judge or his or her designee.

PART 7. CONTEMPT OF COURT

Rule 7.1 Contumacious Conduct Defined. Contumacious conduct consists of verbal or non-verbal acts that (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.

Rule 7.2 Direct Criminal Contempt

(a) Direct Criminal Contempt Defined. Contumacious conduct constitutes direct criminal contempt if it is committed in such a manner that no evidentiary hearing is

necessary to determine the facts establishing the conduct and is committed in an integral part of the Court while the Court is performing judicial functions.

(b) Court's Alternatives. On the commission of an act constituting direct criminal contempt, the Court may (1) summarily find the contemnor in contempt and immediately impose sanctions, (2) summarily find the contemnor in contempt and impose sanctions within a reasonable time, or (3) delay the finding of contempt and 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 proceeding.

(c) Conduct Specified; Statement in Mitigation. Before entering a finding of contempt, the Court shall inform the contemnor of the specific conduct forming the basis of the finding. Before imposing sanctions, the Court shall permit the contemnor an opportunity to present a statement in mitigation.

(d) Sanctions. On finding direct criminal contempt without a jury, the Court may impose a fine not to exceed $500 and/or sentence the contemnor to a term not to exceed six months in a penal institution other than a penitentiary. If the contemnor exercises his or her right to a jury trial and the jury finds the contemnor guilty of contempt, the Court is not limited in the fine or sentence of incarceration it may impose. The Court, in the exercise of its discretion, may impose other sanctions as it deems appropriate.

(e) Written Order Required. When imposing sanctions, the Court shall enter a written judgment order setting forth the factual basis of the finding and specifying the sanctions.

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

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

Rule 7.3 Indirect Criminal Contempt

(a) Indirect Criminal Contempt Defined. A contumacious act constitutes indirect criminal contempt when it occurs outside the presence of the Court or in an area

that is not an integral or constituent part of the Court or if the elements of the offense are otherwise not within the personal knowledge of the Court. A contumacious act committed in the presence of the Court, but not summarily treated as a direct criminal contempt, may be prosecuted as indirect criminal contempt.

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

(c) Notice of Hearing. If the Court finds the petition sets forth allegations that support the charge, it shall set the matter for hearing and order notice be given to the respondent. Notice of the hearing and a copy of the petition shall be served and returned in the manner as provided in S. Ct. R. 105(b) or, if the Court allows, the Clerk or petitioner's attorney may give notice by regular mail to the respondent's last known address. If notice is made by regular mail, proof of mailing shall be made part of the record. Notice by personal service shall be served not less than seven days before the hearing, and notice by regular mail shall be mailed not less than 10 days before the hearing. The notice shall include, in addition to the time, date, and place of hearing, the following words in bold type or underlined: "Your failure to appear at this hearing may result in the issuance of a warrant for your arrest." If the respondent fails to appear after notice or if the Court has reason to believe the respondent will not appear in response to the notice, the Court may issue a bench warrant directed to the respondent. When a warrant issues, the Court shall set bail as authorized in criminal cases. The amount of bail shall be indicated on the order of attachment.

(d) Explanation of Rights. On the first appearance of the respondent, the Court shall inform the respondent of his or her rights to (1) notice of the charge and of the time and place of the hearing, (2) an evidentiary hearing, including the right to subpoena witnesses, confront the witnesses against him or her, and respond to the charge, (3) be represented by an attorney and, if indigent, have an attorney appointed for him or her, (4) freedom from self-incrimination, (5) the presumption of innocence, (6) the right to be proven guilty only by proof of guilt beyond a reasonable doubt, and (7) trial by jury if the Court, before the hearing begins, declares that a sentence of incarceration of more than six months and/or a fine of more than $500 may be imposed as a sanction on a finding of guilty.

(e) When Referral to Another Judge Required. When a controversy between the judge and the contemnor is integrated with the alleged contumacious conduct and embroils the judge to a degree that the judge's objectivity reasonably can be questioned, the judge must refer the issues of contempt and any appropriate sanction to another judge. In this event, the judge before whom the alleged contempt transpired shall specify in writing the nature of the alleged acts of contempt, direct that a record of the proceedings surrounding the acts be prepared, and transfer the matter to the appropriate assignment judge for reassignment. The judge hearing the proceeding after the reassignment shall base

his or her findings and adjudication of the contempt charge solely on the transferred written charge and the record.

(f) Statement in Mitigation. Before imposing sanctions, the Court shall permit the contemnor an opportunity to present a statement in mitigation.

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

(h) Written Order Required. When imposing sanctions, the Court shall enter a written judgment order setting forth the factual basis of the finding and specifying the sanctions.

(i) Appeal. An appeal from a judgment of indirect criminal contempt may be taken as in the case of direct criminal contempt as specified in Rule 7.2(g).

Rule 7.4 Civil Contempt

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

(b) Civil Contempt Petition. Except as provided in these Rules, a rule to show cause for indirect civil contempt shall be issued only on a verified petition that clearly sets forth the facts on which the petition is based or on testimony of the complaining party. Any 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 a petition to the Court for issuance of a rule to show cause but is not required to give notice unless otherwise directed by the Court.

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

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

(e) Service of Rules. A rule to show cause shall be personally served on the respondent unless otherwise ordered by the Court. Unless otherwise ordered by the Court, a rule to show cause shall be served on the respondent not less than five days before the hearing. A notice of the hearing on a rule to show cause shall include, in addition to the time, date, and place of hearing, the following words in bold type or underlined: "Your failure to appear at this hearing may result in the issuance of a warrant for your arrest."

(f) Hearing. The hearing on a rule to show cause shall be heard in open court.

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

(1) Continue the hearing to a date certain and either issue an attachment with bond or give notice by mail of the continued date; or,

(2) Proceed to hearing if the complaining party appears; or,

(3) Discharge the rule to show cause if the complaining party does not appear.

(h) Written Order Required. On an adjudication of civil contempt, the complaining party or the Court shall prepare a written judgment order specifying the contumacious conduct, the sanctions imposed, and the means by which the contemnor may purge himself or herself of the contempt. A copy of the judgment shall be provided to the contemnor.

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

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

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

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

(2) The Court orders the bond deposit, or some portion thereof, be paid to the complaining party after notice and hearing on the complaining party's motion requesting turnover.

PART 8. DISSOLUTION OF MARRIAGE AND FAMILY LAW CASES

Rule 8.1 Disclosures Required in Dissolution of Marriage and Family Law Cases

(a) Financial Affidavit. In all actions in which there is a dispute involving property, temporary or other maintenance, temporary or other child support, or post-high school educational expenses, each party shall file a financial affidavit at least five days before the hearing on the issue(s) or when otherwise ordered by the Court. The financial affidavit form shall comply with the standardized, statewide form available at the Illinois Supreme Court website. If a financial affidavit has been filed before a hearing on temporary relief, an additional financial affidavit need not be filed before the hearing for permanent relief if there has been no substantial change at the time of the final hearing. The failure of

a party to file a financial affidavit when it is due may constitute good cause for the Court to continue the hearing and/or order such other sanctions as the Court deems appropriate.

(b) Statement of Proposed Property Apportionment. If property apportionment is in dispute, the parties, at least five days before the hearing or when otherwise ordered by the Court, shall, in addition to the financial affidavit, submit a statement of proposed property apportionment that includes an itemization of all property claimed as marital and non-marital, a proposed value of each item, a proposed property apportionment, and citation to any authorities relied on by the proponent to support the proposed apportionment. If marital indebtedness is in dispute, the statement also shall include a list of all debts that includes the name of the creditor, an identification as to whether the debt is marital or non-marital, the amount of the debt, and the date(s) the debt is due. The failure of a party to file a statement when it is due may constitute good cause for the Court to continue the hearing and/or order such other sanctions as the Court deems appropriate.

(c) Additional Disclosures if Required. The Court may, on written motion of a party or its own motion, determine that, because of the nature or complexity of an action, the parties shall, within 30 days and without further notice or request, disclose and exchange the following information, whether the information is within the possession, custody, or control of the party or can be ascertained or acquired by the party by reasonable inquiry and investigation:

(1) Whether paternity of any child, living or unborn, is contested, and, if so, the identity of the child and the alleged putative father of the child;

(2) The name and address of any health and medical insurance carrier covering any spouse and/or children;

(3) A statement describing any worker's compensation, personal injury, or property damage claims the disclosing party may have, whether or not filed;

(4) The name and address of all employers and a description of any self-employment of the disclosing party;

(5) Current representative wage stubs or other documents demonstrating the disclosing party's current income from all sources;

(6) Copies of all appraisals conducted within three years of any personal property or real estate in which either party claims a legal or equitable interest;

(7) A statement setting forth the details of any claim by the disclosing party that the other party has dissipated assets;

(8) A statement setting forth the details of any claim of a right to reimbursement for contribution;

(9) A list of any annuities, pensions, profit sharing plans, retirement plans, IRS accounts, 401(K) or Keogh plans, or other similar equities in which any party has or claims a legal or equitable interest, setting forth the names and addresses of the owner, plan administrator, trustee, or manager and any identifying number of the annuity, account, or plan;

(10) A list of any stocks, bonds, mutual funds, or other equities in which any party has a legal or equitable interest, whether held in the name of a party or by any other person or entity for the benefit of a party;

(11) A list of any accounts held by any bank, savings and loan, brokerage company, credit union, or other thrift institution in which accounts any party has a legal or equitable interest, whether held in the name of a party or by any other person or entity for the benefit of a party, setting forth the name and address or any institution or entity and the identification number of the account;

(12) The existence of any cash value life insurance, term insurance, or other insurance policies covering the life of any party, including the name and address of the company, the policy number, and the face and cash values of each policy;

(13) Copies of federal and state tax returns of any party, together with all supporting schedules, W-2 forms, and 1099 forms for all income included in the returns for the three calendar years preceding the date of the order;

(14) The names and addresses of any doctors, psychologists, psychiatrists, or mental health counselors who have consulted with or treated any child of the parties during the 12 months preceding the date of the order; and

(15) The names, addresses, telephone numbers, and e-mail addresses of all witnesses the disclosing party intends to call at trial, together with a description of the subject matter about which each witness might be called to testify.

Each disclosure shall be made in writing, accompanied by the affidavit of the party that the disclosure is complete and correct as of its date and that all reasonable attempts to comply with this Rule have been made. The duty to disclose required by this Rule shall be a continuing duty, and each party shall seasonably supplement and amend disclosures whenever new or different information or documents become known to the disclosing party.

(d) Impoundment of Documents. In accordance with Rule 3.3, if any party files a financial affidavit, other documents containing a social security or account number, or a medical, psychiatric, psychological, mediator's, or guardian *ad litem*'s report, the Clerk shall without further order impound the document so that only the parties and attorneys of record in the action may have access to them and the right to copy them.

Rule 8.2 Parenting Education. In all cases in which the parties have a minor child, each parent must attend an approved parenting education program and provide proof of completion before any prove-up or final order in the action. The Court may waive this requirement for good cause. A party who has previously attended an approved program need not attend again if he or she is able to provide a copy of the certificate of attendance.

Rule 8.3 Settlement Conference. In any dissolution of marriage or family law action, the Court may on motion of a party or its own motion order the parties and their attorneys, if any, and the guardian *ad litem*, if applicable, to attend a settlement conference. At the settlement conference, the participants shall conduct good faith settlement negotiations, identify all disputed issues the Court needs to resolve, prepare a stipulation as to any agreed matters, and consider any other matters that might aid, expedite, or simplify the action.

Rule 8.4 Criteria for Placement on Approved List of Attorneys.

(a) Allocation Cases Defined. As used in this Rule and Rule 8.5, "Allocation Cases" shall mean and refer to cases, including guardianship cases, that involve contested issues of child custody, allocation of parental responsibilities, relocation of a child, visitation, or parenting time.

(b) Application. Attorneys seeking appointment in Allocation Cases to represent children or serve as a guardian *ad litem* shall apply in writing to the Chief Judge, setting forth the applicant's qualifications. A list of appointed attorneys shall be maintained by the Chief Judge.

(c) Qualifications. Attorneys appointed by the Court to represent children or serve as a guardian *ad litem* in Allocation Cases must possess the ability, knowledge, and experience to fulfill the responsibility in a competent and professional manner and have the following minimum qualifications:

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

(2) Have 10 hours in the two years before the date the attorney qualifies for appointment in approved continuing legal education courses in the following areas: child development, roles of a guardian *ad litem* and child representative; ethics in Allocation Cases; relevant state and federal caselaw in Allocation Cases; family dynamics, including substance abuse, domestic violence, and mental health issues; however, in lieu of the foregoing, an attorney may initially qualify if he or she has acted as a guardian *ad litem*, child representative, or attorney for children in at least five cases in the two-year period before the initial qualification; and

(3) One *pro bono* representation in the year before the appointment.

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

(e) Contact Information. Each appointed attorney shall submit to the Chief Judge current contact information (updated as needed) with a statement or other verification of attendance at continuing education.

(f) Payment of Fees. Each appointed attorney shall be paid by the parties as ordered by the Court or as agreed between the parties. The fees shall be paid as ordered, and the Court may enforce the orders and judgments as in other proceedings, including by imposing sanctions. When possible, fees shall be paid before engagement in the form of a retainer and accounted for by the appointed attorney.

(g) *Pro Bono* Appointments. The Court may appoint an attorney from the approved list to serve on a *pro bono* basis, but no attorney shall be so appointed and serve more than once in any 12-month period.

(h) Removal. The Chief Judge may remove an attorney from the list of approved attorneys based on the attorney's failure to meet or maintain the listed qualifications or for good cause shown, including failure of the attorney to perform as provided in S. Ct. R. 907.

Rule 8.5 Mediation

(a) Purposes, Goals, and Principles of Mediation. This Rule is intended to comply with S. Ct. R. 905. This Rule recognizes that healthy parent-child relationships are more likely to emerge in Allocation Cases from a mediated agreement obtained under proper conditions than from the adversarial judicial process. Mediation with a mediator who does not decide the issues but who impartially assists the parties in reaching a fair settlement helps ensure the parties consider fully the best interests of the children and that they understand the consequences of decisions they reach concerning the issues in Allocation Cases. Mediation assists the parties in examining the separate and individual needs of the children and considering those needs apart from their own desires. Mediation is based on the full disclosure of all facts related to the dispute and on principles of problem-solving that focus on the needs and interests of the parties, fairness, privacy, self-determination, safety, and the best interest of the children involved. Mediation is not a substitute for independent legal advice and is not appropriate when one of the parties is unable to participate competently because of family violence or intimidation, substance abuse, mental illness, or any other condition that adversely affects the ability of the party to represent himself or herself or when the parties are subject to a pending order of protection.

(b) Duties of the Mediator

(1) Information at Initial Session. At the initial session, the mediator shall:

(i) Determine the issues to be mediated;

(ii) Explain that the mediator will not provide legal advice, therapy, or counseling;

(iii) 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;

(iv) Advise each party that he or she has the right to obtain an attorney to assist and advise the party throughout the mediation;

(v) Inform the parties that mediation can be suspended or terminated at the request of either party after three hours of mediation and the mediator may suspend or terminate the mediation if either party is acting in bad faith or appears not to understand the negotiation, the prospects of achieving a responsible agreement appear unlikely, or if the needs and interests of the minor children are not being considered. In the event of a suspension or termination, the mediator may suggest a referral for outside professional consultation;

(vi) Explain that the mediation process is confidential as outlined in this Rule;

(vii) Inform the parties that the mediation process requires voluntary full disclosure of all relevant facts;

(viii) Explain the fees for mediation and reach an agreement with the parties for payment as previously ordered by the Court;

(ix) Reach an understanding with the parties as to whether the mediator may communicate with either party or his or her attorney or with other persons to discuss the issues in mediation in the absence of the parties; and

(x) Advise each party that advocates or support persons may not be present during the mediation session but that these individuals may be available for consultation for a party while mediation is in progress.

(2) Ethical Conduct. Each mediator must maintain high standards of ethical practice. A mediator shall make accurate statements about the mediation process, its costs and benefits, and about the mediator's qualifications. A mediator shall not mediate

any dispute that is being mediated by another mediator without first attempting to consult with the person or persons conducting the mediation. A mediator also shall respect the complementary relationship between the fields of mediation, law, mental health, and other social services and shall promote cooperation with other professionals.

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

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

(5) Report to the Court. The mediator shall report the outcome to the Court. The mediator shall not disclose reasons for the absence of an agreement.

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

(7) Statistical Information. Mediators shall provide statistical information to the Court, as required by the Illinois Supreme Court, to assist in measuring and monitoring the performance of the mediation program.

(c) Independent Legal Advice

(1) Advising Parties. At the beginning of the mediation, the mediator shall encourage the parties to obtain independent legal advice. Any documents used in the mediation shall be made available to a party's attorney.

(2) Self-Represented Litigant. If a party is an SRL, the Court must be so advised when the mediated agreement is presented for approval.

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

(d) Qualifications for Mediators

(1) Requirements. Mediators shall meet all the following requirements:

(i) Formal Education. A degree in law or a graduate degree in a field that includes the study of psychiatry, psychology, social work, human development, family counseling, or other behavioral science substantially related to marriage and family interpersonal relationships; and

(ii) Training. 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 dissolutions; or

(d) Mediation process and techniques; and

(iii) Insurance. Professional liability insurance that covers the mediation process.

(2) Continuing Education. Approved mediators are required to complete 10 hours of Circuit-approved continuing education every two years and provide evidence of completion to the Chief Judge.

(e) Confidentiality

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

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

(3) Mediator *Ex Parte* Communication. The mediator shall not communicate with either party alone or with any other person to discuss mediation issues without the consent of the parties as set forth in this Rule.

(f) List of Mediators. The Chief Judge shall establish a list of approved mediators. The Chief Judge, in his or her discretion, may require any biographical or other relevant information from the applicant in order to determine whether the applicant should be included on the list. For good cause shown, the Chief Judge may reject the application of any person or remove a mediator from the list. Inclusion on the list by the Chief Judge shall not be considered a warranty that the mediator can successfully mediate any specific dispute. Inclusion of a mediator on the list indicates the explicit agreement by that mediator to abide by the standards of practice set forth in this Rule.

(g) Referral to Mediation

(1) Application. The Court may order mediation on motion of either party or on its own motion.

(2) Initial Sessions. If the parties are referred to mediation, they shall be required to attend a minimum of three hours of mediation within 30 days. Further participation shall be voluntary and consistent with the purposes, standards, and principles of mediation. Mediation may be terminated or suspended before the end of three hours if all mediated issues are resolved or pursuant to these Rules.

(3) Status Date. When the Court orders mediation, the Court shall schedule a status hearing within a reasonable time to encourage the parties' prompt attention to mediation and to prevent the use of mediation as a delaying tactic. The Court shall also apportion payment of mediation costs at that time, subject to review at the conclusion of all pending issues in the case.

(4) Temporary Orders. The Court may issue temporary orders before or during mediation.

(5) Fee Reductions. Mediators shall serve on a *pro bono* or reduced fee basis on a rotating schedule for those cases in which the Court determines that mediation would otherwise be unavailable for financial reasons.

(h) Referral Procedure

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

(2) Disputed Selection of Mediator. If the parties cannot agree on a mediator, the Court shall select the mediator.

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

(4) Pre-Session Letter to Mediator. Before the first mediation session, each attorney or SRL may submit a letter to the mediator providing information with regard to the case, including temporary or permanent orders that have been entered and a statement of the unresolved issues. The attorney or SRL shall provide a copy of any letter to the opposing counsel or SRL. The letter to the mediator shall not be confidential and may be disclosed by the mediator to both participants. The attorneys, SRLs, and mediator shall not have further communication with regard to the mediation process except as allowed by these Rules.

(i) Exclusion from or Termination of Mediation

(1) Judicial Exclusion. Parties shall not be referred to mediation if the Court has reason to believe that:

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

(ii) one or both parties are chemically dependent to the extent the dependence would interfere with mediation, unless the dependence is addressed and resolved; or

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

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

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

(j) Termination of Mediation on Motion of a Party

(1) Judicial Determination. Any party may move the Court at any time to terminate an ordered mediation based on factors set forth in these Rules, notwithstanding a contrary determination by a mediator.

(2) Filing a Motion. Any motion to terminate mediation must be supported by an affidavit setting forth specific facts as to why continuing the mediation would be inappropriate.

(k) Entry of Judgement or Order

(1) Presentation of Agreement. Each mediated agreement shall be presented to the Court within 30 days following the conclusion of mediation.

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

PART 9. PROBATE PROCEEDINGS

Rule 9.1 Probate Act. As used in Part 9 of these Rules, "Act" shall mean and refer to the Probate Act of 1975, 755 ILCS 5/1-1 *et seq*.

Rule 9.2 Admission of Will to Probate When Holographic or in Language Other Than English

(a) Holographic Will. When seeking to probate a handwritten will and/or codicil, the petitioner shall file a typewritten copy of the will and/or codicil with the petition and an affidavit of the petitioner or other person typing the will and/or codicil that the typewritten copy is true and correct to the best of his or her knowledge.

(b) Will in Language Other Than English. When seeking to probate a will and/or codicil that is written in a language other than English, the petitioner shall file a typewritten copy of the will and/or codicil in English with the petition and a certification by a qualified translator that the translation is true and correct.

Rule 9.3 Deposition of Witness to Will or Codicil. A person seeking admission of a will or codicil to probate and desiring to take the deposition of a witness to a will or codicil as provided in section 6-5 of the Act shall file a petition for issuance of a commission stating the name and address of the witness, the reason the witness is unable to attend court, and the name and address of the officer to whom the commission is directed. A copy of the proposed written interrogatories shall be attached to the petition. Unless notice is waived, notice of the petition shall be given not less than 14 days before the hearing on the petition for admission of the will or codicil to probate to each heir or legatee whose name and address is stated in the petition. Before the hearing, any interested person may propose written cross-interrogatories.

Rule 9.4 Supplemental Proceedings

(a) Scope of Rule. Supplemental proceedings within the meaning of this Rule shall include, but are not limited to, will contests, contracts to make wills, constructions of wills, and appointment of testamentary trustees.

(b) Invoking Jurisdiction. Supplemental proceedings shall be invoked by filing a petition in the probate proceeding and serving process as in other civil cases, except that jurisdiction over claims for personal injury, wrongful death, or other torts shall be invoked as provided by Rule 9.14. The petition shall designate the type of proceeding and shall employ the same case number as the estate to which it relates with suffix "A," "B," "C," *etc*. The required fee shall be paid when the petition is filed.

Rule 9.5 Safety Deposit Box. Generally, court approval is not necessary for a representative or guardian to access the safety deposit box of an estate or ward. On the motion of the surety on a bond of a representative or guardian or other interested party or on the Court's own motion, the Court may require the Court's written approval to access a safety deposit box containing assets of the estate or ward and/or require the representative or guardian to initially open the safety deposit box in the presence of the surety or a representative of the depository and prepare an itemized inventory of the box's contents. All representatives and guardians shall timely file with the Clerk a sworn inventory of a safety deposit box's contents.

Rule 9.6. Investment by Guardian

(a) Requirements of Petition. A petition of a guardian to invest the ward's property shall identify the category of the proposed investment pursuant to section 21-2 of the Act and certify that the proposed investment complies with the limitations applicable in that category. If the proposed investment is to be purchased directly or indirectly from

the guardian or from any firm of which he or she is an officer or director, the petition shall so state.

(b) Retaining Investments. If a guardian desires to retain an investment (including a life, endowment, or annuity policy) or any increase in that investment that is not authorized by section 21-2 of the Act, the guardian shall petition the Court for approval to retain the investment or increase.

(c) Material Changes. Before making any material change to the terms of any life, endowment, or annuity policy purchased pursuant to section 21-2 of the Act, the guardian shall petition the Court for approval.

Rule 9.7 Expenditures from Ward's Estate. A petition of a guardian or conservator to apply any part of the ward's estate for the support, comfort, or education of the ward or other person entitled to support from the ward's estate shall state the present value of the estate, the annual income available to the ward, and the purpose of the proposed expenditure. The petition shall further list all payments being received by the ward or the petitioner either individually or as guardian or conservator on behalf of the ward, including Social Security payments, disability benefit payments from the Veteran's Administration or other governmental agency or department, relief or other assistance from a charitable or relief organization, payments from a trust, and payments from one having an obligation to support the ward.

Rule 9.8 Required Inventory Descriptions. In all cases under supervised administration, the following shall apply:

(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 the state is necessary to identify the stock. A description of a bond shall include the total face value, name of the obligor, kind of bond, rate of interest, date of maturity, interest dates, coupons attached or date to which interest is paid, and endorsements. A description of a note owed to the decedent or ward shall include the face amount and unpaid balance, date of the note, date of maturity, name of the matter, interest dates, rate of interest, date to which interest is paid, endorsements, and, if secured, a description of the security.

(c) Partnership Interests. A description of a partnership interest shall include the partnership name and address and the approximate value and interest of the estate, if known.

(d) Causes of Action. A description of a cause of action shall include the name of the defendant(s) or potential defendant(s), its nature, and, if suit has been instituted, the title, case number, and court in which it is pending.

(e) Filing of Inventory Required. Unless excused by the Court, each inventory and amended or supplemental inventory shall be filed with the Clerk. The first inventory shall be filed within 60 days after the Clerk issues letters of office.

(f) Amended or Supplemental Inventory. An amended or supplemental inventory shall be filed with the Clerk if real or personal property has been erroneously described in a previous inventory, assets have been improperly included or excluded from a previous inventory, or additional assets have been received by the representative or have come to his or her knowledge. A supplemental inventory or an amendment to an inventory need not include assets correctly described in a previous inventory.

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

Rule 9.9 Procedure for Disposition of Claims

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

(b) Filing Proof with Clerk. The claimant shall file with the Clerk proof of mailing or delivery of the claim, or a waiver thereof, within 10 days after filing the claim.

(c) Setting Claim for Hearing. The Court, or if the Court so designates, the Clerk, may set the claim for hearing. If mailing or delivery of the claim is waived and the claim is consented to in writing, the Clerk shall notify the Court and enter judgment for the amount claimed.

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

(e) Hearing. If an objection to a claim has been filed, the Court on the return date set under Rule 9.9(c) will schedule the claim for hearing and order the legal representative, the attorney for the estate, or the Clerk to give the claimant at least 10 days' notice of the hearing by regular mail. If a counterclaim has been filed, it shall be heard on the date set for hearing the contested claim.

Rule 9.10 Inaction in Probate Estates

(a) Inactive Status of Probate Matters. Whenever the Court determines that a decedent's estate or guardianship has remained inactive for a considerable time, the Court

may direct the Clerk to place the case on a docket call, and the Clerk shall give notice, as directed by the Court, to the last known attorney of record or personal representative or both of the time and place of the docket call. If the Court determines at the docket call that the case cannot be conveniently terminated, the Court may enter an order directing the Clerk to transfer the case to an inactive docket, and the case file shall be filed with the closed probate files. A case may be removed from the inactive docket to the active docket on motion and order.

(b) Removal of Personal Representative; Dismissal. If there has been no action of record without good cause for a period of two years in any probate case, the Court may remove the personal representative pursuant to section 23-2 of the Act or dismiss and strike the case for want of action.

(c) Notice of Dismissal. On dismissal of the case, 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, for good cause shown, may be reinstated within 30 days after the date of the notice.

(d) Procedure on Dismissal. On dismissal of a case, claims shall be barred in accordance with section 18-12 of the Act. If no assets remain in the estate, costs may be waived, and other fees and expenses unpaid may be barred pursuant to section 15 of the Act. If assets remain, they should be used to pay the costs of administration, and the balance shall be deposited with the treasurer of the county in which the estate was opened.

Rule 9.11 Account of Disbursements

(a) When Summary Accounting Accepted. The Court may accept a summary accounting of an unincorporated business, real estate, or beneficial interest in real estate in the representative's possession.

(b) 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 the letters of office and, unless otherwise ordered, at least annually thereafter. If the guardian is a bank or trust company, it shall not be required to file an account (after filing its first account) more often than once every three years, unless specifically required by the Court. All accountings shall include a listing of all disbursements from the estate.

(c) Executor's and Administrator's Accounting. Each executor and administrator shall account for his or her administration as required by section 24-1 of the Act.

(d) Notice of Accounting. Unless waived by the person(s) entitled to notice, 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 Act 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 shall be sent to the attorney not less than 10 days before the hearing.

(2) Notice to all other persons entitled to notice shall be given as follows: (a) notice, accompanied by a copy of the account, shall be given in person or sent by regular mail to the last known address not less than 10 days before the hearing, except if the address of the person is outside the United States or Canada, in which case the notice shall be sent not less than 14 days before the hearing; (b) if the name or present post office address of the person is not known to the representative or his or her attorney, notice shall be given by one publication in a newspaper of general circulation in the county of the hearing not less than 14 days before the hearing, unless waived by the Court; (c) 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, in the absence of fraud, accident, or mistake, the account as approved is binding on all persons to whom this notice is given."

(e) Estate Tax Receipts. The Court shall not discharge a representative unless the representative has filed with the Clerk appropriate documentation that all estate taxes have been paid or that the estate is not subject to estate taxes.

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

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

(h) Death of Distributee. If the distributee of a decedent's estate dies after the decedent's death but before the receipt of his or her entire distributive estate, the representative of the estate shall present to the Court evidence of the distributee's death and any other documents as may be required for entry of an order of distribution.

Rule 9.12 Periodic Accounts. In all cases under supervised administration:

(a) When Required from Executors and Administrators. Every executor and administrator shall present the account required by section 24-1 of the Act within 60 days after the date that is six months after the Clerk issued letters of office, annually after the date of the first account, and at other times as the Court requires.

(b) When Required from Guardians. Every guardian shall present the account required by section 24-11 of the Act within 30 days after the date that is one year after the Clerk issued letters of office, annually after the date of the first account, within 30 days after the termination of the guardian's office, and at other times as the Court requires.

(c) Requests for Extension of Time. If a representative seeks an extension of time to a definite date or an order allowing accountings less frequently than required by these Rules, the representative shall file a verified petition specifying the reasons for the request. If the Court grants a petition for extension, it shall set a definite date for the representative to file the next accounting.

(d) Notice and Citation if Periodic Accounting not Filed. In any case in which an account has not been filed as required by this Rule or by a date set by the Court:

(1) The Clerk shall mail to the representative and any attorney of record a notice that the account is due;

(2) If the account is not presented within 60 days after the Clerk's notice, the Clerk shall issue a citation directing the representative to account as required by a date certain or appear on that date to show cause why he or she should not do so;

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

(4) When issuing a citation required by this Rule, the Clerk shall mail notices of the pendency of the citation proceeding and return date to all persons interested in the administration of the estate, including unpaid creditors.

Rule 9.13 Jury Demand. A petitioner or claimant desirous of a jury trial under the Act must file a jury demand with the Clerk and pay the required fee when the petition or claim is filed. A representative or other party in interest opposing the petition or claim that desires a jury trial must file a jury demand and pay the fee when filing the answer or other responsive pleading. If the petitioner or claimant files a jury demand and later waives a jury trial, the opposing party will be granted a jury trial on demand made within 30 days of being advised of the waiver and payment of the fee. Otherwise, the party waives a jury trial. The jury fee, once paid, shall not be reimbursed on a subsequent waiver of jury.

Rule 9.14 Settlement of Personal Injury or Death Action in Decedent's Estate

(a) Petition. To settle a cause of action for personal injuries or death or any other action in which a decedent's estate will receive any or all the settlement proceeds, the executor or administrator shall execute and file a verified petition setting forth:

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

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

(3) The name and address of the liability insurance carrier, if any, affording coverage to the person or entity against whom the cause of action has accrued, and the monetary limits of the applicable liability insurance policy;

(4) A brief description of the injuries sustained by the decedent and a list of hospital and medical expenses incurred by the decedent as a result of the occurrence;

(5) A statement by the petitioner or the attorney for the petitioner as to the fairness of the proposed settlement and the basis for the petitioner's or attorney's recommendation that the proposed settlement be approved; and

(6) The amount of attorney's fees and costs, if any, that would be paid from the proceeds of the proposed settlement and the bases for these amounts.

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

(c) Judge Assigned if No Injury or Death Action is Pending. When the proposed settlement does not relate to a pending case for personal injury or wrongful death, the verified petition shall be heard by the judge assigned to the estate.

(d) Notice. Before a party may present a petition to the Court, the party must send a notice of hearing, a copy of the petition, and any exhibits to the petition to those persons entitled to notice under the Act at least 10 days before the date of the hearing. A party entitled to notice may waive notice by written consent. The Court may excuse notice on a showing of good cause. The Court shall appoint a guardian *ad litem* for any minor or disabled adult next of kin, unless an appointment is not deemed necessary to protect that person or his or her estate. If the decedent left no surviving spouse or next of kin entitled to recover, notice shall be given by the representative or his or her attorney to the persons named in paragraphs (a), (b), and (c) of section 2 of the Act, including persons furnishing hospital, medical, or funeral services to the decedent, unless payment for the services is shown.

(e) Appointment of Guardian *ad Litem*. In any case, the Court may appoint an attorney as guardian *ad litem* to investigate the merits of the proposed settlement and to report his or her findings and recommendations. The Court shall fix an appropriate fee for the guardian *ad litem* to be taxed as costs in the estate.

(f) Expenses and Attorney's Fees. When approving a settlement, the Court shall determine the expenses, including attorney's fees, to be deducted from the settlement and shall determine the net amount distributable to estate. The Court shall not allow

attorney's fees in excess of 33 1/3% of the gross settlement amount unless the attorney representing the estate in a sworn affidavit recites the work and hours involved or other special circumstances that justify a higher attorney's fee to compensate the attorney fairly for the work performed; provided, however, that if an appeal is perfected and the case disposed of by the reviewing court, the attorney's fee shall not in any event exceed 50% of the recovery.

Rule 9.15 Withdrawal of Funds Deposited with Treasurer. Before a petition is presented for an order directing the country treasurer to pay money deposited by order of the Court, notice shall be given to the state's attorney, the former representative and his or her attorney, and all other persons entitled to notice under any order entered in the proceeding. If the state's attorney or the former representative fails or refuses to answer the petition, the Court may appoint a special administrator to defend.

Rule 9.16 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 Act or pursuant to this Rule shall be presented in person by the parent, spouse, person standing *in loco parentis*, or person having custody of the ward, unless the Court waives personal presentation. The Court may require the petitioner to furnish evidence that the sums to be withdrawn are necessary for the ward's comfort, education, or other benefit to the ward or his or her dependents. Unless excused from doing so, within 30 days after the Court authorizes the withdrawal, the petitioner shall file receipts for all sums expended. All unexpended funds shall be redeposited in accordance with section 22-21 of the Act.

(b) When Minor Beneficiary of Decedent's Estate. If a minor is entitled to a distributive share of a decedent's estate and the share consists entirely of money and no guardian has been appointed for his or her estate, the Court on a showing under oath that it is in the minor's best interest may direct that the distributive share be deposited and paid in accordance with section 22-21 of the Act. 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 a ward's estate is or becomes less than the small estate amount specified in section 25-2 of the Act and no part of the estate consists of real estate or a pending cause of action for personal injuries, a petition may be filed requesting the distribution of the estate without further administration. In the case of a disabled adult, application shall be made by his or her guardian or spouse, or if he or she has no spouse, by a relative having responsibility for his or her support. In the case of a minor, application shall be made by the guardian, a parent, or a person standing *in loco parentis*. If it appears there is no unpaid creditor and that it is in the best interest of the estate and ward, the Court may order the guardian to file a final account and make distribution as the Court directs.

Rule 9.17 Assignment of Interest. Each assignment of interest or power of attorney with respect to a distributee's interest in a decedent's estate shall be presented to the Court

for filing and approval. The petition for approval shall be verified and, in the case of an assignment, state the names and addresses of the assignor and assignee, the nature and value of the interest involved, the consideration paid to or to be paid to the assignor, and the fees and expenses charged or to be charged, and, 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 the consideration paid or to be paid by the assignor is inadequate or the fees or expenses charged or to be charged are excessive, or for other good cause shown, it may refuse to permit the assignment of interest or power of attorney to be filed, or may approve filing on terms it deems just and equitable.

Rule 9.18 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, attorney-in-fact, or assignee of a distributee if the foreign representative, attorney-in-fact, or assignee is a *bona fide* resident of Illinois, in accordance with this Rule.

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

(b) Petition. The foreign representative, attorney-in-fact, or assignee shall present a petition for leave to receive the share in a form acceptable to the Court.

(c) Bond. Unless waived by the Court, the foreign representative, attorney-in-fact, or assignee shall furnish a bond with surety in an amount set and in a form acceptable to the Court and conditioned on the payment and delivery of the distributive share to the distributee.

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

(e) Report of Compliance. Within 90 days after entry of the order or within further time as the Court allows, the foreign representative, attorney-in-fact, or assignee shall present to the Court a report of compliance, with the receipt of the distributee evidencing payment and delivery of the distributive share.

(f) Deposit with County Treasurer. If the foreign representative, attorney-in-fact, or assignee fails, refuses, or is unable to pay and deliver the distributive share to the distributee within the 90-day period or within further time as the Court allows, the distributive share shall be deposited with the county treasurer subject to further order. On

presentation of the receipt of the county treasurer evidencing the deposit, the foreign representative, attorney-in-fact, or assignee will be discharged from further duty.

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

Rule 9.19 Fees. In all cases under supervised administration:

(a) Allowance of Fees. Unless waived by or approved by all parties, no fees in any estate proceeding shall be allowed without approval by the Court.

(b) Petition. A petition for fees shall be accompanied by a statement briefly setting forth the gross value of the estate, a summary of the work completed and to be completed in the future, including time expended, the amount of fee requested, and the expenses advanced for which reimbursement is requested.

(c) Fees in Estates of Disabled Persons and Minors. Fees shall be allowed in estates of disabled persons and minors only when current or final reports are presented for approval, unless all interested persons are competent and approve allowance of fees at another time.

(d) Notice. Written petitions, reports, or accounts requesting the allowance of fees shall be served on all interested heirs, legatees, devisees, incompetents, minors, and creditors whose claims remain unsatisfied, along with a notice of the time, date, and place of hearing on the request. Notice shall be in accordance with Rule 5.1(b).

(e) Appearances. Entries of appearances will be accepted in lieu of any required notice if the appearance indicates on its face that the person executing the appearance has read the petition, account, or report and approves the fees requested.

PART 10. DISPOSITION OF CASES OF MINORS OR DISABLED PERSONS

Rule 10.1 Settlement of Minor's or Ward's Personal Injury, Wrongful Death, or Survival Statute Claim

(a) Authorized Representatives. Only a personal representative authorized by law may seek Court approval of a settlement of a claim for personal injury and/or property damages on behalf of a minor or ward. A personal representative authorized by law includes a guardian appointed under the Probate Act, a next friend as recognized under the Code of Civil Procedure or the Probate Act, and a guardian *ad litem* appointed by the Court.

(b) Petition. To settle a cause of action for personal injuries and/or property damage sustained by a minor or ward or any other action in which a minor or ward will receive any or all the settlement proceeds, the legal representative of the minor, ward, or decedent's estate shall execute and file a verified petition setting forth:

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

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

(3) The name and address of the liability insurance carrier, if any, affording coverage to the person or entity against whom the cause of action has accrued, and the monetary limits of the applicable liability insurance policy;

(4) A brief description of the injuries sustained by the minor or ward and a list of hospital and medical expenses incurred on behalf of the minor or ward as a result of the occurrence. The petition need not be supported by a current medical certificate or letter executed by the attending physician unless the Court requests this support;

(5) A statement by the petitioner or the attorney for the petitioner as to the fairness of the proposed settlement and the basis for the petitioner's or attorney's recommendation that the proposed settlement be approved; and

(6) The amount of attorney's fees and costs, if any, that would be paid from the proceeds of the proposed settlement and the bases for these amounts.

(c) Judge Assigned if Injury Action is Pending. When the proposed settlement relates to a pending case, the verified petition shall be heard by the judge assigned to the case. The judge assigned to the case may also determine that, based on the complexity and expected duration of the matter, a probate guardianship estate should be opened to provide for continued court supervision and periodic accounting.

(d) Judge Assigned if No Injury Action is Pending. When the proposed settlement does not relate to a pending case, the verified petition shall be heard by the judge regularly assigned to hear probate matters.

(e) Notice. Before a party may present a petition to the Court, the party must send a notice of hearing, a copy of the petition, and any exhibits to the petition to the minor's or ward's spouse, parents, adult siblings, appointed guardian, or, if none, person with or facility in which the minor or ward resides. A party entitled to notice may waive notice by written consent. The Court may excuse notice on a showing of good cause.

(f) Appointment of Guardian *ad Litem*. In any case, the Court may appoint an attorney as guardian *ad litem* to investigate the merits of the proposed settlement and to report his or her findings and recommendations. The Court shall fix an appropriate fee for the guardian *ad litem* to be taxed as costs in the case.

(g) Expenses and Attorney's Fees. When approving a settlement, the Court shall determine the expenses, including attorney's fees, to be deducted from the settlement and shall determine the net amount distributable to the minor or ward. The Court shall not allow attorney's fees in excess of 33 1/3% of the gross settlement amount unless the attorney representing the minor or ward in a sworn affidavit recites the work and hours involved or other special circumstances that justify a higher attorney's fee to compensate the attorney fairly for the work performed; provided, however, that if an appeal is perfected and the case disposed of by the reviewing court, the attorney's fee shall not in any event exceed 50% of the recovery.

(h) Evidence of Receipt. Any order entered approving a settlement shall provide for the distribution of the settlement funds and the filing of vouchers to evidence receipt of any portion of the funds within a time prescribed by the Court.

(i) Use of Bank Accounts. When settlement funds are to be received by a parent or legal representative on behalf of a minor child or ward, the parent or legal representative must deposit the funds in a federally insured account in a financial institution approved by the Court for the benefit of the minor or ward and shall not withdraw any of the funds without approval by the Court. The Court shall continue the case to a specific date for the purpose of receiving a voucher from the financial institution. The voucher must acknowledge receipt of the funds and a copy of the Court's order approving the settlement and shall include the express language that "No withdrawals shall be made from this account unless authorized by order of Court." If the account is for the benefit of a minor, the voucher may allow withdrawals without order of court after the date on which the minor reaches the age of majority.

(j) Investment of Settlement Funds. If determined by the Court to be in best interest of the minor or ward, a parent or legal representative receiving settlement funds may, in lieu of depositing the funds as required by Rule 10.1(i), invest the funds for the benefit of the minor or ward in accord with applicable provisions of the Probate Act. Invested funds shall not be withdrawn or used without approval of the Court.

(k) Appointment of Guardian of the Estate. An order entered approving a settlement shall provide for the appointment of a guardian for the minor's or ward's estate and shall require the guardian to file a bond pending proper deposit of the funds in the approved financial institution. If the Court waives the requirement of a surety, the attorney representing the estate of the minor or ward shall have personal responsibility for depositing the funds in the approved financial institution.

(l) Dismissal of Action. A stipulation dismissing any pending action shall be accompanied by the voucher from the financial institution.

(m) Annuities. When an approved settlement agreement involves a structured settlement, the company providing the annuity must be one that holds a current rating of "A" or better by Best's Insurance Guide or other comparable rating service. When annuity

payments or income are payable before the beneficiary reaches the age of majority, an order approving the settlement shall provide that the payments be made only to the estate of the minor or ward, that they not be expended, transferred, or withdrawn from the estate without leave of the Court, and that proof of payment of any allowed distributions be filed with the Court.

(n) Settlements Involving Minors or Wards 14 Years or Older

(1) If Amount is $750 or Less. If the amount distributable to a minor or ward 14 years of age or older is $750 or less, the Court in its discretion may order the amount distributed directly to the parent or guardian with whom the minor or ward permanently resides for the benefit of the minor or ward or may order deposit into a financial institution approved by the Court.

(2) If Amount is Between $750 and $10,000. If the amount distributable to a minor or ward 14 years of age or older exceeds $750 and is $10,000 or less, the Court in its discretion may order the amount distributed on behalf of the minor or ward to be deposited into a financial institution approved by the Court or may order that proceedings be instituted pursuant to the Probate Act.

(3) If Amount Exceeds $10,000. If the amount distributable to a minor or ward exceeds $10,000, or the minor or ward is younger than 14 years of age, or the distribution to the minor or ward is to be made pursuant to a structured settlement, a proceeding shall be initiated pursuant to the Probate Act. This provision may be waived by the Court for good cause.

(o) Administration under Probate Act. Any approved settlement that is required to be administered pursuant to the Probate Act shall be paid to the guardian of the minor or ward, and the order approving the distribution shall be effective only after the entry of an order by the judge assigned to probate matters approving the bond or other security required to administer the settlement and distribution.

(p) Petitions to Withdraw Funds. A petition to withdraw funds held for the benefit of a minor or ward shall be in writing and shall state the amount in the account at the time of presenting the petition, the annual income available to the minor or ward, the amount and purpose of the withdrawal, and the amount of the last authorization for withdrawal from the account for the same purpose.

Rule 10.2 Distribution of Funds to a Minor Pursuant to Judgment. The proceeds of any judgment from which a minor or ward is to receive funds shall be distributed in a manner in accord with Rule 10.1.

APPROVED this 13th day of January, 2022

Jacquelyn D. Ackert, Circuit Judge	Michael P. Bald, Circuit Judge
	James M. Hauser, Circuit Judge
J. Jerry Kane, Circuit Judge	Douglas E. Lee, Circuit Judge
John B. Roe, IV, Circuit Judge	Kevin J. Ward, Circuit Judge