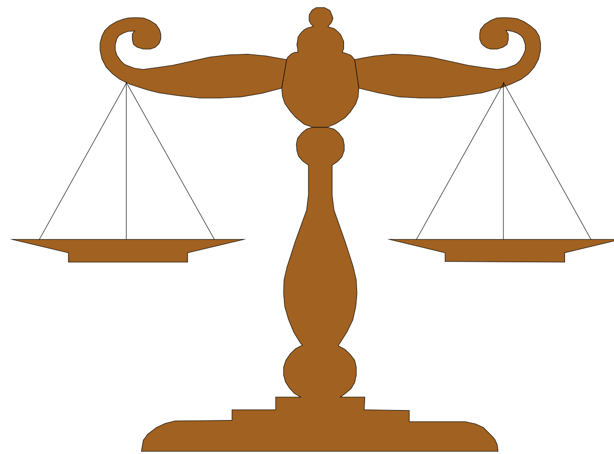
Rules of Court



Second Judicial Circuit

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RULES OF COURT ***SECOND JUDICIAL CIRCUIT*** ***Record of Amendments***		
Revision Number	***Date of Revision***	***Subject***
1	October 15, 1989	Rule 7, matrimonial cases & Rule 12 discovery
2	March 15, 1990	Rule 12, discovery, certificate of service
3	November 15, 1990	Rule 8, updated criminal forms
4	November 15, 1990	Rule 8, updated criminal forms
5	July 9, 1992	updated personnel lists
6	August 10, 1993	Rule 7, no record for contested marital matters
7	August 1, 1995	Rule 2, Chief Judge selection & Rule 6, no fax filing
8	April 18, 1996	Rule 12, case management conference
9	August 16, 1997	Rule 13, exhibit list; Rule 12, notice by mail
10	February 28, 1998	Rule 19, mandatory settlement conference
11	August 15, 1999	Rule 7, joint simplified dissolution procedures
12	January 4, 2002	Rule 20, proof and declaration of heirship - change in distributive rights
13	January 31, 2003	Rule 7, testimony not recorded unless court orders otherwise
14	October 2, 2003	Rule 19, conference set not more than 90 days after case is filed
15	February 24, 2004	Rule 16(c), service of order to show cause
16	July 9, 2004	Rule 21, Judicial Mediation Program
17	November 18, 2004	Rule 9(k), Coordination of Hearing Date
18	July 7, 2006	Rule 9, Pre-trial and Post-trial motions - civil Rule 9A, Notice; Rule 9B Ex parte and Emergency Motions
19	July 7, 2006	Rule 22, Attorney Qualifications in Child Custody Matters
20	March 13, 2007	Rule 21, Mediation Program (non-judicial & judicial)
21	April 13, 2007	Rule 9. Motions (previous amendment repealed)
22	April 18, 2007	Rule 19, Case Management Conferences in Family Cases
23	June 4, 2008	Rule 22, Attorney Qualifications in Child Custody Matters
24	October 1, 2008	Rule 21, Mediation Program (non-judicial & judicial)
25	January 9, 2009	Rule 19, Pre-Trial Conferences in Family Cases
26	July 10, 2009	Rule 22, Attorney Qualifications in Child Custody Matters
27	November 7, 2013	Rule 23, Civil Mediation Program
28	December 10, 2014	Rule 21, Mediation Program (non-judicial & judicial)

RULES OF COURT
Second Judicial Circuit of the State of Illinois

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IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
STATE OF ILLINOIS

The following rules are adopted as Rules of the Circuit Court of the Second Judicial Circuit:

RULE 1. RULES OF COURT.

(a) *Power of the Court to Adopt Rules.* These rules are promulgated pursuant to section 1-104(b) of the Code of Civil Procedure, 735 ILCS 5/1-104(b), and Supreme Court Rule 21(a).

(b) *Existing Rules Repealed.* These rules shall become effective April 15, 1989, and all other rules of the Circuit Court of the Second Judicial Circuit are hereby repealed.

(c) *Amendment of Rules.* These rules shall be amended only by vote of a majority of the circuit judges of the circuit. Proposals for amendments shall be submitted in writing to the circuit judges at any regular, quarterly meeting, and shall not be voted upon or adopted until the next following regular, quarterly meeting. All forms which have heretofore been attached to these rules as appendices are hereby deleted. Any forms prescribed for use in the Second Judicial Circuit by these rules shall be substantially in the form required by Administrative Order of the Chief Judge.

(d) *Promulgation, Effective Date of Amendments.* All amendments to these rules shall be promulgated prior to becoming effective. The Chief Judge shall cause a copy of any amendment or amendments adopted as provided herein to be mailed, within seven days of adoption, to the Clerk of the Circuit Court of each county in the Second Judicial Circuit. Each Clerk shall, upon receipt, cause such copy to be posted in a public place in the courthouse in his county for not less than 14 days. Any such amendment or amendments shall become effective 30 days after mailing by or on behalf of the Chief Judge. The effective date shall be noted on the copies of any amendment or amendments sent to the respective Clerks of the Circuit Court.

(e) *Titles; Heading; Gender.* Rule titles and section headings are not a substantive part of these rules, and shall not be deemed to govern, limit, modify or in any way affect the scope, meaning or intent of any of the provisions of these rules. Except where otherwise required by context, words importing either masculine or feminine gender are interchangeable and shall apply to either gender.

(f) *Mandatory Intent.* Use of the word "shall" in these rules is intended to have mandatory effect, irrespective of the context. Directory intent will always be indicated by use of other appropriate words.

(g) *Copies of Rules for Judges.* The Chief Judge shall provide copies of these Rules, and of any amendments thereto, to the several judges, associate judges and clerks of the circuit.

RULE 2. CHIEF JUDGE.

(a) *Selection.* At the fourth quarterly meeting of the Judges of the Second Judicial Circuit in 1997, a majority of the circuit judges shall select by secret ballot one of their number to serve as Chief Judge for a two (2) year term, commencing January 1, 1998, and shall select a Chief Judge in the same manner every other year thereafter, subject to the provisions of Article VI, Section 7(c) of the Constitution of the State of Illinois.

(b) *Acting Chief Judge.* The Chief Judge shall designate one of the circuit judges to serve as Acting Chief Judge during the absence or inability to serve as the Chief Judge. The Acting Chief Judge

shall have such powers and duties as are required to carry on the routine day-to-day operation of the Chief Judge's Office unless designated by the Chief Judge to have broader powers. If the Chief Judge does not designate an Acting Chief Judge, the most immediate past Chief Judge then serving as a circuit judge shall serve as Acting Chief Judge.

(c) *Vacancy.* When a vacancy occurs in the office of Chief Judge, any two circuit judges may call a meeting of the circuit judges for the purpose of declaring a vacancy and holding an election to fill such vacancy. The election shall be held not more than three weeks following the occurrence of a vacancy, and written notice of the time, date, place and purpose of the meeting shall be given to all circuit judges at least five days prior to the meeting. A vacancy in the office of Chief Judge shall be deemed to occur upon the resignation, death, incapacity or inability of the Chief Judge to carry out the duties of the office. A vacancy shall be deemed to have occurred if the Chief Judge has been unable to perform the duties of the office for a period of three consecutive months.

(d) *Removal From Office.* The Chief Judge or any acting Chief Judge may be removed from such office upon a vote of a majority of the circuit judges. If removal occurs, a successor shall be selected to fill any unexpired term in the same manner as is provided for filling a vacancy in the office. Notice of a vote for removal or for selecting a successor Chief Judge shall be given in the same manner as is provided for notice of the meeting to declare or fill a vacancy in the office of Chief Judge.

RULE 3. PRESIDING JUDGES.

(a) *Designation.* The Resident Circuit judge elected in each county of the Second Judicial Circuit shall be the Presiding Judge in such county.

(b) *Responsibilities.* The Presiding Judge in each county of the Second Judicial Circuit shall have the responsibility of administering the caseload of his county. He shall make a general assignment of cases to the judges regularly sitting in his county. When motions for substitution of judge or change of venue are granted, the case shall be returned to him for reassignment. He shall then assign the case to another judge sitting in his county or, if there is no such judge, then refer the cause to the Chief Judge for assignment of a new judge.

(c) *Notice.* A judge shall not hear a case in a county where he is not regularly sitting without approval of the Chief Judge, unless all parties in such case and the Resident Circuit Judge in such county have approved, the Clerk of the Court is notified and notices are mailed to all parties designating the judge hearing the case.

RULE 4. JUDICIAL MEETINGS.

(a) *Frequency of Meetings.* The Chief Judge shall convene a meeting of the circuit judges and associate judges at least four times per calendar year.

(b) *Notice.* The Chief Judge shall give at least 30 days notice of any meeting called pursuant to these rules. Meetings needed to deal with emergency matters shall be with any reasonable notice. Special meetings shall be called at the request of any three judges.

RULE 5. APPEARANCES AND DEFAULT.

(a) *Written Appearances.* Every party, or counsel for a party, shall file a written appearance, general or special, which shall include the name, address and telephone number of such party or counsel. A copy thereof shall be served in the manner prescribed for service of copies of pleadings upon all other parties who have appeared. No party or attorney shall address the court before filing such written appearance.

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

(c) *Appearance Fees*. If an attorney enters a single appearance for more than one party in a case, he shall pay a single appearance fee. If separate appearances are entered for several parties, by either the same or different counsel, separate appearance fees shall be paid.

(d) *Supplementary Proceedings.* No appearance fee shall be required of a person cited in supplementary proceedings under the provisions of Section 2-1402 of the Code of Civil Procedure, 735 ILCS 5/2-1402, and Supreme Court Rule 277.

(e) *Time of Payment.* The appearance fee shall be paid when a party first appears by counsel or in person, and shall accompany a written appearance.

(f) *Pro Se Appearances.* If any party enters his appearance in writing without further pleading, such appearance shall comply with Rule 5(a), and shall be acknowledged before a person authorized to administer oaths under the laws of the State of Illinois. Any such acknowledgment shall include a statement by the acknowledging officer that the person who signed such entry of appearance personally appeared before the officer and acknowledged such entry of appearance as the signer's free and voluntary act. If any such entry of appearance or acknowledgment contains any waiver of notice or consent to immediate hearing, the entry of appearance shall set forth that the appearing party has received a copy of any pleading seeking relief with respect to him. A copy of any such pleading shall be attached to the entry of appearance and shall be made a part thereof, except in cases where a statute or rule provides a particular form of appearance, in which case the statutory form shall suffice.

(g) *Appearance Pro Hac Vice*. Any attorney who is not regularly licensed to practice law in the State of Illinois who wishes to file in this circuit an appearance other than on his or her own behalf shall, before filing any such appearance, secure an order of admission *pro hac vice*. The court shall grant such an order only upon motion duly made by an attorney of this court or by an unrepresented party, including a corporation, accompanied by the affidavit of the attorney seeking admission. Such a motion and affidavit shall be in substantially the forms prescribed by Administrative Order of the Chief Judge, and the attorney seeking admission *pro hac vice* shall disclose the number of cases in this State in which he or she previously has appeared.

RULE 6. PLEADINGS.

(a) *Form of Pleadings and Other Papers.* In all pleadings and other papers of any description whatever prepared for filing in all cases, civil or criminal, the main body thereof, exclusive of captions, signature and address blocks, indented quotations, verifications, acknowledgment and other similar parts thereof, shall be neatly typed or printed, with a space between lines at least equivalent to double-spaced typing. Neatly hand-printed pleadings and papers, with similar spacing, may be filed by *pro se* parties.

(b) *Filing of Documents Received By Facsimile Transmission.* The Clerk of the Court shall not file documents received by facsimile transmission unless otherwise authorized by Supreme Court Rule.

RULE 7. MATRIMONIAL CASES.

(a) *Special Rules Pertaining to Matrimonial Cases.* For purposes of this rule, matrimonial cases are defined as any proceedings for an order or judgment relating to dissolution of marriage, declaration of invalidity, maintenance, child custody or support, orders of *ne exeat* and other matters of a similar nature, whether for temporary or permanent relief.

(b) *Transcripts of Evidence.* In any proceeding for entry of a judgment or other order, temporary or permanent, in matters governed by Rule 7(a), the testimony shall not be recorded unless the court orders otherwise.

(c) *Support Payments*. Unless otherwise provided in an order for support, all support payments shall be made as provided by law.

(d) *Acknowledgments*. Attorneys, members of their firms or their employees shall not acknowledge any pleading, entry of appearance or settlement agreement for an opposing party. Neither attorneys or law firms shall represent both parties to a dissolution action unless otherwise permitted to do so by law.

(e) *Settlement Agreements*. Any written agreement which bears the signature of any party to the proceeding who is not present in open court at the time such agreement is offered as evidence, and which purports to settle all or any part of a matrimonial case, may be received upon proof that it was personally signed by the absent party. An oral or unsigned written agreement which is not included in the pleading served upon an absent party shall be introduced only upon proof of service upon the absent party pursuant to Supreme Court Rule 105 relating to additional relief against parties in default.

(f) *Additional Notice.* Notwithstanding compliance with these Rules, the court may require further or other notice to be given in accordance with statutory law.

(g) *Joint Simplified Dissolution Procedure.* The contents of forms to be used in simplified dissolutions are hereby provided for, pursuant to Section 456 of the Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/456. Circuit-wide forms to be used in simplified dissolutions shall be established and promulgated by Administrative Order of the Chief Judge.

RULE 8. CLERKS OF THE CIRCUIT COURT.

(a) *Pleadings.* In all civil cases, the Clerk shall not accept for filing any document purporting to be a pleading or entry of appearance unless the document clearly sets forth the name of the circuit and the county, the names and designation of the parties and the case number.

(b) *Filing Fee.* The Clerk shall refuse to file any document or pleading until the requisite filing fee has been paid or such fee has been waived under Supreme Court Rule 298.

(c) *Removal of Files.* No pleading, exhibit, document, portion of a file or entire file shall be removed from the Office of the Clerk of the Circuit Court without leave of court, except as required for appeals and authorized by Supreme Court Rule or statute.

RULE 9. MOTIONS.

(a) *Notice.* Written notice of hearing of all motions shall be given to all parties who have appeared and have not theretofore been found by the court to be in default for failure to plead, and to all parties whose time to appear has not expired on the date of such notice, by the party seeking such hearing. Motions with or without notice may be set or reset on a date within 60 days by direction of the court. Notice of motion made within a court day of trial shall be given as directed by the court. Notice that additional relief has been sought shall be given in accordance with Supreme Court Rule 105.

(b) *Content of Notice.* Any notice of hearing shall contain the title and number of the action and the date and time when the motion is to be heard or presented, and shall state the nature of the motion. A copy of any written motions and of all papers presented therewith, or a statement that such motions and papers previously have been served shall accompany the notice.

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

(d) *Time of Notice.* If notice of hearing is given by personal service, the notice shall be delivered before 4:00 p.m. of the second court day preceding hearing on the motion. Notice given by mail is governed by Supreme Court Rule 12(c).

(e) *Summary Judgment.* A motion for summary judgment shall not be heard sooner than ten days after service of the notice of motion pursuant to Supreme Court Rule 11.

(f) *Ex Parte and Emergency Motions.* Every complaint or petition seeking *ex parte* issuance of a temporary restraining order, an order for preliminary injunction, an order for appointment of a receiver or an order of *ne exeat republica* shall be filed in the office of the Clerk of the Circuit Court, if that office is open, before application is made to a judge for the order.

(g) *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 calling the motion for hearing. Whenever possible, emergency motions shall be given priority.

(h) *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, the name of the judge who heard the motion, the date of hearing and the order of the court thereon, whether granted or denied, shall be served by the attorney obtaining the order upon all parties not theretofore found by the court to be in default for failure to plead. Proof of service thereof shall be filed with the Clerk within two days after hearing. Notice shall be given in the manner and to the persons prescribed by Supreme Court Rule 11.

(i) *Failure to Call Motions for Hearing.* The burden of securing a hearing on any motion is on the moving party. If any motion is not called for hearing within 90 days, and in criminal cases within 30 days, from the date of filing, the court may set the motion for hearing and, upon hearing, may enter an order overruling or denying the motion by reason of the delay. Nothing herein shall preclude an opponent from setting a motion not set by the movant.

(j) *Motion Denied; Further Pleading Required.* Unless otherwise ordered by the court, a party who is required to plead further following denial of a motion shall do so within 21 days following announcement of the decision of the court and entry of an appropriate minute or docket order. If the court requires a written order, then the party shall plead within 21 days after filing of the written order.

(k) *Coordination of Hearing Date.* It is the responsibility of counsel preparing the notice of hearing to make a good faith effort to coordinate with the court and all opposing counsel to set the hearing at a time that is mutually convenient. The filing of the notice of hearing shall constitute a certification of compliance with this rule.

RULE 10. ASSIGNED CRIMINAL CASES.

(a) *Assignment and Reassignment.* In criminal cases, no prosecutor or defense attorney shall present any matter relating to a plea of guilty, plea bargain or reduction of bond, any motion to suppress evidence, a confession or testimony, any motion for continuance or any other matter to any judge of this circuit other than to the judge to whom the cause has been assigned by the administrative judge. If, for any reason, a matter is not disposed of by the judge to whom it is originally assigned, such matter shall be referred to the administrative judge for reassignment.

RULE 11. BONDS.

(a) *Personal Sureties.* Bonds with personal sureties shall be approved by the court. Unless excused by the court, sureties shall execute and file verified schedules of property in substantially the form which is required by Administrative Order of the Chief Judge.

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

(c) *Affidavits of Probate Sureties.* An individual acting as surety on any bond required of an executor, administrator or guardian may, in lieu of the schedule required by Rule 11(a), file an affidavit stating that he or she owns net assets of a value which equals or exceeds the amount of the bond. Such affidavit shall be in substantially the form which is required by Administrative Order of the Chief Judge.

RULE 12. DISCOVERY.

(a) *Relief Involving Discovery Materials.* If relief is sought concerning any deposition, interrogatory, request for production or inspection, request for admission, answer to interrogatory or response to request for admission, copies of the portion of the deposition, interrogatory, request, answer or response in dispute shall be filed with the Clerk of the Court contemporaneously with any motion.

(b) *Use at Trial or for Motion.* If interrogatories, requests, answers, responses or depositions are to be used at trial or are necessary to a motion, the portions to be used shall be filed with the Clerk of the Court at the outset of the trial or at the filing of the motion, insofar as their use reasonably can be anticipated.

(c) *Unfiled Discovery - Appeals.* When documentation of discovery not previously in the record is needed for appeal purposes, upon an application to and order of the court, the necessary discovery papers shall be filed with the Clerk of the Court.

(d) *Removal from Files.* At the discretion of the judge assigned to the case, discovery materials already filed may be removed from a file and retrieved by the party filing the materials. In such event, the judge shall make an appropriate docket entry indicating what materials were removed, the date they were originally filed and who is the custodian of the materials.

(e) *Case Management Conference.* The "Case Management Conference" procedures or Supreme Court Rule 218 shall be applied only in Law cases over $50,000.00. In all other civil cases, the "Case Management Conference" procedures of Supreme Court Rule 218 shall be invoked at the discretion of the assigned judge; provided, however, that the Presiding Judge in each county shall conduct a review of all of the other civil cases at intervals not to exceed six months.

RULE 13. IDENTIFICATION OF EXHIBITS

(a) *Marking; Lists.* Prior to trial or hearing, or at the final pretrial conference if one is held, in all cases in which exhibits are to be offered, each party shall identify and mark each exhibit which may be offered at trial. Unless otherwise ordered by the court, Plaintiff shall identify and mark exhibits with numbers and Defendant shall identify and mark exhibits with letters. Each party shall prepare a list of all such exhibits in substantially the form which is required by Administrative Order of the Chief Judge, which list shall contain the identification mark assigned and a brief description of each exhibit. At the trial or hearing, or at a final pretrial conference, each party shall present to the court two (2) copies of such list for use by the court and the court reporter. The list shall not be a limit upon the use of exhibits, and other exhibits may be added to the list before or during trial; a listed exhibit need not be offered.

RULE 14. JUDGMENTS AND ORDERS.

(a) *Preparation; Designation.* When a judge rules upon a motion other than in the course of a trial or makes a final determination in any action, the attorney for the prevailing party shall promptly prepare and present to the court, other counsel and any *pro se* parties the order or judgement to be entered, unless the court directs otherwise. In general, relief which does not dispose of a case on its merits shall be by order, while final relief on the merits shall be by judgment.

(b) *Orders and Judgments in Criminal and Juvenile Cases.* In all criminal, traffic and juvenile cases, final judgments and order shall be in substantially the forms which are required by Administrative Order of the Chief Judge. Sheriffs shall certify the periods prisoners have been in their custody substantially in the form required by Administrative Order of the Chief Judge and, when required by the court for determining periods of work release or other purposes, defendants in criminal and traffic cases shall furnish work schedules and other information in substantially the form required by Administrative Order of the Chief Judge.

RULE 15. SMALL CLAIMS.

In all small claims cases, as defined in Supreme Court Rule 281, the court shall proceed as follows:

(a) *Trial.* If both parties are present and cannot reach a settlement, the case shall be tried if both parties are ready. If either party is not ready for trial, the court shall continue the case to an early date. Additional continuances shall not be granted without good cause shown.

(b) *Defaults.* If the Defendant does not enter his appearance on or before the return day, a default judgment shall be entered on the complaint if the plaintiff or his counsel is present in open court and either the complaint is verified or an appropriate affidavit is attached. This provision is subject to the requirement of Rule 14(d), *infra.*

(c) *Failure to Appear.* If the defendant appears but the plaintiff does not, or if neither party appears, the court may dismiss the case or continue it to an early date. Upon a second such failure to appear, the court shall dismiss the case for want of prosecution.

(d) *Unliquidated Damages.* In all cases involving unliquidated damages, the plaintiff shall make proof of damages in open court before judgment is entered.

RULE 16. ORDERS TO SHOW CAUSE.

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

(b) *Issuance Instanter*. The court may issue orders to show cause *instanter*, on its own motion or on the motion of a party, for failure to respond to or comply with citations, subpoenas or other mandatory process which has been personally served upon the respondent. Upon a showing of exigent circumstances or of prior failure to respond or comply with the process and orders of the court, the court may issue an attachment for contempt.

(c) *Service of Order*. As provided by 750 ILCS 5/505 (a-5), orders to show cause shall be served either 1) by personal service upon the respondent or 2) by regular mail addressed to the respondent's last known address as determined from records of the clerk of the court, the federal case registry of child support orders or by any other reasonable means. Objections to the validity of an order to show cause shall be in writing and shall be filed and served upon the other party at least forty-eight (48) hours before the time of hearing, unless the court orders otherwise.

(d) *Hearings*. All hearings on orders to show cause shall be held in open court. The complaining party shall establish the failure to respond or comply with the prior order or process of the court, after which the respondent shall have the burden of showing that his conduct was not contemptuous.

(e) *Failure to Appear*. If the respondent has been personally served with the order to show cause and does not appear, the court may, in addition to any other appropriate action:

(1) Continue the cause to a date certain and either issue an attachment with or without bond, or give notice by mail of the continued date; or,

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

(3) Discharge the order if the complaining party does not appear.

(f) *Bond Forfeiture.* If the respondent does not appear after posting bond on an attachment, the court may forfeit the bond and take any further action which is permitted under Rule 16(e), *supra*.

(g) *Setting Bond.* Bond on attachments shall not be oppressive, and shall be solely for the purpose of securing the appearance of the respondent. Bond shall not be set in an amount exceeding $1,000.00 ($100.00 cash deposit) without an affirmative showing that attachment without bond or with a higher bond is required under the circumstances.

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

(1) All obligations of the bond have been met and no forfeiture is pending or has been entered; and,

(2) The respondent appears personally in open court and agrees that the bond deposit, or some portion thereof, be paid to the complaining party; and,

(3) The court so orders.

RULE 17. AFFIDAVITS IN MATRIMONIAL CASES.

(a) *Affidavit of Parties.* In all matrimonial proceedings, including, but not limited to, petitions for attorney's fees, court costs, temporary maintenance or child support, permanent maintenance or child support and modification of any previous orders relating thereto, the moving party shall prepare and file an affidavit in substantially the form which is required by Administrative Order of the Chief Judge, prior to any hearing unless emergency relief is sought or unless, for good cause shown, the court directs otherwise.

(b) *Time for Filing.* The moving party shall file such affidavit at the time of any pretrial conference, or at least three (3) days before a contested hearing or upon filing a petition for *ex parte* relief, with proof of service pursuant to Supreme Court Rule 12 unless the court orders otherwise.

(c) *Response.* The party responding to any such petition shall file an affidavit in substantially the same form at the time of any pretrial conference or at least three (3) days before a contested hearing, with appropriate proof of service.

RULE 18. CITATION IN ORAL OR WRITTEN PRESENTATION.

(a) *Citation.* In any oral or written presentation to the court, citation of cases shall be to the page of the volume where the case begins, and to the pages upon which the pertinent material appears in at least one of the reporters cited. Use of *"supra"* or *"infra"* only is not permitted.

(b) *Illinois Cases, Quotations, Copies.* Citation to Illinois cases shall be to the official reports, but citation to North Eastern Reporter or Illinois Decisions may be added. Quotations may be cited to the official state reports, the North Eastern Reporter or Illinois Decisions. Each copy of a case presented to the court may be from either the official state reports, North Eastern Reporter or Illinois Decisions, but shall, in any case, be a complete copy of the case and shall show the official citation.

(c) *Other Jurisdictions.* Citation of cases from other jurisdictions shall include the date of the decision, and may be to either the official State reports or to the National Reporter system, or both. If only the National Reporter System citation is used, the court rendering the decision shall be identified. A copy of a case presented to the court shall be a complete copy, and may be from either the official State reports or the National Reporter System.

RULE 19. PRE-TRIAL CONFERENCES IN FAMILY CASES.

A. Case Management Conferences. Pursuant to Supreme Court Rule 905 and Circuit Rule 21, the court shall conduct case management conferences in original actions for dissolution of marriage where no Entry of Appearance is filed for the respondent when the case is commenced and in all family cases having contested issues of child custody, visitation, removal or other non-economic issues relating to children ("qualifying issues"). Matters involving scheduling, discovery, settlement agreements and mandatory mediation of contested qualifying issues will all be considered at case management conferences.

1. Setting of Case Management Conferences. Except for expedited case management conferences which shall be set within 14 days of the filing of any pleading for temporary relief concerning qualifying issues not subject to setting for hearing when filed as provided in Circuit Rule 21, an initial case management conference shall be set between 90 and 110 days after a case is filed at which the parties and counsel must attend. The petitioner shall prepare and serve upon respondent a notice, substantially in the form

required by Administrative Order of the Chief Judge, of the date and time of the case management conference.

2. Mediation Prerequisites. Prior to the initial case management conference in any case having contested qualifying issues, the parties shall comply with the mediation prerequisites of Circuit Rule 21 concerning the filing of financial affidavits, pre-mediation questionnaires and completion or scheduling of an approved parenting education program.

3. Case Management Conference Orders. At any expedited, initial, continued or post-mediation conference, the court shall enter a case management conference order in substantially the form required by Administrative Order of the Chief Judge.

B. Mandatory Settlement Conferences. The court shall conduct a mandatory settlement conference in all contested pre-judgment dissolution of marriage cases as provided in this Rule. The court may, in its discretion, order a mandatory settlement conference upon such terms as the court may require in any other proceeding under the Illinois Marriage and Dissolution of Marriage Act, the Illinois Parentage Act of 1984, the Illinois Domestic Violence Act or the Illinois Adoption Act. The fact that a judge has conducted a settlement conference shall not serve as grounds for a change of venue from the judge in that case.

1. Setting of Mandatory Settlement Conference Mandatory settlement conferences shall be set in dissolution of marriage cases when one party requests a hearing on remaining issues, or upon the motion of the court. It shall occur after all requirements of Circuit Rule 21 have been met and at least 30 days prior to the date of the hearing on remaining issues. It shall be mandatory for all parties and the trial attorneys to be present at all settlement conferences unless excused for good cause by prior court order.

2. Requirements Prior to Settlement Conference. Each party must file a financial affidavit and settlement conference memorandum, substantially the form required by Administrative Order of the Chief Judge, with a copy to the opposing party, at least seven days before the settlement conference. Parties may submit a stipulation of facts, memorandum of law, expert reports, exhibits or any other pertinent material to the court, with a copy to the opposing party, at least seven days prior to the settlement conference.

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

RULE 20: PROOF AND DECLARATION OF HEIRSHIP — CHANGE IN DISTRIBUTIVE RIGHTS

(a) *Petition for Admission of a Will.* When a petition for admission of a will to probate or for letters of administration is filed, proof of heirship shall be made by:

(1) The testimony of a witness examined in open court, reduced to writing by the official court reporter, certified by the court and filed with the clerk; or

(2) Affidavit as provided in Section 5-3 of the Probate Act; or

(3) Deposition.

(b) *Proof of Heirship.* The proof of heirship shall be made by the decedent's spouse or a person related to the decedent by consanguinity or adoption, unless it would impose undue hardship or be ineffectual.

(c) *Affidavit Regarding Heirship.* An affidavit of heirship shall include the following and shall be in substantially the form which is required by Administrative Order No. 2002-2 of the Chief Judge:

(1) The date and place of death of the decedent;

(2) Whether the decedent left a surviving spouse. The affidavit should also address prior marriages ending in death or divorce and the children born to or adopted by the decedent from each marriage;

(3) The names of all children, if any, born or adopted by the decedent. The affidavit shall specifically state that there are no other children, born or adopted.

(4) The date of death and the descendants, born or adopted, if any, of any deceased child. The affidavit shall specifically state that there are no other descendants, born or adopted.

(5) If there is no spouse or descendants, born or adopted, the parents, brothers and sisters and the descendants of any deceased brother or sister, born or adopted. The affidavit shall specifically state that there are no other brothers, sisters or the descendants of any deceased brother or sister, born or adopted.

(6) The manner is which the affiant is related to the decedent. If the affiant is not related to the decedent, the affidavit shall adequately establish the basis of the affiant's knowledge of the decedent's heirship.

(7) An assertion of any unknown heirs or addresses which shall specifically state what diligent efforts have been made to ascertain the same.

(8) The concluding section shall trace the per stirpes relationship of each heir to the decedent; for example, "A, grandson of decedent, being a son of B, predeceased daughter of decedent," or, "A, nephew of decedent, being a son of B, predeceased sister of the decedent."

(d) *Order Declaring Heirship.* At the time of filing of an affidavit pursuant to Section 5-3 of the Probate Act, the representative shall submit to the Circuit Clerk a separate proposed Order Declaring Heirship which shall reflect the language contained in the concluding section of the affidavit.

(e) *Amended Order Declaring Heirship.* If the order declaring heirship is incomplete or erroneous, an amended proof of heirship shall be made as provided in this Rule and an amended order declaring heirship shall be entered.

(f) *Change in Distributive Rights.* If there is a change in distributive rights during the administration of an estate, including a change resulting from death, renunciation, disclaimer or other election provided by law, upon motion of any person or the court's own motion, an appropriate order shall be entered determining the substituted takers.

RULE 21. FAMILY MEDIATION PROGRAM

DEFINITIONS

(A) Mediation: Mediation is a cooperative process for resolving conflict with the assistance of a trained court appointed neutral third party, or mediator, whose role is to facilitate communication, help define issues, and assist the parties in identifying and negotiating fair solutions. Fundamental to the mediation process are principles of safety, self-determination, procedural informality, privacy and confidentiality. Mediation is

based on a full disclosure of all facts related to the disputes so that the parties can achieve a fair and equitable agreement.

(B) Impediment: As used herein, "impediment" is defined as any condition, including but not limited to, domestic violence, intimidation, substance abuse, or mental illness, the existence of which 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.

(C) Indigent Case: As used herein, the term "indigent case" is defined as one requiring mediation pursuant to this program, however, based upon the financial information considered by the trial judge, the parties cannot, without substantial additional hardship to one or both of the parents or to the minor children residing with either parent, pay any allocation of a private mediation fee.

ARTICLE I. GENERAL PROVISIONS

When used in this Article I., the terms "mediator" and "mediation" shall refer to both private and judicial mediators and mediation, respectively.

A. Qualifications of Mediators; Approved List

1. Private Mediators

a. The Second Judicial Circuit shall promulgate a list of private mediators who have been approved by the Chief Judge after filing the required application, supplying supporting documentation and meeting the following criteria:

(i) Satisfactory completion of an approved forty hour family mediation program covering the areas of conflict resolution; psychological issues in separation, dissolution and family dynamics; mediation process, skills and techniques; and screening for and addressing domestic violence, child abuse and mental illness.

(ii) A degree in law from an accredited law school or a master's degree from an accredited institution in a field that includes the study of psychiatry, psychology, social work, human development, family counseling, or other behavior science substantially related to family counseling, marriage and family interpersonal relationships, or a related field approved by the Chief Judge. Alternatively, an applicant with a different post-secondary degree from an accredited institution having sufficient mediating experience considered to be commensurate with that of other approved mediators may, at the sole determination of the Chief Judge, be approved.

(iii) If engaged in a licensed discipline, such license must be maintained in full force and effect.

(iv) Agree to mediate at least two reduced fee or pro bono cases per year as assigned by the court.

(v) Attend ten hours of circuit approved continuing education every two years, of which two hours must cover domestic violence issues, and provide evidence of completion to the Chief Judge.

b. The Chief Judge may remove a mediator from the approved list for failure to comply with the requirements of this rule or for other good cause. A denied applicant or removed mediator may appeal the decision in writing within ten days to the Chief Judge who shall decide the appeal after allowing the individual an opportunity to be heard.

c. Inclusion on the approved list shall not be considered a warranty that a mediator can successfully mediate a specific dispute; however, it does indicate explicit agreement by that he or she will

comply with the provisions of this rule and maintain high standards of ethical practice. Any person approved to act as a mediator under these rules, while acting in the scope of his or her duties as a mediator, shall have judicial immunity in the same manner and extent as a judge in the State of Illinois as provided in Supreme Court Rule 99(b) (1) and Rule 905(b).

d. The parties at an agreed rate shall compensate the mediator. Within the Mediation Order, the trial judge may designate the percentage of the fee to be paid by each party and/or whether the case should be considered a reduced fee or pro bono case.

e. Private mediation pursuant to this program is subject to the provisions of the Uniform Mediation Act, 710 ILCS 35/1 et. seq..

2. Judicial Mediators

a. The Chief Judge shall identify judges qualified to be mediators who have successfully completed specialized training in family mediation consisting of a specific course of study of at least forty hours covering areas of parenting arrangements, emotional issues, conflict management, domestic violence and mediation techniques. The approved judicial mediators shall also be qualified in accordance with Supreme Court Rule 908 to conduct child custody and allocation of parental responsibilities cases.

b. The approved judges shall serve as mediators in qualifying indigent cases and certain other matters as assigned by the Chief Judge. Judicial mediation is conducted by a mediation-trained judge of the Second Judicial Circuit acting as mediating judge as part of such judge's official duties and upon assignment by the Chief Judge following referral of the case by a judge presiding in the subject court proceedings (hereinafter referred to as "the trial judge").

B. Subject Matter of Mediation; Mandatory Participation

Court referred mediation through this program will apply to all contested issues of allocation of parental responsibilities and parenting time and relocation, or other non-economic issues relating to children (“qualifying issues”) in temporary, initial and post-judgment proceedings. Mediation may include other family law issues if the parties and mediator agree. Parties must fully cooperate and participate in mediation and provide all pertinent information requested by the mediator. Mediation shall be for a period of four hours unless terminated sooner by the mediator or, for good cause, extended in duration.

C. Case Management Conferences; Mediation Orders

In all cases having qualifying issues subject to the mediation requirements of this rule, the trial judge shall conduct a case management conference in accordance with Rule 19. If the mediation prerequisites have been met and no impediments exist, the trial judge shall refer the case to mediation at the initial case management conference unless an agreement on all qualifying issues has been reached. Alternatively, if there is no agreement and settlement appears imminent, the court may enter an order deferring appointment of a mediator and continue the conference to a short date.

All Mediation Orders wherein appointment of a mediator is made shall assign a 45 day continued case management conference date for a status report on the progress of mediation. If mediation has not been concluded by the date of the conference, it shall be reset to a short date to allow for the completion of mediation. After mediation has concluded, the trial court shall conduct a full, post-mediation case management conference wherein mediation agreements, provisional orders or results will be presented.

D. Temporary Relief; Expedited Proceedings; Referral to Early Mediation

Upon the filing of any pleading for temporary relief concerning qualifying issues, except a sworn pleading asserting facts showing a present or threatened serious endangerment to the physical or emotional health of the child(ren), the clerk shall set an expedited case management conference within 14 days with parties and counsel in attendance. In the absence of agreement on temporary issues, the trial judge presiding at an expedited case management conference shall:

1. Set a hearing upon the request for temporary relief; or
2. Refer the case to early mediation on such temporary issues.

Referral to judicial mediation on temporary issues may be made in non-indigent cases if a private mediator is unavailable within a reasonable time period. A judicial mediator shall be authorized, though not required, to conduct further mediation in the case.

E. Prerequisites to Mediation; Disclosure of Impediments

Except when mediation is ordered for temporary qualifying issues at an expedited case management conference, the parties shall complete an approved parenting education program, unless the court approves later completion or they have previously attended such a program before referral to mediation. The parties shall also file financial affidavits and pre-mediation questionnaires with the clerk at least 7 days prior to the initial case management conference. The clerk shall file and seal the original pre-mediation questionnaires, copies of which shall later be sent to the appointed mediator. The parties shall advise the trial judge of any impediments or other circumstances which could unreasonably interfere with mediation. The finding of an impediment should, whenever practicable, result in measures addressing the impediment rather than disqualifying the case from mediation. However, mediation shall not be required if the court, upon motion supported by affidavit, finds that a case should not be mediated because of impediment or other circumstances.

F. Referral to Private Mediation or Judicial Mediation

1. In each case in which referral is made, the trial judge shall expressly find whether the case is an indigent case and make record entry of such finding. Unless upon examination of the parties' financial affidavits the trial judge finds that a case is an indigent case, such case shall be referred to private mediation. The parties may select an agreed mediator from the approved list, or absent agreement, the trial judge shall select a mediator. The trial judge may require that the parties remit to the mediator a retainer in the amount of the agreed mediation fee or, in the absence of agreed fee, the amount of the average private mediation fee charged during the immediately-preceding calendar year as determined from time to time by the Chief Judge.

2. If the trial judge finds a case to be an indigent case, it shall be referred to judicial mediation unless the trial judge, in the exercise of discretion, refers the case to private mediation under either of the following circumstances:

(a) The parties jointly request and agree to pay for private mediation that financial resources for payment are available to the parties; or

(b) It is determined that a private mediator is available to conduct private mediation on a pro bono or reduced-fee basis commensurate with the parties' ability to pay.

In all other indigent cases, the trial judge shall contact the Chief Judge's office and request the assignment of a judicial mediator. The assigned judicial mediator shall have not acted in the case except as a mediator or with respect to scheduling matters, unless the parties file written waivers and affirmatively request mediation with that judge.

G. Notification by Circuit Clerk; Review by Mediator

1. Upon entry of a Mediation Order appointing a mediator, the Circuit Clerk shall:

(a) Mail or fax a copy of the Order to the mediator together with copies of the following:

(b) Record sheets and pleadings in dispute, and

(c) Financial affidavits and pre-mediation questionnaires.

2. Docket the case for status report at the 45 day continued case management conference recited in the Mediation Order.

(a) Upon receipt of the Mediation Order and forwarded case documents, the mediator shall examine the materials and:

If a private mediator, determine whether any present or possible conflict of interest exist including any current or previous therapeutic, personal or economic relationship with a party or with someone having a blood, legal or other close relationship with a party and, if so, decline appointment unless a written waiver signed by both adult parties to the case is secured. If the mediator is a mental health professional, he or she shall not mediate a case in which a party or subject child has been provided counseling or therapy by such professional within two years of the appointment or within any greater time period required by the ethical rules pertaining to the professional's practice. An attorney mediator may not represent either party in any matter during the mediation process through the conclusion of the case nor provide any legal advice.

If a judicial mediator, determine whether or not circumstances exist requiring recusal or presenting an impediment to mediation.

3. If after reviewing all case materials, the mediator finds disqualification or recusal is required or the existence of an impediment renders mediation unworkable, the mediator shall promptly notify the parties, their attorneys and the trial judge so that another mediator can be appointed or further action taken.

4. If no basis for disqualification or recusal is found, the mediator shall promptly set a mediation session giving required notices to the parties and their attorneys.

H. Restriction upon Litigation or Filings during Mediation

1. After referral to mediation, all proceedings except continued case management conferences, discovery, and presentation of agreed matters shall be stayed pending the post-mediation case management at the conclusion of mediation. Hearing shall not be held sooner on contested matters, including discovery enforcement proceedings, without leave of court granted for good cause pursuant to written motion

2. During this period, no pleadings related to issues to be mediated shall be filed without leave of court except:

(a) Documents required for mediation;

(b) Pleadings as to which stipulation is being made or agreement have been reached;

(c) Sworn pleadings based upon asserted present or threatened serious endangerment to the physical or emotional health of the minor(s) or a party to the litigation based upon asserted facts or circumstances which have arisen subsequent to entry of the Mediation Order or of which the pleading party could not have known prior to entry of said order;

(d) Motions for leave to withdraw as counsel for a party; and

(e) Discovery requests and responses.

3. Any party filing a pleading by leave of court or referred to in 2.(c) or (d.) above shall immediately cause it to be presented to the trial judge for setting of hearing.

I. 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 which is likely to result in imminent, serious bodily harm to another. When the mediator knows the identity of an endangered person, the mediator may warn that person and his attorney of the threat of harm and without committing a breach of confidentiality.

J. Statistical Reporting

All mediators shall file a statistical report on a prescribed form with the Trial Court Administrator at least quarterly. The Trial Court Administrator shall maintain such records, which shall include the number of mediations conducted, and success ratio. Such information shall be furnished to the Supreme Court annually, or at such other intervals as may be directed.

K. Ruling by Assigned Judge

To the extent practicable, presentation of an agreement or provisional order should be made to the judge assigned to that particular case. However, such ruling may be made by another judge as necessary to comply with the Supreme Court's requirement that a full case management conference be held within 30 days after conclusion of mediation.

ARTICLE II. PRIVATE MEDIATION PROGRAM AND PROCEDURES

A. Confidentiality and Privilege

1. Unless otherwise agreed to by the mediator, parties and their attorneys, all other persons shall be excluded from mediation sessions.

2. Except as otherwise provided by law, all written and verbal communications made in a mediation session are confidential and may not be disclosed, except 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. Admissions and other communications made 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, no participant may be called as a witness in any proceeding by a party or the court regarding matters disclosed in a mediation session. These restrictions shall not prohibit any person from lawfully obtaining the same information independent of the mediation.

Exceptions: Admissions 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.

B. Conduct of Mediation

1. Prior to commencing mediation, the mediator shall:

(a) Explain that the mediation process is confidential as outlined herein and confirm the parties' understanding regarding the fee for services including any reduced fee for eligible parties with financial hardship;

(b) 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;

(c) Determine the issues to be mediated;

(d) Explain that no legal advice, therapy or counseling will be provided and that each party has the right to counsel; and

(e) Advise each party that the mediator may communicate with either party or legal counsel during mediation sessions for the purpose of fostering agreement;

(f) Advise each party that children may be allowed to participate in mediation so long as all parties and the mediator consent in writing.

(g) Inform the parties that:

(i) Mediation can be suspended or terminated at the request of either party after four hours of mediation in the absence of good cause for extension, or in the discretion of the mediator; and,

(ii) The mediator may suspend or terminate the mediation if an impediment exists, 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.

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

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

(a) Terminate mediation when circumstances indicate that protective measures are inadequate to maintain safety; or

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

If an impediment affecting competency or good faith, but not safety, the mediator may make any appropriate referrals to community service providers and shall either:

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

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

3. No terminated mediation shall proceed further unless ordered by the court, but instead shall be returned to the docket for adjudication in the manner prescribed by law. The mediator shall immediately advise the trial judge in writing if he or she suspends or terminates mediation for some reason other than agreement or inability to reach agreement, specifying the reason for such termination.

4. If a party fails to appear without good cause at a mediation session, the trial judge may impose sanctions, including an award of mediator, attorney fees and other costs.

5. Unless mediation has sooner terminated, the mediator shall before the continued case management conference, file with the Circuit Clerk a report describing the progress of mediation in general terms.

C. Conclusion of Private Mediation

1. (a) When the parties reach agreement or partial agreement during mediation, and both sides are represented by counsel, the mediator shall prepare an agreement incorporating the terms of the agreement if

(1) both parties have been given the opportunity by the mediator to consult with the party's attorney during and at the conclusion of the mediation, and

(2) the mediator has contacted both attorneys or made good faith effort to contact both attorneys at the conclusion of the mediation to discuss the mediated agreement.

If both conditions of (1) and (2) have been met, the terms of the agreement may, if specified in the agreement, become effective immediately, pending approval by the court.

If either of the conditions of (1) or (2) have not been met, the mediator shall not prepare an agreement but shall provide a written account of the agreement to the parties and attorneys, but not to the court.

(b) When the parties reach agreement or partial agreement during mediation and only one side is represented by counsel, the mediator shall prepare an agreement incorporating the terms of the agreement if

(1) the represented party has been given the opportunity by the mediator to consult with the aprty's attorney during and at the conclusion of the mediation, and

(2) the mediator has contacted the attorney or made good faith effort to contact the attorney at the conclusion of the mediation to discuss the mediated agreement.

If both conditions of (1) and (2) have been met, the terms of the agreement may, if specified in the agreement, become effective immediately, pending approval by the court.

If either of the conditions of (1) or (2) have not been met, the mediator shall not prepare an agreement but shall provide a written account of the agreement to the parties and attorneys, but not to the court.

(c) When a total or partial agreement is reached and neither side is represented by counsel, the mediator shall prepare an agreement incorporating the terms of the agreement. Each party will be provided a copy of the agreement at the conclusion of the mediation. The terms of the agreement may, if specified in the agreement, become effective immediately, pending approval by the court.

(d) In the event an agreement is reached under the conditions of 1(a), 1(b), or 1(c), above, the agreement prepared by the mediator shall be transmitted to the parties and every attorney of record. Unless either side files an intent to repudiate the agreement before the Continued Case Management Conference (or within 10 days, if the Continued Case Management Conference is less than 10 days after the mediation), the agreement shall be presented for approval at the Continued Case Management Conference. Any Intent to repudiate shall set forth the reasons for the requested repudiation and shall be sent to the other party's attorney (or to the party if the party is unrepresented).

(e) In the event an agreement is reached under the conditions of 1(b) or 1(c), above, the mediator shall advise each non-represented party of the time period within which an intent to repudiate must be filed.

(f) If an intent to repudiate is filed, the court shall hold a hearing. The court may, at its descretion, deny the repudiation and approve the mediated agreement, or grant the repudiation and either set the matter for trial or order re-mediation.

(g) In the event an agreement is reached under the conditions of 1(a), 1(b), or 1(c), above, the form of the agreement may, but does not have to be, substantially the same as the agreement form promulgated

by the Chief Judge's Office for mediated agreements. For purposes of this rule, the use of the agreement form promulgated by the Chief Judge's Office by mediators who are not licensed to practice law in the State of Illinois will not be considered as the unauthorized practice of law.

2. After the conclusion of mediation, the mediator shall file with the Circuit Clerk a report, on a form provided by the Chief Judge, stating the date and reason for termination and specifying any issues on which agreement was reached. The report shall not specigy reasons for the inability of the parties to reach agreement.

3. If the mediator has concerns for the welfare or safety of the minor child(ren) or feels that it is in the best interest of the minor, the mediator shall recommend in the final report that a child representative or guardian ad litem be appointed.

D. Post-Mediation Procedures

1. At the full, post-mediation conference following the conclusion of mediation, mediation agreements or results shall be presented to the trial judge. The court shall examine the parties as to the content and intent of the agreement and reject it if its provisions are found 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 reciting its findings and incorporating the agreement as part of the judgment or order.

2. In cases where no agreement has been reached, the trial judge shall conclude the full, post-mediation conference and set the matter for further proceedings in accordance with the rules.

ARTICLE III. JUDICIAL MEDIATION PROGRAM AND PROCEDURES

A. Confidentiality and Privilege

1. A judicial mediator may at any time discuss a mediation or related matter with (1) a party or their attorney, or (2) a third party, provided the judicial mediator does not disclose the identity of any party.

2. The judicial mediator may electronically record those portions of a mediation in which any agreement of the parties is recited, but shall seal, exclusively retain and may destroy them. No statements made by, to, or in the presence of a judicial mediator by any person for purposes of mediation shall be admissible in the subject case or any litigation between the parties or involving their minor children; except that electronic recordings of statements of a party, attorney, or mediator shall be admissible for the purpose of determining whether or not a provisional order entered by a mediating judge accurately reflects the scope and terms of an agreement pursuant to judicial mediation. Provisional orders shall also be admissible for purpose of such determination.

3. A judicial mediator may not be called as a witness in any proceeding with respect to a judicially mediated case except for authentication of his or her signature on a provisional order or of an electronic recording .

B. Conduct of Judicial Mediation

1. The judicial mediator may appoint a guardian ad litem or child representative for a minor upon finding that he or she will otherwise be without sufficient information to determine whether to approve an agreement. The judicial mediator shall notify the trial judge of such appointment. Such guardian ad litem or representative shall serve until discharge by the trial judge who shall determine their fees and the allocation of the parties' responsibility for payment of it.

2. Judicial mediation shall be conducted with the parties. Counsel shall not be present unless otherwise directed. The parties may consult with counsel and their minor children prior to entering into any agreement. Any such consultation should, whenever practicable, occur prior to the conclusion of the mediation session.

3. Minor children of the parties may be interviewed or consulted by the judicial mediator during the course of mediation. Statements made by such minors need not be disclosed to the parties nor be admissible in any litigation involving such minor.

4. If at any time the judicial mediator determines that an impediment exists and terminates mediation, proceedings in the trial court shall resume without mediation.

C. Conclusion of Judicial Mediation

1. Immediately upon conclusion of judicial mediation where no agreement has been reached or the judicial mediator has disapproved all elements of any agreement, he or she shall notify the court that the matter has concluded unsuccessfully.

2. In cases in which agreement has been reached on at least one mediated issue and the judicial mediator has found that the agreement could reasonably be in the best interest of the child(ren) as to qualifying issues and not unconscionable as to other issues, the judicial mediator shall enter and file with the Circuit Clerk a provisional order. Any provisional order containing agreed terms on issues not required by this rule to be mediated shall also state whether, and to what extent, agreement upon such required issues is severable for purposes of trial court approval.

3. By agreement of the parties, the judicial mediator may place any of the agreed provisions of a provisional order in immediate effect on a temporary basis pending the trial judge's further determination.

4. While a provisional order shall not be effective until co-entry as provided below, the terms and conditions contained in said order shall be irrevocable by the parties pending action by the trial judge. The judicial mediator may, in his or her discretion, vacate a provisional order or any portion thereof and resume mediation for such period as said mediator determines, upon the basis of motion and affidavit filed by a mediating party prior to consideration of the provisional order by the trial judge.

D. Post-Mediation Procedures

1. At the post-mediation case management conference, any provisional order or mediation results shall be presented to the trial judge. Upon presentment of a provisional order, if the trial judge finds that its terms on required issues are in the best interest of the minor(s) involved, that agreement on all non-required issues is not unconscionable and that it is otherwise in compliance with applicable law, the judge shall co-enter such order thereby making it immediately effective. To the extent that the parties have agreed to the severability of agreed issues, the trial judge may consider such agreements separately. As to all agreed issues on which the trial judge is unable to make findings required for co-entry, the judge shall vacate the provisional order and set the matter for further proceedings.

2. In cases where no agreement has been reached, the trial judge shall conclude the full, post-mediation conference and set the matter for further proceedings in accordance with the rules.

RULE NO. 22. ATTORNEY QUALIFICATIONS IN ALLOCATION OF PARENTAL RESPONSIBILITIES AND PARENTING TIME MATTERS

A. The Second Judicial Circuit shall maintain a list of approved attorneys qualified to be appointed in allocation of parental responsibilities and parenting time 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 hours of continuing legal education credit within the two years prior to the date the attorney qualifies to be appointed.

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

If an approved education program is not reasonably available to an attorney prior to the request for approval, the Chief Judge may, in his discretion, provisionally approve an attorney based on the attorney's education and previous experience. If provisionally approved, an attorney shall complete the required education at the earliest opportunity and submit verification of the completion of same. Upon failure to complete the education program, the Chief Judge may remove any provisionally approved attorney from the approved list.

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 Second 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.

RULE NO. 23. CIVIL MEDIATION PROGRAM

Mediation under this Rule involves a confidential process whereby a neutral mediator, selected by the parties or appointed by the court, assists the litigants in reaching a mutually acceptable settlement agreement. It is an informal and nonadversarial process. The mediator does not decide the issues or bind the parties to a decision after a contested hearing. The role of the mediator includes assisting the parties in identifying the issues, fostering joint problem solving, exploring settlement representatives are required to mediate in good faith.

A. ACTIONS ELIGIBLE FOR MEDIATION.

Court ordered mediation shall be available at the discretion of the judge presiding over the case, in Law, LM, Probate, Chancery, Miscellaneous Remedy, Tax and Eminent Domain Cases.

B. MEDIATION PROCEDURE.

1. ASSIGNMENT FOR MEDIATION. At any time while an eligible case is pending, by agreement of the parties or upon the Court's own motion, the judge presiding over the case may assign the case to Court-ordered mediation. Upon assignment for mediation all further action in the case shall be stayed until mediation is comnplete.

2. CHOICE OF MEDIATOR. Upon assignment of a case for mediation, the parties shall choose a mediator within seven (7) days. In the event that the parties are unable to agree upon a mediator within said time period, within seven (7) days thereafter, each party shall submit a list of three (3) proposed mediators to the judge presiding who shall assign a mediator from the lists submitted. The proposed mediator shall be either a certified mediator in the Second Judicial Circuit or a qualified individual as determined by the judge presiding over the case or by the Chief Judge of the Second Judcial Circuit.

3. TIME FOR MEDIATION. Mediation shall be completed within 60 days of assignment, except for good cause shown. In the event that mediation is not complete within said 60 days, either party may petition the court for additional time.

4. LOCATION OF MEDIATION CONFERENCES. Unless otherwise ordered by the Court, the mediator shall determine the location of all mediation.

5. ATTENDANCE AT MEDIATION CONFERENCES. All parties, attorneys, representatives with settlement authority, and other individuals necessary to facilitate settlement of the dispute shall be present at each mediation conference, unless excused by Court Order. The mediator shall have full authority to require the attendance of any additional individuals deemed reasonable and necessary by the mediator in order to proceed with a meaningful mediation conference.

6. NUMBER OF MEDIATION CONFERENCES. The parties shall be required to attend as many mediation conferences as the mediator deems reasonable and necessary to complete the mediation process.

7. CONFIDENTIALITY. Mediation conferences held pursuant to these rules shall be confidential and shall not be open to the public. Court reporters shall not be permitted except by leave of Court.

8. DISCOVERY.

   a. Discovery shall proceed as in all other civil actions.

   b. Whenever possible, the parties are encouraged to limit discovery to the development of the information necessary to facilitate a meaningful mediation process.

   c. All oral or written communications made throughout the mediation process shall be confidential, exempt from discovery, and inadmissible as evidence in the underlying cause of action unless all parties agree otherwise in writing. Evidence with respect to settlement agreements shall be admissible in proceedings to enforce the settlement. Subject to the foregoing, the mediator may not disclose any information obtained during the mediation process.

9. COMPLETION OF MEDIATION.

   a. The mediator may terminate mediation at any time when, in the mediator's opinion, no purpose would be served by continuing mediation. Likewise, the mediator may require additional mediation conferences when, in the opinion of the mediator, such additional conferences have a reasonable chance of resulting in a full or partial settlement of the case.

   b. The mediator shall report to the Court in writing whether or not an agreement was reached by the parties. The report shall designate, "full agreement," "partial agreement," or "no agreement." The report shall be signed by the mediator and filed in the court file of the case under mediation within 14 days after the last day of mediation. A copy of said report shall be

served by the mediator upon all parties.

c. If an agreement is reached, it shall be reduced to writing and signed by the parties or their agents before termination of mediation. Each party shall receive a copy of such agreement.

d. If a full agreement is reached, the report of the mediator shall so state and shall identify those individuals designated to complete and submit all documents necessary to the conclusion of the agreement.

e. If a partial agreement is reached, the report of the mediator shall state which claims have been resolved and which claims have not been resolved. The report shall also identify those individuals designated to complete and submit all documents necessary to the conclusion of those claims resolved by agreement.

f. If no agreement is reached, the mediator shall so report without comment or recommendations.

10. SANCTIONS. The Court may impose sanctions upon any party or attorney for failing to comply with these rules, or for failing to participate in mediation in good faith, including but not limited to mediation costs and reasonable attorney fees related to the mediation process.

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

C. CERTIFIED MEDIATORS.

1. QUALIFICATIONS. In order to become a certified mediator in the Second Judicial Circuit in civil cases, an individual must meet the following qualifications:

a. Be a retired Illinois Judge; or

b. Be an attorney meeting the following qualifications:

i. Be in good standing with the Illinois Attorney Registration and Disciplinary Commission with at least 10 years of civil trial practice in Illinois or 10 years experience as a law professor, and

ii. Complete a mediation training program approved by the Chief Judge of the Second Judicial Circuit, and

iii. File an approved application with the office of the Chief Judge of the Second Judicial Circuit. The applicant shall certify that he or she is licensed to practice law in the State of Illinois, that his or her license is in good standing, that he or she has engaged in civil litigation for not less than 10 years or that he or she has 10 years of experience as a law professor.

c. The fees of a court-appointed mediator shall be subject to appropriate order or judgement for enforcement.

D. REPORTS AND RECORD-KEEPING.

The Clerk of the Circuit Court of each county shall maintain a record of cases referred for mediation. Such record shall include the number of cases referred in each category, and whether such mediation resulted in full agreements, partial agreements, or no agreements. Each clerk shall report such information to the Office of the Chief Judge. The Chief Judge shall report such information to the Supreme Court at such times and in such manner as shall be required.