

January, 2008

RULES OF THE NINTH JUDICIAL CIRCUIT COURT

STATE OF ILLINOIS

The within Rules, ADMINISTRATIVE, GENERAL, and PROBATE shall be effective Tuesday, August 1, 1989. These Rules supercede all former ADMINISTRATIVE, GENERAL, and PROBATE Rules of the Ninth Judicial Circuit.

As new Rules are adopted or Rules are amended, replacement pages shall be furnished by the Office of the Chief Judge.

CIRCUIT AND ASSOCIATE JUDGES OF THE NINTH JUDICIAL CIRCUIT COURT:

CIRCUIT JUDGES: STEPHEN C. MATHERS, CHIEF JUDGE

EDWARD R. DANNER

SCOTT SHIPPLETT

WILLIAM C. DAVIS

JAMES B. STEWART

WILLIAM D. HENDERSON

DAVID F. STOVERINK

PAUL L. MANGIERI

DAVID L. VANCIL, JR.

GREGORY K. McCLINTOCK

ASSOCIATE JUDGES:

STEVEN R. BORDNER

DWAYNE I. MORRISON

JOHN R. CLERKIN

PATRICIA A. WALTON

RICHARD H. GAMBRELL

## RULES OF COURT

POWER OF COURT TO ADOPT RULES: These Rules are promulgated pursuant to Section 1-104(b) of the Code of Civil Procedure providing that the Circuit Court may make rules regulating its dockets, calendars, and business and pursuant to Supreme Court Rule 21(a) providing that a majority of the Circuit Judges in each Circuit may adopt rules governing civil and criminal cases consistent with rules and statutes.

EXISTING RULES REPEALED: These Rules shall become effective on August 1, 1989, and all prior ADMINISTRATIVE, GENERAL, and PROBATE RULES of the Ninth Judicial Circuit Court, State of Illinois, are hereby repealed as of said effective date.

AMENDMENT OF THESE RULES: Any amendment of these Rules shall be passed by a majority vote of all circuit judges of the Ninth Judicial Circuit, and each voting judge shall be mailed a copy of the proposed amendment at least ten (10) days prior to the vote thereon.

CONSTRUCTION OF THESE RULES: In the construction of these Rules the law governing the construction of statutes (5 ILCS 70/1. through 55 ILCS 1.05 (1994)) shall apply. Whenever used in these Rules "\_\_\_ ILCS \_\_\_\_\_, 19\_\_\_" refers to the statutory material appearing in the specified chapter and paragraph of the Illinois Compiled Statutes, State Bar Association edition, for the year specified, and the same material as it may have been or may hereafter be amended.

WAIVER OF RULES: Rules of practice or procedure in civil or probate proceedings may be waived for good cause shown by order of the judge hearing the proceeding. Rules may be waived for the purpose of obtaining maximum flexibility of judicial time to provide services for the litigants.

NINTH JUDICIAL CIRCUIT COURT RULES

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## ADMINISTRATIVE RULES

### RULE A-1 ADMINISTRATION

The Office of the Chief Judge shall have general administrative authority over the Courts in the Ninth Judicial Circuit.

#### Administrative Judge

1. Designation of Administrative Judge - The Chief Judge shall appoint one Judge within each county of the Circuit as the Administrative Judge of that county.
2. Duties of the Administrative Judge - The Administrative Judge shall administer the Judicial Divisions of the County in which he is presiding and perform such other duties as may be required for the proper administration of justice.

#### Judicial Assignments

1. Assignments by the Chief Judge - The Chief Judge shall assign Circuit and Associate Judges to the various counties within the circuit and may further assign all judges to divisions within a county and on a case by case basis.
2. Assignments by the Administrative Judge - The Administrative Judge within each county may assign additional judicial duties to the Circuit and Associate Judges regularly assigned to that county and may further assign said Judges to divisions within the county in the absence of an assignment order by the Chief Judge.

#### C. Meetings

1. Meeting Dates - The Chief Judge shall call meetings of the Circuit and Associate Judges, separately or jointly, as the needs of the Circuit dictate.
2. Meeting Procedure - Robert's Rules of Order shall govern all meetings; provided, however, that Associate Judges shall have the right to cast votes except where prohibited by law.

#### D. Administration of the Adult Probation Office

1. Reports - The Director of Court Services shall prepare and submit to the Chief Judge an annual report relating to the prior year's operation of the Court Services Department, including line item expenditures, not later than March 31 each year.
2. Court Services Committee - The Chief Judge may appoint a committee of Judges to oversee the operation of the Court Services Department and act as liaison between the Court Services Department and the judiciary.

E. Appointment of Court Records Management Committee

Pursuant to the authority conferred upon the Chief Judge of the Circuit Court by the Constitution of the State of Illinois, the authority of 705 ILCS 105/22, and the inherent authority of the Court to control the record keeping of the Clerks of the Court, the Chief Judge is authorized to create a committee composed of judges of the Circuit Court for the purpose of examining the record keeping of the Clerks of the Court. The committee shall study the record keeping of the Clerks and shall make recommendations to the Chief Judge regarding the same. The Chief Judge shall then enter orders or give directions regarding the keeping of the records.

(Effective Date of Rule A-1-E is 04-25-97)

RULE A-2 ELECTION AND TENURE OF CHIEF JUDGE

- A. At least 30 days prior to the expiration of the term of office of the Chief Judge, the Chief Judge shall call a meeting, to be held within 15 days of said expiration date, of all Circuit Judges for the purpose of voting for a Chief Judge.
- B. Whenever a Chief Judge is to be elected, a ballot containing the names of all the Circuit Judges, arranged alphabetically, shall be given to each Judge. Each judge shall indicate thereon (by a cross mark) the judge for whom he votes as Chief Judge. An election committee appointed by the Chief Judge or Acting Chief Judge shall canvass the votes and shall announce the votes cast on each ballot for each judge voted for. The judge receiving the highest number of votes shall be declared elected as Chief Judge.
- C. If the Chief Judge shall at any time desire to resign, he shall call a meeting of the Circuit Judges and present his resignation. If the resignation is accepted, the Judges shall thereupon proceed to elect one of the Circuit Judges to serve as the new Chief Judge. The new Chief Judge shall take office immediately.
- D. Should the Office of the Chief Judge at any time become vacant from any cause not otherwise provided for in this Rule, the Circuit Judge having the greatest seniority of judicial service shall call a meeting of the judges for the purpose of filling the vacancy. At such meeting, a new Chief Judge shall be elected to take office immediately.
- E. A majority of such Circuit Judges may at any time, by written order, call a meeting of the judges at a time and place stated for the purpose of considering the removal of the Chief Judge then in office. A copy of such order shall be delivered or mailed postage prepaid to each judge not joining in it, at least five days before the time fixed for the meeting. At such meeting, the judges shall vote by ballot on the question: "Shall the present Chief Judge be removed from office?" If a majority of such judges vote in the affirmative, the Chief Judge is thereby removed from office, and the judges shall thereupon proceed to elect one of the Circuit Judges to serve as the new Chief Judge to take office immediately.

- F. A Chief Judge shall be elected in the odd-numbered years. The term of the Chief Judge shall commence on the first Monday in October of that year.

(Effective Date of Rule A-2-F is 05-23-97)

#### RULE A-3 - JUDICIAL APPOINTMENTS

- A. The Circuit Judges shall appoint one member annually to the Jury Commission in the several counties.
- B. The Chief Judge, with the advice of the Circuit Judges, shall appoint, assign, and establish policy for Court Reporters as limited by the action taken and authority granted by a majority of the Chief Judges/Employer Representatives of the Judicial Circuits in the State of Illinois enumerated in 5 ILCS 315/3(0-5)(3).

(Effective Date of Rule A-3-B is 08-26-05)

- C. With the advice of the Resident Judge of Knox County, the Chief Judge shall appoint one member annually to the Board of Election Commissioners of the City of Galesburg.
- D. All of the Judges of the Circuit shall appoint the Public Defender in the several counties.
- E. The Chief Judge shall appoint, pursuant to 730 ILCS 110/13, probation personnel, and 55 ILCS 75/3, detention personnel. The Chief Judge shall appoint the Director of Court Services, Chief Probation Officer and Superintendent of the Mary Davis Detention Home. With the recommendation of the Director of Court Services, the Chief Judge shall appoint the Assistant Superintendent of Detention, Program Coordinator, Supervisors of Detention, Supervisors of Probation, Detention Counselors and Probation Officers.

The Director of Court Services shall appoint the support staff for the Court Services Department.

(Effective Date of Rule A-3 is 07-01-93)

#### RULE A-4 FORMS

Forms shall be adopted by Administrative Order of the Chief Judge, with approval of the judges.

#### RULE A-5 CLERKS

- A. It shall be the duty of the Clerks of the Circuit Court in each county to:
1. Attend all sessions of court in all divisions in person or by a minute clerk;
  2. Swear all witnesses;

3. Maintain record sheets, under the supervision of the presiding judge, containing minutes of all business transacted by the court;
4. Maintain a record of child support and maintenance payments ordered by the court to be made in dissolution cases, which record shall include the following information:

Case number  
Name and address of payor  
Name and address of payee  
Anniversary date for commencement of payments  
Amount of payment  
Date of receipt of payment  
Date of distribution of payment  
Arrearage balance

5. Maintain, under the supervision of the judge assigned to each division, a daily calendar showing cases set for hearing and the hour of the day they shall be heard, except in Counties where an Administrative Secretary employed by the court schedules cases and maintains daily court calendars as directed by the judges of the various divisions;
6. Have present in court the files of each case set on the daily calendar and call such cases for hearing at the times set therein;
7. Maintain, under supervision of the pre-trial and jury judges, a separate calendar of all cases in which a demand for jury trial has been made;
8. Prepare a list of all civil cases pending in which no proceedings have been taken for more than one year and submit the same to the presiding judge assigned to such division in accordance with Rule G-3 of these rules;
9. Prepare a list of all criminal cases in which no pleadings have been filed or no proceedings have been taken for more than one year and submit the same to the assigned judge in each division in accordance with Rule G-3 of these rules;
10. Immediately notify the presiding judge and the State's Attorney of the filing of a petition for post-conviction hearing, and upon the judge's direction set the petition for hearing on a date certain in accordance with the Statutes;
11. In all cases where written interrogatories, exhibits and any other miscellaneous papers are filed, they shall be filed in a folder separate from the pleadings, summons, notices to appear and record sheets;
12. Perform such other duties as are required by the Circuit and Associate Judges.

B. D.U.I. Evaluation Reports:

1. The Clerk of the Circuit Court shall place all D.U.I. Evaluation Reports received by the clerk's office either (1) in a sealed envelope in the court file of the defendant's case or (2) in separate impounded files.
2. The Clerk of the Circuit Court shall maintain said D.U.I. evaluation reports in such a manner that assures confidentiality, and they shall not be released for public review except by Order of the Court, after application showing good cause therefore.

RULE A-6 CLERK'S BOND

Before entering upon their duties, the Clerks of the several counties shall provide a bond as required by 705 ILCS 105/4 (1994) in the penal sum of \$100,000.00 and have the same approved by two judges of their county.

RULE A-7 CLERK'S OFFICE HOURS

The Clerks of the Circuit Court of the Ninth Judicial Circuit shall keep their offices open to the public and attend to the duties thereof from Monday through Friday of each week as follows:

Fulton County	8:00 a.m. - 4:00 p.m.
Hancock County	8:00 a.m. - 4:00 p.m.
Henderson County	8:00 a.m. - 4:00 p.m.
Knox County	8:30 a.m. - 4:30 p.m.
McDonough County	8:00 a.m. - 4:00 p.m.
Warren County	8:00 a.m. - 4:30 p.m.

The offices of Clerk of the Circuit Court in each of the counties of the Ninth Judicial Circuit shall remain open and be available for the transaction of business from Monday through Friday of each week as specified above, except that the Chief Judge of the Ninth Judicial Circuit shall annually fix the observance of state and national holidays by Administrative Order. The offices of Clerk of the Circuit Court shall be closed only on the holidays set forth in such annual Administrative Order issued by the Chief Judge or as otherwise ordered by the Chief Judge, beginning with Administrative Order No. 86-44 entered November 5, 1986 for the 1987 calendar year.

The Clerk of the Circuit Court in each county shall, on receipt of such an Administrative Order, or any amendment or supplement thereto, post same in a prominent place in a public area in the Circuit Clerk's Office, readily visible to the public, until the time period covered thereby has expired.

(Effective Date of Rule A-7 is 03-26-93)

RULE A-8 SHERIFFS

It shall be the duty of the Sheriff of the several counties of the Ninth Judicial Circuit to:

1. Attend all sessions of the court in person or by deputy sheriff or by bailiff, pursuant to 55 ILCS 5/3-6023.
2. Attend all jury trials in person or by bailiff to take charge of the jury;
3. Upon request, furnish the adult and juvenile probation officers a correct copy of the DCI and FBI arrest records of any defendant;
4. Perform such other duties as are required by the Circuit and Associate Judges.

#### RULE A-9 PETIT JURORS-NUMBER

- A. 705 ILCS 305/2 (1994) provides for the selection of petit jurors and directs the judges of the Circuit Court to establish the number of persons as the judges may determine to serve as petit jurors. Now, therefore, the judges of the Ninth Judicial Circuit by their joint action do determine that the number of persons required as petit jurors in the counties without jury commissions comprising part of the Ninth Judicial Circuit shall be 400.
- B. The Clerks of the Circuit Court in the foregoing counties shall certify the number of jurors so determined to the County Board of such county for selection by the Board from a jury list at the September Board meeting each year.

#### RULE A-10 INSPECTION AND CERTIFICATION OF COURT FACILITIES

- A. Times and Places of Holding Court. Each Chief Judge shall designate, as provided in Article VI, Section 7(c), of the Constitution of 1970, the times and places of holding court in each county of his or her judicial circuit.
- B. Committee on Court Facilities. There shall be in each judicial circuit a committee on court facilities. The Chief Judge shall appoint, from the sitting and retired judges of the circuit, a three-person or five-person committee and shall designate one member as its chairperson. The Chief Judge may not serve as a member of the committee.
  1. When directed by the Chief Judge, the committee shall inspect each courtroom, jury quarters, chambers, ancillary court spaces, or the offices of the clerk of the court within any county of the circuit. The committee shall determine whether an inspected facility complies with the applicable standards for court facilities as adopted by the Supreme Court, and with applicable accessibility standards as provided by the laws of the United States and this State.
  2. The committee shall file a preliminary report of the inspection, together with the

committee's recommendations with the Chief Judge. The Chief Judge shall transmit a copy of the report and proposals for corrective action to bring such facilities within applicable standards to the chairman of the county board in which the facility in question is located. If corrective action is not commenced and completed within the time period established by the committee, then it shall promptly file a supplemental report with the Chief Judge, and include therein any additional recommendations. The Chief Judge shall transmit a copy of the supplemental report to the chairman of the county board. Within 90 days of such transmittal, or such other period as may be designated by the chairman of the committee, the county board must have either (1) corrected the condition of the facility in question as the committee required in its report, or (2) bound the county contractually and irrevocably to have the facility so corrected within six months or such other time as may be designated by the committee.

C. Informational Hearing.

In the event the county board fails to comply with Rule A-10-B-2, the chairman of the committee shall file a petition, styled, "In re the Court Facilities of [ ] County", with the clerk of the court of the county in which the facility in question is located. The petition shall specify the deficiencies of each such facility, the remedial action proposed, any action taken by the county board, and a prayer for appropriate relief. Upon such filing, the Chief Judge shall forthwith designate a time, date, and place for a hearing thereon.

1. The chairman of the committee shall cause notice, together with a copy of the petition, to issue and to be served on the chairman and each member of the county board not less than 21 days prior to the hearing. The chairman of the committee may direct the circuit clerk to give notice of the hearing to such other persons as he or she deems appropriate by placing such notice and a copy of the petition in an envelope having prepaid first class postage thereon and depositing it in the United States mail not less than 21 days prior to the hearing. The clerk's certificate of mailing notice shall be made of record.
2. An informal and public hearing on the petition shall be held in the county in which the court facility in question is located. The Chief Judge shall preside over the hearing, which shall be transcribed by a court reporter. The Chief Judge may direct that a notice or a subpoena issue, upon request or upon the Chief Judge's own motion, to any witness as he or she deems appropriate and may take judicial notice of reports filed by the committee.
3. Following the informational hearing, the Chief Judge shall file with the circuit clerk his or her findings and an order regarding the facility in question, together with a certification that the facility -
  - (i) Meets applicable standards; or
  - (ii) Does not meet applicable standards, but may be temporarily certified until

a period ending on a date certain; or

- (iii) Does not meet applicable standards, but may be conditionally certified upon the condition that specified action is taken and completed by a date certain; or
- (iv) Does not meet applicable standards and will be discontinued for court purposes effective on a date certain. Before the Chief Judge may order that new or additional court facilities be constructed or remodeled, he or she must first determine that exigent circumstances exist requiring such an order be entered. The Chief Judge may also order that such construction or remodeling be completed by a specified date. Any such orders regarding construction or remodeling of new or additional court facilities shall be entered against the county board of the county in which the facility in question is located, as well as personally against each member of that county board. A finding of exigent circumstances need not be made in an order concerning existing courtrooms and ancillary facilities.

4. An informational hearing under this subsection need not be held if:

- (i) The Chief Judge certifies that the facility in question meets applicable standards; or
- (ii) Both the chairman of the county board and the Chief Judge waive such a hearing in writing.

D. Hearing Pursuant to Supreme Court Rule 21(c).

- 1. If the county board does not comply with the order of the Chief Judge as set forth in Rule A-10-C, then the Chief Judge shall file a "Petition to Compel Compliance" with the circuit clerk of the county in which the informational hearing was held.
- 2. The Chief Judge shall thereafter request the Supreme Court to assign a judge from a circuit other than the circuit in which the petition is filed to preside at the hearing under this paragraph. The Attorney General or an attorney appointed by the Chief Judge shall represent the Chief Judge at the hearing.
- 3. A showing by the Chief Judge of compliance with Rules A-10-B and A-10-C constitutes prima facie evidence of the validity and enforceability of any orders entered by the Chief Judge pursuant to those Rules.
- 4. After hearing, the judge shall file his written findings and order, and shall have available all appropriate remedies under the law of this State.

E. Costs, Fees and Expenses. In proceedings held pursuant to this Rule, costs, attorney fees

and other necessary expenses, including but not limited to expert witness fees incurred by or taxable to the Chief Judge, shall be paid by the county in which the court facility in question is located.

(Effective Date of Rule A-10 is 03-26-93)

## GENERAL RULES

### RULE G-1 HEARING OF MOTIONS

A. Motions Generally - The following motions are to be excluded from this Rule:

Motions for discovery;  
Motions for continuance;  
Motions for default;  
Post-trial motions.

B. Hearing Dates and Designation

1. All civil and criminal motions, including appeals from the Industrial Commission or from any Administrative Agency and including motions in limine, shall be noticed for hearing by counsel. A motion set and noticed for hearing by counsel must be filed with the Clerk no later than two days after obtaining the hearing date from the clerk. If not so noticed, the clerk shall set, with leave of court, a date and time for the hearing on said motion and shall notify all parties of record of the date, time and place for such hearing.
2. Each motion brought under the Code of Civil Procedure, 735 ILCS 2/2-615, 735 ILCS 5/2-619, or 735 ILCS 5/2-1005 (1994), shall be captioned as such.

C. Points and Authorities

1. There shall be served and filed with or attached to every motion and including appeals from the Industrial Commission or any Administrative Agency raising questions of law, a brief statement of specific points or pro-positions of law with the authority in support thereof upon which the moving party will rely.
2. Any party opposing the motion or appeal shall file and serve a brief statement of points and authorities in opposition to the motion at least four days prior to the hearing on the motion, unless the time is extended by the court for good cause shown.
3. In the Code of Civil Procedure, Sec. 2-1005 or appropriate Sec. 2-619 motion, supporting affidavits and counter-affidavits shall be filed within the time limits for points and authorities as set forth above.
4. Parties required to file statements of points and authorities, affidavits and counter-affidavits shall file an original with the Clerk of the Court, together with the original of the motion supported by said statement of points and authorities. Said parties are also required to provide a copy of said statements of points and authorities, affidavits and counter-affidavits, with a copy of the motion or appeal

supported by same, to the judge before whom the motion or appeal is set or to whom said motion or appeal is assigned by Administrative or other order. Each party shall endorse on the copy of the motion the date set for the hearing or provide the Court with a copy of the notice setting said motion or appeal.

(Effective Date of Rule G-1(C)(4) is 12/17/04)

5. If no statement of points and authorities, or counter-affidavits in appropriate cases, in opposition, is timely filed and if the non-moving party does not request oral argument, the Court may make, file, and serve a decision on any such motion without an oral hearing, if it appears to the court to be in the interest of justice to do so. A request for oral argument by the non-moving party must be made within the time for filing points and authorities but such request shall not extend the time to file points and authorities.
6. The right to oral argument is not abridged by this Rule, and the failure to file points and authorities in opposition to a motion may not be grounds to deny oral argument if the movant's points and authorities are reasonably claimed to be inapposite.

D. Documentary Evidence

1. If documentary evidence is to be offered in support of, or against, a motion and the same is susceptible to convenient copying, copies thereof shall be served and filed by the moving party with the motion and by the adverse party with his statement in opposition to the motion.
2. If such documentary evidence is not susceptible or convenient to copying, the parties shall in lieu thereof furnish a concise summary or statement of the contents thereof and shall make the original available to the adverse party for examination prior to the hearing.

E. Notice of Hearing of Motions

1. Notice Required - Except during the course of trial, written notice of the hearing of all motions shall be given by counsel for the moving party to all parties who have appeared and have not theretofore been found by the court to be in default for failure to plead, and to all parties whose time to appear has not expired on the date of notice. Notice that additional relief has been sought shall be given in accordance with Supreme Court Rule 105.
2. Content of Notice - The notice of hearing shall show the title and number of the action, the name of the judge before whom the motion has been set and the date and time when the motion will be presented. If the motion is to be made orally, the notice shall state the nature of the motion. If the motion is presented in writing, a copy of the motion or a statement that it has previously been served

shall be served with the notice. Copies of all papers filed in the court with the motion shall be served with the notice or the notice shall state that copies have been served.

3. Manner of Service - Notice shall be given in the manner and to the persons described in Supreme Court Rule II.
4. Time of Notice - If notice of hearing is given by personal service, the notice shall be delivered before 4:00 p.m. of the eighth day including Sundays and holidays preceding the hearing of the motion. If the notice is given by mail, the notice shall be deposited in a United States Post Office or Post Office Box on the eighth day including Sundays and holidays preceding the hearing of the motion.
5. Summary Judgment - A motion for summary judgment will not be heard until ten days after service of the notice of motion under Supreme Court Rule II.

F. Emergency and Ex Parte Motions Where Notice Is Not Required:

1. Notice Not Required - Emergency motions and motions which by law may be made ex parte may, in the discretion of the court, be heard without giving prior notice and without calling the motion for hearing. Emergency motions shall, so far as possible, be given precedence.
2. Notice After Hearing - If a motion is heard without prior notice under this Rule, written notice of the hearing of the motion showing the title and number of the action and the ruling of the court thereon, shall be served by the attorney obtaining the order upon all parties who have appeared and have not theretofore been found by the court to be in default for the failure to plead, and upon all parties whose time to appear had not expired on the date of hearing, and proof of service thereof shall be filed with the Clerk within 48 hours after the hearing. Notice shall be given in the manner and to the persons described in Supreme Court Rule II.
3. Order Upon Denial - If a motion heard without prior notice is denied, counsel shall prepare a written order of the denial which shall be entered.

- G. 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 90 days from the date it is filed, the court may enter an order overruling or denying the motion by reason of the delay.

RULE G-2 DISCOVERY MATERIALS

Discovery materials shall not be filed with the Clerk of the Circuit Court except upon leave of Court, or as authorized by Supreme Court Rule, or as stated below in this Rule G-2.

When any discovery method is conducted pursuant to Supreme Court Rules and is the subject of a motion, the moving party shall file a copy of the portion of the discovery documents relevant to the issues raised. Any such document so filed shall be in compliance with Supreme Court Rules, Rule G-5.1 and Rule G-2.1.

#### RULE G-2.1 REDACTION OF SOCIAL SECURITY NUMBERS

An individual's social security number which appears in any pleading, attachment to pleading, order, exhibit, or other document filed in the court file or filed in open court shall be redacted so only the last four digits are visible.

(Effective Date of Rule G-2 and Rule G-2.1 is 10-28-05)

#### RULE G-3 DISMISSAL FOR WANT OF PROSECUTION CALL

The Clerk's list of civil cases, except probate, in which no proceedings have been taken for more than one year shall be made available to all attorneys of record at least 14 days before the court call of such cases. This Rule shall constitute notice to all attorneys or other interested persons of such court call. Upon such call, all cases which have been pending for more than one year without any proceedings having been taken therein, may be dismissed for want of prosecution.

#### RULE G-4 CONTINUANCES - REPEALED EFFECTIVE 08-01-93 (See Rule G-15)

No cause set by Court Order shall be continued except by Court Order. All Orders shall include the date to which the case is continued and no further notice shall be required. Neither the Clerk of Court nor the Court personnel shall authorize a continuance either directly or by implication without prior approval of a judge.

#### RULE G-5 PRE-TRIAL CONFERENCE & TRIAL PROCEDURE IN IMDMA CASES

##### A. Cases filed pursuant to IMDMA.

The following procedures shall apply in IMDMA cases:

1. Hearing Date. Within fourteen (14) days after the Respondent has filed an entry of appearance or answer, the Petitioner shall secure a date for hearing on grounds. If a date for hearing has not been secured and a notice of it given to proper parties within eight (8) weeks after filing, the Circuit Clerk shall refer the file to the Presiding Judge who shall issue a rule upon the Petitioner to show cause why the petition should not be dismissed for want of prosecution.
2. Notice. Notice of said grounds hearing shall be served on the Respondent by the Petitioner in the manner required by Supreme Court and local rule.

3. Pre-Trial Conference Setting. Unless the remaining issues are resolved and approved by the Court at the grounds hearing, the Court shall, at the time of the hearing on the grounds, schedule a pre-trial conference on remaining issues. The Court may, upon the request of either party, set additional pre-trial conferences. The pre-trial conference shall be set after a date by which the parties anticipate that all discovery in the case will be completed. In the event that discovery is not completed by the date set for the pre-trial conference, the conference may be rescheduled by Order of the Court provided the Court enter an order directing completion of discovery by certain specified dates. In no event may a pre-trial conference be continued without resetting said conference on a date certain.
4. Mandatory Disclosure. The Court may, upon written application of either party, determine that, due to the nature of a particular case and the complexity of the issues therein, mandatory disclosure as set forth below shall apply.
  - a. Time for Disclosure - Continuing Duty. The parties shall make the initial disclosure required by this rule as fully as then possible within 28 days following the entry of an order by the Court. Upon service of a disclosure, an affidavit of compliance shall be promptly filed with the court. The duty to provide disclosures as delineated in this subsection shall be a continuing duty, and each party shall seasonably supplement or amend disclosures whenever new or different information or documents become known to the disclosing party.

All disclosures shall include information and data in the possession, custody and control of the parties as well as that which can be ascertained, learned or acquired by reasonable inquiry and investigation.

- b. Prompt Disclosure of Information. Within the time set forth in section (1) above, each party shall disclose in writing to every other party:
  - (i) Which party should be custodian of each child.
  - (ii) A proposed visitation schedule for each child.
  - (iii) If paternity of any child, living or unborn, is contested, the identity of any such child and the alleged putative father of any such child.
  - (iv) The name and address of any health and medical insurance carrier covering any spouse and/or children.
  - (v) A statement describing any workman=s compensation, personal injury or property damage claims the disclosing party may have, whether filed or not filed.

- (vi) The name and address of any employer and a description of the nature of any self-employment of the disclosing party.
- (vii) Current representative wage stubs or other documents demonstrating the disclosing party's current income from all sources.
- (viii) Identification of all property claimed by the disclosing party to be his or her non-marital property.
- (ix) A copy of all appraisals conducted within three years preceding the filing of the action of any personal property or real estate in which either party has an interest, whether legal or equitable.
- (x) A statement setting forth the details of any claim by the disclosing party that the opposite party has dissipated assets.
- (xi) A statement setting forth the details of any claim of a right to reimbursement for contribution covered by Section 503(c)(2) of IMDMA.
- (xii) A list of names and addresses of creditors for all debts exceeding \$50.00 owed by any party.
- (xiii) A list of any annuities, pensions, profit sharing plans, retirement plans, IRA accounts, 401K, or Keogh plans, or other similar equities in which any party has an interest, whether legal or equitable, setting forth the names and addresses of the owner, plan administrator, trustee or manager, and any identifying number of such annuity, account or plan.
- (xiv) A list of any stocks, bonds, mutual funds or other equities in which any party has an interest, whether legal or equitable, whether held in the name of any party, or by any other person for the benefit of a party.
- (xv) A list of any accounts held by any bank, savings and loan, brokerage company, credit union or other thrift institution, in which accounts any party has an interest, whether legal or equitable, whether held in the name of any party, or by some other person for the benefit of the party, setting forth the name and address of any such institution or entity and the identification number of any such account.
- (xvi) The existence of any cash value life insurance policy covering the life of any party, including the name and address of the company,

the policy number and the face value of the policy.

- (xvii) Copies of tax returns of any party, together with all supporting schedules, W-2 forms and 1099 forms for all income included in such returns, for the period of three years preceding the year in which the action was filed.
  - (xviii) The names and address of any doctors, psychologists, psychiatrists, or mental health counselors who have consulted with either of the parties or any children during the period from one year prior to the filing of the action to the date of disclosure.
  - (xix) The names, addresses, and telephone numbers of any witnesses whom the disclosing party intends to call at trial, together with a designation of the subject matter about which each witness might be called to testify.
- c. Affidavit Re Disclosure. Each disclosure shall be made in writing, accompanied by the affidavit of an attorney or a party which affirmatively states that the disclosure is complete and correct as of the date of the disclosure and that all reasonable attempts to comply with the provisions of this rule have been made.
- d. Affidavits Wrongly Filed. The Court shall enter an appropriate order pursuant to Supreme Court Rule 219(c) against any party or his or her attorney, or both, as a result of any affidavit filed pursuant this rule which the court finds was (a) false; (b) filed in bad faith; or (c) was without reasonable factual support.
5. Notice of Dispute as to Child Custody. If the custody of the child(ren) becomes disputed in a IMDMA case, counsel and pro se parties shall inform the Judge to whom the case is assigned for hearing as soon as such dispute becomes known. The Judge shall then promptly schedule a hearing on the pre-trial calendar to consider whether parties and counsel shall be required to appear and the Court shall consider any requests for examinations, home studies, appointment of a GAL, and consider the advisability of alternate dispute resolution. The Court may order that one or both parties deposit all or a reasonable portion of the expenses to be incurred.
6. Pre-Trial Conference Procedure. At the pre-trial conference, the parties and counsel familiar with the case shall appear and the following shall be considered:
- a. The nature, issues and complexity of the case.
  - b. Whether the issues can be simplified by agreement.
  - c. Whether the pleadings need to be amended.
  - d. The possibility of settlement.

- e. The need for setting of a further pre-trial conference in the event discovery is not completed.
- f. Any other matters which may aid in the disposition of the case.

An appropriate order shall be entered at the pre-trial conference specifying those issues settled by agreement and those left for trial. This order controls the subsequent course of action of the case unless modified by further court order.

- 7. Trial Date. A trial date for the remaining issues shall be set at the earliest date available on the Court docket, unless the parties agree, and the Court concurs, that a later date is necessary or desirable. Continuances of the trial date shall be disfavored and be granted only upon good cause shown and pursuant to written motion and Court Order.
- 8. Failure to Appear for Pre-Trial Conference. Failure of counsel or the parties to appear for any pre-trial conference scheduled by the Court may result in dismissal of the proceeding or default of the party failing to appear upon the Court's own motion and without further notice or hearing.

## B. Mandatory Non-Judicial Child Custody and Visitation Mediation

### 1. General

Pursuant to Supreme Court Rule 905, all cases filed on or after January 1, 2007, involving contested hearings of custody, visitation, and removal shall be subject to mediation in accordance with the following rules unless the Court determines that an impediment to mediation exists.

### 2. Definitions

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

mediate. Mediation is based on a full disclosure of all facts related to the disputes so that a fair and equitable agreement can be achieved by the parties.

- c. Child Custody Proceeding. A child custody proceeding@ means a proceeding affecting child custody or visitation as defined in Supreme Court Rule 900 (b)(1).

### 3. Mediation Mandatory

- a. Matters Subject to Mediation. The judge designated to hear the child custody proceeding shall order mediation of any contested issue of custody, visitation or removal arising in any action not otherwise determined to be ineligible pursuant to this program. The parties may not proceed to a judicial hearing on contested issues arising in that case without leave of court until the mediation process has been concluded and its outcome reported to the Court.
- b. Prerequisite to Mediation. The parties referred to mediation by the court shall complete the parent education program prior to starting mediation or as soon after starting mediation as the parent education program's schedule allows.
- c. Commencement of Mediation. The mediation process shall commence as provided by Supreme Court rule. In no event shall mediation occur before a case has been screened for eligibility pursuant to safety protocols for mediators. The designated judge shall be advised by counsel and/or the parties concerning:
  - 1. Impediment of the parties as defined in Rule G-5-B-2-b. Reason to believe that impediment exists should result in referrals that may address the impediment(s) to mediation.
  - 2. Other circumstances exist which would unreasonably interfere with mediation.
  - 3. Mediation shall not be required if the court determines, upon motion of a party, that a case is ineligible for mediation. Said motion shall be supported by affidavit setting forth specific facts detailing why mediation would be inappropriate.
- d. Discovery. Discovery may continue throughout the mediation.

### 4. Referral Assignment Procedure

- a. Selection of Mediator. Upon the court's order for the parties to participate

in mediation, a mediator may be selected by agreement of the parties from the list of qualified mediators maintained by the Chief Judge or his/her designee. Absent an agreement, the trial judge shall select the mediator and assign the mediator a 45-day status date on the issue of progress of the mediation. The mediators shall be compensated by the parties at the rate agreed to by the parties and the mediator.

1. The court shall designate in its order what percentage of the mediation fee should be paid by the party and/or whether the case should be considered a reduced fee or indigency case.
2. The attorneys shall encourage the parties to mediate in good faith. The parties shall participate in mediation in good faith.
3. On or before the status date, for parties who are participating in mediation, the mediator shall submit a report to the court and the parties' legal counsel, which shall include the information required by Rule G-5-B-8-c-f-h.
4. The parties shall contact the mediator within Three (3) business days after the referral order is signed for the purpose of setting an appointment.

b. Conflict of Interest

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

- c. Ethical Conduct. Inclusion of a mediator in the 9th Judicial Circuit approved mediators list indicates explicit agreement by that mediator to maintain high standards of ethical practice. Failure to comply may result in removal of the mediator's name from the approved list.

5. Mediation Process

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

advance. Such individuals may be available for consultation for each participant while mediation is in progress

10. Advise each party that children may be allowed to participate in mediation so long as all parties and the mediator consent to said participation, in writing, and that each parent or the child's representative or guardian ad litem, if applicable, has the right to withhold consent.

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

6. Application of Safeguards in Case of Impediment

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

b. Safety. If an impediment affecting safety arises during the course of mediation, the mediator shall adjourn the session to confer separately with the parties, may implement appropriate referrals to community service providers, shall advise the parties of their right to terminate and either shall:

1. Terminate mediation when circumstances indicate that protective measures are inadequate to maintain safety; or

2. Proceed with mediation after consulting separately with each party to ascertain whether mediation in any format should continue.

c. Competency or Good Faith. If an impediment affecting competency or good faith, but not safety, arises during the course of mediation, the mediator may make any appropriate referrals to community service providers and either:

1. Suspend mediation when there is a reasonable likelihood the impaired condition of an affected party is only temporary; or

2. Terminate mediation when circumstances indicate an affected party's ability to negotiate cannot be adequately restored.

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

7. Confidentiality

- a. Privacy of Sessions. Mediation sessions shall be private. Except as otherwise provided in Rule G-5-B-5-a-9, the mediator shall have authority to exclude all persons other than the parties from sessions at which negotiations are to occur.
- b. Confidentiality. Except as otherwise provided by law, all written and verbal communications made in a mediation session conducted pursuant to these rules are confidential and may not be disclosed by the mediator or any other participant or observer of the mediation, except that the parties may report these communications to their attorneys or counselors. Prior to the commencement of mediation, all participants in the mediation shall sign the confidentiality agreement prescribed by these rules.
- c. Disclosure of Information.
  - 1. Limitation of Disclosure. Admissions, representations, statements and other communications made, or disclosed in confidence by any participant in the course of mediation session shall not be admissible as evidence in any court proceeding. Except as identified herein, a mediator may not be called as a witness in any proceeding by any party or by the court to testify regarding matters disclosed in a mediation session, nor may a party be compelled to testify regarding matters disclosed during a mediation session as to privileged communications. These restrictions shall not prohibit any person from obtaining the same information independent of the mediation, or from discovery conducted pursuant to law or court rule.
  - 2. Exceptions. Admissions, representations, statements and other communications are not confidential if:
    - a. all parties consent in writing to the disclosure; or
    - b. the communication reveals either an act of violence committed against another during mediation, or an intent to commit an act that may result in bodily harm to another; or
    - c. the communication reveals evidence of abuse or neglect of a child; or

- d. non-identifying information is made available for research or evaluation purposes approved by the court; or
- e. the communication is probative evidence in a pending action alleging negligence or willful misconduct of the mediator.

8. Attendance and Termination of Mediation.

- a. Attendance. The parties shall attend the mediation session(s) and shall attend a minimum of three (3) hours of mediation. Further participation may be extended by order of court or agreement of the parties. Mediation may be terminated or suspended prior to completion of the three (3) hours upon resolution of all mediated issues.
- b. Termination or Suspension. The mediation may be terminated or suspended at the option of the mediator or the court.
- c. Notice to Court. The mediator shall immediately advise the court in writing if he or she suspends or terminates mediation or in the event that either or both parties fail to comply with the terms of this Rule.
- d. Sanctions for Failure to Appear. If a party fails to appear without good cause at a previously agreed upon mediation conference or a mediation conference ordered by the court, the court upon motion may impose sanctions, including an award of mediator and attorney fees and other costs, against the party failing to appear.
- e. Termination with Agreement. When agreements or partial agreements are reached by the parties during mediation, the mediator shall provide a written account of the agreements to the parties and their attorneys (if any), but the mediator shall not provide this written account to the court. The mediator shall advise each party to obtain legal assistance in drafting or reviewing any final agreements. The mediator shall advise the parties that agreements reached during mediation will not be legally binding until they are reviewed by the court and signed by the judge.
- f. Termination Without an Agreement. Upon termination without agreement, the mediator shall file with the court a final mediator report stating that the mediation has concluded without disclosing any reasons for the parties' failure to reach an agreement.
- g. Reporting Procedures:
  - 1. Mediator's Report. The mediator shall prepare a Mediator's Report on the prescribed form within ten (10) days of the termination of

the last mediation session. These reports will be filed with the circuit clerk.

2. Statistics. The mediator shall prepare a statistical report for each case on the prescribed form and file them at least quarterly with the Chief Judge or his/her designee.
3. Reports to the Supreme Court. The Chief Judge or his/her designee shall provide for the maintenance of records of mediations conducted pursuant to these rules. The information shall include the number of mediations conducted, the number of mediations resulting in an agreement and those resulting in no agreement. Such information shall be furnished to the Supreme Court through its administrative office once a year or at such other interval as may be directed.

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

9. Entry of Judgment or Order.

- a. Presentation of Order. Each mediated agreement shall be presented by the parties or their attorneys (if any) to the court within Thirty (30) days following the filing of the final Mediator's Report.
- b. Approval by Court. The court shall examine the parties as to the content and intent of the agreement and shall reject the agreement if any of its provisions are found by the court to be unconscionable or contrary to the best interests of a minor child. Unless the agreement is rejected, the court shall enter an appropriate judgment or order stating its findings and shall incorporate, either explicitly or by reference, the agreement so the terms of such agreement are also the terms of the judgment or order.

10. Circuit Court Advisory Committee.

- a. Membership. The Chief Judge or his/her designee shall establish an advisory committee whose membership shall consist of at least [six (6) persons], including a family division judge, a member of the \_\_\_\_\_ County bar, a practicing attorney-mediator, a practicing mental health professional mediator, and a representative of the domestic violence advocacy community. Members of the committee shall be appointed by the Chief Judge or his/her designee.

- b. Duties of the Committee. The circuit court mediation advisory committee shall advise the Chief Judge or his/her designee in establishing and implementing administrative policy consistent with these rules for the fair and efficient delivery of mediation services, including local rules of procedure, standards of conduct for mediators, and systematic review of program performance.
- c. Authority of the Presiding Judge. Nothing contained in this rule shall be construed as a limitation on the authority of the Chief Judge or his/her designee to exercise administrative authority conferred by law.

(Adopted by the Judges of the 9th Judicial Circuit on 10-27-2006)

(Approved by the Illinois Supreme Court on 12-28-2006)

RULE G-5.1 AFFIDAVITS OF ASSETS AND LIABILITIES AND PROOF OF INCOME

- A. A current, accurate and sworn Financial Statement substantially in the same form as that found in the Appendix to these Rules as >Form B@ must be served upon all parties entitled to notice by the moving party not less than seven (7) days before the date of hearing on a pleading seeking to establish, modify, or otherwise affect issues of support or maintenance, disposition of property, college expenses or attorneys= fees, whether temporary or permanent in nature, and by the responding party not less than two (2) days before said hearing date and shall be served in any event on or before the date of the pre-trial conference unless earlier served in the case. If such an affidavit has been served for purposes of a hearing on temporary relief, an additional affidavit need not be served unless there has been a change in financial circumstances. Each party shall file with the Clerk of the Circuit Court within seven (7) days after service required by this Rule a certificate of compliance and service, certifying the Financial Statement has been completed and setting forth the date on which the completed Financial Statement was served upon the opposing party. The Financial Statement shall not be filed with the Clerk of the Circuit Court. Both parties shall, however, be required to provide a copy of the Financial Statement, together with a copy of the motion and any points and authorities relied upon to the judge before whom the motion is set or to whom the motion is assigned in accordance with the provisions of Rule G-1.C.4.. The copy so provided for the judge pursuant to this Rule shall not be filed as part of the court record.
- B. Each party shall also have available at any hearing on a pleading seeking to establish, modify, or otherwise affect issues of support or maintenance or disposition of property, whether temporary or permanent in nature, copies of the prior year=s federal tax return, including all W-2 forms and 1099 forms, and the most recent pay stub showing year to date earnings and deductions therefrom, or if the same is not provided by their employer, their five (5) most recent payroll stubs.
- C. Failure to comply with this rule may result in sanctions pursuant to Supreme Court Rule.

(Effective Date of Rule G-5.1 is 10-28-05)

RULE G-5.2 STATEMENT OF PROPOSED DISPOSITION

At the last pre-trial conference held prior to the date of the contested hearing on all remaining issues, each party shall submit a statement of proposed disposition of issues such as child custody, visitation, child support and maintenance, and all issues involved in apportionment of the parties= marital property and marital debts, including attorney fees and any pension benefits earned during the marriage.

RULE G-5.3 AUTHORIZATIONS TO THIRD PARTIES PERMITTING DISCLOSURE OF INFORMATION

In cases where a party has pension plans, profit sharing plans, stock plans, savings plans, 401(K) plans, IRA accounts or any other benefit plan, or a health insurance plan through employment, or has an interest in assets in the possession of third parties, and the Court orders mandatory disclosure pursuant to local rule, that party shall execute a consent for release of all relevant information from the person or entity having such information and shall do so within ten (10) days of receiving an authorization form for their signature.

RULE G-5.4 SUPPLEMENTAL SUPPORT ORDERS

In all cases in which child support or maintenance payments have been ordered, a Supplemental Order or an Order in substantially the same form as set out in the Appendix to these Rules as Form A shall be entered by the Court. Exhibit 1 attached to Form A shall be impounded by the Clerk of the Circuit Court in every case in which it is filed regardless of whether the judge signing the support order so orders the impoundment of Exhibit 1.

(Effective Date of Rule G-5.4 is 10-28-05)

RULE G-5.5 REPEAL OF EXISTING RULE G-5

Existing Ninth Circuit Rule G-5 is hereby repealed.

(Note: Refers to Rule G-5 prior to 10-01-96)

RULE G-5.6 EFFECTIVE DATE OF THIS RULE

This rule shall become effective on October 1, 1996, and shall apply to all cases filed thereafter and all cases pending on said date. A hearing on grounds shall be set within eight (8) weeks from the effective date of this rule in any pending case where a hearing on grounds has not been held.

RULE G-6 DRAFT ORDERS

In all civil proceedings now pending or hereinafter commenced in the Circuit Court, wherein any

Order or judgment is to be entered, the attorney for the prevailing party shall prepare and present to the court a written draft of all orders or judgments to be entered, unless the court directs otherwise. When the opposing party is represented by counsel, the draft order shall be presented to counsel for examination before entry by the court, except when otherwise directed by the court.

(Effective Date of Rule G-6 is 09-15-98)

#### RULE G-7 CO-PETITIONERS IN DISSOLUTION OF MARRIAGE ACTIONS

In dissolution of marriage actions where both parties join in the petition as co-petitioners under 750 ILCS 403 (1994), and the parties are not each represented by separate counsel, it shall be compulsory that both of the co-petitioners appear personally in open court at the time of hearing on the petition for dissolution.

#### RULE G-7A MODIFICATION OF CHILD CUSTODY, CHILD VISITATION, CHILD SUPPORT

In any case where the parties enter into an agreement or stipulation for modification of child custody, child visitation, removal of child from state, or child support, the judge to whom the stipulation or agreement is presented for approval may, in the judge's discretion, require testimony or evidence to be presented in support of the agreement. Where the judge does not require evidence or testimony to be presented, the signatures of each party to the stipulation or agreement must be verified, and the content of the stipulation or agreement must be sufficient for the judge to find that the modification requested is in the best interests of the child or children. If the stipulation or agreement is for the purpose of modifying the amount of child support, then the stipulation or agreement shall contain a statement of the net income of the person required by the stipulation or agreement to pay child support.

In those instances where both parties are represented by counsel, it shall be required that both the parties and the attorneys sign the stipulation; however, such stipulation shall not require the verification of the parties signatures. Where any party is not represented by counsel, that party's signature shall be required to be verified.

(Effective Date of Rule G-7A is 05-01-91)

#### RULE G-7B ATTORNEY QUALIFICATIONS IN CHILD CUSTODY MATTERS

- A. The Ninth Judicial Circuit shall maintain a list of approved attorneys qualified to be appointed in child custody and visitation matters covered under Section IX of the Supreme Court Rules as guardians ad litem, child representatives, or attorneys for children.
- B. In order to qualify for the approved list, each applicant for the list shall meet the following minimum requirements:

1. Each attorney shall be licensed and in good standing with the Illinois Supreme Court.
2. Each attorney shall have attended the education program created by the Illinois State Bar Association for education of attorneys appointed in child custody cases or equivalent education programs consisting of a minimum of ten (10) hours of continuing legal education credit within the two (2) years prior to the date the attorneys qualifies to be appointed.
3. To remain on the approved list, each attorney shall attend continuing legal education courses consisting of at least ten (10) hours every two (2) year period and submit verification of attendance to the Office of the Chief Circuit Judge at the time of attendance or upon request. The ten (10) hours should include courses in child development; ethics in child custody cases; relevant substantive law in custody, guardianship and visitation issues; domestic violence; family dynamics including substance abuse and mental health issues; and education on the roles and responsibilities of guardian ad litem, child representatives, and attorneys for children. Attendance at programs sponsored by the circuit may be included as a portion of this continuing education requirement.
4. Each attorney must complete the Child Representative Information Sheet provided by this circuit and return it with a statement or other verification of attendance at continuing education.
5. Each attorney must adhere to the minimum duties and responsibilities of attorneys for minor children as delineated in Supreme Court Rule 907.
- C. Each attorney placed on the approved list and appointed shall be paid by the parties to the litigation as ordered by the judge handling the file or as agreed between the litigants. The costs for the appointed attorneys shall be paid as ordered and the court may enforce the orders and judgments as in other proceedings, including the imposition of sanctions.
- D. In the event the court deems it is in the best interests of the child or children to have an attorney appointed in a proceeding under Section IX of the Supreme Court Rules but finds that the parties are both indigent, the court may appoint an attorney from the approved list to serve pro bono.
- E. The Chief Judge and/or the Presiding Judge of the Family Division shall maintain the list of the approved attorneys and shall rotate the appointment of pro bono representations.
- F. Each attorney on the approved list for the Judicial Circuit shall only be required to accept one pro bono appointment each calendar year.

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

(Effective Date of Rule G-7B is 08-26-06)

RULE G-8 ENTRY OF APPEARANCE IN DISSOLUTION OF MARRIAGE ACTIONS BY PRO SE ADVERSE PARTY

The form of such entry shall be in substantially the form as contained in the Appendix of these Rules as "Form C".

RULE G-9 DISSOLUTION OF MARRIAGE VENUE

In Dissolution of Marriage actions brought pursuant to the Illinois Marriage and Dissolution of Marriage Act where neither the Petitioner nor the Respondent resides in the county in which the initial pleading is filed, counsel for the Petitioner shall file with said pleading a written motion advising that the forum in which the pleading is filed is not one of proper venue and seeking an appropriate order from the court granting a waiver of the venue requirements of Section 104 of the Illinois Marriage and Dissolution of Marriage Act. Said Motion shall be set for hearing pursuant to these rules, and shall be resolved prior to consideration of other issues in the action.

RULE G-10 WITHDRAWAL OF FILES AND PAPERS

No person, other than a Circuit or Associate Judge, shall withdraw any file or original papers therein from the custody of the Clerk of the Court and remove the same from the courthouse except by court authorization.

RULE G-11 PROCEEDINGS UNDER ADVISEMENT

- A. Each judge of this court should hold any proceeding under advisement for no more than 90 days from the date the proceeding was taken under advisement, from the date ordered for filing of memoranda, or from the date of receipt by the judge of the requested memoranda, whichever is latest.
- B. Whenever any proceeding is under advisement and the issues have not been decided within the time quoted above, counsel representing any party to the proceeding (or any party, if pro se) may notify the judge, by communicating in writing to said judge, that the 90 day period has expired and that a ruling is requested as soon as possible. A copy of said request shall also be forwarded to the Clerk of the Circuit Court for filing in the case file of the cause of action under advisement.
- C. If the issues are not decided within 60 days of the date the request is filed with the Circuit

Clerk, counsel representing any party in the proceeding may apply to the Chief Judge of this Circuit to withdraw the proceeding and pray for a reassignment to another judge of this court. No petition shall be filed unless the petitioning party has given the notice required by paragraph B. above.

- D. The petition for withdrawal shall be in writing, setting forth the date the request was sent to the judge and the date the request was filed by the Clerk of the Circuit Court. A copy of the petition for withdrawal shall be forwarded to the judge who has had the proceeding under advisement.
- E. The petition shall be set and noticed before the Chief Judge, who may exercise his/her administrative discretion prior to said hearing. A copy of the notice shall be forwarded to the judge who has had the proceeding under advisement.
- F. At or after the hearing, the Chief Judge may withdraw the cause of action from the assigned judge and may reassign the case to another judge, provided however that the Chief Judge should consider at the hearing, inter alia, the potential for further delay of the litigation, the difficulty and novelty of the issues under advisement, and reasons for the delay of the judge's decision if any is provided by the judge in writing or orally at said hearing.

(Effective Date of Rule G-11 is 03-28-03)

**RULE G-12 AUTHORIZING DESIGNATED OFFICERS TO LET PERSONS CHARGED WITH QUASI-CRIMINAL OFFENSES AND MISDEMEANORS TO BAIL**

Any Clerk of the Circuit Court and his deputies, the Sheriff, his deputies and employees, and the Chief of Police and officers of the cities of Astoria, Avon, Canton, Cuba, Farmington, Lewistown, Bushnell, Macomb, Monmouth, Vermont Police Department, Director and officers of the Western Illinois University Police Department, Illinois State Police, Illinois Department of Conservation, and Illinois Secretary of State's Police are authorized to let to bail any person charged with a quasi- criminal offense or misdemeanor and to accept and receipt bonds or cash bail in accordance with the Rules of the Supreme Court.

**RULE G-12.1 AUTHORIZING APPEARANCE BY A TWO-WAY AUDIO/VIDEO COMMUNICATION SYSTEM**

- A. Whenever anyone is required to appear in court within the Ninth Judicial Circuit and that person is held in custody or confinement in a facility operated by the State of Illinois (or any of its subdivisions), or any other State (or any of its subdivisions), that person may personally appear in court within the Ninth Judicial Circuit by means of two-way audio-visual communication, including closed circuit television, internet system, computerized video conference, or other audio-visual means, in the following proceedings:
  - 1. The initial appearance before a judge on a criminal complaint, at which bail will

be set;

2. The waiver of a preliminary hearing;
  3. The entry of a not guilty plea;
  4. The presentation of a jury waiver;
  5. Any status hearing;
  6. Any hearing conducted under the Sexually Violent Persons Commitment Act at which no witness testimony will be taken; and
  7. Any hearing on a motion for a continuance;
  8. The setting of any hearing for any pre-trial or post-trial matter.
  9. Any other Anon-critical stage@ proceeding at which no witness testimony will be taken.
- B. The two-way audio-visual communication facilities must provide two-way audio-visual communication between the court and the place of custody or confinement, and must include a private and secure means by which the person in custody and his or her counsel, if any, may communicate. However no separate private communications need be provided if no counsel has been appointed or no counsel has entered an appearance for the person in custody.
- C. Nothing in this Rule shall be construed to prohibit any other court appearances through the use of two-way audio-visual communication by any person in custody or confinement upon his/her waiver of any right to be physically present.
- D. Nothing in this Rule shall be construed to establish a right of any person held in custody or confinement to appear in court through two-way audio-visual communication or to require that any court, governmental entity, or place of custody or confinement, provide two-way audio-visual communication.
- E. Nothing in this Rule shall prohibit any judge from requiring anyone held in custody or confinement to appear in person in the courtroom, and not by audio/visual means. Such required in person appearance in the courtroom may be either on a case by case basis, or may be pursuant to a judge=s continuing general order.

(Effective Date of Rule G-12.1 is 01-25-08)

#### RULE G-13 CUSTODY OF EXHIBITS

- A. Upon the admission or the denial of admission of exhibits, they shall be placed in the

custody of the Clerk of the Court, and remain there, provided however:

1. In all civil cases, exhibits shall be retained by the Circuit Clerk until the last of the following events: the time for appeal has expired, or after judgment has been affirmed or reversed, but not remanded. Thereafter all exhibits may be returned to the parties or their counsel upon their receipt which shall be filed in the cause.
2. In all criminal, traffic, conservation and ordinance violation cases where the defendant has been found not guilty, all exhibits, except contraband, shall be returned by the Circuit Clerk to the parties or their attorneys.
3. Upon a finding or verdict of guilty in the foregoing cases, the Circuit Clerk shall unless otherwise ordered by the court, retain all exhibits until after the last of the following events: the defendant has served his sentence, paid his fine, been discharged from probation, has completed his period of conditional discharge, supervision, parole or mandatory supervised release. Thereafter, the Clerk may return all exhibits to the parties or their counsel upon their receipt therefore which shall be filed in the cause.
4. After the time limits established in paragraphs 1, 2 and 3 of this Rule have expired, the Circuit Clerk shall give notice in writing to the parties or their counsel of his intention to sell or destroy the exhibits in his possession. Upon expiration of 30 days from the date of the notice, the Clerk shall file a petition with the Chief Judge or the Administrative Judge praying for an Order to sell or destroy said exhibits. Copies of the petition and notice of a hearing date shall be served on the parties or their counsel 10 days in advance of the hearing date in accordance with Supreme Court Rule 11.

B. Contraband

1. In any cause when an exhibit is introduced into evidence which is unlawful to possess or the possession of is unlawful because of the legal disability of the possessor, it shall be retained by the Circuit Clerk. Upon the entry of a judgment, the court shall determine and designate those exhibits it deems to be contraband. After the expiration of the time fixed in Paragraph A-3 of this Rule, the Circuit Clerk shall give 10 days notice of intent to destroy as provided for in Paragraph A-4 of this Rule and also to any other persons who claim to have ownership or possessory interest in such exhibits and thereafter file a petition as provided for in Paragraph A-4 of this Rule.
2. Upon the Court's Order to destroy, the Clerk shall deliver the exhibits to the Sheriff who shall destroy the same in the presence of the Circuit Clerk. Both shall file a certificate of destruction in said cause, provided however, that the court may order the exhibit to be placed with a governmental body pursuant to 720 ILCS 5/24-6 (1994).

(Effective Date of Rule G-13 is 07-26-91)

RULE G-14 TELEPHONE CONFERENCING

- A. In all civil cases pending in the Circuit Court of the Ninth Judicial Circuit, the following procedures for the hearing of routine motions and pre-trials by telephone conference call shall be applicable to hearings requested by and agreed to by counsel of record and consented to by the presiding judge.
1. Motions to strike or dismiss any pleading, motions relating to pleadings, motions to compel, pre-trial conferences, except those conferences which the court directs shall be in person, and other motions or matters specifically consented to by counsel and the presiding judge may be heard by telephone conference call as herein provided. No matter involving sworn testimony will be heard by phone.
  2. The Motions shall be scheduled by the movant in the usual manner and the notice thereof sent in the manner required by Supreme Court Rule unless waived except that the notice shall specify and include immediately following the title of the Notice "Telephone Conference Hearing".
  3. The movant or counsel noticing the hearing shall schedule the Telephone Conference Call, effectuate the same at the time specified and bear the expense thereof unless otherwise agreed by and between counsel.
  4. All Orders resulting from any such hearing shall contain language indicating that all counsel of record having standing regarding the subject matter of the motion have consented to hearing by Telephone Conference Call.
  5. If the matter requires a Court Reporter, counsel shall advise the Scheduling Clerk at the time of setting.

RULE G-15 BENCH TRIALS, EVIDENTIARY HEARINGS AND CONTINUANCES

- A. Bench trials and evidentiary hearings scheduled for one hour or longer shall be set by court order and only after notice of appearance to select a date and time, except in default and small claims cases, or cases where counsel stipulate to a specific date contained in an agreed written order.
- B. Cases subject to Section A of this Rule may not be continued or removed from the calendar without the approval of a judge. A judge's approval is required, even though all parties agree to a continuance or rescheduling. Unless excused by a judge, an order shall be submitted which shall include the date to which the case is continued or reset. If no order is requested, the judge shall make a docket entry as to such date.
- C. 1. No objection to a case scheduled without complying with Section A shall be

heard unless in writing with written notice to all parties or their attorneys of record.

2. Every motion with respect to this Rule shall incorporate a statement that after personal consultation and reasonable attempts to resolve differences, the parties have been unable to reach an accord.

(Effective Date:

This Rule will become effective on 08-01-93, and upon its Effective Date, Rule G-4 is repealed.)

#### RULE G-16 SUBMISSION OF CERTAIN ORDERS BY MAIL

Routine Orders requiring no notice and no appearance may be submitted to the court for entry by mail by forwarding them to the Clerk of the Court for presentation to the appropriate judge. The Clerk of the Court shall, upon request, return a conformed copy of any such orders showing entry by the court, but only if counsel provides an extra copy of the order and a self-addressed stamped envelope for such purposes. The duty to give notice, arrange for publications, or other administrative details ordinarily handled by counsel shall not be imposed upon the Clerk by counsel.

#### RULE G-17 CASE MANAGEMENT, PRETRIAL, AND JURY CALENDARS

- A. Case management and pretrial conferences in each civil case will be scheduled, on notice issued by the Clerk of the Circuit Court, pursuant to Illinois Supreme Court Rule 218 and Administrative Order 95-55 of the Ninth Judicial Circuit. The case management conference and the final pretrial conference shall be attended by the attorney who is to try the case. The attorney shall be authorized to enter into such agreements as may be appropriate. At the final pretrial conference, counsel shall have present, or available by phone, party litigants and any insurance carrier capable of making a binding settlement.
- B. At case management conferences, a case management order shall be entered in substantially the same form as that set forth in the Appendix to these rules as "Form F".

(Effective Date of Rule G-17 is 04-24-96)

#### RULE G-17A CASE CATEGORIES EXCEPTED FROM SUPREME COURT RULE 218

The following case categories are excepted from the "initial case management conference" requirement under Supreme Court Rule 218(a):

Adoption	Order of Protection
Dissolution	Probate

Family                      Small Claim  
Mental Health              Tax  
Municipal Corporation

(Effective Date of Rule G-17A is 07-15-96)

RULE G-18 CONTEMPT OF COURT: CIVIL AND CRIMINAL

A. Civil Contempt

1. A contumacious act constitutes a civil contempt if: the act consists of the failure to obey a court order or judgment; and coercive rather than punitive sanctions are sought to compel compliance with the order or judgment.
2. A civil contempt proceeding shall be initiated by the filing of the petition for adjudication of civil contempt unless the act is committed in the presence of the court. The petition shall be verified and set forth with particularly that portion of the court order that is alleged to have been violated and the nature of the violation. If the court finds that the petition sets forth allegations which support the charge, the court shall set the matter for hearing and order that notice be given to the respondent.
3. Notice of the hearing and a copy of the petition shall be served by personal service or by U.S. Mail addressed to the respondent's last known address as the court shall direct. Notice by personal service shall be served not less than seven days prior to the hearing, and notice by U.S. Mail shall be mailed by the Clerk of the Court not less than ten days prior to the hearing. Proof of service shall be made of record. The court may also require that notice by U.S. Mail be given to the respondent's attorney of record. If the respondent fails to appear or if the court has reason to believe the respondent will not appear in response to the notice, the court may issue a body attachment directed to the respondent. 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.
4. No later than three days prior to the hearing the respondent may file a written answer denying, with specificity, any of the allegations together with any affirmative defenses. Subsequent written or oral denials and affirmative defenses may be made only with leave of court. Those allegations of the petition not specifically denied shall be deemed admitted. The allegations in issue shall be proven by clear and convincing evidence. If the basis of the charge of civil contempt is the failure of the respondent to make court ordered payments to the Clerk of the Court, the records of the Clerk shall be made prima facie evidence of the amount due.
5. Civil Contempt proceedings shall be tried before the Court without a jury.

6. If the court finds the respondent to be in civil contempt, it may continue the matter for a reasonable time before the imposition of sanctions or it may impose sanctions forthwith. Prior to the imposition of sanctions, the contemnor shall have the right to present evidence in mitigation. Sanctions may include a periodic fine, incarceration in a penal institution other than a penitentiary, or both, which may continue until the respondent purges himself. The court may assess reasonable costs and attorney's fees against the contemnor.
7. Upon an adjudication of civil contempt, a written judgment shall be entered specifying the contumacious conduct, the sanctions imposed and the means by which the respondent may purge himself. A copy of the judgment shall be provided to the contemnor.
8. An appeal from a judgment of civil contempt may be taken as in civil cases. Upon the filing of a notice of appeal, the court may fix bond and may stay the execution of any sanction imposed pending the disposition of the appeal.

B. Criminal Contempt

1. Contumacious conduct consists of verbal or non-verbal acts which:
  - a. embarrass or obstruct the court in its administration of justice or derogate from its authority or dignity;
  - b. bring the administration of justice into disrepute; or
  - c. constitute disobedience of a court order or judgment.
2. Contumacious conduct constitutes a direct criminal contempt if it is committed in such a manner that no evidentiary hearing is necessary to determine the facts establishing such conduct and is committed in an integral part of the court while the court is performing its judicial functions.
  - a. Court's Alternatives - Upon the commission of an act constituting a direct criminal contempt, the court may:
    - (i) summarily find the contemnor in contempt and impose sanctions instanter;
    - (ii) summarily find the contemnor in contempt and impose sanctions within a reasonable time; or
    - (iii) Delay the finding of contempt and the imposition of sanctions until a later time. When the finding of contempt is delayed, the contempt proceeding shall be conducted in the same manner as an indirect criminal contempt as provided in Paragraph 3 of this Rule.

- b. Conduct Specified/Statement in Mitigation - Prior to any entry of a finding of contempt, the court shall inform the contemnor of the specific conduct forming the basis of the finding. Prior to the imposition of sanctions, the court shall permit the contemnor an opportunity to present a statement in mitigation.
    - c. Sanctions - Upon a finding of direct criminal contempt, the court may impose a fine not to exceed \$500.00, incarceration in a penal institution other than the penitentiary for a term not to exceed six months, or both, unless the contemnor is afforded the right to trial by jury, in which case, if the jury finds the respondent guilty of contempt, the court is not limited in the fine or incarceration it may impose. The court, in the exercise of its discretion, may impose such other sanctions as it deems appropriate.
    - d. Written Order Required - Upon imposition of sanctions, the court shall enter a written judgment order setting forth the factual basis of the finding and specifying the sanctions imposed.
    - e. When Referral to Another Judge Required - Where a controversy between the judge and the contemnor is integrated with the alleged contumacious conduct and embroils the judge to the degree that the judge's objectivity can reasonably be questioned, referral to another judge on both the issue of contempt and the issue of an appropriate sanction is required. In this event, the judge before whom the alleged contempt transpired shall specify in writing the nature of the alleged acts of contempt, shall direct that a record of the proceedings surrounding the said acts be prepared, and shall transfer the matter to the appropriate judge for reassignment. The judge hearing the proceedings after the reassignment shall base his findings and adjudication of the contempt charge solely on the transferred written charge and the record.
    - f. Appeal - An appeal from a judgment of direct criminal contempt may be taken as in criminal cases. Upon the filing of a notice of appeal, the court may fix bond and may stay the execution of any sanction imposed pending the disposition of the appeal.
3. Indirect Criminal Contempt Defined - A contumacious act constitutes an indirect criminal contempt when it occurs outside the presence of the court or in an area that is not an integral or constituent part of the court, or the elements of the offense are otherwise not within the personal knowledge of the judge. A contumacious act committed in the presence of the court, but not summarily treated as a direct criminal contempt as provided in Paragraph 2., may be prosecuted as an indirect criminal contempt.
  - a. Petition for Adjudication - An indirect criminal contempt proceeding shall

be initiated by the filing of a petition for adjudication of indirect criminal contempt. The petition shall be verified and set forth with particularity the nature of the alleged contemptuous conduct. The charge may be prosecuted by the State's Attorney or, if he declines, by an attorney appointed by the court.

- b. Notice of Hearing - If the court finds that the petition sets forth allegations which support the charge, it shall set the matter for hearing and order notice be given the respondent. Notice of the hearing and a copy of the petition shall be served and returned in the manner as provided in Supreme Court Rule 105(b) or, if the court so directs, the Clerk of the Court or petitioner's attorney may give notice by regular U.S. Mail, postage prepaid, to the respondent's last known address. If notice is made by regular U.S. mail, proof of mailing notice shall be made a part of the record. Notice by personal service shall be served not less than seven days prior to the hearing, and notice by U.S. mail shall be mailed not less than ten days prior to the hearing. If the respondent fails to appear after due notice or if the court has reason to believe the respondent will not appear in response to the notice, the court may issue a bench warrant directed to the respondent. When a warrant issues, the court shall set bail as authorized in criminal cases. The amount of bail shall be indicated on the order of attachment.
- c. Explanation of Respondent's Rights - Upon the first appearance of the respondent, the court shall inform the respondent of his right to:
- (i) Notice of the charge and of the time and place of the hearing thereon;
  - (ii) An evidentiary hearing, including the right to subpoena witnesses, confront the witnesses against him and make response to the charge;
  - (iii) Counsel and, if indigent, to the appointment thereof;
  - (iv) Freedom from self-incrimination;
  - (v) The presumption of innocence;
  - (vi) Be proven guilty only by proof of guilt beyond a reasonable doubt; and
  - (vii) A trial by jury if the court, prior to the commencement of the hearing, declares that a sentence of incarceration of more than six months, a fine of more than \$500.00, or both, may be imposed as a sanction upon a finding of guilty.

- d. When Referral to Another Judge is Required -Referral of the petition to another judge for the hearing on the issues of contempt and the imposition of sanctions is required where a controversy between the judge and the alleged contemnor is integrated with the alleged contumacious conduct and embroils the judge to the degree that the judge objectivity may be reasonably questioned.
- e. Statement in Mitigation - Upon an adjudication of contempt, the judge shall afford the contemnor the opportunity to make a statement in mitigation prior to the imposition of any sanction.
- f. Sanctions - The Court, in the exercise of its discretion, may impose sanctions as it deems appropriate.
- g. Written Order Required - Upon an adjudication of contempt, the court shall enter a written judgment order setting forth the factual basis for the finding and specifying the sanctions imposed.
- h. Appeal - An appeal from a judgment of indirect criminal contempt may be taken as in the case of direct criminal contempt as specified in Paragraph 2.(f) of this Rule.

#### RULE G-19 RECEIVERS

- A. Disqualification - Except as provided in 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 an attorney in the action;
  - 2. Is an attorney for, or of counsel for any party in the action;
  - 3. Is an officer, director, stockholder, or employee of a corporation the assets of which are in question before the court.
- B. Exception - If the court is satisfied that the best interests of the estate would be served, an individual or corporation otherwise disqualified under Section A of this Rule may be appointed as receiver by an Order specifically setting forth the reasons for departing from the general rule. A receiver so appointed shall serve wholly without compensation, unless otherwise ordered by the court upon good cause shown.
- C. Attorneys for Receivers - An attorney for the receiver shall be employed only upon Order of the Court upon written motion of the receiver stating the reasons for the requested employment and naming the attorney to be employed.

- D. Inventories for Receivers - No later than 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 estate and designating the property within his possession or control.
- E. Appraisal for Receivers -
1. 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.
  2. 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.
- F. Report of Receivers
1. 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.
  2. Forms - The court may prescribe forms to be used for reports of a receiver.
- G. Receivers' Bonds
1. Personal Sureties - Bonds with personal sureties may 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.
  2. Surety Companies - Bond with a corporation or association licensed to transact surety business in this state as surety will be approved only if a current certified copy of the surety's authority to transact business in the state, as issued by the Director of Insurance, is on file with the Clerk of the Court, and verified power of attorney or certificates of authority for all persons authorized to execute bonds for the surety is attached to the bond.

#### RULE G-20 SUBPOENA DUCES TECUM

- A. In all cases only completed subpoenas shall be submitted to the Clerk of the Court for issuance.
- B. In criminal cases, the party seeking the use of a Subpoena Duces Tecum shall provide for the return of documents or any tangible things to the presiding judge. A party seeking to have discoverable material returned by mail by the person to whom it is directed shall provide an envelope of appropriate size for return mailing addressed to the presiding judge with (1) the name of the case; (2) the case number; (3) the date for hearing; and (4)

"Subpoena Duces Tecum" endorsed in the lower left hand corner of said envelope. The party employing the use of a Subpoena Duces Tecum other than for trial shall serve notice that such party has sought issuance of such subpoena within two business days of the issuance thereof.

- C. In civil cases where subpoenas are issued pursuant to Supreme Court Rule 204(a)(4), or by notice under the Rule, the deponent shall be instructed to delay compliance with the subpoena or notice for at least five business days to allow opposing counsel the opportunity to seek an order quashing or to assert a claim of privilege.

(Effective Date of Rule G-20 is 04-26-96)

#### RULE G-21 ATTORNEYS OF RECORD IN IMDMA CASES

In actions brought pursuant to the Illinois Marriage and Dissolution of Marriage Act, unless a written withdrawal is properly filed, the attorneys of record shall continue to be of record until thirty (30) days after the entry of a final order in the case. Thereafter, notice of the filing of a post-decree petition or motion need not be served on the opposing attorney, but shall be served on the opposing party. However, notice to the former attorney of record as a courtesy is suggested.

(Effective Date of Rule G-21 is 10-22-99)

#### RULE G-22 QUALIFICATIONS/TRAINING OF NON-JUDICIAL MEDIATORS

- A. Requirements: Mediators must meet all of the following requirements:
1. Formal Education: Possess a degree in law or masters or other advanced degree in a field that includes the study of psychiatry, psychology, social work, human development, family counseling or other behavioral science substantially related to marriage and family interpersonal relationships or a related field or other degree program approved by the Chief Judge or his/her designee. If engaged in a licensed discipline, the mediator must maintain said license in full force and effect.
  2. Training: Complete a specialized training in family mediation consisting of a circuit-approved course of study or certification, to consist of at least 40 hours in the following areas:
    - a. Conflict resolution
    - b. Psychological issues in separation, dissolution and family dynamics
    - c. Issues and needs of children in dissolution
    - d. Mediation process, skills and techniques, and
    - e. Screening for and addressing domestic violence, child abuse, substance abuse and mental illness.

3. Insurance: Court-approved mediators must secure and maintain professional liability insurance which covers the mediation process and provide evidence of insurance to the Chief Judge annually.
- B. Continuing Education: Approved mediators are required to complete ten (10) hours of circuit-approved continuing education every two (2) years of which two (2) hours must cover domestic violence issues and provide evidence of completion to the Chief/Presiding Judge every two (2) years.
- C. Establishment of List: The Judicial Circuit shall establish a list of court-approved mediators. All applicants for inclusion on the list shall possess the minimum qualifications set out in this Circuit Rule. The Chief Judge or his/her designee in his/her discretion may require any biographical or other relevant information from an applicant in order to determine the applicant's qualifications for inclusion on the list. For good cause shown, the Chief Judge or his/her designee reserves the right to reject the application of any person who applies and to remove any mediator from the list. Inclusion on the list by the court shall not be considered a warranty that such mediator can successfully mediate any specific dispute.
- D. Denial/Removal from List: An applicant denied inclusion on or removed from the court-approved list may appeal the decision in writing within ten (10) days to the Chief Judge or his/her designee. The Chief Judge or his/her designee shall decide the appeal after an opportunity for the applicant or mediator to be heard.
- E. Pro Bono Requirement: Each circuit-approved mediator shall agree to mediate reduced fee or pro bono cases as assigned by the Court.

(Adopted by the Judges of the 9th Judicial Circuit on 10-27-2006)

(Approved by the Illinois Supreme Court on 12-28-2006)

APPENDIX TO ADMINISTRATIVE AND GENERAL RULES  
OF THE NINTH JUDICIAL CIRCUIT COURT

APPENDIX FORM A ----- SUPPORT ORDER

APPENDIX FORM B ----- FINANCIAL AFFIDAVIT

APPENDIX FORM C ----- ENTRY OF APPEARANCE -  
WAIVER AND CONSENT

APPENDIX FORM D ----- PRE-TRIAL MEMORANDUM

APPENDIX FORM E ----- NOTICE OF SERVICE OF  
DISCOVERY DOCUMENTS

APPENDIX FORM F ----- CASE MANAGEMENT ORDER

## PROBATE RULES

### RULE P-1 DEFINITIONS

When used in this part of the Rules, unless the context requires otherwise:

- A. Motion includes every petition, application or other matter requiring entry of an Order.
- B. Section references are to Sections of the Probate Act, contained in 755 ILCS (1994).
- C. Definitions set forth in 755 ILCS 5/1-2 through 755 ILCS 5/1-2.22 (1994) are to govern as definitions under these Rules.

### RULE P-2 ADMISSION OF WILL TO PROBATE WHEN HOLOGRAPHIC OR IN LANGUAGE OTHER THAN ENGLISH

- A. Holograph Will - When a will is handwritten, the petitioner shall file a typewritten copy of the will along with the petition to probate and an affidavit of the petitioner or his attorney that the typewritten copy is true and correct to the best of his knowledge.
- B. Will in Language Other Than English - When a will is in a language other than English, the petitioner shall file a typewritten copy of the will along with the petition to probate and a certification by a qualified translator that the translation of the will is true and correct.

### RULE P-3 SUPPLEMENTAL PROCEEDINGS

- A. Invoking Jurisdiction - Supplemental proceedings shall be invoked by the filing of a petition in the probate proceedings for the administration of the estate and by the issuance of process thereon as in other civil cases except that jurisdiction over claims for personal injury, wrongful death or other tort shall be invoked as provided by Rule P-8 of these Rules.
- B. The petition shall designate the type of proceedings and shall employ the same case number as the estate to which it relates with the suffix 'A', 'B', 'C', etc. The fee required by law shall be paid at the time of filing the petition.
- C. Supplemental proceedings within the meaning of this Rule include, but are not limited to, actions and proceedings concerning the contest of wills, contract to make wills, construction of wills and appointment of testamentary trustees during the period of administration.

### RULE P-4 BONDS AND SECURITIES

- A. Bonds Required - An individual bond of an executor is required even though the will

waives bond or security. Upon motion of an interested person or the Court, security may be required on the bond as provided by 755 ILCS 5/12-4 and 755 ILCS 5/12-10 (1994). Unless excused by the Judge for good cause, surety on the bond of a nonresident individual executor or a deposit of the personal assets with a trust company pursuant to 755 ILCS 5/12-7 (1994) will be required.

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

#### RULE P-5 SAFETY DEPOSIT BOX

- A. When Written Approval Of Access Required - On the Petition of the surety of a bond of a representative or on the Court's own motion, access to a safe deposit box containing assets of the estate or withdrawal from a bank account of the estate may be subject to written approval of the Court.
- B. Procedure in Opening - An individual guardian who takes possession of a safe deposit box of his ward shall initially open it in the presence of the surety on his bond or a representative of the depository and shall prepare an itemized inventory of the entire contents. He shall present to the Court a sworn inventory of its contents, which shall be filed with the Clerk.

#### RULE P-6 INVESTMENT BY GUARDIAN OR REPRESENTATIVE OF DECEDENT

- A. Requirements of the Petition - A petition of a guardian to invest the ward's property shall identify the category of investment pursuant to 755 ILCS 5/21-2 through 5/21-2.15 (1994), in which the proposed investment falls and shall state that the proposed investment complies with the limitations applicable in that category. If the proposed investment is to be purchased directly or indirectly from the guardian or from any firm or corporation in which the guardian has an interest or of which he is an officer or director, the petition shall so state.
- B. Purchase of Endowment - An endowment or annuity policy purchased by a guardian upon the life of the ward must be made payable to the ward or his estate. No material change may be made in the terms of the policy except by order of Court, and every policy so purchased shall embody this limitation. An endowment or annuity policy may be purchased by a guardian only from a company, association or Fraternal organization doing business in Illinois and which has made no default in the payment of any policy or contract of insurance in the United States during the 15 years preceding the purchase.

#### RULE P-7 INVENTORIES - DESCRIPTIONS REQUIRED

- A. Real Estate - Descriptions of real estate shall include the legal description and address

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

- B. Stocks, Bonds and Notes - Descriptions of stock shall include the number of shares, class of stock, exact corporate title and state of incorporation if necessary for the purpose of identification. Descriptions of bonds shall include the total face value, name of obligor, kind of bond, rate of interest, date of maturity, interest dates, coupons attached or date to which interest is paid and endorsements. Descriptions of notes owed to the decedent shall include the face amount and unpaid balance, date of note, date of maturity, name of maker, interest dates, rate of interest, date to which interest is paid, endorsements, and, if secured, a description of the security.
- C. Partnership Interests - Descriptions of partnership interests shall include the partnership name and address, the approximate value and interest of the estate, if known, and a brief description of the nature and location of the business of the partnership.
- D. Causes of Action - Descriptions of causes of action shall include the name of the person against whom the cause of action exists, its nature, and if suit has been instituted, the title, case number, and Court where pending, and current status of the case.
- E. Filing of Inventory Required - Each inventory and amended or supplemental inventory shall be presented to the Clerk for filing. The first inventory shall be filed within 60 days after issuance of letters.
- F. When Amended/Supplemental Inventory Required - An amended or supplemental inventory shall be presented to the Court and filed if:
1. Real or personal property has been erroneously described in the prior inventory;
  2. Assets have been improperly included in or excluded from a prior inventory; or
  3. Additional assets have been received by the representative or have come to his knowledge.
  4. A supplemental inventory or an amendment to an inventory need not repeat assets correctly described in a prior inventory.

#### RULE P-8 DISPOSITION OF CLAIMS-PROCEDURE

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

## RULE P-9 ESTATE CLAIMS - NOTICES

Except with respect to a claimant whose claim is known to the representative and is not paid or otherwise barred under this Section, a representative who acts in good faith to determine and give notice to creditors of a decedent, as provided in Section 18-3, is not personally liable to creditors of a decedent, but any claim not barred under this Section may be asserted against (1) the estate, to the extent that assets have not been distributed; and (2) a distributee of the estate (other than a creditor), but only to the extent that the distributee's share of the estate will not, in effect, be diminished below what the distributee would have received had the claim been paid by the representative.

## RULE P-10 REMOVAL OF REPRESENTATIVE OR TRANSFER TO INACTIVE DOCKET

- A. Inactive Determination - (1) Whenever the Court determines that a probate case has remained inactive for one year, the Court may remove the personal representative pursuant to 755 ILCS 5/23-2 (1994), or may transfer such cause to the inactive docket; (2) Whenever the Court determines that a representative or guardian has failed to present a verified account of his administration to the Court which issued his letters within 60 days after the expiration of one year after the issuance of letters, the Court shall order such representative to show cause why he should not be transferred to inactive status.
- B. Procedure to Transfer To Inactive Docket - Prior to transfer of such cause to the inactive docket, the Court shall direct the Clerk to give notice to the last known attorney of record and to the representative or guardian that a docket call will be conducted. At said docket call, should the Court determine that said probate case is dormant (cannot be conveniently terminated), the Court shall enter an Order directing the Clerk to transfer said case to an inactive docket and said case shall thereafter be filed with the closed probate cases.
- C. Procedure to Transfer Back To Active Docket - Said probate case may be removed from the inactive docket to the active docket on motion and order of the Court.

## RULE P-11 ACCOUNT OF DISBURSEMENTS

- A. Procedure - Except for good cause shown, each disbursement stated in an account shall be numbered and supported by vouchers or canceled checks. Vouchers or canceled checks shall be arranged in the order of the disbursements and presented to the Court, or if it so directs, to the Clerk of the Court at the time of hearing on the account. If receipts or waivers and consents by all interested parties are filed, the Court may waive the requirement for presenting vouchers or canceled checks for disbursements. If the account is presented by a bank or trust company, the Court may waive the requirement of presenting vouchers for disbursements (other than distributions) upon presentation of a certificate of an officer stating that the vouchers are on file at the bank or trust company. Said vouchers and canceled checks, except those for distribution, may be withdrawn after approval of the account.

- B. When Summary Accounting Accepted - With respect to an unincorporated business or real estate or beneficial interest in real estate in the possession of the representative, the Court may accept a summary accounting of the operation.
- C. When Guardian's Accounting Required - Each guardian shall present an account of his or her administration within 30 days after the expiration of one year after the issuance of letters and, unless otherwise ordered, at least once each year thereafter. If the guardian is a bank or trust company, it shall not be required to file such account (after filing its first account) more often than once every three years, unless specifically required by the Court.
- D. Executor's Account - Each executor and administrator shall account for his administration as required pursuant to 755 ILCS 5/24-1 (1994) and 755 ILCS 5/24-2 (1994).
- E. Notice of Accounting - Unless waived by the person entitled thereto, notice of the hearing on a final account or an account intended to be binding pursuant to 735 ILCS 5/24-2 (1994) or 735 ILCS 5/24-11(b)(1994), shall be given as follows:
1. On an account of a guardian or guardian to collect, to the ward, to each claimant whose claim is filed and remains undetermined or unpaid, and to other persons entitled to notice, including trustees and trust beneficiaries (Norris vs. Estate of Norris, 143 Ill.App. 3d 741). If a person entitled to notice other than the ward is represented by an attorney whose appearance is on file, notice as required for motions shall be sent to the attorney not less than 10 days before the date set for hearing.
  2. Notice to all other persons entitled to notice shall be given as follows:
    - a. Notice, accompanied by a copy of the account, shall be given in person or sent by mail to the last known address not less than 10 days before the hearing, except if the post office address of the person is outside the United States or Canada, the notice shall be sent not less than 14 days prior to the hearing.
    - b. If the name or present post office address of the person is not known to the representative or his attorney, notice shall be given by one publication in a newspaper of general circulation in the county of the hearing not less than 14 days before the date of the hearing, unless waived by the court.
    - c. The notice shall contain the time, date, place and nature of the hearing in substantially the following: "If the account is approved by the Judge upon hearing, in the absence of fraud, accident or mistake, the account as approved is binding upon all persons to whom this notice is given."
- F. Objections to Account - Any and all objections to the account as filed shall be made in

writing prior to hearing on said account. Any objections not so filed shall be waived.

G. Contents of Guardian's Account - An account of a guardian or a guardian to collect shall disclose:

1. the physical location of the ward and his physical and mental condition;
2. the ward's attendance in school or occupation;
3. the pendency of any suit or proceeding known to him by or against the estate or the representative of the estate; and
4. to the Court's satisfaction the existence of all assets stated.

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

I. Death of Distributee - If a distributee of a decedent's estate dies after decedent's death but before the receipt of his entire distributive share, evidence of his death and such other documents as may be required for the entry of an Order of distribution shall be presented to the Court.

#### RULE P-12 PERIODIC ACCOUNTING

A. When Required-Executor/Administrator - Every executor and administrator shall present the account and evidence of disbursements required by 755 ILCS 5/24-1 (1994):

1. Within 60 days after the expiration of 12 months after the issuance of letters;
2. Annually after the date of the first account; and
3. At such other times as the Court may order.

B. When Required-Guardian - Every guardian shall present the account and evidence required by 755 ILCS 5/24-11 (1994):

1. Within 30 days after the expiration of one year after the issuance of letters;
2. Annually after the date of the first account;
3. Within 30 days after the termination of his office; and

4. At such other times as the Court may order.

- C. Requests for Extension of Time to File - Requests for an extension of time to a definite date or for an order allowing accounting in a particular estate less frequently than above provided shall be filed by verified petition of the personal representative specifying the reasons for the request.

The petition may be heard without notice if it requests an extension:

1. In any case which it appears from the record that an annual accounting is not necessary;
2. For any reason which is apparent from the record of the estate and which exists without fault of the petitioner;
3. Because of succession, tax has not been determined, and the petition states that the return was filed or will be filed within the time required by law, and that the other obligations of the estate have been paid, and that distributions have been made to the extent possible consistent with the responsibilities of the personal representative; or
4. For other good cause.

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

The Court shall consider the evidence presented at the hearing by the petitioner and by any person interested in the administration of the estate. Lack of sufficient time on the part of the personal representative or his attorney will not constitute sufficient cause for extension.

If the prayer of the petition is granted, the Order shall set a definite date for accounting.

- D. Periodic Accounting Not Filed-Notice And Citation - In any case in which an account has been filed within the time specified in Paragraphs A and B above or on the date certain set by Court order, the following procedure is prescribed:

1. The Clerk shall mail to the attorneys of record in the estate a notice that the account is due.
2. If the account is not presented within 60 days after the date such notice was mailed, the Clerk shall issue a citation directing the personal representative to account as required or to appear on a date fixed by the Court to show cause why

he should not do so, or be removed as personal representative.

3. If the personal representative fails to account or to appear as directed, or if having appeared, he fails or refuses to account as required or to show cause why he should not do so, his letters shall be revoked and he may be subject to contempt of Court.
4. At the time of the issuance of a citation required by this rule, the Clerk shall mail notices of the pendency of the citation proceeding and return date thereof to all persons interested in the administration of the estate, including unpaid creditors.

#### RULE P-13 JURY DEMANDS

Procedure When Jury Demanded - A petitioner or claimant desirous of a trial by jury, pursuant to 755 ILCS 5/8-1, 11a-11, 16-3, and 18.6 or any other section of the Illinois Compiled Statutes (1994), must file a jury demand with the Clerk and pay the fee as required by law at the time he files his petition or claim. A representative or other party in interest opposing the petition or claim or desirous of a trial by jury must file a jury demand and pay the fee at the time he files his answer or other responsive pleading. If the petitioner or claimant files a jury demand and thereafter waives jury, the opposing party will be granted a jury trial upon demand promptly made after being advised of the waiver and upon payment of the fee. The jury fee, once paid, shall not be reimbursed upon a subsequent waiver of jury.

#### RULE P-14 SETTLEMENT OF PERSONAL INJURY OR DEATH ACTION

- A. Petition For Leave to Settle - If a petition for leave to settle a cause of action for personal injuries sustained by a ward or decedent or a cause of action for the wrongful death of a person whose estate is in the course of administration is presented by a representative, his attorney shall certify in writing, as a part of the petition, that in his opinion, based upon the facts of the law, the proposed settlement is just and proper.
- B. Appointment of Guardian Ad Litem - If no attorney is employed by the representative, the Court may, on his own motion, appoint a Guardian Ad Litem to investigate the merits of the proposed settlement.
- C. Notice of Hearing - At least 10 days notice of the hearing on the petition for the appointment and distribution of the proceeds of the settlement of an action for the death of a decedent shall be given to the surviving spouse and any next of kin who have not consented thereto in writing. The Court shall appoint a Guardian Ad Litem for any minor or disabled adult next of kin, unless such appointment is not deemed necessary for the protection of such person or his estate.

If the decedent left no surviving spouse or next of kin entitled to recover, notice of the filing of a petition for settlement under the Wrongful Death Act and of the hearing thereon shall be given by the representative or his attorney to the persons named in Paragraphs (a), (b) and (c) of Sec. 2 of that Act, including persons furnishing hospital,

medical or funeral services for the decedent, unless payment for the services is shown.

- D. Statement of Attending Physician Required - No settlement on behalf of a minor or disabled adult will be authorized unless a statement of the attending physician or surgeon is filed with the petition stating the nature and extent of the injury and the current medical condition of the ward. Unless waived, the minor shall appear in open court.
- E. Court's Approval of Fee Required - If an attorney enters into a contingent fee contract with a representative for prosecuting a cause of action for personal injuries (other than a claim under the Workmen's Compensation Act or the Workmen's Occupational Disease Act) or for death, such fee is subject to the approval of the Court.
- F. Reimbursement of Expenses - If an attorney asks for any expense beyond his fee, he shall furnish the Court with his affidavit certifying to the reasonableness, necessity and propriety of the expense. Reimbursement for expense of an independent investigator will be allowed only if his employment was necessary to prepare the action and if payment is solely for services rendered by the investigator in investigating the action after the attorney was retained. The Court may order a hearing to determine the propriety and reasonableness of the expense.
- G. Disbursement of Proceeds - If, as a result of the entry of a judgment in, or the settlement of, a case pending in another division of the Court, money or property becomes distributable, other than pursuant to 755 ILCS 5/25-2 (1994), to or for the benefit of a minor or disabled adult, the Court hearing or settling the case shall determine the expenses, proper disbursement and reasonable compensation to be paid to the attorney for his services, and application shall then be made to open an estate for the minor or disabled adult. The application shall have incorporated in, or attached thereto, a copy of the Order of the hearing judge. Thereafter, the estate shall be administered as any other estate of a minor or disabled adult or the Court may direct that the funds be deposited or invested subject to order of the Court, in accordance with the provisions of 755 ILCS 5/24-21 (1994), as the Court deems appropriate.

#### RULE P-15 WITHDRAWAL OF FUNDS DEPOSITED WITH COUNTY TREASURER

Notice Required - Before a petition is presented for an Order directing the County Treasurer to pay money deposited by Order of Court, notice shall be given to:

- A. The State's Attorney;
- B. The former representative and his attorney; and
- C. All other persons entitled to notice under any Order entered in the proceeding.

If the State's Attorney or the former representative fails or refuses to answer the petition, the Court may appoint a special administrator to defend.

## RULE P-16 WITHDRAWAL OF WARD'S MONEY

- A. Petition To Withdraw - A petition to withdraw funds deposited or invested, as provided in 755 ILCS 5/24-21 (1994), or pursuant to this Rule, shall be presented in person by the parent, spouse, person standing in loco parentis, or person having the responsibility of custody of the ward, unless personal presentation is waived by the court. The petitioner may be required to furnish evidence that the sums to be withdrawn or proceeds of sale or redemption are necessary for the ward's support, comfort, education or other benefit to the ward or his dependents. Unless excused from doing so, within 30 days after entry of the order for withdrawal, the petitioners shall file receipts for all sums expended. All unexpended funds shall be redeposited in accordance with 755 ILCS 5/24-21 (1994).
- B. When Minor Beneficiary of Decedent's Estate - If a minor is entitled to a distributive share of a decedent's estate and:
1. The share consists entirely of money; and
  2. No guardian has been appointed for his estate, the court upon a showing under oath that it is in the best interests of the minor, may direct the distributive share to be deposited and paid out in accordance with 755 ILCS 5/24-21 (1994). The receipt of the bank or other financial institution is a voucher for accounting purposes.
- C. When value of Ward's Estate Less Than "Small Estate" - If the value of the ward's estate being administered is or becomes less than the "small estate" amount specified in 755 ILCS 5/25-2 (1994), and no part of the estate consists of real estate or a pending cause of action for personal injuries, a petition may be filed requesting the distribution of the estate without further administration. In the case of a disabled adult, application shall be made by his guardian or by his spouse, or if he has no spouse, by a relative having responsibility for his support. In the case of a minor, application shall be made by his guardian or by a parent or a person standing in loco parentis. If it appears that there is no unpaid creditor and that it is for the best interest of the estate and the ward, the Judge may order the guardian to file his final account and make distribution as the Judge directs.

## RULE P-17 ASSIGNMENT OF INTEREST

Petition For Approval - Each assignment of interest or power of attorney with respect to a distributee's interest in an estate of a decedent may be presented to the Court for filing and approval. The petition for approval shall be verified and state:

- A. The names and addresses of the assignor and assignees;
- B. The nature and value of the interest involved;
- C. In the cause of an assignment, the consideration, if any, paid or to be paid the assignor,

and the fees and expenses charged in connection therewith; and

- D. In the case of a power of attorney, the fees and expenses charged or to be charged by the attorney in fact and his agents and representatives.

If the Court finds that the consideration paid or to be paid the assignor is inadequate or the fees or expenses charged or to be charged are excessive or for other good cause shown, the Judge may refuse to allow the assignment of interest or power of attorney, or may approve upon such terms as he deems just and equitable.

#### RULE P-18 ATTORNEYS-IN-FACT AND REPRESENTATIVES OF FOREIGN COUNTRIES

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

- A. The foreign representative, attorney-in-fact, or assignee shall present satisfactory evidence that his principal is the person entitled to receive the distributive share. Each power of attorney or assignment shall be signed by the distributee and properly authenticated and acknowledged before an American Consul, unless the judge is satisfied with other evidence of the authenticity of the power of attorney or assignment.
- B. The foreign representative or attorney-in-fact shall present his petition for leave to receive the share in the form prescribed by the Court.
- C. Unless waived by a court, the foreign representative or attorney-in-fact shall furnish bond with surety in an amount set and in a form prescribed by the Court, and conditioned upon the payment and delivery of the distributive share to the distributee.
- D. The foreign representative or attorney-in-fact shall acknowledge receipt in writing of the distributive share received from the representative and shall certify in the receipt that his authority to receive the distributive share has not been revoked. The representative shall file the receipt and certificate with his vouchers.
- E. Within 90 days after entry of the order or within such further time as the Court allows, the foreign representative or attorney-in-fact shall present to the Court his report of compliance, with the receipt of the distributee evidencing payment and delivery of the distributive share.
- F. In the event of the failure, refusal or inability of the foreign representative or attorney-in-fact to pay and deliver the distributive share to the distributee within a 90 day period or with such further time as the Court allows, the distributive share shall be deposited with the County Treasurer subject to further order. Upon presentation of

receipt of the County Treasurer evidencing the deposit of the distributive share, the foreign representative or attorney-in-fact will be discharged from further duty.

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

(END OF NINTH JUDICIAL CIRCUIT COURT ADMINISTRATIVE, GENERAL, AND PROBATE RULES)