Circuit Court of the 22nd Judicial Circuit

McHenry County, Illinois

Local Court Rules

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1.01 RULES OF COURT

(a) The Twenty Second Judicial Circuit Court McHenry County, Illinois, adopts the following Rules for the conduct, governance and management of business, operations, proceedings, and other functions and services of the Court.

(b) The Rules shall be applied, construed and enforced so as to avoid inconsistency with other rules of court and statutes governing proceedings, functions and services of this Court. In their application and administration, they shall be construed and employed so as to provide fairness and simplicity in procedure to avoid delay; and to secure just and expeditious determination of all actions and proceedings.

(c) These rules are promulgated pursuant to Section 5/1-104(b) of the Code of Civil Procedure, providing that the Circuit Court may make rules regulating their dockets, calendars and business, and Supreme Court Rule 21(a), providing that a majority of the Circuit Judges may adopt rules governing civil and criminal cases consistent with statutes and Supreme Court Rules.

(d) These rules shall become effective on the _____ day of_____, 2007; and rules in effect prior thereto will no longer be in effect.

(e) Any amendment of these rules shall be passed by a majority vote of all Circuit Judges of the Twenty Second Judicial circuit.

(f) All rules of this court and amendments thereto, shall be filed with the Director of the Administrative Office of the Illinois Courts, Springfield, Illinois, within ten (10) days after adoption thereof pursuant to Supreme Court Rule 21(d). Said rules and amendments shall be filed with the Clerk of Court in McHenry County

(g) Any amendment to the Circuit Court Rules shall contain Part and Section numbers for appropriate placement within the body of the rules. The Local Rules and Procedures Committee shall specify the placement of any amendment at the time of the amendment's adoption. In the event the Committee does not specify the placement of the amendment, the Chair of the Local Rules and Procedures Committee of the Twenty Second Judicial Circuit is designated to assign the official Part and Section number to all amendments.

(h) In the construction of these rules, the law governing the construction of statutes (5 ILCS 70/1, et seq.) shall apply. In the event of any conflict between the content of a rule and that of an administrative order, the rule shall prevail.

(i) Each rule shall apply to any civil or criminal proceeding, unless contained in a part or section which limits its application.

(j) Any reference in these rules to "he", "she", "his" or "her" is intended to be gender neutral and shall be construed to apply to each gender.

1.02 ELECTION OR SELECTION OF CHIEF JUDGE

(a) **Election of Chief Judge:** A majority of the Circuit Judges of this Circuit shall elect, by secret ballot, a Circuit Judge to serve as Chief Judge. The election shall be held in June of each election year, on a date established by the current Chief Judge with at least fifteen (15) days written notice. Each term shall commence on the first day of December, starting with December 1, 2021.

(b) **Selection of Chief Judge Upon Non-Majority Vote:** In the event that no one candidate for Chief Judge receives a majority of votes after three (3) consecutive ballots as specified above, the Chief Judge shall be selected by application of the following provisions to the results of the third ballot:

(1) The candidate with the sole plurality of votes shall be selected for a full term.

(2) In the event that no candidate has a sole plurality of votes, and that there is a tie vote among the leading candidates who have received less than a majority, the Chief Judge shall be selected by application of these provisions to the tied results of the third ballot:

(i) If a current Chief Judge is not among the tied candidates, the tie will be determined in favor of the candidate who has served longest as a Circuit Judge. If seniority as a Circuit Judge is not dispositive, then the tie vote will be determined in favor of the candidate who has served longest as a judge. A candidate selected in this manner shall serve a full term.

(ii) If a current Chief judge is seeking a second term and is one of the tied candidates, the tie will be determined in favor of the current Chief Judge. A Chief Judge selected in this manner will serve a term of one year, and he or she shall be precluded from becoming Chief Judge in the next subsequent election.

(iii) If the current Chief Judge is seeking a third or more term and is one of the tied candidates, the tie will be determined in favor of a candidate who is not the current Chief Judge. If this determination is not dispositive, then the tied vote will be determined in favor of the candidate who has served longest as a Circuit Judge and who is not the current Chief Judge. If Circuit seniority is not dispositive of the tied vote, then the tied vote will be determined in favor of the candidate who has served longest as a Judge. A candidate selected in this manner shall serve a full term.

(c) **Length of Term.** Other than as described in paragraph (b}(2}(ii) above, a Circuit Judge elected to or selected for the office of Chief Judge shall serve a term of two years.

(d) **Acting Chief Judge:** The Chief Judge shall appoint another Circuit Judge to become Acting

Chief Judge in the Chief Judge's unavailability or absence during the term. The Acting Chief Judge shall have the same powers and duties as the Chief Judge. In the event the Acting Chief Judge is also unavailable or absent, the most senior Circuit Judge on the premises shall act as Chief Judge.

(e) **Vacancy:** Whenever a vacancy occurs, or is proposed, in the office of the Chief Judge, any two Circuit Judges may call a meeting of the Circuit Judges to elect or select a Circuit Judge to **fill** such vacancy for the remainder of the term, in the same manner as above, excepting the month for the election.

1.03 AUTHORITY OF THE CHIEF JUDGE

(a) The Chief Judge may enter any general orders in the exercise of the Chief Judge's general administrative authority, including but not limited to orders providing for the assignment of judges, general or specialized divisions, and times and places of holding court, as provided by applicable statutes (e.g., 735 ILCS 5/1-104), Supreme Court Rules (e.g., Illinois Supreme Court Rule 21), or Local Rules. The Chief Judge may appoint personnel to assist in the performance of the Chief Judge's duties.

(b) The Chief Judge may, from time to time, as the Chief Judge deems appropriate, issue administrative orders in accordance with Supreme Court Rule 21(b).

(c) Copies of all administrative orders issued by the Chief Judge shall be filed with the Circuit Clerk, who shall maintain them as permanent court records. All such administrative orders shall be available for inspection as public records.

1.04 JUDICIAL ASSIGNMENTS

The Chief Judge shall assign Circuit Judges and Associate Judges to the various counties within the circuit and, as to such specific duties and responsibilities as he deems appropriate.

1.05 JUDGES' MEETINGS

(a) **Circuit Judges Meetings:** The Circuit Judges shall meet bi-monthly to consider policy, personnel, finance, Local Rules of Practice, supplemental orders, assignments, uniform practices and any other matter relating to the policy for and overall administration of the Circuit Court of the 22nd Judicial Circuit. The Circuit Judge meetings shall be chaired by the Chief Judge, with attendance by the Trial Court Administrator for the 22nd Judicial Circuit. Any Chairperson of a Circuit Committee may provide a report of their committee's activities. Any Circuit Judge may request an item be placed on the agenda for consideration.

(b) **General Meetings:** All Circuit and Associate Judges, together with non-judicial staff and invited guests, shall hold a General Meeting during those months without a Circuit Judges Meeting. The General Meeting shall discuss and take such action as may be requested in connection with the business of the Twenty Second Judicial Circuit.

(c) **Scheduling of Meetings:** Circuit Judge and General Meetings shall be scheduled by the Chief Judge in January of each calendar year, and the schedule shall be made known to participants. Meetings may then be rescheduled or cancelled upon notice for good cause.

Special Circuit Meetings: Any two Circuit Judges within the Twenty Second Judicial Circuit may call a special Circuit Judges Meeting upon ten days written notice to all Circuit Judges, or as circumstances otherwise require.

1.06 COMMITTEES

The Chief Judge may create and appoint judges and administrative staff to various standing committees and may create and dissolve ad hoc committees when special circumstances occur. The standing committees may include, but are not limited to:

- Executive Planning
- Public Relations
- Automation/Technology
- Court Services
- Local Court Rules
- Law Library
- Jury
- Marriage Fund Audit
- Court Facilities and Security
- Case Management

The Chief Judge shall be ad hoc member of each said committee.

1.07 COURT ADMINISTRATION

(a) General rules. The Chief Judge may promulgate general rules for court administration.

(b) Court Administration. The Chief Judge shall appoint a Court Administrator, who will function as the chief non-judicial officer of the court. In addition to assisting the development and supervision of the Court's operations, probation, jury, law library, budgeting and personnel systems, the Administrator shall implement the administrative decisions of the Court, and perform such other duties as may be assigned by the Court.

1.08 COURT REPORTING SERVICES

(a) Employees

1. The number of court reporting services employees designated to serve the circuit court shall be determined by the Chief Judges of the 12th, 18th, 19th, and 22nd Judicial Circuits with the aid of the Administrative Office of the Illinois Courts.

2. The Chief Judge shall appoint employees to the designated court reporting services positions which employees shall serve at the pleasure of the Chief Judge.

3. The Chief Judge or the Reporter Supervisor under the direction of the Chief Judge, shall assign all such employees to their duties, consistent with Supreme Court Rule 45, The Administrative Regulations, and general administrative powers.

(b) Electronic Recording

(1) Electronic reporting systems have been approved for use and installed in this Circuit. Pursuant to subparagraph (a) (3) above, court reporting services employees shall be assigned to be trained and to operate the electronic recording systems.

(2) The production of the physical medium storing the electronic recording of any court proceedings shall be monitored by trained court reporting services employees who shall certify that each retained electronic recording was fully and accurately recorded at the time and place indicated. Said certification shall be affixed to and accompany the electronic recording medium, and the medium shall be securely preserved in an unaltered and unalterable condition.

(3) Digital computer recordings of testimony are created for only one purpose. That purpose is to preserve the words spoken in formal courtroom proceedings, hearings and trials in a particular case, so that a transcript – the official record - may be subsequently produced. The digital computer recordings are owned by the Circuit Court of the 22nd Judicial Circuit, and may only be used pursuant to rule.

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

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

(i) During the proceeding, hearing, or trial at the direction of the Judge;

(ii) By a court reporting services employee for the purpose of creating transcript as the Official Record;

(iii) At the direction of the Court for the use of the Court;

(iv) Pursuant to the procedure outlined in (c) (3) below.

(6) In all other instances, the contents of the electronic recording medium shall be disseminated by transcript only, which transcript, and not the medium, shall be the official record. Only the Chief Judge may authorize exceptions to these rules upon good cause shown.

(c) Transcripts

(1) A request for a transcript, from either the electronic recording systems or from a court reporting services employee, is obtained by completing a “Transcript Request Form” which is available in the Court Administration office.

(2) Transcripts generated from the electronic recording systems shall be prepared in accordance with applicable statutory authority, rule and administrative regulation and shall utilize the following certification:

I, _____, certify the foregoing to be a true and accurate transcript of the electronic recording of the proceeding of the above entitled cause, which recording contained the operator’s certification as required by Local Rule 1.03(b)(2).

_____

(Signature)

_____

(License or Restricted License Number)

Date: _____

(3) If the accuracy of a certified transcript generated from the electronic recording system is questioned, the following procedure shall be used: (added effective 7/26/02)

(i) Every challenged portion of the transcript shall be identified in writing and provided to the Reporter Supervisor. A copy of the challenged portion of the transcript shall be given to the certifying court reporting services employee to make the necessary corrections.

(ii) If the certifying court reporting services employee and the person challenging the transcript's accuracy cannot agree upon the challenged portions, those portions shall be identified in writing and provided to the Reporter Supervisor.

(iii) The Supervisor shall cause identified portions to be reviewed against the archived electronic recording for accuracy, and designate necessary corrections to be made by the certifying court reporting services employee.

(iv) If the certifying court reporting services employee, in good faith, is unable to certify the corrections designated, then the dispute will be placed before the judge who heard the transcribed proceeding, with notice to all necessary parties.

(v) The certifying court reporting services employee shall personally appear and present the questioned transcript. The Reporter Supervisor shall present the disputed corrections along with a digital recording of the proceedings. The judge shall review the material presented, make any necessary changes in the certifying reporter's transcript, and issue a court order certifying the transcript as accurate.

(4) Transcripts generated from stenographic notes shall be prepared and certified by qualified official court reporting services employees pursuant to relevant statute, regulation, and rule and are not affected by subparagraphs (b), (c)(2) and (c)(3) above.

(5) Unless specifically authorized by court order to the contrary, only a transcript certified by one of the official court reporting services employees of this Circuit is the Official Record. The Official Record shall be given preference for use in all courtrooms and as a part of the Record on Appeal for any case from this Circuit.

1.09 NON-JUDICIAL APPOINTMENTS

Non-judicial appointments vested in the Circuit Court shall be made by the Chief Judge with the approval of a majority of the Circuit Judges.

1.10 LEGAL HOLIDAYS

(a) The legal holidays of the Twenty Second Judicial Court shall be those holidays specified by the Chief Judge of the Twenty Second Judicial Circuit.

(b) All matters returnable on said legal holidays shall be continued to the next business day of this Court.

(c) The time for filing all motions and pleadings is extended to the next business day of this Court.

1.11 HOURS OF COURT

(a) Trial Division. Unless otherwise directed by the trial judge, the hours of court are 9:00 A.M. - 4:30 P.M. Courtrooms shall be opened and staffed fifteen (15) minutes prior to the beginning of court.

(b) Administrative Office. The Administrative Office of the 22nd Judicial Circuit will be open for business from 8:00 A.M. until 5:00 P.M., except Saturday, Sunday and holidays as prescribed annually by Administrative Order.

(c) Circuit Clerk's office. The Office of Clerk of the Circuit Court will be open for business from 8:00 A.M. until 4:30 P.M., except Saturday, Sunday and holidays as prescribed annually by Administrative Order. Upon request of the Clerk of the Circuit Court, and upon approval by the Chief Judge, hours may be expanded.

(d) Holiday Court. The hours of holiday bond court will be established by Administrative Order.

1.12 COURTROOM PERSONNEL

(a) A full courtroom staff consists, at a minimum, of a judge, one courtroom clerk and one court security officer. A full courtroom staff shall be maintained at all times unless waived by the court for good cause.

(b) The courtroom clerk shall be the Circuit Clerk or a Deputy Circuit Clerk authorized to swear witnesses. The clerk shall attend court when court is in session unless excused on a case-by-case basis by the judge presiding in the particular courtroom. The clerk shall obtain all necessary files and docket sheets for cases to be heard that day, swear witnesses, maintain custody of all exhibits, until further order of court, and perform such other duties as may be directed by the court.

1.13 PROMPT ATTENDANCE AT COURT

Prompt attendance at Court is required. Judges shall begin court promptly at the designated time. All attorneys and parties shall appear promptly before the Court. In the event that a party or attorney fails to appear promptly, the Court may impose such sanction or take such remedial action as it deems appropriate. In the event that the failure of a party or attorney to appear promptly renders it impossible to proceed, the Court may order the party or attorney failing to appear promptly to pay the reasonable costs and expenses, including attorney's fees, to the opposing party or attorney. If counsel is required to be present in another courtroom in the same jurisdiction at the same time, he shall first check in with the clerk of the courtroom where he cannot be present at the start of the court call, provide the location of the other courtroom where he will be present and so notify all other parties involved. Upon completion of the other court matter, he shall immediately return to any courtroom where he has matters pending.

1.14 COURT DECORUM

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

(b) Improper behavior shall immediately be brought to the attention of the particular individual involved and, if not corrected, the Court may take appropriate action.

(c) Disturbances. Any unwarranted loitering, disorderly conduct, or other conduct in a court facility which creates loud or unusual noise or a nuisance, which unreasonably obstructs the usual entrances, foyers, lobbies, corridors, offices, elevators, work areas, stairways, courtrooms, which otherwise impedes or disrupts the performance of official duties by judges and/or court personnel, or which prevents the general public from obtaining the services provided in the various court facilities in a safe and timely manner is prohibited.

(d) Alcoholic beverages and narcotics. No person shall enter into or remain in a court facility while under the influence of alcoholic beverages or drugs. This prohibition shall not apply in cases where a drug is being used as prescribed for a patient by a licensed physician.

(e) Dogs and Other Animals. Dogs and other animals, except Seeing Eye dogs or other guide dogs, shall not be brought into any court facility without leave of Court.

(f) Distribution of Handbills. Distribution, posting or affixing materials, such as pamphlets, handbills or flyers, on bulletin boards or elsewhere within any or upon any court facility is prohibited, except as authorized.

1.15 PHOTOGRAPHY, RADIO, TELEVISION, AUDIO RECORDING DEVICES AND CELLULAR TELEPHONES

(a) Pursuant to Supreme Court Rule 63A(7), the taking of photographs in the courtroom during sessions of court or recesses between proceedings, and the broadcasting or the televising of proceedings, are permitted only to the extent authorized by Order of the Illinois Supreme Court. The Order of the Illinois Supreme Court in *In Re Photography, Broadcasting and Televising Proceedings in the Courts of Illinois*, MR No. 2634, entered November 29, 1983 and made permanent on January 22, 1985, does not permit photography, broadcasting or televising of circuit court proceedings.

(b) The photography, videotaping, audio recording, televising, and broadcasting of events and activities in a courtroom or its environs is also prohibited unless expressly authorized by this rule. For the purpose of this rule, the use of the terms “photographs, videotaping, audio recording, televising or broadcasting” include the audio or video transmission or recordings made by telephones, personal data assistants, lap top computers, and other wired or wireless data transmission and recording devices.

(c) Photographs, videotapes, audio recordings, including broadcasting or televising of non-judicial events and activities, or of judicial personnel, or facilities, may be authorized by the Court for educational, instructional, informational or ceremonial purposes, provided that Court is not in session during such photographing, videotaping, audio recording, broadcasting, or televising. Such non-judicial events and activities would include: weddings, bar association activities, induction ceremonies, award ceremonies, dedication ceremonies, mock trials, seminars, speeches, demonstrations, training sessions, journalistic undertakings, public awareness activities, and similar events and activities.

(d) Micro cassette recorders or hand held dictating devices may be used in the public hallways or conference rooms adjacent to said hallways provided that such use does not interfere with the use of said premises by others present. Any such micro cassette recorders or hand held dictating devises brought into a courtroom must be turned to the "off" position and kept enclosed in a briefcase or

similar container. In the event that a person possessing such a device enters into a private hallway, anteroom or judge's chambers, such device must first be given to the court officer in charge of said courtroom.

(e) Communicating via cellular telephone in the courtroom or its environs is prohibited unless expressly waived by the Court. Notwithstanding the foregoing, communicating via cellular telephone is allowed in the public hallways and conference rooms adjacent to said hallways provided that such use does not interfere with the use of said premises by others present. Any cellular telephone brought into a courtroom must be turned to the "off" position and kept enclosed in a briefcase or similar container. In the event that a person possessing a cellular telephone enters into the private hallway, anteroom or judge's chambers, said cellular telephone must first be given to the court officer in charge of said courtroom.

(f) Tape recording by an official or court authorized court reporter in the courtroom or its environs is permitted.

(g) The word "environs" includes the private and public hallways, rooms immediately adjacent to said hallways and to the courtroom, and the jury assembly/deliberation rooms. It shall be understood that, in the interest of a fair trial, the Court may expand the area of environs in a written order.

(h) When the nature of a case or the nature of the media coverage of a case, requires, the Court, on motion of either party or on its own motion, may issue an order governing such matters as extra-judicial statements by parties and witnesses which might interfere with the rights of the accused to a fair trial by an impartial jury, the seating and conduct in the courtroom of spectators and news media representatives, the management and sequestration of jurors and witnesses, and any other matters which the Court may deem appropriate for inclusion in such an order.

1.16 COURT FACILITIES

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

(b) Admission to the Courthouse. The Circuit Court shall be open to the public during normal business hours. The building may be closed to the public during normal business hours when situations require this action to ensure safety and the orderly conduct of court business. The decision to close the building during normal business hours shall be made by the Chief Judge or his designee. The building shall be closed to the public after normal business hours.

(c) Preservation of the Building. The willful destruction of or damage to any court facility or its contents, the creation of any hazard, and the throwing of articles of any kind within court facilities or from court facilities is prohibited.

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

(e) Upon the failure of the County Board to act pursuant to subsection (d) of this rule, the committee shall so report to the Chief Judge and submit to the Chief Judge its proposals and recommendations together with the response and action taken by the County Board. If the Chief Judge deems it appropriate, he shall set the matter of the proposals and recommendations of the committee for administrative hearing over which he shall preside. The Clerk of the Court shall give notice of the hearing to the Chairman of the County Board and to any other person whom the Chief Judge deems to be an interested party. The notice shall be by regular US mail, state the time, date and place of hearing, the matter to be reviewed, and include a copy of the proposals of the committee.. The Clerk's certificate of mailing shall be made of record. The hearing shall not be held until after thirty (30) days from the date of mailing notice.

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

(f) When appropriate, the Attorney General or the State's Attorney may represent the Court in the hearing before the Chief Judge and in the complaint for mandamus. If the Attorney General or State's Attorney is not able to represent the Court, the Chief Judge may designate another licensed attorney at law of this State.

1.17 COUNTY LAW LIBRARY

(a) Law Library. The Twenty Second Judicial Circuit shall have and maintain a Law Library that conveniently serves the legal community and the public.

(b) Law Library Committee. The Twenty Second Judicial Circuit shall have a Law Library Committee. The Chief Judge shall designate the Committee's Chair. The members of the committee shall be the resident Circuit Judges, and include as a minimum a majority of the resident Circuit Judges of the county.

(c) Operation. The committee shall be responsible for the efficient administration of the County Law Library. The committee discharges its authority through the Court Administrator. The daily operations of the Law Library shall be managed by a law librarian or a staff member appropriately trained in the skills required to maintain a law library or legal reference center. Recommendations concerning library policies, budgets and the general operations and procedures shall be submitted to the Law Library Committee Chair for consideration by the committee.

(d) Law Library Fund. Disbursements from such fund shall be by the County Treasurer, on orders of a majority of the resident Circuit Judges of the Circuit Court of the county pursuant to law. See 55 ILCS 5/5-39001 (as amended, 1992).

1.18 RECORD KEEPING

The Clerk shall assign numbers on all cases filed, in accordance with the Supreme Court Manual on Record Keeping and such classification designation as may be required by local court rule or administrative order of Chief Judge.

1.19 DOCUMENTS AND COURT FILES

(a) All documents shall be filed with the Clerk of the Court pursuant to Supreme Court Rules. Upon presentment to the Clerk or the Court, the Clerk shall place a file mark on the first page of each document in the upper right hand corner in the space so provided. All pleadings shall include a cause entitlement and number, contain a space at least 2 by 2 inches at the upper right portion of the first page for the Clerk's file mark, and it shall not contain a backing sheet. If such pleading contains more than one page, shall be stapled at the upper left corner. With the exception of the last page of each document, forms and exhibits, only one side of each page shall be used. The case number shall not be placed in such a position that it will be obliterated by the Clerk's file mark. The Clerk shall not file a pleading unless accompanied by the proper filing fee, if any.

(b) Each pleading filed in the Court shall contain the full name, office address, telephone number and State of Illinois attorney registration number of the attorney who has prepared that pleading. In the event a law firm is listed, the full name, telephone number and attorney registration number of the attorney with primary responsibility shall be listed.

(c) All briefs and legal memoranda presented to the Court shall not be filed in the court file nor made a part of the record for appeal. Such briefs and memoranda shall be delivered to the Clerk of the Court, and the Court Clerk shall stamp copies for the attorneys to show received this date with a stamp using the following words:

R E C E I V E D
McHENRY COUNTY, ILLINOIS

(D A T E)

(Name)

Clerk of the Circuit Court

The Clerk shall not file briefs and memoranda. Any such briefs and memoranda shall not include any additional motions or legal pleading.

(d) The Clerk is not required to accept for filing any document that does not comply with the Supreme Court Rules or these rules.

(e) Notarizing of pleading by attorney. No pleading or entry of appearance shall be notarized by any attorney or member or employee of his firm, for an opposing party.

(f) Nothing contained in this or any other rule shall prohibit any judge from removing any court file from the court room or the court house for any purpose in connection with the performance of his/her official duties.

1.20 REMOTE ELECTRONIC ACCESS

a.) PURPOSE OF ELECTRONIC ACCESS RULE

(1.) The purpose of this rule is to provide a comprehensive policy on remote electronic access to the court records held by the Clerk of the Circuit Court. This rule provides for access in a manner that:

- Provides maximum accessibility to court records;
- Supports the role of the judiciary;
- Promotes governmental accountability;
- Contributes to public safety;
- Avoids risk of harm to individuals;
- Makes most effective use of court and clerk of court staff;
- Provides excellent customer service;
- Protects individual privacy rights and interests;
- Protects proprietary business information;
- Minimizes reluctance to use the court to resolve disputes; and
- Does not unduly burden the ongoing business of the judiciary.

(2.) This rule is intended to provide guidance to (a) litigants and the general public seeking remote electronic access to court records and (b) judges, and court and clerk of court personnel responding to requests for electronic access.

(3) This rule does not limit or expand access to the official court record maintained by the clerks of the circuit courts. Access to those records is governed by the Supreme Court's *General Administrative Order on Recordkeeping in the Circuit Courts* and applicable laws. The official court records held by the clerk of court are available for inspection during regular office hours for that -0ffice.

(4) The right to access and disseminate any court record may not be subject to any exclusive contract with another person or entity as provided in Section 13 of the Clerks of Courts Act, 705 ILCS 105/13.

b.) WHO HAS ACCESS UNDER THIS ELECTRONIC ACCESS POLICY

Every member of the public will have the same electronic access to court records as provided in this policy.

"Public" includes:

(1) any person and any business or non-profit entity, organization or association;

(2) any governmental agency for which there is no existing court rule, order, or law defining the agency's access to court records;

(2) media organizations; and

(4) entities that gather and disseminate information for whatever reason, and regardless of whether it is done with the intent of making a profit, without distinction as to nature or extent of access.

"Public" does not include:

(1) court or clerk of court employees;

(2) people or entities, private or governmental that assist the court in providing court services;

(3) public agencies whose access to court records is defined by another court rule, order or law; and

(4) attorneys of record who are allowed greater electronic access to electronic court records, dependent upon the capabilities of the case management system on which those records are stored.

(5) any person, firm or corporation that subscribes to the remote electronic service through the office of the Clerk of the Circuit court.

c.) DEFINITIONS

For the purposes of this policy the following definitions will apply:

(1) "ELECTRONIC COURT RECORD" - The "Electronic Court Record" includes information related to the indexes, calendars, record sheets, pleadings, complaints, motions, orders, dispositions, and other case information which are maintained by the clerk .of the court in electronic form and not excluded under Section f and g of this rule.

(2) "PUBLIC ACCESS" - "Public access" means that the public can inspect and copy the electronic court record using electronic access, except as provided for in Section g of this rule.

(3) "ELECTRONIC ACCESS" - "Electronic access" means that inspection of the electronic court record can be made through the use of technology, such as the Internet,

Direct dial, KIOSK, etc.

(4) "REMOTE ELECTRONIC ACCESS -"Remote electronic access means access to electronic information maintained in the office of the clerk from a location other than the clerk's office or the courthouse by way of personal computer or other electronic device, through the use of technology, such as the Internet, direct dial, KIOSK, etc.

(5) "IN ELECTRONIC FORM" - Information in a court record "in electronic form" includes information that exists as:

(a) electronic representations of text or graphic documents;
(b) an image, including a video image, of a document, exhibit or other thing; or
(c) data in the fields or files of an electronic database..

(6) "OFFICIAL COURT RECORD" -The "official court record" is the basic record as defined under Part 1, Section F of the *Supreme Court Manual on Recordkeeping* or law.

(7) "COURT RULE" -"Court rule" means any rule of the Supreme Court of Illinois and any local rule or administrative order established as provided by Supreme Court Rule 21.

(8) "LAW" - "Law" means any federal or state statutes passed by the U. S. Congress or the Illinois General Assembly.

d.) - APPLICABILITY OF ELECTRONIC ACCESS POLICY .

This rule applies to access of electronic court records as defined herein and as provided for by local rule.

e.) -GENERAL ACCESS

(1) Information in the electronic court record is accessible to the public, except as provided in Section for excluded by Section g.

(2) Access to the official court record is not affected by this policy.

f.)-LIMITATIONS TO ELECTRONIC ACCESS

(1) The *Supreme Court General Administrative Order on Recordkeeping in the Circuit Courts* provides for the destruction of court records. Any record approved to be destroyed pursuant to those provisions may no longer be available for inspection in electronic form.

(2) A clerk of court may elect to continue to provide access to all or part of the electronic court record where approval has been received to destroy the basic record of the case.

(3) A court's case management system may necessitate that portions of the electronic court record be removed from or not be made available by electronic access_

g.) -ELECTRONIC COURT RECORDS EXCLUDED FROM REMOTE PUBLIC ACCESS

(1) Information that is impounded, sealed, or expunged pursuant to law, or by court rule, order of court, or pursuant to the *Supreme Court Manual on Recordkeeping* shall be excluded from public access in electronic form. Access and inspection of this information is governed by the existing court rules and laws for public access of the official court record. Requests for inspection must be made in person at the office of the clerk of court.

(2) The following information is excluded from remote public access in electronic form:

- Financial information that provides identifying account numbers on specific assets, liabilities, accounts, credit cards, first five digits of social security number, or P.I.N. numbers of individuals or business entities;
- Proprietary business information such as trade secrets, customer lists, financial information, or business tax returns. The responsibility for designating any information contained in any pleading or court paper as a trade secret is that of the person asserting the claim of secrecy.
- Information constituting trade secrets, copyrighted or patented material or which is

otherwise owned by the state or local government and whose release would infringe on the government's proprietary interests. The responsibility for designating any information contained in any pleading or court paper as a trade secret is that of the person asserting the claim of secrecy.

- Notes, drafts and work products prepared by a judge or for a judge by court staff or individuals working for the judge related to cases before the court;
- Names, addresses, or telephone numbers of potential or sworn jurors in a criminal case; juror questionnaires and transcripts of voir dire of prospective jurors;
- Wills deposited with the court pursuant to the *Manual on Recordkeeping;*
- Arr.est warrants (at least prior to the arrest of the person named);
- Any documents filed or imaged, i.e. complaint, pleading, order. Filed or imaged documents may be accessed electronically through the use of computer terminals, maintained by the clerk and do not allow such information to be downloaded or exported.

(3) Information not covered in subsections (1) and (2) may be excluded from public access in electronic form by local general administrative order.

h.) -REQUESTS FOR BULK DISSEMINATION OF COURT RECORDS 1N ELECTRONIC FORM

A request for bulk dissemination is defined as a request for all, or a significant subset, of the information in court records that is maintained in electronic form, as is and without modification or compilation. Dissemination of bulk information in electronic form is not permitted for court records.

i.) - ACCESS TO COMPILED INFORMATION FROM COURT RECORDS

Compiled information is defined as information derived from the selection, aggregation or manipulation of court information from more than one individual court record, including statistical reports, and information that is not already available in an existing record or report. Dissemination of compiled information in electronic form is not prohibited.

j.)-REQUESTS TO RESTRICT INFORMATION IN ELECTRONIC COURT RECORDS FROM PUBLIC ACCESS

Except as provided in Sections 4.20 and 4.30, the electronic court record is an exact representation of the official court record.

k.) - COURT RECORDS IN ELECTRONIC FORM PRESUMPTIVELY SUBJECT TO REMOTE ELECTRONIC ACCESS BY THE PUBLIC

If possible, the following information in court records should be made electronically accessible to the public if it exists in electronic form, except as provided in Sections f and:

(1) Indexes to cases as provided in the *Supreme Court Manual on Recordkeeping;*

(2) Calendars of court proceedings;

(3) The record sheet as provided for in the *Supreme Court Manual on Recordkeeping;*

(4) Sentencing information in criminal and quasi-criminal-cases.

l.)- WHEN ELECTRONIC COURT RECORDS MAY BE ACCESSED

Electronic court records under this policy will be available as follows:

(1) Remote electronic access may be obtained twenty-four hours a day, seven (7) days per week subject to unexpected technical failures, normal system maintenance, or as may otherwise be technically feasible.

(2) In courthouse electronic access may be obtained during the regular office hours of the clerk, as may be determined from time to time by the clerk.

m.) -FEES FOR ACCESS

(1) There shall be no additional fee for electronic access to the court record as provided for in this rule. However, this does not limit a clerk of court from charging fees for copies regardless of form, format, -or media of exchange of documents filed with the clerk.

(2) This section does not apply to contractual relationships for the provision of any service allowed by court rule or administrative order.

n.)- OBLIGATIONS OF VENDORS PROVIDING INFORMATION TECHNOLOGY SUPPORT TO A COURT TO MAINTAIN COURT RECORDS

(1) It shall be the duty of the court and clerk of court to assure that any contract with a vendor to provide electronic access to court records is consistent with the requirements of this policy. Any contract with a vendor to provide electronic access to court records must be approved by the chief judge.

(2) For purposes of this section, "vendor" includes a private entity and state, county or local governmental agency that provides information technology services to a court.

o.) - NOTICE AND EDUCATION REGARDING ELECTRONIC ACCESS POLICY

(1) The court or clerk of the court is not required to notify or educate the public regarding electronic access to court records as provided for herein.

(2) The clerk-0f court shall maintain for inspection at all times a current copy of this rule.

(3) The electronic court record provided for by this rule shall be promptly maintained pursuant to Part 1, Section F of the *Supreme Court Manual on Recordkeeping.*

1.21 CUSTODY OF EVIDENCE

I. In Case Type Other than Civil Case Types

(a) The Court shall take custody of all items admitted into evidence at any proceeding, hearing or trial. The Court shall preserve, safeguard and account for each piece of admitted evidence until the conclusion of the case. and shall bring the evidence back into the courtroom for hearings or trial. During times when court is not in session, every effort shall be made by the Court to secure all contraband items or items of intrinsic value or danger in a secure safe or a locked storage area, and not entrust them to the possession of another.

(b) Items in evidence, removed by order of court from the Court's custody for any reason, 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 the need for alternate custody has been concluded, all such items shall be immediately returned to the custody of the Court+, and the return of each item shall be memorialized by written order or enumerated orally on the record.

(c) At the conclusion of the case, the Clerk or the Court shall have custody of all items in evidence, preserving, safeguarding and accounting for them until such time as the Clerk may be relieved of custody by order of court.

(d) Items offered but not accepted into evidence by the court 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, they shall be preserved, safeguarded and accounted for in the same manner as items in evidence.

II. In Civil Case Types Only

(a) Exhibits received at trial, or in any evidentiary hearing, in any civil matter heard in McHenry County, shall be retained by the offering party unless otherwise ordered by the trial judge.

(b) If a notice of appeal is filed and any party is desirous of having an exhibit or exhibits included in the record on appeal, that party should seek an order from the judge presiding over the case for such inclusion

(c) All exhibits to be included in the record on appeal, where practical, shall be submitted to the Circuit Clerk in electronic format.

(d) Each electronic file shall contain an *Exhibits Table of Contents*, as provided in appendix A (see below), which shall identify the party offering each exhibit, exhibit number assigned when the exhibit was offered, and description of the exhibit, for each exhibit to be included in the record on appeal.

1. All documentary exhibits to be included in the record on appeal shall be separated in groups of unsealed documentary exhibits and sealed documentary exhibits. Unsealed documentary exhibits and sealed documentary exhibits shall be submitted separately.
2. Photographic exhibits to be included in the record on appeal shall be scanned in color, if possible, and submitted to the Circuit Clerk electronically. Photographs larger than 8.5 x 11", which cannot be scanned successfully, shall be listed in the *Exhibits Table of Contents,* with a page inserted in sequential order, identifying the photographic exhibit. (i.e.. "Defendant's Exhibit #1 - 11 x 16 color poster-retained by Circuit Clerk")
3. Documentary or descriptive exhibits to be included in the record on appeal (i.e. Video or audio recordings, computer media, discs, flash drives, etc.) Shall be recorded in the *Exhibits Table of Contents* and submitted to the Circuit Clerk in the original form. A page shall be inserted in sequential order, identifying the documentary or descriptive exhibit. (i.e. "Plaintiff's Exhibit #1 – Flash Drive – Retained by Circuit Clerk")
4. Physical exhibits (i.e. clothing, charts, maps, photographs, or other items larger than 8 1/2 by 11 inches, too large or bulky to scanned) to be included in the record on appeal shall be recorded in the *Exhibits Table of Contents*. A page describing the exhibit shall be inserted in sequential order, as appropriate. (i.e. "Defendant's Exhibit #12 – Map of Woodstock – Retained by Circuit Clerk")

5. Exhibits offered, but not admitted, shall also be recorded in the *Exhibits Table of Contents*. A page describing the exhibit shall be inserted in sequential order, as appropriate. (i.e. “Plaintiffs Exhibit #12 – Not Admitted”)

(e) Upon turning over the exhibits ordered to be included in the record on appeal to the Circuit Clerk, a Receipt of Exhibit stating the date and time documentary exhibits were released by the party and received by the Office of the McHenry County Circuit Clerk shall be signed by the clerk.

(f) This rule applies to exhibits presented at trial or in any evidentiary hearing. This rule does not apply to pleadings, attachments to pleadings, motions or petitions, regardless of whether any document is marked or described as an “exhibit”.

Appendix A – For Civil Case Types Only

EXHIBITS – TABLE OF CONTENTS

Page _____ of _____

Party	**Exhibit #**	**Description**	**Page No.**
Plaintiff	1	Bank Statement	E2 – E8
Defendant	1	Flash Drive – Sent via US Mail on (Date)	E9
Plaintiff	2	Not Admitted	E10
Plaintiff	3	Knife – Retained by Circuit Clerk	E11

1.22 DELIVERY OF FILES TO COURT STAFF

Upon request by the Court, the Clerk shall deliver a file, or any part thereof, in any case to one of the courtroom staff.

1.23 FILES PRESENT IN COURTROOM

The Clerk shall have present in Court the files of case matters set on contested calls, together with such other files as the judge may direct.

1.24 COPIES OF PAPERS FILED

Upon request and the payment of the appropriate fee, the Clerk shall provide copies of any pleading on papers filed in this Court unless otherwise specifically ordered.

1.25 DOCUMENTS TO BE IN ACCORDANCE WITH FORMS HEREWITH

All required documents, including publication notices, shall be substantially in compliance with the forms included in these Rules.

1.26 PROHIBITION AS TO GRATUITIES

No attorney or person shall give, either directly or indirectly, any gratuity or gift to any employee of the 22nd Judicial Circuit, or any officer serving the Court where such attorney has had or is likely to have any professional or official transaction with the Court. No employee of the 22nd Judicial Circuit, or any officer serving the Court, accept any gratuity or gift, either directly or indirectly, from any attorney or other person who has had or is likely to have any professional or official transactions with the Court.

1.27 JURORS

(a) Jurors: Selection and Terms of Service. All matters pertaining to the selection of jurors, terms of jury service and organization of the Jury Commission shall be consistent with statutes and shall be governed by administrative orders.

(b) Failure to Respond to Jury Summons. Whenever a person lawfully summoned to jury duty has failed to appear and has failed to provide a reasonable and timely excuse, the Jury Commission shall assign a new date not less than thirty (30) days from the original date of service and issue a notice by first class mail advising the person of the delinquency and the new date.

(1) If a juror summoned, in (a) above, fails to appear and complete his or her jury duty, the jury commissioners may, upon proper notice to, the prospective juror, motion the Court for a hearing instanter on a Petition For Rule To Show Cause why the prospective juror should not be held in contempt of Court for failing to appear and complete his or her jury duty.

(2) If the Court grants the jury commissioner's Petition, in (1) above, and a Rule to Show Cause issues, then the Court shall set the matter for hearing and require that the prospective juror be served personally or by proper substitute service pursuant to the Illinois Code of Civil Procedure. 735 ILCS 5/2-203.

(3) At said hearing on the Rule To Show Cause, the Presiding Judge, or his designee, may take testimony and may, on good cause shown, excuse the prospective juror, cause his or her name to be returned to the jury list, defer the juror to a date certain or enter such other orders or sanctions as may be appropriate.

(c) Compensation of Jurors. All prospective and impaneled grand and petit jurors shall be compensated in a timely fashion from the County Treasury for per diem services and travel expenses. Said amounts are set by the County Board pursuant to statute. Approximately once each week, a list of jurors shall be submitted to the County Treasurer, indicating in itemized format the amount to be paid to each juror for per diem fees and travel expenses. Upon receipt of such a list, the Treasurer shall issue appropriate checks. The stub of each check shall certify the number of days served by the juror.

(d) Jury Service at Coroner's Inquest. Jury service for inquests of the County Coroner shall be provided by the Jury Commission, according to such rules and procedures as it deems appropriate.

(e) Examination of Juror Personal History and Profile Forms.

(1) Juror Personal History and Profile forms are confidential and are not public records.

(2) Any such forms shall be kept on file by the Jury commission for a period of three (3) years from the date they are filled out.

(3) The only persons allowed to examine said forms are:

a. the Jury commission;
b. the judges of the Court;
c. the Circuit Court Clerk and Deputy Clerks;
d. parties to a trial and their attorneys, during the jury selection process, but only concerning jurors on the panel for that cause; and
e. persons authorized access by court order.

(4) The answers contained on any such form shall not be publicly disclosed.

(5) Parties to a case and their attorneys may examine such forms after conclusion of jury selection only by order of the trial judge, or in his absence, by order of the Presiding Judge of the division in which the case is pending. Requests by other individuals or entities must be made to the Chief Judge or his designee.

(f) Contact with Jurors. No party, agent of a party, or attorney shall communicate or attempt to communicate with any member of the petit jury during his term of service with the Court. The Jury Commission shall report all such incidents to the Chief Judge or his designee.

(g) The Juror Profiles provided to attorneys and/or parties before or during trial proceedings shall be returned to the trial judge at the conclusion of the trial.

PART 2.00 MOTIONS/NOTICE

2.01 Motions Generally/Notice
2.02 Contested Motions
2.03 Motions for Consolidation of Cases
2.04 Motions for Summary Judgment
2.05 Emergency Motions
2.06 Orders
2.07 Notice of Default in Mortgage Foreclosure Cases

2.01 MOTIONS GENERALLY/NOTICE

(a) For the purpose of these Rules, "motion" includes any pleading or paper in the nature of a petition or motion, other than a petition or complaint which initiates a cause of action.

(b) Each motion shall be in writing. Each notice of motion shall have appended thereto a copy of the relevant motion, unless otherwise ordered by Court.

(c) Each motion and petition shall contain in typewritten form or clear printing the name, address and State of Illinois attorney registration number of the attorney representing the party on whose behalf the document is filed.

(d) Each motion shall be captioned with the case name and number and shall include the Supreme Court Rule, Code of Civil Procedure section, or other statutory section upon which it is based.

(e) All dispositive motions shall be heard before the Court not less than sixty (60) days before the scheduled trial date unless otherwise ordered by the Court.

(f) Unless otherwise ordered by the Court, no contested motion shall be heard if it has not been scheduled for hearing on the court's calendar. The Court shall consider counsels certification, or that of office staff, that the matter was scheduled for hearing by contacting the office of the Circuit Court Clerk.

(g) **Notice of Hearing of Motions**. Written notice of the hearing of all motions shall be given by the party requesting the hearing to all parties who have appeared and who have not been found by the court in default for failure to appear or plead and to all parties whose time to appear has not expired as of the date of the notice.

(h) **Content of Notice**. The notice of hearing shall designate the judge to whom the motion will be presented for hearing, shall show the title and number of the action, the title of the motion, the date when the motion will be presented, the time it will be presented, and the courtroom where it will be presented. Copies of all papers presented to the Court with the motion shall be served with the notice or the notice shall state that copies have been previously served.

(i) **Manner of Service**. Notice of Service shall be given in the manner and to the persons described in Supreme Court Rule 11. Service as prescribed in Supreme Court Rule 11(b) (2) may be affected by service of the Notice of Motion and other pertinent documents through electronic facsimile mailing (FAX) if allowed pursuant to Supreme Court Rule 11(b) (4). Proof of service shall be in compliance with Supreme Court Rule 12.

(j) **Time of Notice**. If Notice of Hearing is given by personal service, the Notice shall be delivered by 4:00 P.M. of the second court date preceding the hearing of the Motion. Delivery by FAX, authenticated as set forth in Supreme Court Rule 12, shall be deemed personal service, but it is not effective until the first court day following transmission. If the Notice is given by mail, then Notice shall be deposited in the United States Post Office or Post Office Box on the 5th day preceding the hearing of the Motion, not counting the day of the hearing.

(k) **Notice of Hearing**. If a motion is heard without prior notice under this rule, a copy of the orders entered at the hearing shall be served personally or by U.S. Mail upon all parties not theretofore found by the Court to be in default for failure to plead, and proof of service thereof shall be filed with the Clerk of the Court within two (2) days of the hearing thereon.

(l) **Orders Upon Denial**. If a motion presented without prior notice is denied or hearing thereon is denied, a written order of the Court's ruling shall be entered.

(m) **Failure to Call Motions for Hearing**. The burden of calling for hearing any motion previously filed is on the party making the motion. If any such motion is not called for hearing within sixty (60) days from the date it is filed, the Court may consider the motion denied by reason of delay.

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

(o) **Renewal of Motions**. Motions presented and ruled upon before one judge shall not be renewed before another judge without leave of Court. The notice of hearing shall include a statement that the motion has previously been ruled upon and the name of the judge who ruled on the motion.

(p) Motions not presented or supported by the moving party when called, pursuant to notice, may be denied or stricken.

(q) **Briefs and Memoranda**. No motion, response, brief, or memorandum in support thereof shall exceed fifteen (15) typewritten double-spaced pages without prior approval of this Court. Neither narrow margins nor any other format shall be employed to evade the page limitation. 'Footnotes, if any, shall be used sparingly. Failure to comply with this Rule shall be sufficient grounds for the Court's refusal to consider the document.

2.02 CONTESTED MOTIONS

(a) For purposes of Rule 2.02, any motion which is opposed is a contested motion and may be heard at the end of the call of motions of course or at such other time designated by the Court.

(b) Every Motion to dismiss, to strike, or for summary judgment shall be identified with the section number of the Code of Civil Procedure pursuant to which the motion is brought.

(c) For every contested motion brought pursuant to S.Ct.R. 219, S.Ct.R., 735 ILCS 5/2-615, 735 ILCS 5/2-619, 735 ILCS 5/2-619.1 or 735 ILCS 5/2-1005, movant's counsel shall deliver to the chambers of the assigned judge, not less than seven (7) court days prior to hearing, a copy of:

1. the motion,
2. any challenged pleading, and
3. any writing in support of or in opposition to the motion.

Also within seven (7) court days prior to hearing, a party shall provide the Court and all opposing counsel with a complete citation to any case or other authority upon which the party intends to rely in oral argument and which is not included in a supporting or opposing writing; and the party shall provide the Court with a full copy of any decision of a State court outside the State of Illinois. Any cover letter delivered to the Court in complying with the above requirements shall be copied to all counsel of record.

(d) Any writing in support of or in opposition to a motion shall be served upon the opposing party at the time of service of notice of motion or, if not then available, as soon thereafter as practicable and prior to hearing on said motion.

(e) In the absence of leave of Court, no reply brief or memorandum in support thereof shall exceed five (5) typewritten pages in the aggregate. Any such brief or memorandum shall be limited to responding to new matters raised in the opponent's response brief or memorandum.

2.03 MOTIONS FOR CONSOLIDATION OF CASES

Motions for consolidation of cases shall be presented to the judge to whom the oldest case is assigned when the cases are of the same case type. When the cases are filed in the same division but are different case types, the motion shall be brought before the judge assigned to the case with the higher designation. The Law Division ("L") is the highest designation for the purpose of this rule, followed by: MR, CH, TX, LM, AR and SC.

2.04 MOTIONS FOR SUMMARY JUDGEMENT

(a) **Moving Party**. With each motion for summary judgment filed pursuant to 735 ILCS 5/2-1005, the moving party shall serve and file or cause to be received by the Circuit Court Clerk:

1. any affidavits and other materials referred to in S.Ct.R. 191,
2. a supporting memorandum of law not exceeding fifteen (15) pages,
3. a statement of material facts as to which the moving party contends there is no genuine issue and that entitle the moving party to a judgment as a matter of law, and that also includes: a description of the parties, and

The statement referred to in (3) shall consist of short numbered paragraphs including within each paragraph specific references to affidavits, parts of the record, and other supporting materials relied upon to support the facts set forth in that paragraph. Failure to submit such a statement constitutes grounds for denial or striking of the motion.

If additional material facts are submitted by the opposing party pursuant to section (b) of this rule, the moving party may submit a concise reply in the form prescribed in section (b) for a response. All material facts set forth in the statement filed pursuant to section (b) will be deemed admitted unless controverted by the statement of the moving party.

(b) **Opposing Party**. Each party opposing a motion filed pursuant to 735 ILCS 5/2-1005 as described above shall serve and file or cause to be received by the Circuit Court Clerk:

1. any affidavits and other materials referred to in S.Ct.R. 191;
2. a supporting memorandum of law not exceeding fifteen (15) pages;
3. a concise response to the movant's statement that shall contain:

   (a) a response to each numbered paragraph in the moving party's statement including, in the case of any disagreement, specific references to the affidavits, parts of the record, and other supporting materials relied upon, and

   (b) a statement consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment including references to the affidavits, parts of the record, and other supporting materials relied upon. All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party.

2.05 EMERGENCY MOTIONS

(a) Application for emergency relief. If emergency relief is requested, application shall be made to the assigned judge or, if unavailable, to the judge specifically assigned to sit in his stead. If neither judge is available, application shall be made to the presiding judge of the division to which the case is assigned.

(b) Each application for emergency relief shall be accompanied by an affidavit of the movant or movant's attorney stating the reason for emergency relief and, in cases where the request is without notice, except as permitted by law, said affidavit shall state what attempts have been made to notify opposing counsel or the opposing party. Failure to attach said affidavits to the request for emergency relief may be grounds for denial of the motion.

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

(d) If a motion is heard without prior notice under this rule and any respondent or other party fails to appear, a copy of the orders entered at the hearing shall be served personally or by US Mail upon all parties not therefore found by the Court to be in default for failure to plead, and proof of service thereof shall be filed with the Clerk of the Court within two (2) days of the hearing thereon.

(e) Counsel shall use every reasonable effort to notify opposing parties or counsel of entry of each Order, at the earliest opportunity.

2.06 ORDERS

All orders entered following the hearing upon any motion shall be governed by S.Ct.R. 271. The attorney who prepares the order shall print clearly "**prepared by**" and his name, address and State of Illinois attorney registration number at the bottom of the order. The preparer shall serve a copy of the order upon all parties of record.

2.07. NOTICE OF DEFAULT IN MORTGAGE FORECLOSURE CASES

In compliance with Illinois Supreme Court Rule 113 (d), prior to the entry of a default judgment in any mortgage foreclosure case, counsel for the movant shall provide the clerk with envelopes, with all postage fully prepaid, addressed to each person entitled to notice and with the return address of the Clerk of the Circuit Court. The docket number of the case to which the notices pertain shall be on the face of each envelope in the lower left hand corner of the envelope. The envelopes shall contain copy of the notice of default and be sealed prior to delivery to the clerk. The clerk shall mail the sealed envelopes to the person to whom they are· addressed as provided by rule.

In addition to the foregoing, counsel for the movant shall file with the clerk copies of each of the notices sent as provided above and an affidavit that certifies the following:

1.) A list of the names and addresses of all persons entitled to notice in the case;

2.) That the sealed envelopes contain a copy of the notice required by Supreme Court Rule 113 (d); and,

3.) That a notice has been provided for all persons entitled to notice under the rules.

PART 3.00 PROCEEDINGS BEFORE TRIAL

3.01 Appearance, Jury Demands
3.02 Pleadings to be Readily Comprehensible
3.03 Written Interrogatories
3.04 Discovery Documents
3.05 Days for Taking Depositions/Attendance
3.06 Seasonably Updating Discovery
3.07 Compliance with Supreme Court Rule 222
3.08 Local Subpoena Rules, Pretrial Discovery
3.09 Progress Calls
3.10 Procedures for Initial Case Management Conference in Law Cases (ad damnum over $50,000) and in Cases Where a Summons Requiring Appearance Within Thirty (30) Days After Service is Used.
3.11 Trial Calendar
3.12 Stipulations
3.13 Medical Experts

3.01 APPEARANCES, JURY DEMANDS

(a) Each party or counsel appearing in any matter shall file a written Appearance form, which includes in typewritten form or in legible printing the party's or attorney's name, address, telephone number and Illinois ARDC registration number. When an appearance is filed by other than a sole practitioner, the name of an individual attorney responsible for trial of the cause shall be designated.

(b) A written Jury Demand filed by a party in any matter shall be contained in a separate document, and the Clerk of the Court shall not record any jury demand not so filed.

(c) APPEARANCE OF COUNSEL PRO HAC VICE.

See: Illinois Supreme Court Rule 707

3.02 PLEADINGS TO BE READILY COMPREHENSIBLE

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

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

(c) The Court may order a consolidation of pleadings into one finished comprehensible set.

3.03 WRITTEN INTERROGATORIES

The party serving written interrogatories shall provide two copies to each party required to answer the interrogatories. Each copy shall include sufficient space for an answer immediately following each interrogatory. Except to the extent that a greater limitation is imposed pursuant to Supreme Court Rule or the Code of Civil Procedure, no party may serve more than thirty (30) interrogatories, including subparts, upon any other party without leave of Court or agreement of the parties. This limitation is in the aggregate during the life of any case.

3.04 DISCOVERY DOCUMENTS

(a) **Restrictive filing**. Unless otherwise ordered by the Court, no depositions, interrogatories, production requests, answers or responses thereto and other discovery documents will be filed with the Clerk of the Court except as necessary to resolve disputed issues of procedure, fact, or substantive law or pursuant to Supreme Court Rule 207.

(b) **Proof of serving and answering discovery documents**. Discovery documents and notice of filing may be served and answered personally or by U.S. Mail, or by facsimile transmission. Proof of service and notice of filing and answering discovery documents filed with the Clerk of the Court shall contain the case title and number, date mailed faxed or personally served, the identity and addresses of the sending and receiving parties, and shall adequately identify the particular discovery document being served or answered. The proof of service or answer, upon being filed with the Clerk of the Court, shall be prima facie evidence that such document was served or answered. When a party receives a document under S.Ct.R. 204(a)(4), that party shall file with the Clerk of Court notice and proof of service upon all remaining parties certifying that copies of any such documents have been provided to those parties at their expense or that specified parties have declined copies.

3.05 DAYS FOR TAKING DEPOSITIONS/ATTENDANCE

(a) Unless otherwise agreed by the parties or ordered by the Court, depositions shall not be taken on Saturdays, Sundays, or Court holidays and shall be noticed to be taken no earlier than 8:30 A.M. Unless otherwise agreed, such deposition shall be concluded or recessed no later than 5:00 P.M.

(b) In the absence of agreement of all parties attending a deposition or on Order of Court, only the parties may attend discovery depositions. The parties shall include a representative of a corporation, partnership, or like entity; the parent or next friend of a minor; attorneys of record; and purely consulting experts.

3.06 SEASONABLY UPDATING DISCOVERY

Supreme Court Rules 213 (i), 214, and 222 (c) require a party to seasonably supplement or amend prior answers, responses and disclosures whenever new or additional information becomes known to that party.

Pursuant to said rules, every party shall have the duty to seasonably supplement though trial. "Seasonably" shall be defined in the following terms:

> (a) When the trial is more than sixty (60) days away in the future, the party discovering the new information and/or documents that must be disclosed shall tender the information as soon as practicable, but in any event no later than fourteen (14) days after the date of discovering the information.
>
> (b) When the trial is less than sixty (60) days in the future, the party discovering the new information and/or documents that must be disclosed shall tender the information immediately and without delay.
>
> (c) When the information and/or documents are discovered during trial, the party (ies) shall supplement immediately and without delay.

Any party who fails to comply with this rule is subject to sanctions under Supreme Court Rule 219.

3.07 COMPLIANCE WITH SUPREME COURT RULE 222

A plaintiff shall comply with the disclosure requirements of Supreme Court Rule 222 within thirty (30) days of filing of the original complaint, and each defendant shall so comply within thirty (30) days of the date on which their Appearance must be filed, unless otherwise ordered by the Court.

3.08 LOCAL SUBP0ENA RULES, PRETRIAL DISCOVERY

(a) **Subpoena For Production of Specified Documents, Objects or Tangible Things.** Upon request, the Clerk of the Court shall issue a subpoena limited to the production of specified documents, objects, or tangible things. The subpoena shall direct the person or entity to whom it is directed to produce the designated documents, objects, or tangible things. Any item may be sought which constitutes or contains evidence relating to any of the matters within the scope of the examination permitted under the Supreme Court Rules. No oral examination of any person served or responding to a subpoena issued pursuant to this rule is permitted.

(b) **Service of Subpoenas**. Subpoenas issued pursuant to this rule shall be served in accordance with the Supreme Court Rules. A copy of said subpoena and notice of service shall be served within forty-eight (48) hours of issuance upon all parties who have appeared in the action. The manner and form of service shall appear on the subpoena.

(c) **Compliance**. The recipient of a subpoena who has actual or constructive possession or control of the specified documents, objects, or tangible things sought by the subpoena shall respond to any

lawful subpoena of which he has actual knowledge-provided payment of the fee and mileage has been tendered. Service of a subpoena by mail may be proved prima facie by return receipt showing delivery to the deponent or his authorized agent by certified or registered mail at least fourteen (14) days before the date on which compliance is required and an affidavit showing that the mailing was prepaid and was addressed to the deponent, restricted delivery, return receipt requested, showing to whom, the date, and address of delivery, along with a check or money order for the fee and mileage enclosed.

The recipient of the subpoena who has constructive or actual possession or control of the specified documents, objects, or tangible things may comply with said subpoena, without personal appearance, by forwarding complete and legible copies by first class prepaid mail to the party or attorney causing the subpoena to have been issued. The person or custodian of records of the entity responding to the subpoena shall certify in writing that compliance is complete and accurate.

(d) **Subpoena To Bear Legend**.A subpoena issued under this provision seeking specified documents, objects, or tangible things shall bear the following legend on the face of said subpoena or conspicuously attached thereto:

> YOU MAY COMPLY WITH THIS SUBPOENA BY MAILING LEGIBLE AND COMPLETE COPIES OF ALL SPECIFIED DOCUMENTS, OBJECTS OR TANGIBLE THINGS REQUESTED IN THIS SUBPOENA TO THE PARTY OR LAW FIRM WHOSE ADDRESS APPEARS BELOW. COMPLIANCE REQUIRES A CERTIFICATION THAT THE DOCUMENTS, OBJECTS OR TANGIBLE THINGS PROVIDED ARE COMPLETE AND ACCURATE AND CONSTITUTE GOOD FAITH COMPLIANCE WITH THE MATERIALS REQUESTED BY SAID SUBPOENA.

(e) **Objections**. No subpoena issued under this provision may be returnable less than fourteen (14) days following its date of service. Within said fourteen (14) days, any party may timely object to the utilization of the subpoena and, for good cause shown by the objecting party, the Court may quash said subpoena or impose such conditions or limitations as the Court deems equitable.

(f) **Costs and Copies**. The party causing the subpoena to be issued shall be liable to the party subpoenaed for the reasonable costs of copying or reproduction. The Court may enter such orders as may be necessary to enforce the payment of said copying costs or apply any sanction authorized by Supreme Court Rule 219.

Any party may request copies of all materials obtained by any party pursuant to this rule. Expenses of copying shall be borne by the party requesting copies, and said materials shall be reproduced and forwarded to the requesting party not less than ten (10) business days following receipt of the subpoenaed materials.

(g) **Failure to Comply With Subpoena**. If any party or person unreasonably refuses to comply with this rule or any order entered under this rule, the Court may find said person or party in contempt and punish said party or person accordingly, and impose any sanction authorized by Supreme Court Rule 219.

3.09 PROGRESS CALLS

The Chief Judge, by Administrative Order, or the Presiding Judge, by Order, may provide for regular progress calls of cases filed in the Civil and Family Divisions. In connection with such a progress call, the judge shall request the Clerk to notify the attorneys of record or parties who have filed an appearance pro se that the case will be called on a date certain when it will be dismissed on motion of the Court except for good cause shown. The notice for such a special progress call may specify that the hearing shall be for the purpose of a pretrial conference under Supreme Court Rule 218. A failure to appear at such progress call shall constitute grounds for dismissal.

3.10 PROCEDURES FOR INITIAL CASS MANAGEMENT CONFERENCE IN LAW CASES (ad damnum over $50,000) AND IN CASES WHERE A SUMMONS REQUIRING APPEARANCE WITHIN THIRTY (30) DAYS AFTER SERVICE IS USED

(a) At the time of filing of the initial complaint in all Law cases and in all cases where a Summons Requiring Appearance Within Thirty (30) Days After Service (Illinois Supreme Court Rule 101 (d) is used, the Clerk shall stamp on all complaints and summonses a time and date for an Initial Case Management Conference. Said date shall be approximately ninety days (90) from the date of filing of the initial Complaint. In setting the Conference, the Clerk shall choose from those dates and times provided by the Court Administrator's Office. The assigned date and time shall be incorporated into the following notice.

NOTICE

BY LOCAL RULE 3.10

THIS CASE IS HEREBY SET FOR A SCHEDULING CONFERENCE IN COURTROOM _____ ON _____, 20_____, AT _____ AM/PM. FAILURE TO APPEAR MAY RESULT IN THE CASE BEING DISMISSED OR AN ORDER OF DEFAULT BEING ENTERED.

(b) It is mandatory that all plaintiffs or their attorneys and all defendants who have been served with summons or who have filed an Appearance of any kind, or their attorneys, appear at the Scheduling Conference. Failure of any party or their respective. attorney to appear at the Scheduling Conference is good cause for the Court to enter Orders of Dismissal for Want of Prosecution or Orders of Default Judgment, as appropriate.

(c) A Scheduling Conference Order will be entered at the time of the Scheduling Conference, providing that Defendant(s) have filed an Appearance, which sets the date by which Plaintiff will submit a draft Case Management Memorandum (CMM) to Defendant, the date by which Defendant will confer with Plaintiff to finalize the CMM, the date by which the CMM will be submitted to the Court, and the scheduled date and time of the Case Management Conference. Failure to comply in good faith with these dates may subject the offending party to sanctions.

3.11 TRIAL CALENDAR

(a) **Trial Calendars**. Each division of court shall keep and maintain such calendars of cases for trial as shall be designated by Administrative Order.

(b) **Failure to Proceed**. Failure of a party to be ready when the case is reached for trial will subject the cause to dismissal for want of prosecution, judgment by default, or other sanctions as set forth in the Supreme Court Rules.

(c) **Refiled Actions and Declaratory Judgments Filed Within Pending Actions.** Any case being refiled under a new number after a voluntary or involuntary dismissal shall be assigned to the judge who was assigned to the original dismissed case and placed in the same procedural posture as the original case. Upon the filing of any declaratory action that substantially relates to an already pending action, the declaratory action shall be assigned to the judge assigned to the substantive case.

(d) **Cases Defaulted**. In cases defaulted, proofs may be offered at a time convenient to the Court and counsel.

3.12 STIPULATIONS

All stipulations in relation to pleadings, dismissals, or statement of facts to be used in the trial of any cause must be reduced to writing and signed by the parties or the attorneys, and filed in the cause or dictated to the court reporter during trial or hearing of the same.

3.13 MEDICAL EXPERTS

(a) Charges for medical-legal services should be no higher than a physician's charges for other medical services. Such charges shall be computed having due regard for the time, effort, and skill consumed. Such fees shall neither be so high as to prevent the patient from obtaining the physician's medical-legal services, nor so high as to give the appearance that the physician is attempting to capitalize on the patient's legal problem.

(b) A physician who has not been paid for treatment rendered to a patient shall still cooperate fully with the patient's attorney. The physician shall neither refuse nor unduly delay the submission of medical records or reports, participation in conferences with the attorneys, testimony at depositions or trial, or any other actions necessary to the resolution of the patient's legal claim. Similarly, the physician shall not vary the fees normally charged for these services.

(c) If any party files a motion raising the issue of reasonableness of a physician's fee for testimony at a deposition or at trial, the Court shall issue an order to be served upon the physician requiring him to demonstrate by records or in person that the fee requested is reasonable.

PART 4.00 PRE-TRIAL CONFERENCE

4.01 Pre-Trial Conference
4.02 Marking of Exhibits
4.03 Final Pretrial, Settlement Conference
4.04 Dismissal for Want of Prosecution

4.01 PRE-TRIAL CONFERENCES

(a) **Requirements of Pretrial Conferences**. Any party on motion may request a pretrial conference in any civil action. In addition, the Court may order that a pretrial conference be held. At least one pretrial conference should be held in all civil jury actions. The responsible attorneys who will try the case shall attend pretrial conferences. The Court shall set the-time, date, and place of the pretrial conference and direct that notice be given to all interested parties. The attorney for each party shall have ascertained in advance of the conference the extent of settlement authority. Each attorney shall have present in person or immediately available by telephone a representative with authority to discuss and determine each aspect of potential settlement. All pretrial conferences shall be governed by the Supreme Court Rules.

(b) **Pretrial Memorandum**. It shall be the duty of the attorneys for each of the parties involved in a cause of action to prepare a full and complete typewritten pretrial memorandum in form in accordance with these rules. See Form 4. 01 (b). Unless otherwise ordered, the foregoing requirement shall not apply to a pretrial conference held in connection with a special progress call under Rule 3.09.

(c) **Settlement Prior To Trial**. In the event of settlement prior to a scheduled pretrial conference or prior to trial, the attorneys shall immediately notify the judge that the cause has been settled.

4.02 MARKING OF EXHIBITS

The Court may direct that the parties produce all of the exhibits they expect to offer into evidence at a pretrial conference or at any other time as my be designated by the Court. Each of the exhibits shall thereupon be marked for identification by the attorneys or as the Court may direct. The parties shall then stipulate as to the exhibits to which there are no objections, and such exhibits shall be admitted into evidence without the necessity of further foundation. The rule shall not preclude the introduction of additional exhibits at trial.

4.03 FINAL PRETRIAL, SETTLEMENT CONFERENCE

In addition to the pretrial conference, the Court, in its discretion, may order a final pretrial or settlement conference during which the attorneys for each party shall be prepared to exhaust any possibility of settlement and discuss all issues remaining prior to trial. Counsel responsible for conducting the trial shall appear with full authority of their clients to discuss each issue.

4.04 DISMISSAL FOR WHAT OF PROSECUTION

(a) **Procedure**. In all cases where no appeal is pending and there has been no action of record for a period of one (1) year, the Court may summarily dismiss the cause of action.

(b) **Notice**. Upon dismissal of any cause for want of prosecution, the Clerk of the Court shall give all pro se parties and all attorneys of record notice of the dismissal by regular U.S. Mail within ten (10) days of the dismissal. A copy of the notice with the Clerk's certificate of mailing shall be made of record.

PART 5.00 TRIALS

5.01 Counsel to be Present; Continuances
5.02 Motions in Limine
5.03 Jury Trials-Statement of the Nature of the Case
5.04 Jury Instructions
5.05 Cases Taken Under Advisement

5.01 COUNSIL TO BE PRESENT; CONTINUANCES

(a) **Counsel to be present.** All attorneys responsible for conducting the trial shall appear in court at the time the case is called for trial. If any such attorney is unable to appear, alternate counsel shall present an affidavit of the responsible counsel setting forth the reasons the responsible counsel is unable to appear and what efforts, if any, have been made to contact all other responsible counsel about such failure to appear. Continuances in such circumstances shall only be allowed in extraordinary cases or cases of genuine, unforeseeable emergency.

(b) **Continuances.** Continuances may be granted only by order of the Court. All motions for continuance shall be in writing and otherwise fully comply with the Code of Civil Procedure or the code of Criminal Procedure, whichever is applicable, with Supreme Court rule 231 and such other applicable Supreme Court Rules.

5.02 MOTIONS IN LIMINE

Unless the Court orders that they be filed sooner, motions in *limine* shall be in writing and shall be presented to the Court not later than immediately prior to voir dire examination in jury cases and opening statements in bench cases. The Court, in its discretion, may consider motions in *limine* presented thereafter if it determines that the grounds therefore became known subsequent to the deadline or for other good cause. All orders on motions in *limine* shall be reduced to writing by movant's counsel and presented to the Court for signature prior to voir dire examination in jury cases and opening statements in bench cases.

5.03 JURY TRIALS – Statement of the Nature of the Case

(a) **Preparation and use.** In all jury cases, the State's Attorney in criminal cases and the plaintiff's attorney in civil cases shall prepare and submit to the Court and opposing parties a Statement of the Nature of the case to be read by the Court to the venire prior to voir dire examination. The statement shall include the time, date, and place of the alleged occurrence or offense and a brief description thereof, the names of the parties involved and their respective counsel and a list of witnesses whom the parties expect to call, including any such witnesses' occupation, if relevant, and town of residence. Opposing counsel may suggest amendments to the statement prior to it being read to the venire.

(b) **Void dire examination of prospective jurors** Examination shall be pursuant to Supreme Court Rule 234.

5.04 JURY INSTRUCTIONS

Any party submitting jury instructions shall provide the Court with two (2) copies of each instruction, typed double-spaced on 8 1/2" x 11" plain paper. One set of instructions shall be unmarked. The second set of instructions shall be marked in advance in the following manner: the party's designation

and instruction number, the I.P.I. number or citation to legal authority supporting use of the instruction, and the words "**Given**", "**Objected**" and "**Refused**", followed by an underlined area after each such word to be checked indicating the use of such instruction.

Rule 5.05 — CASES TAKEN UNDER ADVISEMENT

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

(b) For the purposes of this Rule, a matter is taken under advisement at such time as the proofs have been closed, the court has heard oral arguments, and the court has received all briefs ordered by the court.

(c) The judge may, by order entered of record, extend the time for ruling to a date certain on the court's calendar not more that 120 days from the date the case was taken under advisement.

(d) Any case taken under advisement which has not been decided by the sitting judge within one hundred twenty (120) days after being taken under advisement shall be reported to the Presiding Judge of the division in which the case is pending, together with an explanation of the reason such decision has not been rendered

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

PART 6.00 BONDS-SURETIES-RECEIVERS

6.01 Receivers
6.02 Inventories of Receivers
6.03 Appraisal for Receivers
6.04 Reports of Receivers
6.05 Receiver Bonds
6.06 Personal Sureties

6.01 RECEIVERS

(a) **Disqualification**. Except as provided in 6.01(b) of this rule or any applicable statute, an appointment as receiver shall not be granted to an individual or to a corporation having a principal officer who:

1. is related by blood or marriage to a party or attorney in the action or to any judge presiding in the matter;
2. is an attorney for or of counsel for any party in the action;
3. is an officer, director, stockholder, or employee of a corporation the assets of which are in question; or
4. stands in any relation to the subject of the controversy that would tend to interfere with the impartial discharge of his duties as an officer of the Court.

(b) If the Court is satisfied that the best interests of the parties would be served, an individual or corporation otherwise disqualified under 6.01(a) of this rule may be appointed as receiver by an order specifically setting forth the reason for departing from the general rule. A receiver so appointed shall serve wholly without compensation, unless otherwise ordered by the Court upon good cause shown.

(c) An attorney for the receiver shall be employed only upon order of the Court upon written motion of the receiver stating the reasons for the requested employment and naming the attorney to be employed.

6.02 INVENTORIES OF RECEIVERS

No later than thirty (30) days after his appointment, the receiver shall file with the Court a detailed report and inventory of all property, real or personal, of the subject matter under receivership and designating the property within his possession or control. If the receiver requires additional time, he shall request permission of the Court who may give such additional time within its discretion. Unless the Court orders otherwise, the receiver shall file with the required inventory a list of the then known liabilities of the subject matter under receivership.

6.03 APPRAISAL FOR RECEIVERS

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

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

6.04 REPORTS OF RECEIVERS

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

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

6.05 RECEIVER BONDS

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

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

6.06 PERSONAL SURETIES

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

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

PART 7.00 SMALL CLAIMS

7.01 Forms of Summons and Complaint
7.02 Default
7.03 Contested Cases
7.04 Motions and Special Appearances
7.05 Referral to Arbitration When a Jury is Demanded
7.06 Dismissal for Want of Prosecution
7.07 Costs in Small Claims
7.08 Small Claims Voluntary Pro Se Mediation

7.01 FORMS OF SUMMONS AND COMPLAINTS

(a) An approved summons form provided by the Clerk of the Circuit Court, substantially in the form set forth in Supreme Court Rule 101(b), shall be used in any Small Claims action.

(b) Small Claims actions may be commenced by filing a complaint on forms supplied by the Clerk of the Circuit Court. The complaint shall state the amount of and the basis for plaintiff's claim, giving dates and relevant facts.

(c) If the claim is based on a written instrument, a copy thereof must be attached to the original and all copies of the complaint. If the written instrument is not available to the plaintiff, an affidavit so stating shall be attached to the complaint.

(d) A copy of the complaint and Small Claims Summons (along with any written instrument required to be attached) shall be served upon each defendant by any of the methods allowed by law including certified or registered mail in compliance with Supreme Court Rule 284.

(e) Copies of complaints served upon defendants shall have attached thereto two blank "Written Appearance Forms" which may be used by the defendants.

(f) The Small Claims Summons, when issued, shall contain a NOTICE TO DEFENDANT setting forth the following language:

If you wish to contest this claim, you must do the following:

Pay the statutory appearance fee and file a written appearance (forms may be obtained at the office of the Clerk of the Circuit Court) on or before the day and time specified above for your appearance, hereinafter called the return day. You must mail or otherwise deliver to the opposing party a copy of your appearance. Then on the return day the sitting judge shall, in open court, set a time and date for trial. Each party is responsible for learning the time and date of the trial.

If you do not wish to contest this claim, you need not appear in person or file a written appearance, and a judgment will be entered against you on the return day, for the amount claimed by the plaintiff in the complaint plus court costs.

7.02 DEFAULT

If a defendant who has been duly served with summons fails to appear on or before the day and time designated as the return day, the court may take the allegations in the complaint as admitted by said defendant and upon motion and without notice enter a judgment by default against defendant for the

amount claimed plus court costs. Such judgment may be entered on the return day or any time thereafter. Also, the court may, in its discretion, require the presentation of evidence and set the case down for "prove up".

7.03 CONTESTED

After service of summons, a defendant desiring to contest the plaintiff's claim must do one of the following:

(a) File a WRITTEN APPEARANCE in the main office of the Circuit Court on or before the time and date of the return day stated in plaintiff's summons.

(b) Appear in person before the court on the return day.

In either event, on the return day the sitting judge shall, in open court, set a time and date for trial.

If all parties appear pro se (representing themselves) on the return date, they will be offered the opportunity to voluntarily participate in the Small Claims Mediation Program (See Rule 7.08 and 20.07) prior to assigning the case a trial date.

7.04 MOTIONS AND SPECIAL APPEARANCES

Motions shall be noticed and heard in accordance with Part 2.00. Any motion shall be noticed for a hearing on a date prior to the trial date. If, with leave of court, a motion is scheduled for hearing on the trial date, the parties shall be prepared to proceed to trial immediately after hearing of said motion.

7.05 REFERRAL TO ARBITRATION WHEN A JURY IS DEMANDED

In the event that any party files a jury demand in a Small Claim action, that fact shall be brought to the attention of the judge presiding by the party filing the demand, and the case shall be referred to Court-Annexed Mandatory Arbitration for a hearing before a trial is scheduled.

7.06 DISMISSAL FOR WHAT OF PROSECUTION

Any case which remains inactive for 90 days may be dismissed for want of prosecution on the court's own motion, without notice.

7.07 COSTS IN SMALL CLAIMS

If the prevailing party requests an award of costs other than those evidenced of record at the time of the award, said party shall, at the time of award or judgment, tender an affidavit individually listing each such cost and the amount sought together with a statement by affiant that those costs have been paid by affiant.

7.08 ALL CLAIMS VOLUNTARY PRO SE MEDIATION

a) **Purpose.** The bench and bar of McHenry County, having recognized the success of court annexed alternate dispute programs, and recognizing a particular need in the area of small claims cases wherein parties represent themselves, adopt these rules to assist the litigants in small claim disputes and to maximize efficiency of court time in the small claims system.

(b) **Actions Eligible.** This program will be available to small claims cases in which all parties appear pro se at the initial return date. In addition, this service may be offered to any other small claims case which the presiding judge feels might be appropriate and parties volunteer to participate. This program shall be strictly voluntary and shall be offered to the litigants as a service. No litigant is required to participate.

(c) **Scheduling.** In McHenry County, with the assistance of the Clerk's office, cases filed by pro se plaintiffs will automatically be assigned a return date on the second or fourth Thursday of each month. The McHenry County Bar Association will make every effort to provide volunteer mediators on those dates.

(d) **Return Date Procedure.** On the second and fourth Thursday of the month, the presiding judge of the small claims division will confirm that volunteer mediators are available. The judge will then provide a brief explanation to litigants about the availability of the program and its voluntary nature. He or she will then call the cases filed by pro se plaintiffs. In cases deemed appropriate for the mediation program, the judge will offer that option and will send participating parties to the office of the court administrator for immediate mediation. At that point, the volunteer mediators will conduct settlement discussions (in the jury rooms connected to the arbitration center, if available). Upon completion of the mediation session, the mediator will send the parties back to the courtroom with appropriate documents for filing.

(e) **Mediator Training/Qualifications.** The approved list of mediators shall be maintained by the presiding judge of the small claims division. To qualify for the list of mediators, a volunteer must be a member of the McHenry County Bar Association and must have completed basic training to act as a mediator. The training shall be informal, and shall be conducted by one of the experienced mediators on the list. When in the judgment of the trainer the candidate is qualified, he or she will present the name of the trainee to the presiding judge for final approval.

The mediators will be scheduled to participate by a member of the Civil Practice Committee of the McHenry County Bar Association, designated as the "mediation coordinator." This coordinator shall be elected by the Civil Practice Committee and may be rotated from time to time as the members of that committee see fit.

(f) **Forms.** The Civil Practice Committee shall provide basic forms for the administration of this program. These forms will include a "Confidentiality Agreement" (patterned after the confidentiality agreement used in the major civil case mediation program), a form "Agreement" to be filed in the event that a settlement agreement is reached, and two court orders. One court order will dismiss the case with prejudice, but allow the court to retain jurisdiction for a period of time to enforce the settlement. The second order will acknowledge that the parties did not settle the case at mediation and will contain a blank space for the judge to fill in a trial date.

(g) **Statistics.** Commencing with formal adoption of these rules, the Arbitration Administrator will maintain statistics indicating the number of cases sent to mediation and the results of the mediation process. These statistics will be reviewed periodically by the presiding judge of the small claims division to determine the effectiveness of the program. The presiding judge of the small claims division may, at any time, suspend or discontinue this program should he or she feel it is no longer effective or necessary.

PART 8.00 REAL ESTATE SALES PURSUANT TO JUDGMENT OR ORDER

8.01 Application
8.02 Counsel to Prepare Necessary Document
8.03 Preliminary
8.04 Time of Sale
8.05 Documents to be Presented by Counsel to Designated Officer Following Sale
8.06 Deed After Period of Redemption Expires
8.07 Miscellaneous

8.01 APPLICATION

(a) This order is applicable to real estate sales conducted by the sheriff, judges or other officers and entities pursuant to judgments or orders of court.

(b) Except where otherwise required by law or ordered by the Court, all sales shall be conducted by the sheriff (hereinafter referred to as "designated officer").

(c) All judicial sales shall be assigned to the designated officer by the Court at the time the decree for sale is entered. The attorney for the plaintiff shall prepare all necessary documents in connection therewith.

8.02 COUNSEL TO PREPARE NECESSARY DOCUMENT

(a) In all foreclosure sales, the attorney for the plaintiff shall use, in substance, the forms set forth below:

1. Certificate of Redemption
2. Notice of Judicial Sale
3. Foreclosure Estimate
4. Report of Sale
5. Report of Distribution
6. Receipt
7. Certificate of Sale
8. Order Approving Sale and Distribution

(b) The attorney for the plaintiff shall:

1. Prepare the notice for the sale in accordance with the form available in the Clerk's office. Such notice shall be published in the real estate section and in the legal notices section of a newspaper of general circulation in the county once each week for three (3) successive weeks. The first publication shall be at least twenty one (21) days prior to the sale. The date of sale shall be confirmed with the designated officer.
2. Prepare the foreclosure estimate.
3. Prepare the reports of sale and distribution.

4. Prepare the certificate of sale in recordable form and one duplicate.
5. Prepare an order approving reports of sale and distribution and for a Deficiency Judgment where applicable.
6. Give a copy of all sale documents to the designated officer for the sale file.

8.03 PRELIMINARY

(a) At the time of setting a sale date with the designated officer, the attorney for plaintiff shall deliver to the designated officer a certified copy of the judgment or order, which order shall include an adjudication of the date of expiration of the period of redemption.

(b) On the date of sale, but prior to the commencement thereof, the plaintiff's attorney shall supply the designated officer with the following:

1. A certificate of mailing copies of notice of sale to parties to the action, where required.

2. Foreclosure estimates.

8.04 TIME OF SALE AND BID

(a) At the time of sale, the attorney shall supply the designated officer with:

1. A check payable to the County Recorder sufficient to pay the then applicable rate for recording the certificate of sale.
2. A notice of sale with proof of service upon those entitled to notice.
3. Sale estimate.

(b) Bids at the sale shall:

1. Be made by persons present and not by mail.
2. Be for cash with an immediate payment by the successful bidder of at least ten percent (10%) of the purchase price and the balance within two (2) business days or the following Tuesday, as the following Tuesday shall be the date at which the monies should be presented, unless otherwise agreed to by those present entitled to the proceeds of the sale.
3. Be paid in cash, cashier's check or the equivalent.

8.05 DOCUMENTS TO BE PRESENTED BY COUNSEL TO DESIGNATED OFFICER FOLLOWING SALE

(a) Following the sale, said attorney shall present to the designated officer for signature the following:

1. Reports of sale and distribution and necessary receipts and copy.
2. Certificate of Sale, one original in recordable form and one duplicate.
3. Proposed order and copy approving reports of sale and distribution and deficiency judgment where applicable (for designated officer approval only).
4. A conformed or certified copy of the order approving the report.

(b) The officer, upon receipt of the conformed or certified copy of the order approving the report of sale and distribution, shall:

1. Issue the certificate of sale to the successful bidder.
2. Issue the duplicate certificate of sale and deliver same to the County Recorder for recording. The duplicate certificate of sale shall be issued on the day of sale and recorded on that day or the following day to preserve the buyer's interest.
3. When the period for redemption has expired, said attorney shall prepare the deed and send it with a copy, together with the original Certificate of Sale, to the designated officer holding the sale for execution.

(c) Upon completion of the sale, with respect to redemptions, the attorney shall:

1. Tender redemption amount to the designated officer or purchaser.
2. If payment is made to purchaser, obtain from him the Certificate of Sale.
3. If payment is made to purchaser, tender Certificate of Redemption, in duplicate, and Certificate of Sale to designated officer.
4. If payment is made to the designated officer, submit funds in cash, certified or cashier's check, and tender Certificate of Redemption, in duplicate.

8.06 DEED AFTER PERIOD OF REDEMPTION EXPIRES

(a) If a deed is sought, the purchaser shall tender a Judicial Deed or Sheriff’s Deed, whichever is applicable and in duplicate, and Certificate of Sale to the designated officer on or about date the deed is called for in Certificate of Sale.

(b) If deed is sought by person other than purchaser at sale, the purchaser shall tender the Certificate of Sale, including endorsements on reverse to show chain of title, to the person making tender or person to whom the deed will issue, together with the Judicial Deed or Sheriff’s Deed, whichever is applicable and in duplicate.

(c) Upon expiration of the period of redemption, the successful bidder shall surrender to the sales officer the Certificate of Sale and a proposed deed and copy thereof. If said documents are found to be in order, the officer shall issue the deed.

(d) The purchaser shall prepare the necessary revenue documents to file in conjunction with the deed.

8.07 MISCELLANEOUS

(a) All communications should be properly addressed to the designated officer to whom the sale is assigned. Attorneys will at all times enclose a self-addressed stamped envelope when documents are to be returned to them by the designated officer.

(b) All required documents, including publication notices, will be substantially in accordance with the forms provided by the Clerk of the Circuit Court.

(c) All monies paid to the designated officer conducting judicial sales under the orders and decrees of this Court shall be deposited in a special account subject to further order of the Court.

(d) It is the attorneys' responsibility to record all documents, except the duplicate Certificate of Sale.

PART 9.00 JUVENILE PROCEEDINGS

9.01 Purpose and Policy
9.02 Juvenile Court Judges
9.03 Release of Confidential Information
9.04 Expungement
9.05 Interstate Compact on Juveniles
9.06 Reports
9.11 Pre-hearing Conference
9.12 Discovery
9.13 Answer to Petition
9.14 Intake Procedure
9.15 Preliminary Conference
9.16 Probation Adjustment (formerly Diversion)
9.17 Reception and Detention of Minors
9.18 Investigation of Circumstances of Custody
9.19 Discovery

SUB-PART A.
GENERAL PROVISIONS

9.01 PURPOSE AND POLICY

These rules set forth procedures for the Juvenile Court in 22nd Judicial Circuit. They supplement the Juvenile Court Act of 1987 (705 ILCS 405/1-1 *et seq.)* [hereinafter Juvenile Court Act], the Code of Civil Procedure (735 ILCS 5/1-101 *et seq.)* and the Rules of the Supreme Court of Illinois and are designed to facilitate the movement of cases through the Court, by reducing unnecessary delay, strengthening case flow management, and encouraging involvement of parents and other parties so as to provide for the best interests of children.

9.02 JUVENILE COURT JUDGES

The Chief Judge or his designee shall designate Juvenile Court Judges to hear Juvenile Court matters. All Juvenile Court matters, including without limitation detention matters, shall be heard by a designated Juvenile Court Judge, if practicable, or by any judge sitting in his or her stead. In any event, the judge entering the adjudicatory order shall whenever possible conduct the dispositional hearing.

9.03 RELEASE OF CONFIDENTIAL INFORMATION

All requests for release of information of law enforcement and juvenile court records held confidential under Sections 1-7 and 1-8 of the Juvenile Court Act may be heard by the Juvenile Court Judge.

9.04 EXPUNGEMENTS

All requests for expungement of law enforcement and juvenile court records under Sec. 1-9 of the Juvenile Court Act may be heard by the Juvenile Court Judge.

9.05 INTERSTATE COMPACT ON JUVENILES

All requests for return of a minor pursuant to the Interstate Compact on Juveniles (45 ILCS 10/1 et seq.) requiring court approval may be heard by the Juvenile Court Judge.

9.06 REPORTS

A report to a Juvenile Court Judge concerning a pending Juvenile Court Case shall be filed with or received by (and not merely mailed to) the Clerk of the Circuit Court at least three (3) Court days prior to any hearing (i.e., review, sentencing, etc.) at which the report will be considered. The report shall contain the name of the minor at issue in the case, along with the number of the case, and the date and time when the case will next be called by the Court for hearing. Reports should include appropriate reference to any related case. Copies of reports must be delivered to the Juvenile Court Judge.

SUB-PART B.
PROCEEDINGS OTHER THAN DELINQUENCY PROCEEDINGS

9.11 PRE-HEARING CONFERENCE

(a) The Court may convene a pre-hearing conference on its own motion or upon the request of any party. Others may be scheduled as deemed necessary by the Court.

(b) Depending upon the circumstances of the case, at the pre-hearing conference, the Court may:

1. Review efforts to locate and serve all parties;
2. Resolve any discovery disputes;
3. Identify significant issues of law and fact;
4. Develop a list of possible witnesses and receive stipulations to uncontested facts;
5. Confirm scheduling and estimate the length of proceedings;
6. Explore resolution of the matter; and
7. Enter such order as the Court deems appropriate.

(c) Each party shall have a continuing obligation to update in a timely fashion the Court and all other parties regarding information provided during the pre-hearing conference.

9.12 DISCOVERY

(a) **Discovery without leave of Court**. Without leave of Court, discovery is limited to a reasonable written request for information, documents, records, and evidence available for inspection. Testing, copying, or photographing may be undertaken without leave of Court. Any party receiving such a written request for discovery shall comply within ten (10) days with the request or file a written objection with the Court, stating the reasons for objection, with copies served on any other party in the case.

(b) **Discovery with leave of Court**. All provisions for discovery in the Rules of the Supreme Court of Illinois are applicable to Juvenile Court proceedings with leave of Court for good cause shown.

9.13 ANSWER TO PETITION

Answers admitting substantive allegations in petitions shall be made by the parties personally in open court. Denials may be made by counsel on behalf of their clients unless otherwise ordered.

SUB-PART C.
DELINQUENCY PROCEEDINGS

9.14 INTAKE PROCEDURE

Whenever a Juvenile Police Officer or other proper person proposes to file a delinquency petition pursuant to the Juvenile Court Act, a Referral Screening Sheet shall be completed and submitted to the Department of Court Services (“Court Services”) Referral Screening Sheets shall be developed and provided by Court Services upon request.

9.15 PRELIMINARY CONFERENCE

Pursuant to Sec. 5-12 of the Juvenile Court Act, Court Services is authorized to schedule a preliminary conference with a view to adjusting suitable cases by resolving them without the filing of a petition. The preliminary conference shall be scheduled within twenty-eight (28) days of the submission of the referral screening sheet and notice shall be sent to the person seeking to file a petition, the prospective respondents and other interested persons. A conference will be held for all referrals to Juvenile Court with the following exceptions: (1) where the minor is detained or (2) where the State's Attorney has indicated he or she will demand a judicial hearing.

9.16 PROBATION ADJUSTMENT (formerly Diversion)

Court Services shall consider all available facts in electing to adjust cases without a delinquency petition in Juvenile Court including but not limited to:

1. The best interest of the minor;
2. The seriousness of the acts alleged to have been committed by the minor;
3. The need to protect the community;
4. The conduct and relationship of the minor and the minor’s parents;
5. The availability of appropriate alternative resources and the amenability of parents and minor to make use thereof; and
6. Prior contacts with the Juvenile Court system.

9.17 RECEPTION AND DETENTION OF MINORS

Unless otherwise ordered by the Juvenile Court Judge, the Intake Officer will designate the place for reception and detention of minors not released from custody by a Juvenile Police Officer or other person authorized to take custody of children. A hearing shall be scheduled before a Juvenile Court Judge as soon as practicable in accordance with the schedule of the Court for such hearings. Prior to any such hearing, Court Services shall provide copies of any and all reports completed on the detention of the minor to the Court.

9.18 INVESTIGATION OF CIRCUMSTANCES OF CUSTODY

Those persons (hereinafter referred to as "Intake Officer"), whom the Chief Judge (or his delegate) shall from time to time designate, shall immediately investigate the circumstances of the minor and

the facts surrounding his or her being taken into custody, in accordance with Sec. 5-8 of the Juvenile Court Act. The Intake Officer shall have the authority to detain and keep a minor pending a judicial detention hearing provided the statutory criteria set forth in Sec. 5-7 of the Juvenile Court Act are met. No minor shall be admitted to secure detention without the written authorization of the Intake Officer.

9.19 DISCOVERY

Upon the first court appearance by counsel for respondent and without written motion, the state shall provide counsel with the material and information specified in Supreme Court Rule 412 within its possession or control. The state has a continuing duty to supplement this material and information in a timely fashion. Within the time limit stated by the Court, the defense shall disclose to the prosecution the material and information specified in Supreme Court Rule 413 within its possession or control. The defense has a continuing duty to supplement this material and information in a timely fashion.

PART 10.00 CRIMINAL RULES

10.01 Applicability of General Rules
10.02 Forms of Criminal Procedure
10.03 Court Calendar and Assignment of Cases
10.04 Consolidation of Offenses and Defendants
10.05 Filing Appearance of Attorneys-Pre-Trial and Trial
10.06 Withdrawal of Counsel
10.07 Appointment of Public Defender
10.08 First Appearance-Rights Court
10.09 Bail Hearings
10.10 Grand Jury
10.11 Dismissal of Charges upon Filing of a New Charging Document
10.12 Felony Arraignments
10.13 Substitution of Judges
10.14 Assignment of Court Interpreters
10.15 Motion Practice
10.16 Discovery in Criminal Cases
10.17 Pre-Trial Subpoena for Production of Specified Documents, Objects or Tangible Things
10.18 Expert Witnesses
10.19 Trial Subpoena for Production of Specified Documents, Objects or Tangible Things
10.20 Continuances
10.21 Demand for Speedy Trial-Defendant Not in Custody
10.22 Jury Trials
10.23 Waiver of Jury Trial
10.24 Control of Evidence
10.25 DUI-Alcohol and Drug Related Evaluations
10.26 Certificate of History of Prior Offenses Involving DUI, First Offender Drug, or Other Causes
10.27 Sealing or Impoundment of Files and Documents

10.01 APPLICABILITY OF GENERAL RULES

(a) In all criminal, quasi-criminal, traffic and conservation offenses, the following rules shall be applicable.

(b) Unless otherwise indicated, references in these rules to the prosecutor shall also mean State's Attorney, Assistant State's Attorneys, Special State's Attorney, Local Prosecutor, or Attorney General.

(c) Reference in these rules to defendant's attorney shall mean defendant, when defendant elects to proceed pro se, or his attorney.

10.02 FORMS OF CRIMINAL PROCEDURE

Forms for all proceedings covered by these rules will be approved by the Circuit Judges and filed with the court administrator. Copies may be made available from the Clerk's office and law library. Where a form has been adopted, that form shall be used in court.

10.03 COURT CALENDAR AND ASSIGNMENT OF CASES

Matters involving the scheduling and assignment of judges, dates, times and locations shall be established by Administrative Orders of the 22nd Judicial Circuit Court.

All cases shall be assigned by the Chief Judge as direct by administrative order or otherwise.

10.04 CONSOLIDATION OF OFFENSES AND DEFENDANTS

(a) Assignment of cases to a particular court will be pursuant to administrative order. All matters will be set in the court division that would hear the most serious offense charged, unless otherwise ordered.

(b) All charges out of a single incident, including traffic and ordinance violations, shall be written into a single court on a single date.

(c) Defendants charged with offenses arising out of the same transaction or occurrence or series of transactions or occurrences will be assigned into the same court unless otherwise ordered.

(d) Where two or more offenses are charged in a single indictment, information or complaint, those offenses shall be joined and tried together in a single joint prosecution unless severance is granted.

(e) Where two or more defendants are charged in the same indictment, information or complaint in one or more counts together or separately, such defendants shall be tried together in a single prosecution unless severance is granted.

10.05 FILING APPEARANCE OF ATTORNEYS / PRE-TRIAL AND TRIAL

The attorney representing a defendant in any criminal proceeding shall file an appearance. This appearance must be filed with the Circuit Court Clerk prior to or simultaneously with the filing of any motion, brief or other document with the Court, or initial court appearance, whichever comes first. It shall contain the proper case caption and number, the attorney's name, address, office phone number and Illinois attorney registration number. The appearance shall be in typed form or legibly hand printed. A copy of the appearance shall also be served upon the prosecuting attorney.

10.06 WITHDRAWAL OF COUNSEL

The attorney representing a defendant in any criminal proceeding shall not be granted leave of court to withdraw as counsel unless a written motion to withdraw is filed and notice of motion is sent to the prosecuting attorney and the defendant by certified mail, return receipt requested, in compliance with the procedural rules and good cause is demonstrated to the Court. No motion to withdraw shall be considered unless filed with notice given a minimum of thirty (30) days prior to the date set for trial to commence.

10.07 APPOINTMENT OF THE PUBLIC DEFENDER

(a) Upon the request of the defendant for appointment of the Public Defender to the sitting judge, the Court shall require the defendant to complete and file a Certificate of Assets/Debts form on a form approved by the Circuit Judges in any case in which a sentence of imprisonment in the county jail facility or Department of Corrections is a possible sentence upon conviction of the offense charged, or where extradition of the defendant to another state of federal jurisdiction is sought.

(b) The Court may, for good cause, temporarily appoint the Public Defender without prior receipt of the Certificate of Assets/Debts form to serve as counsel in the proceeding then before the Court. However, the appointment shall be reviewed and not continue beyond that proceeding unless or until the provisions of Paragraph (a), above, have been complied with.

(c) The Court shall advise the defendant who is appointed the Public Defender that upon motion of the prosecuting attorney or the Court that the defendant may be required to make reimbursement to the County of McHenry for legal services rendered upon final disposition of the criminal matter according to Supreme Court Rules.

10.08 FIRST APPEARANCE-RIGHTS COURT

When an accused in a criminal proceeding is taken into the custody of the McHenry County Sheriff, he shall be brought forthwith as soon as practicable before a judge and advised:

(a) of the charges alleged against him, the possible penalty of fine and/or imprisonment upon conviction and the amount of bail and fees needed to secure his release on bail;

(b) of his right of representation by an attorney of his choice or, if indigent, by a Public Defender;

(c) of his next court appearance date and time;

(d) of his rights to receive food, shelter and reasonable medical care if needed while in custody of the McHenry County Sheriff.

10.09 BAIL HEARINGS

Bail Hearings, brought pursuant to written motion under Article 110, 725 ILCS 5/110-1 et. seq. may be heard by the Court to whom the case is assigned upon not less than 48 hours notice to the opposing party unless otherwise ordered.

10.10 GRAND JURY

Grand Jurors shall be summoned to duty by the Jury Commissioner's Office. Grand Jurors shall be assembled and called to serve on the first Thursday in January, March, May, July, September and November by the Chief Judge. Their term of service shall be sixty (60) days, unless otherwise ordered. If any day upon which a Grand Jury is to be called is a legal holiday, such Grand Jurors shall be called to serve the next court date. After being impaneled, instructed and sworn by the Court, the grand Jury shall sit at such times as the Court may order or that the State's Attorney or the Grand Jury foreperson deems appropriate, and may be recessed from time to time to a day certain or subject to recall.

10.11 DISMISSAL OF CHARGES UPON THE FILING OF A NEW CHARGING DOCUMENT

Upon the filing of an indictment, superseding indictment or information, any previous indictment, complaint or information reflected by charges on the new indictment, new superseding indictment, or new information are dismissed unless otherwise ordered by the judge to which the case is assigned.

Such dismissals shall be noted in the clerk's minute entry as "Dismissed superseded by indictment or information" by using state code 212.

10.12 FELONY ARRAIGNMENTS

At the arraignment of defendants charged with a felony and upon a plea of not guilty, the Court shall enter an order of reciprocal discovery on the State and the defendant pursuant to Supreme Court Rules regarding discovery in criminal cases, with a time designated for compliance, and shall place the cause on the judge's trial calendar.

10.13 SUBSTITUTION OF JUDGES

In all cases wherein a substitution of judge has been requested and granted pursuant to 725 ILCS 5/114-5, unless otherwise provided by administrative order, said cases shall be transferred to the Chief Judge or Court Administrator for reassignment.

10.14 ASSIGNMENT OF COURT INTERPRETERS

(a) Pursuant to 725 ILCS 140/1 and 140/3, the court shall provide an interpreter to any person accused of committing a felony or misdemeanor where incarceration may result who is not capable of understanding or expressing themselves in English. The appointment of an interpreter in a felon or misdemeanor where incarceration may result is at county expense regardless of whether the defendant is indigent.

(b) The Court's Interpreters shall be available to assist non English speaking defendants for all routine matters appearing on the Court's docket. For purposes of this rule, routine matters are defined as non-evidentiary proceedings, such as arraignments, pleas, continuances, status dates, bond hearings, etc. Any party requiring the assistance of the Court's Interpreter for an evidentiary hearing and/or trial, shall be required to (i) notify the Court Administrator's Office within two (2) business days after an order is entered scheduling the case for hearing and/or trial, and (ii) advise the Court Administrator's Office in writing of the need for interpreter assistance; including the date said matter is set for hearing or trial, the caption name and case file number, the anticipated duration of said hearing or trial, and the sitting judge and courtroom in which it is scheduled.

(c) Cancellation of Court Interpreters should be made by the party originally requesting the interpreter's assistance as soon as practicable by notification to the Court Administrators Office in order to avoid undue expense and inconvenience.

(d) Official Court Interpreters, whether staff or contractual, are appointed to serve the Court, pursuant to 725 ILCS 140/1. In their capacity as Official Court Interpreters, they are bound to a professional code of conduct as outlined in Interpreter's Standard of Conduct. Assigned Court Interpreters of the Twenty-Second Judicial Circuit shall accept and agree to be bound by this Code of Professional Conduct for Court Appointed Interpreters and understand that appropriate sanctions may be imposed by the Court for willful violations.

(e) The Twenty-Second Judicial Circuit hereby adopts the Code of Professional Conduct for Court Appointed Interpreters. Court Interpreters must:

1. Act strictly in the interest of the Court they serve.
2. Reflect proper court decorum and act with dignity and respect to the officials and staff of the Court.
3. Avoid professional and personal conduct which could discredit the Court.
4. Not divulge any information of a confidential nature about Court cases obtained while performing interpreting duties, unless authorized by Court Order.
5. Refrain from solicitation of business in the courtroom and environs. Any violation of this will result in loss of privilege of providing services.
6. Refrain from giving advice of any kind to any party or individual and from expression personal opinions in a matter before the Court.
7. Maintain impartiality by avoiding undue contact with witnesses, attorneys, and defendants and their families and any contact with jurors. This should not limit,

however, those appropriate contacts necessary to prepare adequately for their appointed tasks.

8. Not accept any reimbursement, gifts, gratuities, or valuable consideration in excess of their authorized compensations in performance of their official interpreting duties.
9. Not use, for private gain or advantage, their county time or the Court's facilities, equipment or supplies, nor shall they use unwarranted privileges or exemptions for themselves or others.
10. Disclose to all parties concerned, and to the trial judge, any conflict of interest. Any condition which infringes on the objectivity of the interpreter or affects his or her professional independence constitutes a conflict of interest. A conflict may exist wherever any of the following occur:

(i). the interpreter is personally acquainted with any party;

(ii) the interpreter has, in any way, an interest in the outcome of the case;

(iii) the interpreter is perceived as not being independent of the adversary parties (or related agencies in criminal cases).

10.15 MOTION PRACTICE

(a) All pre-trial motions including, but not limited to, motions brought pursuant to Illinois Compiled Statutes, Chapter 725, Article 144 or Article 115-10 of the Code of Criminal Procedure shall be filed within the time fixed by the Court. In the absence of an order setting dates, all motions shall be filed and brought to the attention of the Court not less than twenty-eight (28) days before the date the case is set to commence.

(b) Time of Notice. Pursuant to rule, court order or administrative order:

1. If notice of filing is given by personal service, the notice and motion shall be delivered before 4:00 p.m. on the second day preceding the hearing of the motion.
2. If notice of filing is given by mail, the notice and motion shall be deposited in the United State's Post Office or Post Office deposit box on the fifth day preceding the hearing of the motion, excluding Saturdays, Sundays and Holidays.
3. If notice of filing is given by facsimile transmission, the notice and motion must be transmitted not less than 48 hours preceding the hearing of the motion, excluding Saturdays, Sundays and Holidays.

(c) A defendant shall be present in open court upon the hearing of any motion in the case unless his presence is waived by the Court for good cause shown.

(d) Briefing of motions shall be within the discretion of the judge assigned to the case. In no event shall a brief on a motion be submitted in excess of 10 pages without the Court's permission. All briefs and memoranda of law shall identify the submitting party in the heading following the caption of the case. All briefs and legal memoranda presented to the Court shall not be filed in the Court file nor made a part of the record for appeal. Such briefs and memoranda may be delivered to the Judge through the Clerk of the Court and the Court Clerk shall stamp copies for the attorneys to show received this date with a stamp using the following words:

RECEIVED

McHENRY COUNTY, ILLINOIS

(DATE)

(NAME)

Clerk of the Circuit Court

The Clerk shall not file briefs and memoranda. Briefs and memoranda of law for the Court shall not include any other motions or legal pleadings.

(e) Courtesy copies of briefs or contested motions along with supporting legal authority may be submitted to the Court through delivery to the Court Administrator's Office concurrent with the filing with similar delivery to opposing counsel. All parties shall submit to the Court courtesy copies of briefs and other materials necessary for decision within five (5) days prior to the hearing. Any transmittal letters should be limited to the fact of the transmittal only and opposing counsel shall be notified of the transmittal letter contemporaneously.

10.16 DISCOVERY IN CRIMINAL CASES

(a) Discovery in felony cases shall be governed by Supreme Court Rules and the Code of Criminal Procedure.

(b) Discovery in misdemeanor cases are governed by the Supreme Court's ruling in *People v. Schmidt*, 56 Ill.2d 572 (1974). However, upon agreement of the prosecuting attorney and the attorney for the defendant, police reports may be tendered by the prosecutor in lieu of Schmidt discovery.

10.17 PRE-TRIAL SUBPOENA FOR PRODUCTION OF SPECIFIED DOCUMENTS, OBJECTS OR TANGIBLE THINGS

(a) The Clerk of the Court shall issue subpoenas limited to the production of specified documents, objects or tangible things when requested by the prosecutor or the defendant. The subpoena shall require the person or entity to whom it is directed to produce the designated documents, objects or tangible things. Notice of the issuance of the subpoena to produce specified documents, objects or tangible things shall be given within forty-eight (48) hours of issuance to all parties having appeared in the action. **Subpoenas shall be returnable before the judge assigned to the case at a time that the court is normally in session.**

(b) Subpoenas issued pursuant to this Rule shall be served in accordance with the Supreme Court Rules.

(c) In cases where the documents, objects, or tangible things sought are protected under the privacy rules of the Federal Health Insurance Portability and Accountability Act (HIPPA), the party seeking the items shall give notice of the issuance of the subpoena, in accordance with subsection (e), to the person who holds the privacy privilege to the documents, objects, or tangible things involved.

(d) The person to whom a subpoena is directed who has actual or constructive possession or control of the specified documents, objects or tangible things sought by the subpoena shall respond to any lawful subpoena of which he has actual knowledge. Service of a subpoena by mail may be proved prima facie by return receipt showing delivery to the deponent or his authorized agent by certified or registered mail at least fourteen (14) days before the date on which compliance is required, together with an affidavit showing that the mailing was prepaid and was addressed to the deponent, restricted delivery, return receipt requested, showing to whom, date and address of delivery, and that a check or money order for the fee and mileage enclosed.

(e) The person to whom the subpoena is directed who has constructive or actual possession or control of the specified documents, objects or tangible things, may comply with said subpoena, without personal appearance, by providing complete and legible copies to the Court together with a certificate that compliance is complete and accurate on or before the return date listed on the subpoena.

(f) A subpoena issued under this provision seeking specified documents, objects or tangible things shall bear the following legend on the face of said subpoena, or conspicuously attached thereto, and a copy of said subpoena and notice of service shall be mailed first class within forty-eight (48) hours of issuance to all parties having appeared in the action:

YOU MAY COMPLY WITH THIS SUBPOENA BY APPEARING IN PERSON IN COURT ON THE RETURN DATE WITH THE SUBPOENAED MATERIALS. YOU ALSO MAY COMPLY BY MAILING LEGIBLE AND COMPLETE COPIES OF ALL SPECIFIED DOCUMENTS, OBJECTS OR TANGIBLE THINGS REQUESTED IN THIS SUBPOENA AT LEAST FIVE (5) DAYS BEFORE THE DUE DATE TO PRESIDING JUDGE (MCHENRY COUNTY GOVERNMENT CENTER, 2200 NORTH SEMINARY AVENUE, WOODSTOCK, ILLINOIS 60098).

COMPLIANCE BY MAIL REQUIRES THAT THE ATTACHED CERTIFICATE BE SIGNED AND RETURNED.

DO NOT SEND THESE MATERIALS TO ANYONE OTHER THAN THE JUDGE PRESIDING STATED ABOVE.

(g) A certification page containing the following language shall be sent with all subpoenas issued pursuant to this section:

I hereby certify, under penalty of perjury and contempt of Court, that I have examined the subpoena issued in this cause and that the documents, objects and tangible things attached hereto represent full and complete compliance with said subpoena.

Date: _____

Signature: _____

Print Name: _____

10.18 EXPERT WITNESSES

(a) Disclosure of expert witnesses shall be in accordance with the Supreme Court Rules governing discovery in criminal cases.

(b) The name, business address, business phone number, area of expertise, and subject matter of the proposed testimony of all expert witnesses shall be disclosed to the opposing party within the time limit set for discovery unless otherwise ordered by the Court.

(c) All reports, notes, memoranda, correspondence, or other written materials pertaining to the expert's opinion, employment or qualifications are discoverable and shall be furnished within the time set for discovery unless otherwise ordered by the Court.

(d) Failure to comply with these rules may result in sanctions including, but not limited to, barring of testimony of expert witnesses.

10.19 TRIAL SUBPOENA FOR PRODUCTION OF SPECIFIED DOCUMENTS, OBJECTS OR TANGIBLE THINGS

Subpoenas requiring the presence of a witness or the production of specified documents, objects or tangible things at trial shall be governed by the Code of Criminal Procedure, 725 ILCS 5/100-1 *et seq.*

10.20 CONTINUANCES

In addition to the requirements contained in 725 ILCS 5/114-4:

(a) Attorney Engaged. A party may be entitled to a continuance on the ground that his attorney is actually engaged in another trial or hearing. Any motion for continuance shall be in writing and supported by affidavit setting forth the name and case number of the other case, place of trial or hearing, the date the other matter was set for trial or hearing, name of judge and anticipated length of trial or hearing, together with the number of and reasons for any prior continuances in the case sought to be continued.

(b) Addition or Substitution of Attorneys. A continuance shall not be granted solely upon the ground of substitution or addition of attorneys except for good cause shown upon motion and affidavit.

10.21 DEMAND FOR SPEEDY TRIAL- Defendant on bail or recognizance

For every criminal defendant on bail or recognizance who demands a speedy trial:

(a) Said demand shall be made in writing as a separate document, containing proper case caption and case number, signed and dated by the defendant and/or defendant's attorney, and in accordance with Chapter 725, Section 5, Article 103-5 of the Illinois Compiled Statutes, and

(b) The original demand for speedy trial signed by the defendant shall be filed with the Clerk of the Circuit Court in open court with the defendant present and a copy of the demand shall at the same time be served on the prosecutor.

10.22 JURY TRIALS

(a) Whenever a felony charge is set for jury trial, the Court will, at the request of either the prosecutor or attorney for the defendant, set a pre-trial conference status date in court when the parties must appear. All pre-trial motions, including motions in limine, must be filed with the Clerk of the Circuit Court prior to, but no later than, the pre-trial conference appearance date. The Court will set briefing schedules and a date for hearing, prior to commencement of the jury trial, on any pre-trial motions not yet heard. Motions filed after the pre-trial conference appearance may be heard, in the court's discretion, upon good cause shown.

(b) Prior to jury selection, the prosecutor and attorney of the defendant shall prepare and present to the Court a statement of facts for the case being tried which shall include the names of potential witnesses each party may call during trial, including the municipal entity in which they live, or in the case of police officials, the law enforcement entity for whom they are employed.

(c) The prosecutor and attorney for the defendant shall each prepare jury instructions in writing and present them to the trial judge and opposing counsel when the case is called for jury trial or at such other times as the trial judge may order. The attorney submitting the written jury instructions will provide one copy each for the trial judge and opposing counsel containing the proponent's instruction number and the Illinois Pattern Jury Instruction number or the legal authority upon which the attorney relies. In addition, the submitting attorney will provide the trial judge with an identical set of proposed instructions that does not contain the proponent's instruction number or the Illinois Pattern Jury Instruction number or the legal authority.

10.23 WAIVER OF JURY TRIAL

(a) Every person accused of an offense, other than an offense punishable by a fine only, shall have the right to a trial by jury unless understandingly waived by defendant in open court. Where the defendant elects to waive the right to trial by jury, such waiver shall be made in open court with the defendant present and shall be accompanied by a written waiver signed by the defendant on a form approved by the Court.

(b) In cases where a jury demand is made which require the payment of a jury fee, the fee must be paid prior to or contemporaneously with the jury demand. Failure to pay the jury fee as required (unless waived for good cause shown on written petition) shall cause the jury demand to be invalid.

10.24 CONTROL OF EVIDENCE

(a) Felony cases: Exhibits received in evidence at trial or at hearing on a motion in any felony case shall be retained by the court reporter unless otherwise ordered by the Court. Upon judgment entered by the Court, the court reporter shall transfer all exhibits received to the Clerk of the Circuit Court unless otherwise ordered by the Court.

(b) Non-felony cases: Exhibits received in evidence at trial or at hearing on a motion in any non-felony case tried through electronic recording system shall be retained by the trial judge.

10.25 DUI-ALCOHOL AND DRUG RELATED EVALUATIONS

Unless otherwise allowed by the Court, after a finding of guilty and prior to any final sentence, or order of supervision, for an offense based upon an arrest for a violation of 11-501 of the Illinois Vehicle Code or similar local ordinance, the defendant shall present a written professional evaluation for the Court to determine if an alcohol, drug or intoxicating compound abuse problem exists and the extent of the problem and undergo the imposition of treatment as appropriate. Programs conducting these

evaluations shall be licensed by the Illinois Department of Human Services or other similar agency of another State.

10.26 CERTIFCATES OF HISTORY OF PRIOR OFFENSES involving DUI Cases, FIRST OFFENDER DRUG Cases, or Any Other Cases

(a) Prior to the pronouncement of sentence in any misdemeanor offense charged under Section 5/11-501 of the Illinois Vehicle Code, or similar local ordinance, where court supervision is requested, the defendant shall fully execute and file with the sentencing judge, a written certificate of history of prior offenses, on a form provided by the Clerk of the Circuit Court.

(b) Prior to the pronouncement of sentence in any case where first offender probation is requested under the Cannabis Control Act, 720 ILCS 550/10, or Illinois Controlled Substance Act, 720 ILCS 570/410, the defendant shall execute and file with the sentencing judge, a certificate stating that he has not been previously been convicted of, or placed on probation or court supervision for, any offense under the Cannabis Control Act or Illinois Controlled Substance Act, or any law of the United States or any State relating to cannabis or controlled substances.

(c) Upon order of the sentencing judge, said certificates of history of prior offenses shall also be filed in any other case, prior to the pronouncement of sentence.

10.27 SEALING OR IMPOUNDMENT OF DOCUMENTS

There is a strong statutory presumption of public access to the court's files and records which 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 review.

Nothing in this rule shall be construed to expand or restrict statutory provisions for the sealing of files, records, or documents or those rules promulgated by the Supreme Court or Administrative Office of the Illinois Courts pursuant to the Manual on Recordkeeping.

For purposes of this Local Rule, the term "sealing" shall mean to remove all access to the file, record or document except for users authorized by court order. The term "impoundment" shall mean to remove all access to the file, record or document except for users authorized by statute or court order.

A. Written Order Required
Except as otherwise provided by statute, any files, records or documents may be impounded or sealed only upon written order of a judge.

The Clerk of the Circuit Court shall not impound or seal any file or any part thereof without a written order unless otherwise required by law or the Manual on Recordkeeping.

B. Specified Exceptions
The following exceptions are specifically identified and controlled by statute:

1. **Juvenile Files**
   (a) Juvenile files shall be impounded subject to the terms of 705 ILCS 405/1-8, 705 ILCS 405/5-901.

(b) An attorney who represents a client in a pending criminal matter may without leave of the Court review any juvenile court file wherein that client is the respondent minor in a delinquency proceeding, except such part of the juvenile court file which has been previously sealed by the Court.

2. Fitness Reports, Psychological and/or Psychiatric Evaluations

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

3. Pre-Trial Bond Reports and Pre-Trial Supervised Release Reports

An attorney who represents a client named as the defendant in a pending criminal matter and the prosecutor may without leave of Court review and obtain a copy of the sealed Pre-trial Services Bond Report and Pre-Trial Supervised Release Reports of the defendant who is the subject of the report.

4. Pre-Sentence Investigation Reports

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

5. Mental Health Records

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

6. Substance Abuse Evaluations

An attorney who represents a client named as the defendant in a pending criminal matter and the prosecutor may, without leave of Court, review and obtain a copy of the defendant's substance abuse evaluation sealed and maintained separately by the Clerk of the Circuit Court, which evaluation shall otherwise be impounded.

7. Adoption Files

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

8. Reports in Guardianship Cases

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.

C. Procedure for Sealing

(a) All motions to seal a file, records or documents must be made in writing and presented to the judge assigned to hear the case with appropriate notice to all parties of record. The motion must explain the basis for sealing the file, records or documents and specify the proposed duration of the sealing order. Any motion to seal, upon specific request, may also be sealed if it contains a discussion of the confidential material.

(b) The judge hearing the motion shall enter a written order either granting or denying the request on a form approved by the Circuit Judges. If the judge grants the motion, then 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. The order shall further designate whether an order sealing a file includes removing the party's names from public access to the index and the duration the file is to be sealed.

D. Review of Sealed Files

(a) Unless otherwise specified on the written order, on an annual basis, the Clerk of the Circuit Court shall present for the judge's review, a list of all files, records or documents sealed by the

judge. If the judge ordering the file, record or document to be sealed is no longer available, then the case shall be referred to the Chief Judge or his or her designee for review.

(b) The judge ordering the case, records or document sealed shall review the file to determine whether the case, records or document will remain sealed. A judge may unseal a case, records or document if a party fails to object to the unsealing within 30 days following written notice of the intent to unseal.

(c) For purposes of this rule, review of files sealed pursuant to statute or the Manual on Recordkeeping shall be exempt.

E. Procedure for Impoundment

(a) All motions to impound a file, records or documents must be made in writing and presented to the judge assigned to hear the case with appropriate notice to all parties of record. The motion must explain the basis for impounding the file, records or documents and specify the proposed duration of the impoundment order. Any motion to impound, upon specific request, may also be impounded if it contains a discussion of the confidential material.

(b) The judge hearing the motion shall enter a written order either granting or denying the request on a form approved by the Circuit Judges. If the judge grants the motion, then the order shall designate whether the entire file, record or document, or only a portion of the entire file, record or document, shall be impounded. The order shall further designate whether an order impounding a file includes removing the party's names from public access to the index and the duration the file is to be impounded.

F. Review of Impounded Files

(a) Unless otherwise specified on the written order, on an annual basis, the clerk of the court shall present for the judge's review, a list of all files, records or documents impounded by the judge. If the judge ordering the file, record or document to be impounded is no longer available, then the case shall be referred to the Chief Judge or his or her designee for review.

(b) The judge ordering the case, records or document impounded shall review the file to determine whether the case, records or document will remain impounded. A judge may rescind an order impounding a case, records or document if a party fails to object to the rescinding order within 30 days following written notice of the intent to rescind the order impounding the case.

(c) For purposes of this rule, review of files impounded pursuant to statute or the Manual on Recordkeeping shall be exempt. For purposes of this rule, review of files impounded pursuant to statute or the Manual on Recordkeeping shall be exempt.

G. Motions to Rescind an Order Sealing or Impounding a File

(a) A person or entity seeking access to a sealed or impounded case, records or document, regardless of whether they were a party in the original case and regardless of whether the case is pending or closed may, upon 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 rescinded.

(b) The motion should be titled "Motion to Rescind Order Sealing File" or "Motion to Rescind Order Impounding File", whichever is more appropriate.

(c) Upon the proper filing of a "Motion to Rescind Order Sealing File" or "Motion to Rescind Order Impounding File", within 14 days the Circuit Court Clerk shall set the motion for hearing before

the judge who ordered the case, records or documents to be sealed or impounded. If the judge ordering the case, records or documents sealed or impounded is no longer available or cannot hear the motion within the 14 days set forth by this rule, and then the case shall be referred to the Chief Judge or his or her designee for review.

PART 11.00 FAMILY LAW

11.01 Scope
11.02 Affidavit of Parties and Production of Documents
11.03 Interrogatories
11.04 Attorney for the Child
11.05 Conciliation, Mediation, Advice to Court, Investigations and Reports
11.06 Case Management Conferences
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11.08 Subsequent Case Management Conference to Simplify and Reduce Trial Issues and Proofs (hereinafter referred to as a "Trial Conference")
11.09 Parenting Education
11.10 Emergency Motions
11.11 Report of Proceedings/Prove-Up Forms
11.12 Joint Simplified Dissolution Procedure

11.01 SCOPE

Family law cases are defined as any proceeding assigned to the Family Division, excluding Juvenile and support matters through the office of the State's Attorney.

11.02 AFFIDAVIT OF PARTIES AND PRODUCTION OF DOCUMENTS

(a) Every pleading seeking to establish or otherwise affect issues of support or maintenance, whether temporary or permanent in nature, other than the Petition for Dissolution of Marriage, shall be accompanied by an affidavit as to income and expenses in the form approved by the Illinois Supreme Court. The Financial Affidavit shall be supported by documentary evidence including, but not limited to, income tax returns, pay stubs and banking statements. Unless otherwise ordered by the Court, the Financial Affidavit shall be filed with the Clerk of the Court and shall become part of the public record. The tax returns, paystubs and any other supporting documentary evidence, unless otherwise ordered by the Court, shall not be filed with the Clerk of the Court and shall not be made part of the public record.

(b) Said affidavit shall be served on the opposing party within two (2) business days of the filing of the initial and responsive pleadings. No affidavit dated more than sixty (60) days before the scheduled hearing date or pre-trial shall be considered valid for the purpose of that proceeding unless accompanied by a new affidavit stating that the party offering it represents that there has been no substantial change in any of the information since the original affidavit was prepared.

(c) Failure by either party to submit the affidavit required herein may be cause for sanctions pursuant to Supreme Court Rule 219.

(d) At least seven (7) days prior to the hearing, each party shall produce, and provide to the Court assigned to hear the matter, a courtesy copy of the Financial Affidavit and the following financial documents:

i). the party's last three (3) pay stubs;

ii). the party's last two (2) filed federal income tax returns;

iii). an index of any other documentary evidence submitted in support of the Financial Affidavit. The index shall describe the documentary evidence with specificity and shall identify the number of pages of each document (e.g. bank statements from XYZ Bank for the month of January, 2016).Unless specifically requested by the Court, other than the information specified in (i), (ii) and (iii) above, no other supporting documentary evidence

shall be submitted to the Judge assigned to hear the matter.

11.03 INTERROGATORIES

No party shall serve on any other party more than thirty (30) written interrogatories in the aggregate, including any subsections thereof, without leave of Court or prior written stipulation of the parties, except as authorized in Supreme Court Rule 213.

11.04 ATTORNEY FOR THE CHILD

a) The 22nd Judicial Circuit recognizes the importance of appointing qualified attorneys to represent the interests of dependent or minor children in allocation of parental responsibility and parenting time cases, as defined by Statute and Rules of the Illinois Supreme Court.

b) The Chief Judge of this Circuit shall maintain and disseminate to the trial courts of this. Circuit a list of attorneys who have applied for and agreed to accept appointment, have met the necessary qualifications and requirements, and have been approved by this Circuit for court appointments to allocation of parental responsibility and parenting time cases.

c) To be considered for initial acceptance, applicants must submit to the Trial Court Administrator of this Circuit information including but not necessarily limited to the following:

1. The applicant must be a licensed attorney in good standing with the Supreme Court of Illinois and have no less than three (3) years experience in cases arising under the Illinois Marriage and Dissolution of Marriage Act, the Parentage Act, the Domestic Violent Act, the Uniform child Custody Jurisdiction and Enforcement Act and Article 112 A of the Code of Criminal Procedure; and experience of not less than one (1) year in cases arising under the Juvenile Court Act.

2. The applicant must advise the Court of his or her past experience, within the five years next preceding the application, concerning contested allocation of parental responsibility and parenting time cases, as defined by Statute and Supreme Court rule. The Court may inquire solicit the opinions of other court appointed children's counsel of this Circuit, other attorneys, bar associations and court personnel in ruling upon the acceptance of any applications.

3. The applicant must have completed, or agree to complete within two years of the adoption of these rules, at least ten hours of approved continuing legal education courses in the following areas: roles of guardian *ad litem* and child representative, ethics in parental responsibility allocation cases, relevant substantive state or federal case law in parental responsibility allocation and parenting time issues, family dynamics, including substance abuse, domestic violence and abuse, and mental health issues, and related, approved training sessions presented and approved by this Court or by state or local bar associations. Attorneys who work for government or non-profit family or legal aid agencies may meet the requirements of this rule by attending appropriate in-house legal education classes.

4. The applicant must have completed, or agree to complete within two years of the adoption of these rules, at least ten hours of approved continuing legal education courses in the following areas: roles of guardian ad litem and child representative; ethics in child custody cases; relevant substantive state or federal case law in custody and visitation issues; family dynamics, including substance abuse, domestic violence and abuse, and mental health issues; and related, approved training sessions presented or approved by this

Court or by state or local bar associations. Attorneys who work for government or non-profit family or legal aid agencies may meet the requirements of this rule by attending and specifying appropriate in house legal education classes.

d) The list of attorneys qualified for court appointment shall be updated by the Chief Judge of this Circuit no less than every two years. To maintain qualification, each applicant shall be required to update their office and contact information, and shall provide a summary of their continuing legal education courses as specified above.

e) An attorney appointed pursuant to this rule shall have the powers, duties and responsibilities including, but not necessarily limited to, those specified in 750 ILCS 5/506, Illinois Supreme Court Rule 907, the applicable sections of the Marriage and Dissolution of Marriage Act, the Parentage Act, the Domestic Violence Act, the Juvenile Court Act, the Uniform Child Custody Jurisdiction and Enforcement Act, Section 112A of the Code of Criminal Procedure, and other duties and responsibilities as the Court may specify.

f) An attorney appointed pursuant to this rule shall report to the Court on the status of the cause and file a motion for fees pursuant to statute within 90 days following appointment and every 90 days thereafter. The motion shall be filed with the Clerk and scheduled for hearing together with a status concerning the underlying cause, and a copy of the motion shall be placed with the Trial Court Administrator for distribution to the Judge hearing the cause.

g) An attorney may be removed from the approved appointment list by failing to comply with the requirements of this rule, by action of the Court, or by voluntary request. An attorney may decline a specific appointment due to potential conflict of interest, time constraints, or other good cause shown upon notice and application to the appointing judge.

h) The Chief Judge shall be responsible for disseminating and collecting attorney applications for appointment hereunder, for disseminating motions for fees hereunder, for maintaining and updating information on the list of attorneys available for court appointment, and for the publication of the requirements of this rule.

11.05 CONCILIATION, MEDIATION, ADVICE TO COURT, INVESTIGATIONS AND REPORTS

Local procedures for conciliation, mediation, advice to the Court, investigations and reports as authorized under 750 ILCS 5/404 and 5/604.10 may be implemented by court rule or by administrative order of the Chief Judge of this Circuit.

11.06 CASE MANAGEMENT CONFERENCES

(a.) **Initial Case Management Conference**. Upon the filing of the initial pleading in any Dissolution (DV) or Family (FA) case, a date and time will be set approximately ninety days (90) days from the filing of the initial pleading for the parties or their attorneys to appear in open court on a schedule established by the Court and implemented by the Clerk of the Circuit Court for an Initial Case Management Conference. It shall be mandatory for all pro se parties and counsel of record to attend the Initial Case Management Conference, unless otherwise excused for good cause by prior court order, at which time the Court shall determine the following issues:

1. The status of service of summons;

2. The status of pleadings;

3. The status of parenting education, at which time the parties shall show proof of completion of the approved parenting education program, provide a fixed schedule for compliance, or show cause to excuse compliance; and

4. The status of allocation of parental responsibility and mediation, at which time the parties shall provide the Court with an agreed order regarding the allocation of parental responsibility and an agreed parenting plan, if there is an agreement, or if there is no agreement regarding the allocation of parental responsibility or a parenting plan or both, the Court shall schedule the matter for mediation and shall advise each parent of the responsibilities imposed upon them by the pertinent local court rules.

The Court may enter any appropriate scheduling orders and consider any other matters that may aid in the disposition of the case, including setting a date for a full Case Management Conference pursuant to Supreme Court Rule 218.

(b.) **Full Case Management Conference**. A full Case Management Conference pursuant to Supreme Court Rule 218 may be conducted upon notice and motion of a party or upon order of the Court. A full Case Management Conference shall be held no later than thirty (30) days after mediation has been completed. In addition to other matters the Court may choose to address at the conference, and if the Court has not appointed counsel previously, the Court shall address whether to appoint an attorney for the child or a *guardian ad litem* or a child representative in accordance with Section 506 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/506).

Prior to the full Case Management Conference , counsel of record familiar with the case and authorized to act shall meet and complete a Case Management Conference Memorandum in the form approved by the Court. Any self-represented party shall also complete a Case Management Memorandum in the form approved by the Court. It shall be mandatory for all self-represented parties and counsel of record to attend the full Case Management Conference, and all subsequent conferences thereafter, unless otherwise excused for good cause by court order.

The Case Management Conference Memorandum shall address the following issues:

1. The nature, issues, and complexity of the case;

2. The formation and simplification of the issues, including the elimination of frivolous claims;

3. Amendments to the pleadings;

4. Status of Discovery;

5. Possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;

6. Limitations on Discovery, including:

    (a.) the number and duration of depositions which can be taken;

    (b.) the area of expertise and the number of opinion witnesses who can be called;

    (c.) deadlines for the disclosure of all witnesses under Supreme Court Rule 231(f), including all opinions witnesses, and the completion of written discovery and depositions.

7. Possibility of settlement and scheduling of a Pre-Trial Settlement Conference.

8. Advisability of alternative dispute resolution;

9. Advisability of holding subsequent case management conferences and pre-trial settlement conferences; and

10. Any other matters which may aid in the disposition of the case.

The completed memorandum shall be tendered to the Court at the full Case Management Conference. At the conclusion of the full Case Management Conference, an order in the form approved by the Court shall be prepared by the petitioner or petitioner's counsel addressing the above considerations and presented to the Court for approval and entry.

Any party and/or attorney required under this rule to attend any Case Management Conference who, without good cause, fails to attend after having been given due and proper notice, or fails to meet and complete the full Case Management Conference Memorandum, shall be subject to the sanctioning power of this Court, including, but not limited to, those authorized under Supreme Court Rule 219(c), such as civil or criminal contempt, dismissal, imposition of attorney's fees, imposition of monetary sanctions, and the awarding of the other party's costs of transportation, loss of work income and other expenses incident to that party's presence at the conference.

11.07 SETTLEMENT CONFERENCE

(a) Settlement conferences shall be mandatory in all contested pre-judgment Family Division cases and contested post-judgment allocation of parental responsibility and relocation petitions unless specifically excused by Court order. No such case shall proceed to trial or hearing as a contested matter until a settlement conference has been held.

(b) A settlement conference memorandum shall be provided by each party to the Court and opposing counsel or self-represented· party two (2) days prior to the settlement conference. The settlement conference memorandum shall be in the form approved by the Court.

(c) Settlement conferences shall be set by order of Court pursuant to the Court's own motion or notice and motion or by agreement of the parties. It is mandatory that the trial attorneys be present at all settlement conferences.

(d) Any party and/or attorney required under this rule or order of Court to attend a settlement conference who, without good cause, fails to attend after having been given due and proper notice or fails to provide a settlement conference memorandum, shall be subject to the sanctioning power of this Court including, but not limited to, those authorized under Supreme Court Rule 219(c), such as civil or criminal contempt, dismissal, imposition of attorney's fees, imposition of monetary sanctions, and the awarding of the other party's costs of transportation, loss of work income and other expenses incident to that party's presence at the conference.

11.08 SUBSEQUENT CASE MANAGEMENT CONFERENCE TO SIMPLIFY AND REDUCE TRIAL ISSUES AND PROOFS (hereinafter referred to as a "TRIAL CONFERENCE")

(a) Upon motion of either party or order of the Court a Trial Conference shall be scheduled. The purpose of the Trial Conference is:

1. The formation and simplification of the issues, including the elimination of frivolous claims;
2. determining whether amendments to the pleadings are necessary or desirable;
3. to obtain admissions of fact and documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the Court on the admissibility of evidence including written motions in limine;
4. the avoidance of unnecessary proof and of cumulative evidence;
5. the identification of the number of witnesses and exhibits, the need and schedule for filing and exchanging briefs, and the date or dates of further conferences and for trial;
6. the identification of any unresolved Petitions, including attorney's fees of attorneys previously involved in the case; and
7. such other matters as may aid in the disposition of the action.

(b) Upon the entry of an order scheduling a Trial Conference and prior to the Trial Conference, the attorneys for all the parties and the unrepresented parties shall meet either in person, by telephone, or as otherwise ordered by the Court. At such meeting, they shall:

1. reach an agreement on any possible stipulations narrowing the issues of law or fact;
2. exchange copies of exhibits that will be offered in evidence at the trial;
3. perform such other acts as have been ordered by the Court; and
4. jointly prepare a trial conference memorandum in the form approved by the Court.

It shall be the continuing duty of all of the parties and attorneys to meet, respond, and cooperate to fulfill the terms of this Rule.

(c) At the Trial Conference each party shall be represented by the attorney who will be representing him or her in the trial of the case unless otherwise permitted by Court order. All the parties and attorneys must attend the Trial Conference. Any attorney having a pending fee petition must also attend the conference.

(d) After the Trial Conference has taken place pursuant to this Rule, an order shall be entered reciting the actions taken. This order shall control the subsequent course of the case unless modified by subsequent order. The order following a Trial Conference shall be modified only to prevent manifest injustice.

(e) If a party or party's attorney or any attorney having a pending fee petition, fails to do one or more of the following:

1. obey a scheduling or trial conference order;
2. appear at the Trial Conference;
3. properly prepare to participate in the conference; or
4. participate in good faith, the Court upon motion or on its own initiative, may make such order with regard thereto as are just, and assess sanctions pursuant to Supreme Court Rule 219(c), including attorney's fees, and monetary sanctions, unless the court finds that noncompliance

was substantially justified or that other circumstances make an award of expenses or the imposition of sanctions unjust.

11.09 PARENTING EDUCATION

1. The Circuit Court of McHenry County has the responsibility and duty to protect the interests of minor children whose parents are engaged in litigation dissolving their marriage. The litigation process is stressful, but particularly so when the family is undergoing a change in structure. It is at such a time, and in its aftermath, that activities harmful to the child can occur. Therefore, it is to the benefit of all such parents, regardless of their parenting skills, and in the best interest of their minor children that they take time from the immediate personal concerns to consider the impact of the dissolution process on their children.
2. In furtherance of this policy and to implement the provisions of 750 ILCS 5/404.1 (1994), a Family Parenting Program (FPP) shall be established as a resource to the Circuit Court.

   (a.) The program may be contracted for and shall be overseen by the Chief Judge or his or her designee.

   (b.) The contents of the FPP shall be directed to the best interests of the minor children of the parties to dissolution or post dissolution proceedings and shall concern the effects of divorce on children. The program shall be educational in nature and not designed for individual therapy. The program shall not exceed four (4) hours in duration.

   (c.) The parenting program described above shall be financially self-supportive through court assessed fees paid by the parties attending the program. The amount of the fee to be assessed for the program shall be related to the cost of conducting the program and shall be determined by the Chief Judge or his or her designee. The fee may be waived by the Court for good cause shown.

3. All parents of minor children who have appeared or who have otherwise personally submitted to the jurisdiction of the Circuit Court of McHenry County in any pending dissolution of marriage proceeding or any post-judgment proceeding wherein there is an issue of modification of significant decisions making responsibility, parenting time or relocation or any pending parentage action pursuant to 750 ILCS 45/1 *et. seq.* shall attend the FPP unless excused for good cause.
4. All parents shall complete the FPP no later than 60 days after the initial scheduling conference or prior to the entry of final judgment or order, whichever occurs first, unless excused by the Court for good cause. All parents in a parentage action shall complete the FPP prior to the entry of a final support and parenting time judgment unless excused by the Court. The Trial Court may in the best interest of the minor children delay the presentment of evidence or the entry of part or all of the Court's findings pending completion of FPP by the parents.
5. The judge assigned to a case other than described in #3 above may, in the exercise of discretion, require parents of minor children or other parties to attend the FPP.
6. Where a party required to attend the FPP resides outside of the 22nd Circuit, the Court may authorize attendance at another similar parenting program in lieu of the FPP.
7. Persons registered for a session who do not attend and do not cancel at least 24 hours in advance shall be required to reregister and pay an additional full fee.

11.10 EMERGENCY MOTIONS

An Emergency Motion shall be labeled as such and shall be heard only if the Court first determines that an emergency exists and that reasonable attempts at notice have been made. Any emergency motion shall be verified and state the nature of the emergency as well as when the emergency arose. A party and/or his or her counsel who respond to a motion propounded as, but found not to be an emergency may be entitled to reimbursement by the proponent of actual expenses, fees and costs incurred in responding to the said motion.

11.11 REPORT OF PROCEEDING/PROVE-UP FORMS

The report of proceedings from all domestic relations prove-ups shall be transcribed and filed within 30 days, unless excused by order of the Court.

At the prove-up or upon the entry of the Judgment for Dissolution, the petitioner shall submit a typed statistics certificate as required by the State of Illinois. Prior to the entry of a judgment for dissolution in cases involving the custody of children, the parties must provide the court with the information required pursuant to 750 ILCS 35/10 by submitting an affidavit in a form approved by the court.

11.12 JOINT SIMPLIFIED DISSOLUTION PROCEDURE

Parties seeking a joint simplified dissolution pursuant to 750 ILCS 5/452 shall use forms approved by the court which shall be available upon request from the Clerk of the Circuit Court. After filing the joint petition, both parties shall appear in person before the court on the assigned date and a hearing will be held. No transcript of the hearing shall be required. Brochures approved by the Chief Judge explaining the joint simplified dissolution procedures shall be provided by the Clerk of the Circuit Court.

PART 12.00 ENFORCEMENT OF CHILD SUPPORT

12.01 Payments Ordered Through the Clerk of the Court

12.01 PAYMENTS ORDERED THROUGH THE CLERK OF THE COURT

(a) **Definitions**:

1. ***"*Obligor**" means the individual who owes a duty to make payments under an order for support.
2. ***"*Obligee**" means the individual to whom a duty of support is owed or the individual's legal representative.
3. "**Public office**" means any elected official or any State or local agency which is or may become responsible by law for enforcement of, or which is or may become authorized to enforce, an order for support, including, but not limited to: the Attorney General, the Illinois Department of Public Aid, the Illinois Department of Human Services, the Illinois Department of Children and Family Services, and the various State's Attorneys, Clerks of the Circuit Court and supervisors of general assistance.

(b) **When Applicable - Procedure**.

Except in those cases in which payments of child support are required to be sent to the State Disbursement Unit, child support shall be paid through the Clerk of the Circuit Court unless otherwise ordered by court. The clerk shall maintain a record of payment and pay over to the obligee the amount received.

(c) **Notice of Order**.

At the time a child support order is entered by the Court, a written copy of the order shall be given to the obligor. If the obligor is not provided with a copy of the support order at the time of its entry, the Court shall direct the obligee to mail by regular U.S. Mail a copy of the support order to the obligor's last known address within seven (7) days of its entry. The certificate of mailing shall be made of record. If the obligee or the child(ren) is a recipient of Aid to Dependent Children, the obligee or representative of the public office shall mail a copy of the support order to the Department of Public Aid.

(d) **Payment**. When support payments are to be made through the Clerk of the Court, then payment***s*** shall be delivered personally or transmitted by mail so that such payment arrives in the office of the Clerk of the Court no later than the day designated for such payment. Payment***s*** may be made by cash, cashier's check, certified check or money order. Payments by cashier's check, certified check or money order shall be made payable to the Clerk of the Court.

(e) **Procedure upon Default of Payment**

If the obligor is in default of payment, counsel representing the interest of the obligee or the public office, or a pro se obligee, may file a Petition for Adjudication of Contempt against such obligor***.*** Upon the petition being filed, the Court shall set a date for hearing and order counsel representing the obligee, or a pro se obligee***,*** to give notice to the obligor and provide proof thereof. Notice of the

hearing and a copy of the petition shall be served and returned in the manner provided in Supreme Court Rule 105(b)(1) or by regular U.S. Mail addressed to the obligor's last known address. Proof of mailing notice shall be made a part of the record. Notice by personal service shall be served not less than seven (7) days prior to hearing, and notice by U.S. Mail shall be mailed not less than ten (10) days prior to hearing. Upon hearing on the petition, if good cause is not shown, the obligor may be found in civil contempt and sanctioned according to law. The obligor may be found in indirect criminal contempt for the same act and sanctioned accordingly if a Petition for Adjudication of Indirect Criminal Contempt has been filed and the obligor was properly advised of his rights prior to the commencement of the proceedings. If the obligor fails to appear at the hearing after receiving due notice or if the Court has reason to believe the obligor will not appear in response to the notice, the Court may issue a body attachment directed to the obligor. When an attachment issues, the Court shall set bail as authorized in criminal cases. The amount of bail shall be indicated on the order of attachment.

PART 13.00 RESERVED

PART 14.00 PROBATE PROCEEDINGS

14.01 General
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14.26 Appointment of Special Administrator Where no Probate Estate has been Opened
14.27 Inactive Docket

14.01 GENERAL

(a) The definitions in the Probate Act of 1975, as amended, shall apply to these rules:

1. "Court" refers to Probate Court
2. "Judge" means a Circuit Judge or Associate Judge assigned to the Probate Court.
3. "Representative" includes executor, administrator, administrator to collect, administrator with will annexed, standby guardian, guardian, and temporary guardian but does not include an independent administrator or executor.
4. "Independent administrator" means an executor or administrator as defined in Article XXVIII of the Probate Act.
5. "Ward" includes minor and disabled person.
6. Section references are to sections of the Probate Act.

(b) An action to contest admission or denial of a will, to enforce a contract to make a will, to construe a will, or to appoint a testamentary trustee during the period of administration of an estate shall be assigned a Chancery case number in accordance with the Supreme Court Manual on Record Keeping. The parties shall be designated as in other civil actions. Unless otherwise ordered by the Presiding Judge of the Civil Division, the action shall be heard by the Probate Judge to whom the estate has been assigned.

14.02 BONDS: PERSONAL SURETIES

(a) If a bond with personal sureties is proffered, it must be accompanied by:

1. A petition, verified by the representative, stating:

(i) the gross value of the personal estate, excluding real estate, but including the income derived therefrom, if any, (ii) the estimated monthly maintenance expenses for the ward,

(iii) the estimated amount of claims and taxes, and (iv) whether the adult heirs or legatees or the nearest relatives of a ward approve the bond, with their approvals attached, and

2. A schedule of the property and net worth of each proposed surety, executed under oath by the proposed surety, unless the filing of a schedule is excused by the Court upon the consent of all heirs and/or legatees in a decedent's estate or upon good cause shown in a ward's estate.

(b) If the proffered bond is approved by the Court, the petition and the schedules shall be filed with and become a part of the bond. The personal representative or his attorney, within seven (7) days, shall mail copies of the petition, bond, and schedules to each heir, legatee or nearest relative, as the case may be, except to those whose approval is on file. Proof of mailing shall be filed with the clerk.

14.03 EXCUSE OF SURETY ON GUARDIAN'S BOUND IN CASH DEPOSITS

(a) When the funds of a ward's estate, derived from any source, are to be deposited pursuant to Section 24-21 of the Probate Act, the Court may waive the filing of a bond by the entry of an order which authorizes the deposit and which requires:

1. that a distribution to the ward's estate be made payable jointly to the guardian, if any, and the depository, and
2. that a certified receipt of the depository be filed with the Clerk of the Court. The receipt shall be executed by an authorized agent of the depository and shall certify that no withdrawals may be made without court approval.

(b) If a representative of the ward's estate has been appointed, the filing of the receipt of the depository, as prescribed herein, may be considered a final account, whereupon the Court may release the representative and the sureties on his bond. The case shall thereafter be designated closed by the Clerk of the Court.

14.04 SURETY COMPANIES

A bond with a corporation or association licensed to transact surety business in the State of Illinois as surety will be approved only if a current copy of the surety's authority to transact business in this State, as issued by the Director of Insurance, and a verified power of attorney or a certificate of authority for all persons authorized to execute bonds for the surety are attached to the bond.

14.05 OPENING A SAFE DEPOSIT BOX

(a) The petition for appointment of a representative of a decedent or a ward shall disclose whether or not there exists a safe deposit box belonging to the estate or ward and the location thereof.

(b) The initial inventory shall list the existence of any safe deposit box and the location thereof.

(c) The representative shall prepare an itemized statement of the contents of the safe deposit box, which shall be certified as true and correct by the representative. An itemized statement of the contents shall be included in the inventory filed with the Clerk of the Court.

(d) Any after discovered safe deposit box shall be inventoried forthwith in accordance with this rule and a supplemental inventory listing the box and its contents shall be filed with the Clerk of the Court no later than thirty (30) days from the date of discovery.

14.06 PERIODIC ACCOUNTING

(a) Unless excused by the Court pursuant to Section 24-1(b) of the Probate Act, every representative of a decedent's estate shall present to the Court, for approval, a verified account of the administration of the estate as required by Section 24-1(a) of the Probate Act within sixty (60) days after the expiration of one (1) year after the issuance of letters of office. Thereafter, a verified account shall be filed annually within sixty (60) days after the anniversary date of the issuance of letters of office until the administration is completed.

(b) Whenever an order is entered granting independent administration pursuant to Section 28-2 of the Probate Act, the independent representative shall file in open court a verified report on the status of the estate each year within thirty (30) days after the anniversary date of the entry of the initial order granting independent administration until the estate is closed.

(c) Unless excused by the Court, every guardian shall present to the Court for approval the verified account and evidence required by Section 24-11(a) of the Probate Act within sixty (60) days after the expiration of one (1) year after the issuance of letters and annually thereafter within sixty (60) days after the anniversary date of the first verified account until the estate is closed.

(d) Each current report shall disclose to the Court the pendency of any claim, suit or proceeding by or against the estate or the representative of the estate and, in estates of deceased persons, any other reason which prevents final distribution and termination of the estate.

(e) Each account shall include to the satisfaction of the Court, the following categories:

1. The assets on hand at the beginning of the period of time covered by the account.
2. The income received during the period of time covered by the account.
3. The disbursements made during the period of time covered by the account.
4. The assets on hand at the close of the period of time covered by the account.

(f) No representative shall be discharged until a final account has been filed and approved by the Court.

(g) Except as hereinafter provided, in an estate in which an account and/or report has not been filed and approved as required by paragraphs a, b and c above, the Clerk shall issue and mail a notice to both the representative and attorney of record in the estate, advising them that an account and/or report must be filed in accordance with these rules, and notifying them that in the event an account and/or report is not so filed they must appear on a date certain fixed by the Court to explain why they have not done so and further notifying them that failure to appear on the date so fixed may subject them to contempt proceedings and the imposition of sanctions.

14.07 NOTICE OF HEARING ON ACCOUNTS

(a) Notice of the hearing on a final account of an executor or administrator or on a current account that is intended to be binding pursuant to Section 24-2 of the Probate Act, shall be given to the persons described in Section 24-2 of the Probate Act, as follows:

1. Such notice shall be in writing accompanied by a copy of the account, except where notice is to be given by publication.
2. The notice shall contain the time, place and nature of the hearing and substantially the following sentence: "If the account is approved by the court upon the hearing, in the absence of fraud, accident or mistake, the account as approved may be binding upon all persons to whom this notice is given."
3. The notice shall be given at least seven (7) days prior to the hearing in the manner provided by Supreme Court Rule 11 except when notice is by publication as herein provided, and except that whenever the person resides outside the continental limits of the United States,, the notice shall be by airmail at least twenty-one (21) days prior to the date of hearing.
4. Whenever the name or place of residence of any such person is unknown and upon due diligence cannot be ascertained, and an affidavit to that effect is filed with the Clerk of the Court by the executor or administrator, then notice shall be given to such person by mailing the same to the last known address and by publication at least once in some newspaper of general circulation published in the County at least twenty-one (21) days prior to the date of the hearing.
5. Proof of such notice shall be filed with the Clerk of the Court on or before the date of the hearing.
6. No notice need be given to any person from whom a receipt in full is filed with the court or who entered his appearance in writing and waives notice.

(b) Notice of the hearing on a current or final account of a guardian shall be given to the ward, if living, to each claimant whose claim has been filed and remains undetermined or unpaid, to the heirs at law or legal representative of a deceased ward, and where entitled, to the Chief Attorney of the Administrator of Veteran Affairs. Such notice shall be given in the manner provided for in Section (a) of this rule.

14.08 PROOF OF SERVICE IN GUARDIANSHIP ESTATES

When service of notice is required pursuant to Section 1110.1 or Section lla-10(f) of the Probate Act, proof of service shall be filed with the Clerk in the manner provided for in Supreme Court Rule 12.

14.09 NOTICE OF CLAIM CALL

When a claim against the estate of a decedent or a ward is filed with the Court pursuant to Section 18-1 of the Probate Act, the Clerk of the Court, within seven (7) days of the filing of the claim, shall send to the representative of the estate and to the claimant,, or to their attorneys, if they are represented by counsel, a notice setting a call of the claim pursuant to Section 18-7 of the Probate Act. The notice shall set the call of the claim no less than **60** days from the date of the filing of the claim and shall inform the parties that if the claimant fails to appear for the call of the claim, the claim may be dismissed for want of prosecution and that if the representative fails to appear, and no other person, whose interests may be affected by the allowance of the claim objects, the claim may be allowed against the estate. No less than thirty (30) days prior to the date of the call of the claim, the

representative shall notify all other parties of record of the call of the claim by forwarding to them a copy of the claim and of the notice from the Clerk. The representative shall file proof of such notice with the Clerk on or before the date of the call of the claim.

14.10 VOUCHERS

Upon presentation of an account, the representative shall furnish receipts for any distributions set forth in the account and a certificate of the representative stating that vouchers evidencing disbursements are in the possession of the representative. The Court may require the presentation of vouchers for examination.

14.11 FINAL ACCOUNT AND SETTLEMENT OF GUARDIANSHIP ESTATES

On the final account and settlement of a ward's estate when the person entitled to the estate is the ward, the guardian will not be discharged unless the ward appears before the court and acknowledges the settlement and approves the final account in open court. The personal attendance of the ward may be waived by the Court whenever the Court is satisfied, by affidavit of the ward filed with the Clerk or by other evidence, that the final settlement is just and equitable, that the ward is in possession of all of his estate, and that the personal attendance of the ward is impracticable.

14.12 DISTRIBUTION TO A MINOR, A DISABLED PERSON OR A DECEASED HEIR, DEVISEE OR LEGETEE

(a) If an heir-at-law of an intestate estate or a devisee or legatee of a testate estate is a minor, or dies or is adjudicated incompetent, such fact shall be set forth in any petition requesting authority to make distribution.

(b) Except where the distributive share qualifies for distribution under Article XXV of the Probate Act, or under 20 ILCS 1705/22, distribution will be authorized only to the legal representative of such person.

14.13 CLOSING OF AN ESTATE

Closing of an estate will not be authorized unless:

(a) Receipts on distribution or other evidence of distribution satisfactory to the Court are on file with the Court from all distributees; and

(b) The legal representative has filed a verified final report, in addition to the final account. The final report shall verify that all procedures and administrative duties have been completed and that proper notice has been given to all heirs and/or legatees who have not previously appeared and consented, and shall include a statement that: (1) all court costs have been paid; (2) all claims filed have been satisfied or dismissed and, (3) all applicable state and federal taxes, if any, have been paid.

14.14 CHANGE IN HEIRSHIP OR DISTRIBUTIVE RIGHTS

(a) If any interested person has cause to believe that the order declaring heirship is erroneous or incomplete, he shall bring it promptly to the attention of the Court upon proper notice and motion.

(b) If there is a change in distributive rights during the administration of an estate, including a change resulting from death, renunciation, disclaimer or other election provided by law, upon motion of any person or the Court's own motion, an order shall be entered determining the appropriate distribution.

14.15 ALTERNATIVE DISTRIBUTION TO RESIDENT OF FOREIGN COUNTRY

The distributive share of a citizen and resident of a foreign country may be paid to the attorney-in-fact for such distributes or to the official representative of such foreign country (hereinafter referred to as "ORFC") who is entitled thereto pursuant to treaty or convention between that country and the United States, in the following manner:

1. Such ORFC or such attorney-in-fact shall present satisfactory evidence to the Court that his principal is, in fact, the person entitled to receive such distributive share and that such ORFC has been duly authorized by treaty or convention or that such attorney-in-fact has been duly authorized by a power of attorney, to receive such distributive share.
2. Each power of attorney shall be signed by the distributes and properly authenticated and acknowledged before the American Consul of the jurisdiction in which the foreign distributes resides, unless the court shall be satisfied with other evidence of the genuineness or validity of the power of attorney.
3. The ORFC or attorney-in-fact shall acknowledge receipt in writing of the distributive share received from the representative of the estate. The representative of the estate shall file the receipt with the Court.

14.16 ASSIGNMENT OF INTEREST – POWER OF ATTORNEY

(a) No distribution shall be made pursuant to an assignment or a power of attorney signed by a distributes of an estate unless the assignment or power of attorney has been approved by the Court upon the filing of a verified petition with appropriate notice stating that the power of attorney or assignment has not been revoked and setting forth the following:

1. The consideration paid or to be paid and fees and expenses charged or to be charged to the grantor of the power of attorney or the assignor of the assignment;
2. The name and address of the grantor and grantee of the power of attorney or the assignor and assignee of the assignment; and

(b) Each power of attorney or assignment shall be signed and acknowledged by the grantor of the power of attorney or by the assignor of the assignment in accordance with the Illinois Uniform Recognition of Acknowledgment Act. 765 ILCS 30/1 *et seq.*

(c) The representative, on making any distribution to an assignee or person acting under authority of a power of attorney, shall not make any distribution without first receiving a certification from the assignee or holder of power of attorney that the assignment or grant of power of attorney has not been revoked.

14.17 NOTICE TO BENEFICIARIES OF TESTAMENTARY TRUST

(a) Prior to, or at the time of the closing of an estate, in which a testamentary trust has been established, the trustees shall file with their receipt for the trust assets, proof that the beneficiaries of said trust have been given notice of their right to petition the Court for the purpose of construing the

trust or to take over supervision of the trust should the trustees fail to abide by the terms of the trust or to make annual accountings thereof to the beneficiaries.

(b) Such notice shall also be given to a properly appointed personal fiduciary or the guardian ad litem and to the guardian of any minor or disabled beneficiary.

(c) The proof of service of the notice to beneficiaries shall be filed with the Clerk of the Court prior to closing of the estate.

14.18 TERMINATION OF SMALL ESTATES OF WARDS

(a) If money has been deposited as provided in Section 24-21 and the balance drops below the amount which may be transferred pursuant to Section 25-2 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 distribution of the balance of the funds without further administration.

(b) When a guardian is acting and the estate under administration is or becomes less than the amount which may be transferred pursuant to Section 25-2 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 distribution of the estate without further administration. If it appears that there is no unpaid creditor and that it is for the best interest of the estate and the ward, the Court may order the guardian to file his final account and make distribution as the Court directs. Upon filing of a receipt on distribution, the guardian may be discharged and the estate closed.

14.19 PETITION FOR EXPENDITURES ON BEHALF OF A WARD

(a) Any petition to withdraw funds pursuant to Section 2421 as well as any petition by a guardian for the expenditure of funds on behalf of a ward shall state the following:

1. The value of the estate at the time of presenting the petition; and
2. The annual income of the ward and the source of the income.

(b) The petitioner shall present the petition in person unless personal presentation is excused by the Court. The petitioner shall furnish evidence that the sums to be used are necessary for the ward's support, comfort, education or other benefit to the ward or his dependents.

14.20 ALLOWANCE OF FEES

(a) All fees payable to a representative or to an attorney for a representative must be approved by the Court pursuant to a verified petition with notice to all interested parties, unless the fees in a specific dollar amount have been consented to in writing by all interested parties as defined in Section 1-2.11 of the Probate Act.

(b) A petition for fees shall state the following:

1. the gross value of the estate;
2. the hours expended and details of work done;
3. a detailed itemization of any expense for which reimbursement is 'sought; and

4. with respect to attorney's fees, any other pertinent factor described in the Code of Professional Conduct, Rule 2-106.

(c) In a ward's estate, fees will be considered only when a petition for fees is presented for the court's approval except as otherwise provided in Local Rule 14.24.

14.21 WITHDRAWAL OF DEPOSIT WITH COUNTY TREASURER

Any claimant applying to the Court to obtain funds deposited with the County Treasurer shall give notice of his application to obtain funds to the State's Attorney and to such other persons as the Court directs.

14.22 JURY DEMANDS

(a) A petitioner or claimant desirous of a trial by jury, where permitted, except in cases involving disabled adults, must file a jury demand with the Clerk and pay the fee at the time he files his petition or claim. A representative, citation respondent, or other party in interest opposing the petition, citation, or claim and desirous of a trial by jury must file a jury demand and pay the fee at the time he files his answer or other responsive pleading. If the petitioner or claimant files a jury demand and thereafter waives a jury, the representative, citation respondent, or other interested party opposing the claim will be granted a jury trial upon demand promptly made after being advised of the waiver and upon payment of the fee.

(b) Jury demands in cases involving disabled adults shall be governed by the requirements of Section 11a-11 of the Probate Act.

14.23 PROCEDURE FOR SETTLEMENT OF PERSONAL INJURY AND WRONGFUL DEATH CLAIMS IN PROBATE COURT

(a) Each petition for leave to settle a cause of action for personal injuries sustained by a minor or disabled person, or a cause of action for the wrongful death of a person whose estate is in the course of administration, when no separate lawsuit is pending, shall be executed by the representative. The attorney for the representative, if any, shall certify in writing as a part of the petition that, in his opinion, based upon the law and the facts and law applicable thereto, the proposed settlement is just and proper.

(b) The court may, on its own motion, appoint a guardian ad litem to investigate the merits of the proposed settlement.

(c) Any order in the Probate Court approving a settlement of a wrongful death action shall also establish the distributive rights of the persons entitled to the proceeds.

(d) A petition to settle an action on behalf of a minor or disabled person shall have attached thereto a report of the attending physician stating the nature and extent of the injury, unless waived by the Court.

In the case of a minor, the minor shall appear in open court at the hearing on the petition.

(e) If the petition proposes a "structured settlement," future payments must be guaranteed by an entity rated "All or higher by Best's Insurance Guide or other rating service found acceptable to the Court.

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

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

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

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

(i) Unless a statute provides for a lesser fee amount, any allowance for fees out of a settlement of a cause of action for personal injuries to a minor or disabled person or out of a distribution to a ward as a result of the settlement of a wrongful death cause of action shall not exceed twenty-five (25%) percent of the settlement. However, if it shall appear to the Court upon the filing of a verified petition by the attorney prosecuting the cause of action that the twenty-five (25%) percent fee would not fairly compensate the attorney for the work performed, the Court shall fix the fee at whatever amount it determines to be fair and reasonable.

14.24 PROCEDURE FOR DISPOSITION OF PENDING LAW CASES IN PERSONAL INJURY ACTIONS INVOLVING CLAIMS OF MINOR OR DISABLED PERSON, BY TRIAL COURT

(a) The settlement without trial of a pending lawsuit for personal injuries sustained by a minor or disabled person shall be presented for approval to the judge hearing the case. Approval shall be subject to the provisions of Local Rule 14.23, except that the judge hearing the case may waive the filing of a written petition under Local Rule 14.23 for the approval of attorney's fees in excess of twenty-five (25%) percent of the settlement. If the judge hearing the case approves the settlement, the order approving the settlement shall set forth the attorney's compensation, the cost, the expenses, and the net amount distributable to the minor or disabled person.

(b) For distribution to be made as a result of a lawsuit for personal injuries sustained by a minor or disabled person where a judgment has been entered after trial, the judge hearing the case shall enter an order for distribution setting forth the amount of the judgment, the attorney's fees, the costs, the expenses, and the net amount distributable to the minor or disabled person. Distribution shall be subject to the provisions of Local Rule 14.23, except that the judge hearing the case may waive the filing of a written petition under Local Rule 14.23 for approval of attorney's fees in excess of twenty-five (25%) percent of the award.

(c) The Order setting forth the distribution shall provide that the amount distributable to the minor or disabled person shall be paid only to the representative of the minor or disabled person appointed by

the Probate Court in the estate filed on behalf of the minor or disabled person and that vouchers evidencing receipt of the funds be filed with the Court within a time prescribed by the Court. In the event that an estate has not yet been opened, a petition for guardianship shall be filed with and heard by the Probate Court within thirty (30) days of the trial judge's order. A copy of the trial judge's order shall be attached to the petition for guardianship.

(d) If the petition proposes a "structured settlement," future payments must be guaranteed by an entity rated "All or higher by Best's Insurance Guide or other rating service found acceptable to the Court.

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

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

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

(g) If the amount distributable to the minor or disabled person is less than the amount provided in Section 25-2 of the Probate Act, the judge hearing the case may, by order, provide for distribution in accordance with the provisions of Section 252 of the Probate Act.

14.25 PROCEDURE FOR DISPOSITION OF PENDING LAW CASES IN WRONGFUL DEATH ACTIONS, BY TRIAL COURT

The procedure to be followed in law cases involving actions for wrongful death brought on behalf of a decedent by the representative appointed in the decedent's estate by the Probate Court, when pending in a court other than the Probate Court shall be as follows:

1. The settlement of a pending lawsuit for wrongful death without trial shall be presented for approval to the judge hearing the case. Unless waived by the judge hearing the case, the provisions of Local Rule 14.23 shall apply. If the judge hearing the case approves the settlement, the order approving the settlement shall set forth the attorney's compensation, the costs, the expenses, and the net amount distributable to the legal representative or to each person entitled thereto pursuant to the provisions of the Wrongful Death Act.
2. For distribution to be made under a pending lawsuit in a wrongful death case where a judgment has been entered after trial, the judge hearing the case shall enter an order for distribution setting forth the amount of the judgment, the attorney's fees, the costs, the expenses, and the net amount distributable to the legal representative or to each person entitled thereto pursuant to the provisions of the Wrongful Death Act.

3. When the distributable amount received by a representative pursuant to the provisions of this section is an asset of the decedent's estate and is further subject to the provisions, of the Probate Act, it shall be accounted for and administered in the decedent's estate. It shall be the responsibility of .the representative to furnish a bond in sufficient amount to cover any increase in the value of the personal estate occasioned by the distribution.

14.26 APPOINTMENT OF SPECIAL ADMINISTRATOR WHERE NO PROBATE ESTATE HAS BEEN OPENED

In cases involving actions for wrongful death brought pursuant to 740 ILCS 180/2.1, where no probate proceedings have been opened on behalf of the decedent's estate, the judge to whom the wrongful death action is assigned may appoint a special administrator for the deceased party without the necessity of opening a decedent's estate upon the filing of a verified petition with notice to the heirs and legatees of the decedent as the Court directs.

14.27 INACTIVE DOCKET

Whenever the Court determines that there has been no activity in any estate for a period of time not less than one (1) year or whenever the Court determines that a representative has failed to comply with the provisions of Local Rule 14.06, the Court may order transfer of the estate to an inactive docket. The case shall thereafter be designated closed by the Clerk of the Court. The estate may be reopened and removed from the inactive docket on motion and order of court.

PART 15.00 POST JUDGMENT PROCEEDINGS

15.01 Post-Judgment Notices - Warnings
15.02 Post-Trial Motions and Supplemental Proceedings to Enforce Judgments
15.03 Citation to Discover Assets
15.04 Rule to Show Cause
15.05 Issuance of Order of Body Attachment
15.06 Copy of Rule or Order
15.07 Satisfaction of Judgment by Court Order
15.08 Deposit with Clerk of Court and order of Satisfaction of Judgment
15.09 Deposit for Preparation by Clerk of Appeal Record in Civil Cases

15.01 POST-JUDGMENT NOTICES - WARNINGS

Notices of hearings on Citations to Discover Assets, Rules to Show Cause and any other hearing where a body attachment or 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 and underlined: **"YOUR FAILURE TO APPEAR AT THIS HEARING MAY RESULT IN YOUR ARREST".**

15.02 POST-TRIAL MOTIONS AND SUPPLEMENTAL PROCEEDINGS TO ENFORCE JUDGMENTS

(a) Post-trial motions shall be heard by the judge who entered the judgment, unless such judge is no longer serving by reason of retirement, death, illness or any other reason preventing his hearing such matters within a reasonable time. In such event the Chief Judge shall assign such matters to another judge for determination.

(b) Certified copies of judgment orders shall be obtained from the Office of the Circuit Clerk.

(c) All supplemental proceedings to enforce money judgments shall be filed under the original case number, if filed in the county of origin.

15.03 CITATION TO DISCOVER ASSETS

(a) The Clerk shall, upon request, issue a Citation to Discover Assets in the form set forth for service upon a judgment debtor and in the form set forth in the Civil Practice Act and Supreme Court Rules.

(b) Service of a Citation to Discover Assets shall be made in like manner as service of summons or by certified or registered mail return receipt requested in conformity with Supreme Court Rules 277(c) and 105(b) (1) (2).

(c) Upon respondent's failure to appear in response to a Citation to Discover Assets, a Rule to Show Cause may issue pursuant to Rule 15.04.

15.04 RULE TO SHOW CAUSE

(a) Upon the failure of a respondent to comply with a duly entered order of the Court or failure to appear in response to a Citation to Discover Assets pursuant to Rule 15.03(c) or upon the filing of a verified Petition for a Rule to Show Cause or after hearing sworn testimony on an unverified Petition for a Rule to Show Cause, due notice having been given to the respondent, the Court may issue a Rule which includes the date, time and location for hearing

(b) If the respondent appears pursuant to notice on the petition and the Court issues a Rule, the Court may direct that the respondent then and there be served with the Rule to Show Cause. If not then heard, the Court shall schedule a date, time and place for hearing, further advising the respondent that failure to appear for such hearing may result in the issuance of a body attachment for his arrest.

15.05 ISSUANCE OF ORDER OF BODY ATTACHMENT

Upon the failure of the respondent to appear pursuant to personal service of a Rule to Show Cause or a Citation to Discover Assets, and the Rule or Citation having included the advisory language of Rule 15.01, the Court in its discretion may order the Clerk of the court to issue an order of body attachment, with or without bond, directing the Sheriff to arrest and have the respondent brought forthwith before the judge issuing the order to show cause why he should not be held in contempt of court.

15.06 COPY OF RULE OR ORDER

The copy of a rule or order served upon any person and the return of service of same shall be accompanied by the certificate of the attorney for the party obtaining the rule or order that it is a true and correct copy of the rule or order entered.

15.07 SATISFACTION OF JUDGMENT BY COURT ORDER

A money judgment may be satisfied upon written motion of the judgment debtor supported by affidavit stating the following:

(a) that the full amount of the judgment including accrued interest and costs has been paid; or

(b) that the debtor is ready, willing and able to tender the full amount of the judgment or balance due thereon; that after the exercise of due diligence the judgment creditor and his attorney cannot be found for the purpose of tender in satisfaction of the judgment, or that the judgment creditor or his attorney fails or refuses to accept payment or deliver a satisfaction of judgment upon tender of the amount due; and

(c) that notice of the motion and affidavit have been sent by mail to the judgment creditor and his attorney of record at their last known addresses.

If the Court is satisfied that the judgment debtor has satisfied the outstanding judgment in its entirety, it may grant the motion and enter an order in satisfaction of judgment.

15.08 DEPOSIT WITH CLERK OF COURT AND ORDER OF SATISFACTION OF JUDGMENT

If the judgment creditor is unavailable to receive tender or refuses to do so and the Court grants the motion, the Court shall enter an order directing the Clerk of the Court to receive the outstanding balance due on the judgment including accrued interest and costs on behalf of the judgment creditor. After receipt of payment, the Court shall enter an order satisfying the judgment and showing the amount deposited with the Clerk who shall hold the money subject to further order of Court.

15.09 DEPOSIT FOR PREPARATION BY CLERK OF APPEAL RECORD IN CIVIL CASES

At the time that any request is made to the Clerk of the Circuit Court of the 22nd Judicial Circuit for Certification or Authentication of an Appeal Record, pursuant to 705 ILCS 105/27.1a (k), a deposit of

not less than fifty dollars ($50.00) shall be paid to the Clerk's Office to be applied against the total fees, delivery charges, and costs authorized by the above statute. The balance of the statutorily prescribed fee and delivery costs, or the balance of the Clerk's estimate of said fee and costs, shall be paid prior to the Clerk's transmission or delivery of the record on appeal pursuant to Supreme Court Rule 325.

PART 16.00 ADOPTION

16.01 Filing of Petition
16.02 Investigation Reports
16.03 Consents

16.01 FILING OF PETITION

(a) Within sixty days after a petition for adoption is filed, petitioner(s) and counsel for the petitioner(s) shall appear before the Court to request entry of an interim order which, at a minimum, covers the following subjects: (1) the status of service or process on or the appearance of all necessary parties, including the child(ren) to be adopted, (2) the status of any necessary search of the Putative Father Registry, (3) the appointment of a guardian *ad litem*, (4) the appointment of any necessary counsel, (5) the appointment of an officer or agency to conduct an investigation when needed, and (6) temporary custody for the child(ren) to be adopted. Counsel for the petitioner(s) (or the petitioner(s) if *pro se*) shall provide a copy of the interim order to any appointed guardian, counsel, officer, or agency as soon as possible. Unless the court orders otherwise upon proper notice and motion, parental rights shall not be terminated until entry of the judgment of adoption. The form of the interim order shall substantially conform to the form set forth in Section 16.04 of these rules.

(b) For non-related adoptions, upon the filing of a petition, counsel for the petitioner(s) (or the petitioner(s) if *pro se*) shall contact the Department of Court Services and provide the following information: (1) the minor's name, (2) the minor's sex; (3) minor's time, date and place of birth, or due date; (4) names, addresses and ages of biological parents; (5) names and addresses of petitioners and (6) case number.

16.02 REPORTS

(a) Before an interim order is presented for consideration by the Court, an appropriate investigating officer or agency shall conduct a preliminary investigation with the biological parents, if possible, and the prospective adoptive parents, and shall prepare a corresponding written report which shall be presented to the Court prior to any request for temporary custody.

(b) Upon receipt of a copy of the interim order, the investigative officer or agency shall conduct a complete investigation into the adoption, and shall provide a written adoption study report to the Court within six months of the entry of the interim order.

(c) Upon receipt of a copy of the interim order, the guardian *ad litem* shall file a written appearance and response to the petition, and conduct a complete investigation into the adoption, and shall prepare a written report which shall be presented to the Court prior to any request for judgment.

(d) Any and all reports pertaining to an adoption, other than an investigative report in a non-related adoption, shall be filed with or received by (and not merely mailed to) the Clerk of the Circuit Court at least three (3) Court days prior to any hearing at which the report will be considered. The report shall contain the name of the minor(s) at issue in the case, along with the number of the case, and the date and time when the case will next be called by the Court for hearing, if known. Reports should include appropriate reference to any related case. Copies of reports must be timely delivered to the Juvenile Court Judge and each party's attorney (or each party if *pro se*). To the extent copies are sent by United States Mail, they shall be considered "timely delivered" to the extent they are properly placed in the United States Mail by no later than five (5) court days prior to any such hearing. To the extent any other applicable rule or statute requires earlier filing, receiving, or delivering of any such report

(and copy), the same shall control. Unless precluded any other applicable rule or statute, the Court, for good cause shown, including not limited to waiver by the parties, may alter the deadline for the filing, receiving, or delivering of any such report (and copy).

(e) Charges for any such service, as established by administrative order or agreement of the parties, will be billed to counsel for the petitioner(s) (or the petitioner(s) if *pro se*) and shall be paid prior to the entry of judgment.

(f) Pursuant to Rule 16.02, interim orders shall substantially conform to Form 16.02 (See Forms Appendix)

16.03 CONSENTS

Consents to adoptions, acknowledgments of information exchange authorizations, and denial of exchange authorizations shall be provided to the Court at or prior to any hearing at which the same will be considered. Counsel for the petitioner(s) (or the petitioner(s) if *pro se*) shall schedule the witnessing of any such documentation on written motion, or in the case of exigent circumstances, may contact the Court through the Office of the Court Administrator to schedule the same.

PART 17.00 MANDATORY ARBITRATION RULES

17.01 Definitions
17.02 Actions Subject to Mandatory Arbitration (S.Crt.R. 86)
17.03 Appointment, Qualification and Compensation of Arbitrators (S.Crt.R. 87)
17.04 Scheduling of Hearing (S.Crt.R. 88)
17.05 Motions
17.06 Discovery (S.Crt.R. 89)
17.07 Conduct of the Hearing (S.Crt.R. 90 and 91)
17.08 Award and Judgment on Award (S.Crt.R. 92)
17.09 Rejection of Award (S.Crt.R. 93)
17.10 Refiling After Nonsuit
17.11 Location of Arbitration Hearing
17.12 Forms
17.13 Administration of Mandatory Arbitration

MANDATORY ARBITRATION RULES

17.01 DEFINITIONS

(a) Arbitration Administrator - That person, appointed by the Chief Judge, responsible for management of the day-to-day operations of the Arbitration Center; coordinates the activities, training and assignment of arbitrators; maintains the schedule of arbitration hearings; advises the Arbitration Judge of the available arbitration dates; and is responsible for all reporting to the Administrative Office of the Illinois Courts.

(b) Arbitration Judge - the judge(s) before whom and on whose docket arbitration cases are pending.

(c) Arbitration Supervisor - the judge appointed by the Chief Judge to oversee the management and operations of the mandatory arbitration program in the Circuit.

17.02 ACTIONS SUBJECT TO MANDATORY ARBITRATION (SUPREME COURT RULE 86)

(a) Mandatory arbitration proceedings are undertaken and conducted in the 22nd Judicial Circuit, McHenry County, Illinois pursuant to orders of the Illinois Supreme Court.

(b) Mandatory arbitration proceedings are a part of the underlying civil action, and therefore, all rules of practice contained in the Illinois Code of Civil Procedure and the Illinois Supreme Court Rules shall apply to these proceedings.

(c) All civil actions, except confessions of judgment on promissory notes, will be subject to mandatory arbitration if each claim is exclusively for money in an amount exceeding $10,000 but not exceeding $50,000, exclusive of interest and costs.

(d) Every complaint or counterclaim filed shall contain specific prayers for relief except that in actions for injury to the person no ad damnum may be pleaded except to state whether the damages sought are: (1) greater than
$10,000 but not exceeding $15,000; (2) greater than $15,000 but not exceeding $50,000; (3) greater than $50,000.

(e) Any case not assigned to an arbitration calendar, including cases transferred from another jurisdiction, may be ordered to arbitration at a status call, pre-trial conference, or upon receipt from another jurisdiction when it appears to the Court that any claim in the action has a value exceeding $10,000 and that no claim in the action has a value in excess of $50,000. Within 14 days of such determination any such case shall be transferred to and set on the motion call of the Arbitration Judge, at which time an arbitration hearing date shall be scheduled no more than 180 days from the date of such transfer, unless good cause otherwise warrants. In cases transferred from another jurisdiction it shall be incumbent upon the clerk to provide timely notice of such hearing to all parties of record.

(f) Section (e) above shall allow the ordering to arbitration of cases filed prior to the effective date of these rules as amended.

(g) The award of the arbitration panel shall be limited to the amount originally prayed for in the complaint, counterclaim, or third party complaint, unless prior to the arbitration hearing, leave of Court is given to increase the ad damnum with the appropriate difference in filing fee paid, but in no event shall the award be in excess of $50,000.

(h) Small claims in cases in which a jury demand is filed shall be subject to mandatory arbitration pursuant to Part 7.05 of these rules.

17.03 APPOINTMENT, QUALIFICATION AND COMPENSATION OF ARBITRATORS (SUPREME COURT RULE 87)

(a) Retired judges, licensed to practice in Illinois and residing in the 22nd Judicial Circuit, shall be eligible as arbitrators by filing the appropriate form with the Arbitration Administrator.

(b) All attorneys licensed in Illinois who reside in, maintain offices in, or practice in the 22nd Judicial Circuit, shall be eligible for appointments as arbitrators in said Circuit by filing the appropriate form with the Arbitration Administrator. Panel members must certify that they have engaged in the active practice of law for a minimum of two years within the five years immediately preceding the filing of the application. Eligible arbitration panel members shall be certified by attending The Arbitration Seminar prior to active service on an arbitration panel.

(c) The Arbitration Administrator shall maintain a separate list of approved arbitrators for the 22nd Judicial Circuit. These arbitrators will be called for service on a random, rotating basis within the county. The list shall identify those arbitrators who are approved to serve as chairpersons. Every panel of arbitrators shall be chaired by a member of the bar who has been engaged in trial practice for at least five years within the preceding ten years of the filing of the application or a retired judge. Except for emergency calls, notice of the date set for arbitration shall be provided to the arbitrators not less than 45 days prior to the scheduled date. Each panel will consist of three (3) arbitrators or such lesser number as may be agreed upon in writing by the parties. The eligibility of each attorney to serve as arbitrator may, from time to time, be reviewed by the Arbitration Administrator and determined by the Supervising Judge.

(d) Not more than one member or associate of a firm, office, or association of attorneys shall be appointed to the same panel. Upon appointment to the case, an arbitrator shall notify the court and withdraw from the case if any grounds appear to exist for disqualification pursuant to the Illinois Code of Judicial Conduct.

(e) Each arbitrator shall take an oath of office in conformity with the form provided in Supreme

Court Rule 94. In addition, an arbitrator may not be contacted, or publicly comment, or respond to questions regarding a particular arbitration case heard by that arbitrator during the pendency of that case and until a final order is entered and the time for appeal has expired.

(f) Upon completion of each day's arbitration proceedings, the Arbitration Administrator will process the necessary voucher through the Administrative Office of the Illinois Courts for payment of the arbitrators. Each arbitrator will be compensated in accordance with the Supreme Court Rules.

17.04 SCHEDULING OF HEARINGS (SUPREME COURT RULE 88)

(a) For all actions which fall within the purview of this rule, the complaint and the original and all alias summons must state in upper case letters in the upper right-hand corner, "THIS IS AN ARBITRATION CASE."

Every original summons shall be made returnable before the Arbitration Judge on a specified return date to be set by the Circuit Clerk not less than 28 nor more than 40 days after the issuance of the summons.

All parties shall appear in open court on the return date unless otherwise excused by order of court. The court may set an arbitration hearing at the first return date if all parties have appeared or been served, unless otherwise warranted. Prior to setting any case for arbitration, the parties and the court shall confer with the Arbitration Administrator regarding the availability of arbitration dates. Every order setting a case for arbitration shall clearly indicate whether a party or the parties are bringing an interpreter.

On the original or any continued return date or status date, the Court may enter orders consistent with Illinois Supreme Court Rule 218.

In the event defendant, after service of process, fails to file an appearance on or before the return date set forth in the summons, the plaintiff shall appear before the Arbitration Judge on the return date for the purpose of obtaining a judgment, or an order of default and a date for prove-up.

If plaintiff fails to appear on the original return day or any continued date thereof, the case may be dismissed for want of prosecution without further notice.

In the event plaintiff has failed to obtain timely service of process on any defendant by any return date, plaintiff shall appear before the Arbitration Judge on the return date and may request the issuance of an alias summons. Any party whose presence was previously excused shall be provided notice of the entry of said order.

(b) Any party to a case may request advancement or postponement of a scheduled arbitration hearing date by written notice and motion with notice included to the Arbitration Administrator. Hearing on the motion shall be scheduled before the Arbitration Judge, not less than 7 days prior to the arbitration hearing date. The motion shall contain a concise statement of the basis upon which a change in the arbitration hearing date is requested. The Arbitration Judge may grant such advancement or postponement upon good cause shown. Such advancement or postponement may be conditioned on such terms as the Arbitration Judge deems appropriate.

(c) Consolidated actions shall be heard on the date assigned to the latest case involved.

(d) It is stated public policy of the mandatory arbitration proceedings of this Circuit that cases be heard in one-half day, if possible, but not to exceed one full day. Counsel for the plaintiff shall confer with all other counsel and obtain an approximation of the length of time required for presentation of the case and advise the Arbitration Administrator at least seven (7) days in advance of the hearing date of the estimated duration of the hearing. Failure to notify the Arbitration Administrator of the need for more than one- half day for hearing may result in a delay of the scheduled hearing. All counsel shall advise the Arbitration Administrator at least seven (7) days in advance of the hearing of changes of appearances or additions or parties or counsel. Failure of the parties to advise the arbitration administrator in a timely fashion of changes of appearances or additions of parties or of counsel, or of the need for additional time may result in the imposition of sanctions including the taxing of arbitrator's fees and costs at the discretion of the Arbitration Judge.

17.05 MOTIONS

Notwithstanding the assignment of any matter to arbitration, all motions for change of venue, objections to jurisdiction, motions for summary judgment, motions for judgment on a pleading, motions pursuant to Sections 2-615 and 2-619 of the Code of Civil Procedure, and all other motions dispositive of the case shall be addressed, upon proper notice and motion, to the Arbitration Judge.

17.06 DISCOVERY (SUPREME COURT RULE 89)

(a) Discovery may be conducted in accordance with established rules and shall be completed prior to the arbitration hearing. No discovery shall be permitted after the hearing, except upon leave of court and good cause shown.

(b) All parties shall comply with the provisions of Supreme Court Rule 222. Plaintiffs shall comply with the disclosure requirements of Supreme Court Rule 222 within 30 days of filing the original complaint and each Defendant shall comply with the disclosure requirements of Supreme Court Rule 222 within 30 days after appearance is due, unless otherwise ordered by the Court. Upon service of a disclosure, a notice of disclosure shall be promptly filed with the Court. The failure to comply with Supreme Court Rule 222 may result in imposition of sanctions as prescribed in Supreme Court Rule 219(c).

17.07 CONDUCT OF THE HEARING (SUPREME COURT RULES 90 AND 91)

(a) Hearings shall be conducted in general conformity with the procedures followed in civil trials. The chairperson shall administer oaths and affirmations to witnesses. Rulings concerning admissibility of evidence and applicability of law shall be made by the chairperson upon consultation with the panel members. Findings made at the close of the plaintiff's case or upon the close of all proof shall be by agreement of a majority of the arbitrators.

(b) At the commencement of the hearing, the attorneys for the parties will provide a brief written statement of the nature of the case which shall include a stipulation as to all of

the relevant facts to which the parties agree. The stipulation shall include, if applicable, relevant contract terms, dates, times, places, location of traffic control devices, year, make and model of automobiles or other vehicles, equipment or goods and products which are involved in the litigation and other relevant and material facts. Unless otherwise agreed by the parties, a stipulation to liability shall be binding on the parties at an eventual trial, if a rejection is filed. The time devoted to the presentation of evidence should be limited to those facts upon which the parties genuinely disagree. Counsel shall provide the arbitration panel with copies of any legal authority upon which they rely.

(c) Established rules of evidence shall be followed in all hearings before arbitrators, except as provided in Supreme Court Rule 90.

(d) The failure of a party to be present at an arbitration hearing, either in person or through counsel, shall be governed by the provisions of Supreme Court Rule 91a.

(e) All parties to the arbitration hearing must participate in the hearing in good faith and in a meaningful manner as provided in Supreme Court Rule 91b.

(f) A stenographic record or recording of the hearing shall not be made unless a party does so at the party's own expense. If a party has a stenographic record transcribed, the original must first be filed with the Circuit Clerk, a copy of which shall be furnished to any other party requesting same upon payment of a proportionate share of the total cost of the making of the record or recording and the duplication of same. The party providing the reporter shall inform the chairperson of the reporter's name, address and reporting firm before commencing. No sound recording equipment shall be allowed in the arbitration hearing except as utilized by a court reporter.

(g) Any party requiring the services of a language interpreter during the hearing shall be responsible for providing same. Every order setting a case for arbitration shall clearly indicate whether a party or the parties are bringing an interpreter. Any party requiring the services of an interpreter or other assistance for the deaf or hearing impaired shall notify the Arbitration Administrator of said need not less than seven (7) days prior to the hearing.

(h) Hearings are to be conducted to facilitate disclosure of all relevant evidence and to obtain substantial justice for all of the parties.

(i) All exhibits admitted into evidence shall be retained by the panel until the entry of the award. It is the duty of the attorneys or parties to retrieve such exhibits from the Arbitration Administrator within seven (7) days after the entry of judgment, notice of rejection, or order of dismissal. All exhibits not retrieved shall be destroyed.

17.08 AWARD AND JUDGEMENT ON AWARD (SUPREME COURT RULE 92)

(a) After each hearing, the arbitrators shall make an award in favor of the plaintiff(s) or defendant(s). The panel shall make the award promptly upon termination of the hearing. The award shall dispose of all claims for relief. The award on each claim may not exceed the amount prayed for in the complaint or counterclaim and in no event may the

award be more than $50,000 exclusive of interest and costs. The award shall be signed by the arbitrators or the majority of them. A dissenting vote without further comment may be noted. In the event a panel of arbitrators unanimously finds that a party has violated the good faith provisions of Supreme Court Rule 91(b), such finding, accompanied by a factual basis, shall be noted on a findings sheet. Such findings sheet shall become part of the arbitration award. The Arbitration Administrator shall provide forms to be completed by the arbitrators to report their award. The award including findings sheet, shall be filed immediately with the Clerk of the Court, who shall serve notice of the award to all parties, including any in default.

(b) The Clerk of the Court shall include in the notice of award a date certain, not less than 30 days from the filing of the award, before the Arbitration Judge, for entry of judgment on the award, dismissal or the scheduling of atrial date in the event a timely rejection has been filed. All parties shall be required to appear on said date. Failure to appear may result in the entry of judgment on the award or dismissal for want of prosecution on motion of a party or on the Court's own motion.

17.09 REJECTION OF AWARD (SUPREME COURT RULE 93)

Rejection of the award of the arbitrators shall be in strict compliance with Supreme Court Rule 93.

17.10 REFILING AFTER NONSUIT

If a case is voluntarily dismissed by a plaintiff at any time after an arbitration hearing and is subsequently refiled alleging the same cause of action and naming the same parties, the refiled case shall not be eligible for an arbitration hearing unless a new party has been added to the lawsuit.

17.11 LOCATION OF ARBITRATION HEARING

The location of hearing shall be determined by the Chief Judge of the 22nd Judicial Circuit or his designee.

17.12 FORMS

All forms shall be as prescribed by Supreme Court Rule or by Administrative Order by the Chief Judge.

17.13 ADMINISTRATION OF MANDATORY ARBITRATION

(a) The Chief Judge or his designee shall appoint one or more Judges to act as Supervising Judge for Arbitration. For the purpose of these rules, the Supervising Judge is defined as that judge appointed for arbitration or any judge sitting in the stead of the Supervising Judge.

PART 18. 00 FAMILY DIVISION MEDIATION PROGRAM RULES

18.01 Mission/Purpose Statement
18.02 Definitions
18.03 Mediation Mandatory in Certain Cases
18.04 Appointment and Qualification of Mediator
18.05 Duties of the Mediator
18.06 Application of Safeguards in Case of Impairment
18.07 Confidentiality and Privilege
18.08 Termination of Mediation Generally
18. 09 Termination of Mediation on Motion of a Party
18.10 Entry of Judgment or Order
18.11 Personal Safety Protocols
18.12 Costs and Fees
18.13 Reports and Recordkeeping
18.14 Circuit Court Advisory Committee

18.01 MISSION/PURPOSE STATEMENT

The mediation process described herein is established to assist the Court, counsel and parents as they resolve matters of allocation of significant decision making responsibility, parenting time and relocation. The primary purpose of the process is to recognize, foster and preserve the best interests of the children involved in divorce and family litigation. The secondary purpose of the process is to provide a reasonable, cost-effective alternative dispute resolution forum for the parents in divorce and family litigation. The participants are encouraged to take advantage of this unique opportunity and to take a positive step for the benefit of their children.

18.02 DEFINITIONS

(a) **Mediation.** When the word "mediation" is used herein, it means a cooperative process for resolving conflict with the assistance of a trained court-appointed, neutral third party, whose role is to facilitate communication, to help define issues, and to assist the parties in identifying and negotiating fair solutions that are mutually agreeable. Fundamental to the mediation process described herein are principles of safety, self- determination, procedural informality, privacy, confidentiality and full disclosure of relevant information between the parties. Mediation under this is a means for the parties to maintain control of parenting decisions by resolving themselves the issues of allocation of significant decision making responsibility, parenting time, relocation and other non- financial children's issues. Parties are encouraged to participate in the mediation process by attempting good faith negotiation and resolution of the issues brought to mediation.

Mediation under this rule is not to be considered a substitute for independent legal advice. Instead, it is to work in partnership with the attorneys and the legal process, by giving the parties the ability to be fully informed of options for resolution of their issues, which would include obtaining legal advice before, during and after the mediation process.

(b) **Impairment.** When the word "impairment" is used herein, it means any condition which hinders the ability of a party to negotiate safely, competently and in good faith, including but not limited to domestic violence or intimidation, substance abuse, or mental illness, or a cognitive impairment. Pursuant to these rules, the identification of impediments in a case is necessary to determine if mediation should be required, and to insure that only parties having a present, undiminished ability to negotiate are directed by the Court under this rule to mediate.

18.03 MEDIATION MANDATORY IN CERTAIN CASES

(a)(i) Mandatory Mediation. The Court shall order mediation of the following contested issues unless an impediment to mediation exists: (1) initial determination of custody, visitation or parenting time; (2) modification of custody, visitation or parenting time and (3) removal or relocation of child or children.

The parties may not proceed to a judicial hearing on contested issues including temporary relief arising in that case without leave of Court, or until the mediation process has been concluded and its outcome (with disclosures as to outcome being limited to what is set forth herein and as are consistent with the provisions of the Uniform Mediation Act) has been reported to the Court. Notwithstanding, the Court may enter an order for temporary child support or other appropriate financial relief for good cause shown.

(ii) Discretionary Mediation. The Court may at the request of either party or on court's own motion order mediation of other contested issues other than those described in (a)(i) including contested financial issues. Mediation of financial issues may be ordered without the consent of the parties and over objection of the parties. The financial resources of the parties may be considered before ordering mediation of these issues.

(b) **Commencement of mediation.** The mediation process shall commence as soon as practicable after the action is filed, but in no event shall mediation occur before a case has been screened for eligibility. The designated family division judge shall make inquiries of counsel and the parties concerning:

1. prior or existing domestic violence proceedings between the parties;
2. prior adjudications of guilt or responsibility as a result of an independent criminal or civil proceeding based on domestic or family violence; and
3. pending criminal or civil proceedings based on domestic or family violence.

Mediation shall not be required if the Court determines an impairment exists.

The designated family judge shall further review information about the financial ability of each party to pay the cost of mediation services, and in cases of hardship the Court shall assign a mediator whose services shall be provided at a reduced fee. Financial hardship shall be determined in each case in accordance with local rule.

The parties referred to mediation by the Court shall commence the parent education program prior to starting mediation or as soon after starting mediation as the parent education program's schedule allows. However, mediation shall not be delayed due to the inability of either party to complete the parent education program.

(c) **Investigations.** Except when the Court finds good cause, no investigation or examination pertaining to issues pending in mediation shall be ordered by the Court.

(d) **Discovery.** Only written discovery shall be allowed until filing of the mediator termination report.

(e) **Mandated Sessions. Mandated sessions.** This mediation process contemplates at least three (3) sessions of approximately one (1) hour per session. The parties are required to attend the three mediation sessions. The parties may agree to continue the mediation process beyond the three (3) sessions without permission of the Court. In that event, the mediator shall file the Mediator's Report on an interim basis, so informing the Court.

18.04 APPOINTMENT AND QUALIFICATION OF MEDIATOR

(a) **List of Approved Persons.** For each eligible case, a person approved to provide mediation services shall be appointed by the Court from a list of court approved mediators. If the parties have

agreed on an approved mediator, the Court may make an appointment pursuant to that request. All appointments shall be made on the court-approved order form. The mediator's willingness to accept two such low income cases as identified by the court as is set forth herein (if appointed) shall be considered as a requirement for maintaining eligibility as to the list of court approved mediators.

(b) **Eligibility Requirement for Mediators.** The designated family judge shall maintain a list of persons approved to provide mediation services. Persons eligible for approval as a mediator shall provide evidence upon written application demonstrating that each of the following minimum requirements has been satisfied.

1. Satisfactory completion of 40 hour divorce mediation training program approved by the Association for Conflict Resolution or otherwise approved by the Court. In addition (or as part of such 40 hour program), the applicant must have completed at least three hours of training specific to domestic violence, child abuse, substance abuse and mental illness, which gives the applicant an understanding of the issues related to these impairments and one's ability to negotiate effectively when impacted by one or more of these impairments.

2. The applicant has been awarded a degree in law or a graduate degree in a field that includes the study of psychiatry, psychology, social work, human development, family counseling or other behavioral science substantially related to marriage the family interpersonal relationships or a related field otherwise approved by the Presiding Judge of the Family Division, or his/her designee.

3. The applicant shall be licensed in his/her profession.

4. The applicant shall be a member in good standing m the professional organization in his/her respective disciplines.

5. The applicant shall maintain an office in McHenry County unless otherwise allowed by the Presiding Judge of the Family Court or his or her designee.

6. The applicant shall submit proof of professional liability insurance which covers the mediation process.

7. The applicant shall have a minimum of two years experience in his/her discipline or profession or otherwise supervision by qualified member.

The parties may choose to use a mediator other than the Court's list if the Court finds that the mediator is an individual who substantially meets the same standards as set forth above.

(c) **Continuing Education.** A mediator shall participate in six hours of continuing education every two years from programs approved by the 22nd Judicial Circuit's Family Mediation Advisory Council. A mediator shall report and verify his or her attendance at approved continuing education to the 22nd Judicial Circuit's Family Mediation Advisory Council.

A mediator is personally responsible for ongoing professional growth. A mediator is encouraged to join with other mediators and members of related professions to promote mutual professional development

(d) **Duty to Notify Court**. A mediator shall inform the court within 7 days if he or she has been disciplined by any licensing agency or professional organization to which he or she belongs.

(e) **Conflicts of Interest.**

1. A mediator shall avoid a conflict of interest or the appearance of a conflict of interest during and after mediation. A conflict of interest can arise from involvement by a mediator with the subject matter of the dispute or from any relationship between a mediator and any mediation participant, whether past or present, personal or professional, that reasonably raises a question of the mediator's impartiality.
2. A mediator shall make a reasonable inquiry to determine whether there are any facts that a reasonable individual would consider likely to create a potential or actual conflict of interest for a mediator. A mediator's actions necessary to accomplish a reasonable inquiry into potential conflicts of interest may vary based on practice context.
3. A mediator shall disclose, as soon as practicable, all actual and potential conflicts of interests that are reasonably known to the mediator and could reasonably be seen as raising a question about the mediator's impartiality. After disclosure, if all parties agree, the mediator may proceed with the mediation.
4. If a mediator learns any fact after accepting a mediation that raises a question with respect to that mediator's service creating a potential or actual conflict of interest, the mediator shall disclose it as quickly as practicable. After disclosure, if all parties agree, the mediator may proceed with the mediation.
5. If a mediator's conflict of interest might reasonably be viewed as undermining the integrity of the mediation, a mediator shall withdraw from or decline to proceed with the mediation regardless of the expressed desire or agreement of the parties to the contrary.
6. Subsequent to mediation, a mediator shall not establish another relationship with any of the participants in any matter that would raise questions about the integrity of the mediation. When a mediator develops personal or professional relationships with parties, other individuals or organizations following a mediation in which they were involved, the mediator should consider factors such as time elapsed following the mediation, the nature of the relationships established, and services offered when determining whether the relationships might create a perceived or actual conflict of interest.

(f) **Impartiality.**

1. A mediator shall decline a mediation if the mediator cannot conduct it in an impartial manner. Impartiality means freedom from favoritism, bias or prejudice.
2. A mediator shall conduct a mediation in an impartial manner and avoid conduct that gives the appearance of partiality.
3. A mediator should not act with partiality or prejudice based on any participant's personal characteristics, background, values and beliefs, or performance at a mediation, or any other reason. A mediator should neither give nor accept a gift, favor, loan or other item of value that raises a question as to the mediator's actual or perceived impartiality. A mediator may accept or give de minimis gifts or incidental items or services that are provided to facilitate mediation or respect cultural norms so long as such practices do not raise questions as to a mediator's actual or perceived impartiality.

(g) **Bar to Subsequent Representation of the Parties.** No mediator may engage in a lawyer/client, psychologist/patient, therapist/patient etc. relationship for a period of 2 years following final mediation report issue date.

(h) **Approval of persons Already Engaged as Mediators.** Prior to the passage of this rule, all persons approved to act as mediators under any existing Court mediation program in this Circuit shall continue to do so without further approval.

A mediator shall mediate two low income cases, as identified by the Court, per year, at a reduced fee assuming, as provided herein, that the court assigns to the mediator two such cases.

(i) Mediators shall be entitled to such immunity as may be provided by law.

18.05 DUTIES OF THE MEDIATOR

(a) **Preliminary Responsibilities.** Before mediation may begin, the mediator shall:

1. confirm the parties' understanding regarding the fee for services and any reduced fee arrangements for eligible parties with financial hardship;
2. advise the parties that the mediator neither represents nor advocates for either party and will not provide therapy or counseling to either party;
3. advise the parties that either party could request that his or her attorney accompany that party to mediation and participate in the mediation process (consistent with the provisions of the Uniform Mediation Act, 710 ILCS 35/1, *et seq.*);
4. define and describe the process of mediation to the parties, including appropriate procedure when evidence of impairment surfaces after mediation is in progress;
5. explain the mandated reporting requirements of the Abused and Neglected Child Reporting Act, 325 ILCS 5/1 et *seq.* and the application of rules of privilege and confidentiality in the mediation process and explain the applicability of those requirements to mediator-attorneys under this program;
6. 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 a conflict of interest on the part of the mediator; and
7. advise each party of the right to have an attorney available for consultation while mediation is in progress.

(c) **Application of Abused and Neglected Child Report Act Standards to Mediator-Attorneys.** The mandated reporting requirements of the Abused and Neglected Child Reporting Act (ANCRA), 325 ILCS 5/1 *et seq.* as applied to mental health professionals shall also apply to all mediator attorneys acting in their capacity as mediators under this program.

(d) **Preparation of Agreements and Reports.** When agreements are reached in mediation, the mediator shall provide a written account of the decisions made by the parties to both of the parties and their attorneys, if any. The mediator shall not provide this written account to the Court. The mediator shall advise each party orally and in writing to obtain legal assistance in reviewing any draft memorandum of understanding as to decisions reached during mediation or in reviewing any proposed draft agreement. The mediator shall file a report with the Court in accordance with Article 18.08.

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

(f) **Completion of Mediation.** Unless for good cause shown, cases assigned for mediation shall be completed within sixty (60) days of notification of assignment. If the case cannot be completed within 60 days, the mediator shall file an interim report. The court may consider the length of time that mediation was pending until completion in making findings, if any, for any delay or extension of the time limitations imposed by Supreme Court Rule 922.

18.06 APPLICATION OF SAFEGUARDS IN CASE OF IMPAIRMENT

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

(b) **Safety.** If an impairment affecting safety arises during the course of mediation, the mediator shall adjourn the session to confer separately with the parties, shall implement appropriate personal safety protocols, shall advise the parties of their right to terminate, and either shall:

1. terminate mediation when circumstances indicate that protective measures are inadequate to maintain safety; or
2. proceed with shuttle mediation, after consulting separately with each party to ascertain whether mediation in any format should continue, unless both parties request joint sessions, and if the mediator believes that will be safe.

(c) **Competency or Good Faith.** If an impairment affecting competency or good faith, but not safety, arises during the course of mediation, the mediator shall either:

1. suspend mediation when there is a reasonable likelihood the impaired condition of an affected party is only temporary; or
2. terminate mediation when circumstances indicate an affected party's ability to negotiate cannot be adequately restored.

(d) **Effect of Termination.** No mediation terminated by the mediator shall proceed further unless ordered by the Court upon motion of a party.

18.07 CONFIDENTIALITY AND PRIVILEGE

(a) **Privacy of Sessions**. Privacy of mediation sessions shall be consistent with the provisions of the Uniform Mediation Act. Except as otherwise provided in this rule or as consistent with the provisions of the Uniform Mediation Act, the mediator shall have authority to recommend to the parties that good faith negotiations indicate that mediation be limited to only the parties (and to their counsel if either party or both parties which to have their lawyers present).

(b) **Confidentiality.** Except as otherwise provided by law or Article 18.05(d) and (e), all written and verbal communications made in a mediation session conducted pursuant to these rules are confidential and may not be disclosed by the mediator, any other participant, or observer of the mediation except by the parties to their attorneys.

(c) **Evidentiary Privilege.** Privilege and exceptions to privilege shall be as is set forth in the Uniform Mediation Act. Either party’s lawyer has the right to be present during mediation or it is recognized that the mediator may discuss with the attorneys the progress and impediments to progress in

mediation. However, in no way shall any such disclosure be deemed to waive the privileged nature of any of the discussions and communications made within the scope of the mediation process.

18.08 TERMINATION OF MEDIATION GENERALLY

(a) **Agreements to be Voluntary**. Parties shall not be compelled or pressured by a mediator to reach agreement on any issues arising in an action which is subject to mediation by rule or Court order.

(b) **Election of Party to Terminate.** In cases determined to be eligible after intake, any time after the first joint mediation session a party may request the mediator to terminate the mediation for just cause. The mediator shall have the authority in exceptional cases to consider mediation terminated after the first mediation session as is outlined in paragraph (c) below.

(c) **Mediator's Authority to Terminate.** Termination by a mediator may be based upon reasonable belief that:

1. the parties have reached a final impasse;
2. the willingness or ability of any party to participate meaningfully in mediation is so lacking that an agreement on voluntary terms is unlikely to be reached by prolonging the negotiations; or
3. a disqualifying impairment exists and termination is required in accordance with Article 18.06.

(d) **Reports and Recommendations**. Upon termination of mediation for any reason, including election of a party, the mediator shall file with the Court a mediator report on a form prescribed by the Presiding Judge. Consistent with the provisions of the Uniform Mediation Act, the mediator may disclose in his or her report whether the mediation occurred, has terminated, or is suspended, whether a settlement was reached, and attendance.

18.09 TERMINATION OF MEDIATION ON MOTION OF A PARTY

(a) **Judicial Determination of Impairment.** Any party may move the Court for a ruling that a case is ineligible for mediation based upon evidence of impairment.

(b) **Filing a Motion.** The motion may be supported by affidavit setting forth facts demonstrating that, for one or more parties to the action, the ability to negotiate safely, competently, and in good faith is hindered by the presence in the relationship of family violence or intimidation, substance abuse, mental illness, or other impairment as defined in Article 18.02.

(c) **Presumption.** An existing plenary order of protection for or against any party issued under the Illinois Domestic Violence Act, or a comparable law of any other jurisdiction, creates a presumption of impairment. Unless the presumption is rebutted, the motion shall be granted.

(d) **Motion Denied.** If the motion is denied, the Court shall make a record of specific findings in support of the denial.

(e) **Motion Granted.** If the motion is granted, the Court may consider whether the best interest of a minor child requires appointment of an attorney for the child in the balance of the litigation. The Court shall order

the case returned to the docket for adjudication in the manner prescribed by law. The court may appoint a guardian ad litem, attorney for the child or a child representative. The court may alternatively (or in addition) seek the advice of any professional, whether or not regularly employed by the court, to assist the court in determining the child's best interest pursuant to 604(b).

(f) **Domestic Violence Order Entered While Mediation Pending**. Furthermore, if any order of protection is entered while a case is in the process of mediation, each party (or if he or she is represented by counsel, his or her respective attorney) shall immediately inform the mediator of the same and provide a copy of the order of protection to the mediator.

18.10 ENTRY OF JUDGEMENT OR ORDER

(a) **Expedited Entry of Judgment.** The Circuit Court shall provide for an expedited process to insure prompt entry of an appropriate judgment or order in cases where agreement has been reached in mediation pursuant to these rules.

18.11 PERSONAL SAFETY PROTOCOLS

(a) **Facility Requirements.** Two separate rooms should be available for each mediation in the event that shuttle mediation is pursued during the course of any given session or sessions. The rooms should not be connected by a common door, but each should have an independent access to a common hallway or exit. Each room should have a phone or intercom device to allow communication in case of emergency. A separate room should be provided to secure participants purses, brief cases, coats and other personal effects.

Mediators are encouraged to supply pens, pencils and other writing utensils in order to control objects that could be considered weapons.

(b) **Personnel Requirements.** It is strongly recommended that other staff or non-participating persons be available within the physical plant during all mediation sessions. This person or persons should be available to assist with emergency phone matters, to monitor parties' movements during shuttle mediation, and to assist the mediator in implementing appropriate exit procedures.

(c) **Exit Procedures**. Proper precaution should be taken to insure that participants actually leave the premises when the session is completed. If sessions are contemplated during evening hours, sufficient artificial lighting should be available in all parking areas. If shuttle mediation is in process or other special circumstances exist, parties should leave separately and be monitored by mediator or staff as the parties leave.

(d) **Notice to Participants.** Each mediator is responsible to notify each participant as such session commences that:

1. No physical confrontation shall be tolerated between the parties;
2. Such inappropriate conduct constitutes grounds to terminate session without refund;
3. Such conduct may cause police or official intervention immediately;
4. No form of weapon shall be allowed in the mediation room; and
5. All personal effects, including purses, briefcases and exterior coats shall be maintained and secured outside of the mediation area.
6.

18.12 COSTS AND FEES

(a) **Administrative Fee.** It is the goal that the mediation process established by this rule shall be accessible to all persons regardless of financial status or ability to pay. Provisions shall be made for a reduction or waiver of the fees for parties with financial hardship.

(b) **Referral Fees Prohibited.** No commissions, rebates, or other forms of remuneration shall be paid to any family service officer (if implemented) or mediator for referral of clients to support services. Mediators shall not charge contingent fees or fees based on the outcome of the mediation.

(c) **Hourly Rates.** All mediators under this article Part 18.00 shall be compensated by the parties at the rate agreed to by the parties and the mediator, or as set by the Court. The retainer ordered contemplates two (2) hours of administrative time to allow the mediator to prepare necessary reports, keep records required by this rule, and/or complete the agreement of the parties that is to be submitted to counsel and the Court.

18.13 REPORTS AND RECORDKEEPING

(a) **Data Collection Requirements.** The Court shall collect, compile and report such data as may be required by the Supreme Court or its administrative director to assist in measuring and monitoring the performance of mediation programs.

(b) **Time Standards and Case Management**. If required by Family Mediation Advisory Council, mediators shall report monthly on forms provided by the Court the names of all cases concluded, current status of cases pending, and time elapsed since referral for each case in which mediation is in progress.

(c) **Records Management**. Except as otherwise required by law, records of cases referred to mediation shall be maintained so as to prevent disclosure of confidential communications or privileged information.

18.14 CIRCUIT COURT ADVISORY COMMITTEE

(a) The Presiding Judge shall establish an advisory committee known as the 22nd Judicial Circuit's Family Mediation Advisory Council, whose membership shall consist of at least six (6) persons, including a family division judge, a non-mediator member of the local bar, a practicing attorney-mediator, a practicing mental health professional mediator, a representative of the domestic violence advocacy community, and a representative with the 22nd Judicial Circuit's Parenting Class program. The individual who as a representative of the 22nd Judicial Circuit's Parenting Class program may be also be appointed in one of the other capacities indicated above. Members of the committee shall be appointed by the Presiding Judge for terms not to exceed two years. In no event shall an individual be reappointed more than three consecutive times to such council. The appointments shall be staggered to provide for continuity of the committee.

(b) The Family Mediation Advisory Council shall advise the Presiding Judge in establishing and implementing administrative policy consistent with these rules for the fair and efficient delivery of mediation services including local rules of procedure, standards of conduct for mediators, and systematic review of program performance.

(c) Nothing contained in this rule shall be construed as a limitation on the authority of the Presiding Judge to exercise administrative authority conferred by law.

PART 19.00 REMOTE ELECTRONIC ACCESS PROGRAM

The Circuit Judges of the 22nd Judicial Circuit establish a policy to allow convenient public access to official court records maintained by the Clerk of Court through Remote Electronic Access Programs.

The Circuit Judges of the 22nd Circuit, by this rule, hereby authorize the establishment of a Remote Electronic Access Program to the Clerk of the Circuit Court County Case File Data Bases. This program is restricted only by countervailing policies, laws and/or court orders or rules.

The Clerk of the Circuit Court of the 22nd Judicial Circuit shall maintain a log/index, which may be maintained manually and/or by computer, of all Subscriber's Agreements entered into by said clerk under the provisions of this rule which log/index shall include:

1. Name, address, and telephone number of the subscriber;
2. Name of the contact person at the subscriber;
3. Beginning date of the Subscriber's Agreement;
4. Termination/cancellation of the Subscriber's Agreement;
5. Reason for termination/cancellation.

A current copy of the subscriber's log/index shall be made available to the Chief Judge or his/her designee.

Upon entry into a Subscriber's Agreement under this rule, the Clerk of the Circuit Court of McHenry County shall provide a fully executed copy of the Subscriber's Agreement to the Court Administrator of 22nd Judicial Circuit, McHenry County.

It is understood that the Chief Judge of the 22nd Judicial Circuit or his/her designee may terminate a Subscriber Agreement at anytime without prior notice.

Any fees collected by the Clerk of the Circuit Court of the 22nd Judicial Circuit, McHenry County under this program shall be deposited in the Court Automation Fund and shall be used solely for the purposes authorized in accordance with the applicable law.

PART 20.00 CIVIL DIVISION MEDIATION PROGRAM RULES

20.00 Purpose of the Mediation Process
20.01 Actions Eligible for Court-Annexed Mediation
20.02 Scheduling of Mediation
20.03 Mediation Rules and Procedures
20.04 Mediator Qualifications
20.05 Duties of *Presiding* Judge for Mediation
20.06 Small Claims Mediation Program

20.00 PURPOSE OF THE MEDIATION PROCESS

Mediation under these rules involves a confidential process whereby 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 required to mediate in good faith.

20.01 ACTIONS ELIGIBLE FOR COURT-ANNEXED MEDIATION

Referral by judge or stipulation. Except as hereinafter provided, the judge to whom a matter is assigned may order any contested civil matter asserting a claim having a value, irrespective of defenses or set-offs, in an amount in excess of eligibility for Mandatory Arbitration in this circuit, referred to mediation In addition, the parties to any such matter may file a written stipulation to mediate any issue between them at any time. Such stipulation shall be incorporated into order of referral.

20.02 SCHEDULING OF MEDIATION

(a) **Conference or Hearing Date**. Unless otherwise ordered by the court, the first mediation conference shall be held within eight (8) weeks of the Order of Referral.

At least ten (10) days before the conference or as otherwise required by the mediator, each side shall present to the mediator a brief, written summary of the case containing a list of issues as to each party. If the attorney filing the summary wishes its contents to remain confidential, she/he should advise the mediator in writing at the same time 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 prior to the session.

(b) **Notice of Date, Time and Place**. Within 28 days after the Order of Referral, the mediator shall notify the parties in writing of the date**,** location**,** and time of the mediation conference.

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

1. The issue to be considered has been previously mediated between the same parties pursuant to General Order of the 22nd Judicial Circuit;
2. The issue presents a question of law only;

3. The order violates subparagraph 20.01 of this General Order;
4. Other good cause is shown.

(d) **Motion to Defer Mediation**. Within 14 days of the Order of Referral, any party may file a motion with the court to defer the mediation. The movant shall set the motion to defer the mediation proceeding prior to the scheduled date for mediation. 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 disposition of the motion.

20.03 MEDIATION RULES AND PROCEDURES

(a) **Appointment of the Mediator**.

1. Within 14 days of the Order of Referral, the parties may agree upon a stipulation with the court designating:

   (i) A mediator on the Court's list of approved mediators; or

   (ii) A mediator who does not meet the certification requirements of these rules but who, in the opinion of the parties and upon review by and approval of the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

2. If the parties cannot agree upon a mediator within 14 days of the Order of Referral, the plaintiff's attorney (or another attorney agreed upon by all attorneys) shall so notify the court within the next 7 days, and the court shall appoint a mediator from the Court's list of approved mediators.

(b) **Compensation of the Mediator**

1. When the mediator is selected by the parties, the mediator's compensation shall be paid by the parties as agreed upon between the parties and the mediator.
2. When the parties cannot agree on a mediator, the Court shall appoint a mediator from the list of mediators as provided in 20.04 (a) of these rules. The compensation for a mediator so appointed shall be shared proportionately by all parties participating in the mediation conference 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. If any party has been granted leave to sue or defend as a poor person pursuant to Supreme Court Rule 298, the Court shall appoint a mediator who shall serve pro bono without compensation from any party to the action.
4. The fee of an appointed mediator shall be subject to appropriate order or judgment for enforcement.

(c) **Disqualification of a Mediator**. Any party may move to enter an order disqualifying a mediator for good cause. If the court rules that mediator is disqualified from hearing a case, an order shall be entered setting forth the name of a qualified replacement. Nothing in this

provision shall preclude mediators from disqualifying themselves or refusing any assignment. The time for mediation shall be tolled during any periods in 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 such a motion is pending absent a contrary order of the court or a decision of the mediator to adjourn pending disposition of the motion.

(e) **Attendance at a Mediation Conference**

1. 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 court order.

   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 such 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. Upon 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 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 at all times be in control of the mediation and the procedures to be followed in mediation. Counsel shall be permitted to communicate privately with their clients.

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

(i) **Termination of Mediation**.

1. Mediation shall be completed within seven (7) weeks of the first mediation conference unless extended by the order of the court or by stipulation ~~on~~ ***of*** the parties.

2. Mediation shall terminate prior to 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, as determined by the mediator.

    (iii.) The mediator concludes that the willingness or ability of any 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 mediation for any reason, the mediator shall file with the court a report in a form prescribed by the Chief Judge as to whether or not an agreement was reached by the parties. The report shall be signed by the mediator and shall designate, "full agreement", "partial agreement" or "no agreement".

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

(l) **Discovery**. Whenever possible, the parties are encouraged to limit discovery (prior to completing the mediation process) to the development of the information necessary to facilitate a meaningful mediation conference. Discovery may continue throughout 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 cause of action 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 process.

(n) **Forms**. The following forms shall be used in conjunction with court-annexed mediation:

1. **20.03(n)1.--**Order of Referral to Court-Annexed Mediation
2. **20.03(n)2.--**Confidentiality Agreement and Non-Representation Acknowledgement
3. **20.03(n)3.--**Mediation Held/No Agreement Resulted

(o) **Immunity**. Mediators shall be entitled to such immunity as provided by Illinois Supreme Court Rule 99.

(p) **Mechanism for Reporting**. The Arbitration Administrator shall keep and maintain compiled 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.

20.04 MEDIATOR QUALIFICATIONS

a). General Requirements

1.) The chief judge shall maintain a list of mediators who have been certified by the circuit court and who have registered for appointment. Effective September 19, 2016, for certification in major civil cases, an applicant must:

- Complete a minimum of 30 hours of mediation training, in a program approved by the circuit court, during the one (1) year period prior to application or reapplication for certification as a mediator under these rules; and,

- Be a retired judge or be a member in good standing of the Illinois Bar, with at least seven (7) years of practice- in Illinois unless otherwise prescribed by the Illinois Supreme Court, and be actively practicing in the State of Illinois for twelve consecutive months immediately preceding application or re-application for certification as a mediator under these rules.

2.). Submit to the office of the chief judge or designee a completed application in a form prescribed by the circuit-court, which may include information including educational background, areas of practice, and years of practice, etc. By making an application to become certified under these rules, the applicant shall be deemed to have consented to disclosure of the information submitted in connection with his or her application; as well as the nature of cases mediated, number of cases mediated and number of cases settled, and other pertinent information regarding the applicant's qualifications to attorneys or parties involved in litigation to be mediated as well as any other persons to whom disclosure is deemed appropriate by the circuit court

3.) Mediators certified by the circuit court prior to January 1, 2004, shall be considered certified under these rules.

b. Continuing Responsibilities as a Certified Mediator

In each case, the mediator shall comply with this local rule regarding mediation and such other general standards as may, from time to time, be established and promulgated in writing by the chief judge of the Twenty-Second Judicial Circuit.

c. Decertification of Mediators

1.) The chief judge of the circuit court may decertify a mediator previously certified under, these rules for any of the following reasons:

- Revocation or suspension of mediator's license to practice law in the State of Illinois;
- Failure or refusal of the mediator to comply with this local rule governing mediation or any general standards issued by the circuit court regarding mediation;
- Other unprofessional conduct by the mediator that interferes with the ability of the circuit court to provide appropriate mediation services; or
- The request of the mediator to be decertified.

2.) This rule shall be in full force and effect from and after the 15th of January, 2012**.**

20.05 DUTIES OF PRESIDING JUDGE FOR MEDIATION.

The duties of the presiding judge for any case referred to mediation shall include the following:

1. Approve or appoint the Mediator.
2. Hear motions to interpret all Mediation rules.
3. Hear motions to advance, postpone or defer hearings.
4. Hear motions to disqualify a Mediator.
5. Hear all post-mediation Motions, including motions for entry of judgment, or other dispositive motions, prior to reassignment.

Rule 20.06 Small Claims Mediation Program

In keeping with the spirit of the Civil Division Mediation Program, when all parties appear pro-se (representing themselves) in small claims cases, they will be offered the opportunity to voluntarily meet with a court appointed mediator on the return date to attempt possible settlement of their dispute without the necessity of a trial. The mediator shall be appointed by the Judge presiding over the small claims call from an approved list of volunteer mediators from the membership of the McHenry County Bar Association. The mediation process shall be conducted in accordance with local rule 7.08.

PART 21 – E-FILING RULES FOR THE 22ND JUDICIAL CIRCUIT COURT

21.01 Authority
21.02 Effective Date
21.03 Designation of Electronic Filing Case & Document Types
21.04 Definitions
21.05 Authorized Users

21.06 Methods of Filing
21.07 Filing of Exhibits
21.08 Maintenance of Original Documents
21.09 Privacy Issues
21.10 Format of Documents
21.11 Signatures and Authentication
21.12 time of Filing, Acceptance by the Clerk and Electronic Filing Stamp
21.13 Electronic Service, Courtesy Copies and Filing Proof of Service
21.14 Collection of Fees
21.15 System or User Errors
21.16 Vendor Conditions

AN AMENDMENT TO THE RULES OF PRACTICE OF THE CIRCUIT COURT OF THE TWENTY-SECOND JUDICIAL CIRCUIT, McHENRY COUNTY, ILLINOIS BY PROVIDING FOR E-FILING IN THE 22ND JUDICIAL CIRCUIT

21.01 AUTHORITY

The Illinois Supreme Court issued. Order M.R. 18368 effective January 1, 2013, approving *Electronic Filing Standards and Principles* and has approved the 22nd Judicial Circuit Court to accept the electronic filing of documents in civil proceedings effective September 2, 2013. Approval was received from the Illinois Supreme Court for electronic records (E-Record) effective on May 12, 2015. Approval was received to accept the electronic filing of documents in criminal proceedings effective August 3, 2015.

21.02 EFFECTIVE DATE

These rules shall become effective on August 1, 2016, and remain in effect until further order.

21.03 DESIGNATION OF ELECTRONIC FILING CASE & DOCUMENT TYPES

(a) This Court hereby authorizes all civil cases with the exception of WI (Will Filing) as permissible electronic filing case types. The Circuit Court Clerk shall direct the phasing in of case types during initial implementation of electronic filing.

(b) Wills or other testamentary documents, any sealed or impounded documents, exhibits, photographs, or documents that are filed directly with the judge (e.g. proposed orders) shall not be accepted for filing electronically. Any unapproved document type filed electronically by a Subscriber shall be rejected by the Clerk of the Court.

(c) Any notice of appeal and post judgment enforcement proceeding documents may be e-filed and served in accordance with Supreme Court Rules.

21.04 DEFINITIONS

The following terms in these rules are defined as follows:

(a) Conventional manner of filing — The filing of paper documents with the Clerk as is done in cases that are not E-File cases.

(b) Digital Signature - the digital signature is a narrowly defined type of electronic signature that uses key encryption technology or biometric controls to execute the identification process and attach the individual's electronic signature to a document.

(c) Electronic Document ("E-document") — An electronic file containing informational text.

(d) Electronic Filing ("E-file") — An electronic transmission of information between the Clerk of the Circuit Court and a vendor for the purposes of case processing.

(e) Electronic Image ("E-image") — An electronic representation of a document that has been transformed to a graphical or image format.

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

(g) Electronic Signature Image - an electronic image file that a user may insert into a document. An electronic signature image file may or may not be saved for future and repeated uses.

(h) Judicial User-an individual internal to the judicial process, including but not limited to a judge, clerk or law enforcement officer, who routinely and frequently applies their electronic signature within a controlled software application and environment according to this local rule.

(i) PDF — Portable Document Format (PDF) is a file format that preserves all fonts, formatting colors and graphics of any source document regardless of the application platform used.

(j) Signature execution process - the process that the user employees with intent to signed the document, with the understanding of the consequences and effects of such action is a legally binding act.

(k) Subscriber — One contracting with a vendor to use the E-Filing system.

(l) Vendor- A company or organization that has an executed *Electronic Information Project Agreement* with the Clerk of the Circuit Court to provide E-Filing services for the 22nd Judicial Circuit, or a company or organization who has provided technology and/or computer programs to the 22nd Judicial Circuit which assist the E-Business initiatives of the 22nd Judicial Circuit.

(m) Verification process- a process employed for the purposes of verifying the integrity and the authenticity of an electronically signed document that has not been changed or altered, either intentionally or unintentionally, after the electronic signature is applied. Successful transference of electronic documents from one destination to another must not affect the authenticity of, or the ability to authenticate an electronic document.

21.05 AUTHORIZED USERS

(a) The Clerk of the Circuit Court shall accept and approve filing electronically through a vendor or through the Clerk's computer workstation.

(b) The Clerk of the Circuit Court shall allow the filing of a document or pleading using the conventional manner of filing. At no time shall the E-filing program prevent or exclude the ability to file any valid pleading with the Clerk of the 22nd Judicial Circuit Court. In those circumstances, the Clerk shall scan conventionally filed documents into the electronic file.

(c) Prior to filing any document electronically, users are required to register with the Clerk of Court and the Court's authorized e-filing vendor. Attorneys must submit an E-Filing Registration Form to the Clerk of Court which shall include a minimum of the following information: firm name, attorney names and ARDC registration numbers, address, phone number, e-mail address for E-service, staff contact information, selected method for paying filing fees.

(d) All other justice community users shall be registered upon confirmation of authorization by the Clerk of Court. Court partner agency users and individual registrations will be used to identify the source of the e-filed document submitted to the court electronically.

(e) The Attorney Registration and Disciplinary Commission number will be used as the identifier for attorneys to ensure that the 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 user is authorized to practice in Illinois.

(f) Pro-se litigants may utilize E-filing through a vendor on the Internet by means of individual transactional agreements and credit card payment.

(g) Without charge during normal business hours, the Clerk of the Circuit Court shall provide attorneys and parties in e-file cases access to an e-file computer workstation.

21.06 METHOD OF FILING

(a) The Circuit Court hereby encourages electronic filing in each of the designated case types as identified in Rule 21.03 above, although conventional filings in these case types will continue to be accepted.

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

21.07 FILING OF EXHIBITS

Physical items for which a photograph may be substituted may be electronically imaged and e-filed. Items not conducive to electronic filing, such as documents under seal and physical exhibits for which an image will not suffice shall be filed in their physical form at the Clerk's office or in the courtroom, as directed by order of court and in conformity with Supreme Court "*Electronic Filing Standards and*

Principles." The Motion and Notice of Motion for permission to file any of these physical items may be done electronically.

21.08 MAINTENANCE OF ORIGINAL DOCUMENTS

(a) Anyone filing an electronic document that requires an original signature certifies by so filing, that the original signed document exists in the filing person's possession. Unless otherwise ordered by the Court, the filing party shall maintain and preserve all documents containing original signatures that are filed electronically. The filing party shall make those signed originals available for inspection by the Court, the Clerk of the Court or by other counsel in the case, upon five (5) days' notice. At any time, the Clerk of the Court may request from the filing party a hard copy of an electronically filed document, which shall be provided within five (5) business days upon reasonable notice.

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

21.09 PRIVACY ISSUES

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

All documents in confidential, impounded, or sealed cases must be submitted conventionally to the Clerk of Court for filing. A party who has a legal basis for filing a document under seal without prior court order must electronically file a motion for leave to file under seal. The motion must include an explanation of how the document meets the legal standards for filing sealed documents. The document in question may not be attached to the motion as an attachment.

In addition to any other materials referenced in Supreme Court Rules 15 and 138, parties and their counsel shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all documents electronically filed with the Court, unless otherwise ordered by the Court.

(a) Social Security Number, Driver's License Number & Taxpayer Identification Number — If the number must be included, only the last four (4) digits of the number shall be used.

(b) Financial Account Numbers, Debit and Credit Card Numbers — If these numbers are relevant, only the last four (4) digits of the numbers shall be used.

The effective date of Supreme Court Rule 138 is November 21, 2014.

21.10 FORMAT OF DOCUMENTS

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

(b) Each electronically filed document shall also include the typed name, e-mail address, address and telephone number of the attorney or pro se party filing such document.

(c) A *New Case Information Sheet* shall be required with all new case filings. The *New Case Information Sheet* shall be completed by the attorney or pro se filer and submitted electronically in addition to case initiation documents. The Clerk of the Court shall provide electronic access to the required *New Case Information Sheet* both in the office and on the e-filing website.

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

(d) Documents shall be formatted as follows:

a. The size of the type in the body of the text must be no less than 12 point font, and footnotes no less than 10 point font;
b. The size of the pages must be 8 ½ by 11 inches;
c. The margins on each side of the page must each be a minimum of 1 inch;
d. The top right 2 inch by 2 inch corner of the first page of each pleading shall be left blank for the Clerk's stamp.

(e) Documents must be submitted in PDF format. When possible, documents must be converted to PDF directly from the program creating the document, rather than from the scanned image of a paper document. Documents only available in paper format may be scanned and converted to PDF for electronic filing.

(f) If a document exceeds the maximum size allowed, the filer will file multiple documents, each under the maximum file size. In such case, the user will be responsible for dividing the document into appropriately sized parts. Currently the maximum file size allowed for each document is 10 MB, with a total maximum size of all documents filed in one transaction at 50 MB. A maximum of 8 documents can be filed in a single transaction. Maximum file size allowances may increase as technology advances allow.

(g) Any electronically filed document must be unalterable (sealed PDF format) and be able to be printed with the same contents and formats as if printed from its authoring program. The e-filing vendor is required to make each electronically filed document that is not infected by a virus available for transmission to the Clerk immediately after successful receipt and virus checking of the document.

(h) Bulk filings of multiple cases or multiple documents combined into one PDF document shall not be accepted. 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. Multiple citations being electronically filed may be transmitted to the Circuit Clerk as a single transaction directly from the law enforcement agency.

(i) Documents filed by attorneys that do not comply with the format specified by the applicable statute or rule may be rejected. Documents filed by *pro se* parties that do not comply with the format specified by the applicable statute or rule shall be reviewed for acceptance by the court prior to rejection. The court shall establish a business practice for this review process.

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

21.11 SIGNATURES AND AUTHENTICATION

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

(b) A person who files a document electronically shall have the same responsibility as a person filing a document in the conventional manner for ensuring that the document is complete, readable and properly filed.

(c) The transmission date and time of transfer shall govern the electronic filing mark. Pleadings received by the Clerk before midnight on a day the Circuit Clerk's office is open shall be deemed filed that day. If filed on a day the Circuit Clerk's office is not open for business, the document will be deemed filed the next business day.

(d) Upon receipt by the vendor, and submission of an electronic document to the Clerk, the vendor shall issue a confirmation to the Subscriber. The confirmation shall indicate the time and date of receipt, and serve as proof that the document has been submitted to the Clerk. A Subscriber will receive e-mail notification from the vendor if a document is not accepted by the Clerk's office. In that event, the Subscriber may be required to re-file the document to meet the necessary filing requirements.

(e) Each document reviewed and accepted for filing by the Clerk of Court shall receive an electronic file stamp. The stamp shall be endorsed in the name of the Circuit Clerk and shall include the identification of the court, the official time and date of filing and contain the word "FILED". This file stamp shall be merged with the electronic document and shall be visible when the document is printed and viewed on-line. Electronic documents are not officially filed without the electronic filing stamp. Filings so endorsed shall have the same force and effect as documents time stamped in the conventional manner. While the case is pending, the Clerk shall retain an audit trail of submission, acceptance, and filing of electronic documents by recording the dates and times transmitted, received, and accepted or rejected.

(f) All Judges' and other necessary electronic signatures shall be captured and maintained by the Circuit Court Clerk and/or the Twenty Second Judicial Circuit. Each signature shall be protected by internal system security measures and shall use encrypted passwords to authenticate the use of the e-signature.

(g) A judicial user is permitted to execute the application of an electronic signature on court documents as deemed appropriate by a judicial user.

(h) Judges are permitted to delegate the use of their electronic signature to court personnel only upon the express delegation of permission. All use of the electronic signatures of judges shall be auditable in order to determine the identity of the user applying the signature.

(i) Any document affixed with a judge's electronic signature shall not be editable upon the application of the judge's electronic signature. The verification process shall be utilized in order to ensure the integrity and the authenticity of an electronically signed document and that the document cannot be changed or altered, either intentionally or unintentionally, after the electronic signature is applied.

(j) The storage and retention of signature images must be protected by internal system security measures. The signing solution provider shall keep a complete audit trail of each signing action.

(k) Signatures as defined in subparagraphs (a), (b), (c), (d), (e) and (f) above, satisfy Supreme Court
Rules and statutes regarding signatures, and give rise to the application of available sanctions when appropriate.

(h) The original signed document that has been electronically filed pursuant to subparagraphs (a), (b), (c), (d), (e) and (f) above, shall be maintained and preserved as required by Rule 21.08.

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

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

(b) A person who files a document electronically shall have the same responsibility as a person filing a document in the conventional manner for ensuring that the document is complete, readable and properly filed.

(c) The transmission date and time of transfer shall govern the electronic filing mark. Pleadings received by the Clerk before midnight on a day the Circuit Clerk's office is open shall be deemed filed that day. If filed on a day the Circuit Clerk's office is not open for business, the document will be deemed filed the next business day.

(d) Upon receipt by the vendor, and submission of an electronic document to the Clerk, the vendor shall issue a confirmation to the Subscriber. The confirmation shall indicate the time and date of receipt, and serve as proof that the document has been submitted to the Clerk. A Subscriber will receive e-mail notification from the vendor if a document is not accepted by the Clerk's office. In that event, the Subscriber may be required to re-file the document to meet the necessary filing requirements.

(e) Each document reviewed and accepted for filing by the Clerk of Court shall receive an electronic file stamp. The stamp shall be endorsed in the name of the Circuit Clerk and shall include the identification of the court, the official time and date of filing and contain the word "FILED". This file stamp shall be merged with the electronic document and shall be visible when the document is printed and viewed on-line. Electronic documents are not officially filed without the electronic filing stamp. Filings so endorsed shall have the same force and effect as documents time stamped in the conventional manner. While the case is pending, the Clerk shall retain an audit trail of submission, acceptance, and filing of electronic documents by recording the dates and times transmitted, received, and accepted

or rejected.

21.13 ELECTRONIC SERVICE, COURTESY COPIES AND FILING PROOF OF SERVICE

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

(b) All other documents may be served upon the other parties or their representatives electronically. The filing party or attorney shall be responsible for completing electronic service of these other documents.

(c) E-service shall be made in accordance with Supreme Court Rule 12, and shall be deemed complete at the posted date and time of transmission listed by the E-service vendor. However, for the purpose of computing time for any other party to respond, any document electronically served is deemed to be served on the first court day following transmission. The electronic service of a pleading or other document shall be considered as valid and effective service on all parties and shall have the same legal effect as personal service of an original paper document.

(d) If electronic service on a party does not occur, the party to be served shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right, duty or other act must be performed.

(e) The E-filing vendor is required to maintain an e-service list for each electronically filed case. The vendor shall immediately update the service list upon being given notice of new contact information.

(f) All Subscribers and other participants must immediately, but not later than ten (10) business days prior to when such a change takes effect, notify other parties, the Clerk and the E-Filing vendor of any change of firm name, delivery address, fax number or email address.

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

(h) Copies of any documents or certification of same shall be available to the requesting party at a reasonable cost, including all applicable fees as set by rule or statute.

(i) A means of electronic service on registered attorneys in criminal cases may be established as part of the e-filing system. When service is required by the Clerk, the Clerk of the Court may serve electronically to the attorney and shall record in the official court record the effective date and time of service. Service of documents in criminal cases to a *pro se* defendant who is not represented by counsel shall, unless waived, be made as otherwise provided by rule or statute.

21.14 COLLECTION OF FEES

(a) The e-filing of a document requiring payment of a statutory filing fee to the Clerk of the Court in order to achieve valid filing status shall be filed electronically in the same manner as any other e-file document.

(b) All Subscribers shall establish either a pre-paid draw down account with the Clerk of the Court or maintain a valid credit card on file with the e-filing vendor for the payment of statutory filing fees.

(c) Fees charged to E-filing subscribers by the vendor for vendor services are solely the property of the vendor and are in addition to any statutory fees associated with statutory filing fees.

(d) At the end of each business day, the vendor shall electronically transmit to the Clerk's bank account all statutory filing fees required for that day's electronic filings. The vendor shall electronically provide the Clerk a detailed breakdown including case number, type of transaction and party being billed for the payment for each deposit. The vendor shall act as a limited agent for the Clerk and collect such required filing fees from the Subscriber through direct billing of that Subscriber, unless payment of the fee has been waived by court order or law.

(e) When the electronic filing includes a request for waiver of fees by a petition for indigence, payment of the requisite fees shall be stayed until the court rules on the petition.

21.15 SYSTEM OR USER ERRORS

(a) The Court and Clerk of the Circuit Court shall not be liable for malfunction or errors occurring in electronic transmission or receipt of electronically filed or served documents.

(b) If the electronic filing is not filed with the Clerk because of (1) an error in the transmission of the document to the Vendor which was unknown to the sending party or (2) a failure to process the electronic filing when received by the vendor or (3) rejection by the Circuit Court Clerk or (4) other technical problems experienced by the filer or (5) the party was erroneously excluded from the service list, the Court may upon satisfactory proof enter an order permitting the document to be subsequently filed effective as of the date filing was first attempted.

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

21.16 VENDOR CONDITIONS

(a) E-filing vendor(s) with *Electronic Information Project Agreements* executed with the Clerk of the Circuit Court are hereby appointed to be the agent of the Clerk of the Circuit Court regarding electronic filing, receipt, service and/or retrieval of any pleading or document via the E-filing vendor system.

(b) The E-filing vendor shall make electronically filed documents, and documents being served electronically through the E-filing vendor's system, available to subscribers and the designated court authorized users through the E-filing vendor's system in accordance with the current contract between the Clerk and the E-filing vendor, and consistent with the Supreme Court's *Electronic Access Policy for Circuit Court Records of the Illinois Courts.*

(c) The E-filing vendor may require payment of a fee or impose other reasonable requirements by contract with a subscriber as conditions for processing electronic filings. Pursuant to contract terms, the E-filing vendor must provide services but is not permitted to require payment of a fee for government users or parties deemed indigent by the Court.

(d) The Chief Judge of the Court or his/her designee, in coordination with the Clerk of the Court, shall review and approve the terms of the Subscriber Agreement. The vendor shall provide at least 30 days’ notice prior to the effective date of any Subscriber Agreement changes.

(e) Ownership of the documents and access to the data associated with all E-filed documents remains with the Court. The electronic documents processed by the E-filing vendor remain the property of the Court and neither the documents nor the data from the documents and/or transactions shall be used by the E-filing vendor for any other purpose other than those specifically authorized by the Chief Judge of this Court or his/her designee, in coordination with the Clerk of the Court.

21.17 AUTHORITY FOR E-RECORDS

Specific authority for designating the electronic record as the official court record has been granted by Supreme Court Order M.R. 128, filed October 24, 2012. The Circuit Court of the 22nd Judicial Circuit was approved to designate the electronic record as the official record in civil cases and McHenry County, in accordance with the *Standards and Principles for an Electronic Record.*

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

(b) Definitions - the following terms and these rules are defined as follows:

Electronic Record- All official trial court records for a case filed and stored electronically, except all documents required to be maintained in original form.

Print on Demand - The ability to print any electronic document for the use by judges, court personnel, lawyers, litigants and the public.

(c) Electronic Access to Records - This Court adopts the Supreme Court's *Electronic Access Policy.* Access to the electronic court record will be available consistent with this policy. All protected information will be reviewable only by parties of record consistent with the Supreme Court's *General Administrative Order on Recordkeeping in the Circuit Court's* and applicable laws. The electronic record can be accessed at any time subject to unexpected technical failures, normal system maintenance, or as may otherwise be technically feasible.

(d) Protecting Electronic Record- The Clerk of the Circuit Court shall ensure the migration safety of the Court's records the regular maintenance of the hardware and software, and replication of the data to off-site storage facilities.