

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE
TWENTY-FIRST JUDICIAL CIRCUIT

UNIFORM RULES OF PRACTICE

TWENTY-FIRST JUDICIAL CIRCUIT

COUNTIES OF IROQUOIS AND KANKAKEE

The following rules are adopted as rules of practice of the Circuit Court,

21st Judicial Circuit, State of Illinois.

Updated January 27, 2015

**STATE OF ILLINOIS
CIRCUIT COURT OF THE TWENTY-FIRST CIRCUIT**

**UNIFORM RULES OF PRACTICE
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NO.

2013-14

PART 1. ORGANIZATION

Rule 1.1 RULES OF COURT

(a) Power of Court to adopt rules. These rules are promulgated pursuant to Section 1-104 (b) of the Code of Civil Procedure authorizing the Circuit Court to make rules regulating their dockets, calendars and business and Supreme Court Rule 21(a) authorizing a majority of the circuit judges in each circuit to adopt rules governing civil and criminal cases consistent with rules and statutes.

(b) Existing rules repealed. These rules shall become effective on March 17, 1997. All prior rules of the Circuit Court of the 21st Judicial Circuit, State of Illinois are hereby repealed.

(c) Amendment of the rules. Any amendment of these rules shall be passed by a majority vote of all circuit judges of the Twenty-First Judicial Circuit with each voting judge being mailed a copy of the proposed amendment at least fourteen (14) days prior to the vote thereon.

(d) Transmittal of rules. Copy of rules to be transmitted to the Director, Administrative Office of the Illinois Courts. All rules of this Court and amendments thereto shall be filed with the Director of the Administrative Office of the Illinois Court, Springfield, Illinois, within fourteen (14) days after the adoption thereof pursuant to Supreme Court Rule 21 (c).

(e) Compliance. All personnel of the Circuit Court and persons coming before the Court shall comply with these rules and all administrative orders of the Chief Judge and Presiding Judge.

(f) Construction of these rules. In the construction of these rules, the law governing the construction of statutes 5 ILCS 70/1 through 70/7 shall apply.

[Adopted eff. March 17, 1997]

Rule1.2 CHIEF JUDGE

(a) Selection of the Chief Judge. Subject to the authority of the Illinois Constitution, a majority of the Circuit Judges of the Twenty-first Judicial Circuit shall select one of their number to serve as Chief Judge for a two-year term commencing the first Monday of December 2004, and every two years thereafter. No judge may serve as Chief Judge more than two consecutive two-year term. The election shall be held at the judges' meeting immediately preceding the end of each two-year term. The judges shall then vote by secret ballot. A majority vote of the circuit judges is required for election, and the Chief Judge of the circuit shall provide said ballot. The ballot shall

contain the names of all the circuit judges, arranged alphabetically. An election committee, appointed by the Chief Judge or acting Chief Judge, shall canvas and announce the votes cast on each ballot. In the event one judge does not receive the majority of the votes a runoff election shall be held between those judges who received the highest number of votes. All elections for Chief Judge shall be by secret ballot.

(b) Acting Chief Judge. The Chief Judge shall designate one of the circuit judges to serve as Acting Chief Judge in his absence or when the Chief Judge is unable to serve. The designation shall be in writing and shall be made within thirty (30) days after assuming office of Chief Judge. The Acting Chief Judge shall have the same powers and duties as the Chief Judge and shall serve at the pleasure of the Chief Judge.

(c) Vacancy of the Position of Chief Judge. If at any time the Office of the Chief Judge should become vacant from any cause not otherwise provided for in this Rule, the Circuit Judge having the greatest seniority as a Circuit Judge or any two Circuit Judges shall call a meeting of the judges for the purpose of filling the vacancy. The election shall be within three (3) weeks of the vacancy and at least seven (7) days notice shall be given to all Circuit Judges. At such meeting a new Chief Judge shall be elected to take office immediately and shall serve for the balance of the term of the former Chief Judge.

(d) When vacancy occurs. A vacancy in the office of Chief Judge shall be deemed to have occurred when the Chief Judge has been unable or unwilling to serve for a period of three (3) consecutive months. 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.

(e) Chief Judges powers and duties. The Chief Judge is responsible for the administration of all Courts in the circuit and shall direct the operations of the Circuit Court. A Chief Judge has general administrative authority over the Circuit Court, including the authority to provide for division, general or specialized, for functional units and for designating appropriate times and places of holding Court. The Chief Judge is subject to, and responsible for, the implementation and enforcement of the rules, orders, policies and directives of the Supreme Court, the Chief Justice, and The Director of the Administrative Office of the Illinois Courts.

(f) Removal of Chief Judge. 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 (5) days before the fixed time 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 select one of the Circuit Judges to serve as new Chief Judge to take office at once.

(g) Resignation of Chief Judge. 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 select one of the Circuit Judges to serve as new Chief Judge. The new Chief Judge shall take office immediately and serve the balance of the term of the resigning Chief Judge. The completion of a partial term of less than twelve (12) months as Chief Judge shall not be construed as a term for purposes of any term limit a Chief Judge may serve.

[Adopted eff. March 17, 1997; amended Dec. 5, 2003]

Rule 1.3 PRESIDING JUDGE

(a) Designation of Presiding Judge. The Chief Judge shall, by written administrative order, appoint one circuit judge within each county of the circuit as Presiding Judge of that county. The Presiding Judge shall sit at the pleasure of the Chief Judge and nothing in these rules shall prevent the Chief Judge from serving as Presiding Judge of the county in which he sits. Whenever the term “Presiding Judge” is used in these rules, it refers to the Presiding Judge of a county, appointed by the Chief Judge.

(b) Duties of the Presiding Judge. The Presiding Judge or his designate shall call and impanel Grand and Petit Juries, submit budgets, administer the Judicial Department of the county in which he is presiding and perform such other duties as may be required for the proper administration of justice. He may promulgate Administrative Orders within his county not inconsistent with these rules or the Administrative Orders of the Chief Judge. All Administrative Orders issued by the Presiding Judge shall be tendered to the Chief Judge seven (7) days prior to their effective date during which time the Chief Judge may approve, or withhold approval, of the proposed Administrative Order. Failure of the Chief Judge to act shall constitute approval of the proposed Administrative Order.

[Adopted eff. March 17, 1997]

Rule 1.4 JUDICIAL ASSIGNMENTS

(a) Assignments by the Chief Judge. The Chief Judge shall assign circuit judges and associate judges to the various counties within the circuit and may further assign all judges on a case-by-case basis.

(b) Assignments by the Presiding Judge. The Presiding Judge within each county shall assign judicial duties to the circuit and associate judges regularly assigned to that county by the Chief Judge.

[Adopted eff. March 17, 1997]

Rule 1.5 COURT PERSONNEL

(a) Court complement. A full court complement consists of the judge, courtroom clerk, and sheriff or bailiff when court is in session.

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

(c) Sheriff-Bailiff. The sheriff or bailiff shall open and close court, preserve order in the courtroom, attend upon the jury when placed in his custody, and perform such other duties as may be directed by the Court.

[Adopted eff. March 17, 1997]

Rule 1.6 JUDICIAL MEETINGS

(a) Quarterly meetings. The circuit judges shall meet at least quarterly each year to discuss and take such action as may be required in connection with the business of the Court. Such meeting may include the associate judges and circuit clerks of the Twenty-First Judicial Circuit. The associate judges of the circuit shall meet as a group, and with the circuit judges at least once annually. Such quarterly meetings of the circuit judges shall be on the first Friday of February, May, August, and November of each year, or such other days as determined by the Chief Judge. The Chief Judge shall give, in writing, at least fourteen (14) days notice of the time and location of such quarterly meetings.

(b) Special meetings. Special meetings may be called at any time by the Chief Judge or by a majority of the circuit judges within the circuit upon seven (7) days notice to all circuit judges.

[Adopted eff. March 17, 1997]

Rule 1.7 JUDICIAL REPORTS

Reports. In addition to other reports that may be required by the Supreme Court, Administrative Office of the Illinois Courts, Chief Judge and Presiding Judge, the following reports shall be submitted:

(a) Clerk's Monthly Case Activity Report. By the Clerk of the Court to the Chief Judge, Presiding Judge and Administrative Office of the Illinois Courts by the 8th day of the following month.

(b) Clerk's Annual Report of Pending Cases. By the Clerk of the Court, annually, for the

period ending December 31, to the Presiding Judge, Chief Judge and Administrative Office of the Illinois Courts.

[Adopted eff. March 17, 1997]

Rule 1.8 DOCUMENTS AND COURT FILES

(a) Removal of files from Courthouse. Original files, documents or exhibits shall not be removed from the courthouse except by leave of Court or the Clerk of the Court. A receipt shall be filed with the Clerk by the party removing the files, documents or exhibits. Such files, documents or exhibits shall not be retained by the party removing same for more than two (2) working days without further leave of Court or the Clerk of the Court. If an individual is directed to deliver a file to another Court, that individual shall surrender the file to the Clerk of that Court and obtain a signed receipt for the file. Surrender of the file to the receiving Clerk of Court shall relieve the individual of further responsibility.

(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 or by Court order entered of record.

[Adopted eff. March 17, 1997]

Rule 1.9 INSPECTION AND CERTIFICATION OF COURT FACILITIES

(a) Times and places of holding court. The Chief Circuit Judge shall designate, as provided in Article VI, Section 8(c) of the Constitution of 1970, the times and places of holding court in each county of the Circuit.

(b) Committee on court facilities. There shall be in the Twenty-First Judicial Circuit a committee on court facilities. The Chief Judge shall appoint, from the circuit and associate judges of the circuit those who shall serve on the committee, and shall designate one of its members as chairman. The Bar President of each county in the Circuit or his designee shall serve in an ex officio capacity. 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, and offices of the Clerk of the Court within any county of the Circuit.

(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 either: (1) correct the condition of the facility in question pursuant to the committee's report and recommendations, or (2) bind 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.

[Adopted eff. March 17, 1997]

Rule 1.10 COURTROOM DECORUM

(a) Judicial responsibility. It shall be the responsibility of each judge sitting within the Twenty-First Judicial Circuit to enforce proper courtroom decorum, including appropriate dress, of all court staff, attorneys, parties, witnesses, jurors, and other persons within the courtroom in which he or she is presiding.

(b) Enforcement. Violation of subsection (a) of this Rule shall immediately be brought to the attention of the particular individual involved and, if not corrected, the Court shall take appropriate action.

[Adopted eff. March 17, 1997]

Rule 1.11 COURT APPEARANCE

(a) Court hours. Unless otherwise directed by the Chief Judge or Presiding Judge, courthouse hours shall be from 8:30 a.m. to 12:00 p.m., and from 1:30 p.m. to 4:30 p.m., Monday through Friday of each week inclusively except when court is closed in observance of a legal holiday pursuant to an order of the Chief Judge. Dates upon which court will be closed shall be posted in the courthouse of the individual counties within the Twenty-First Judicial Circuit. A trial judge is authorized to increase these hours when required to conduct court business.

(b) Prompt attendance required. Judges shall begin court promptly at the designated time. All attorneys and parties shall appear promptly before the Court. In the event that a party or attorney fails to appear promptly, the Court may impose such sanction or take such remedial action as it deems appropriate. In the event that the failure of a party or attorney to appear promptly without reasonable cause renders it impossible to proceed, the Court may order the party or attorney failing to appear promptly to pay the reasonable costs and expenses, including attorney's fees, to the opposing party or attorney.

[Adopted eff. March 17, 1997]

Rule 1.12 JURORS, TERMS OF SERVICE, SUMMONS AND EXCUSE

(a) Grand Jurors. Grand Jurors may be called by the Presiding Judge or Jury Commission, as the case may be, for a specified period not to exceed eighteen (18) months. After being impaneled, instructed, and sworn, the Grand Jury shall sit from time to time until permanently discharged by the Court.

(b) Petit Jurors. Petit Jurors shall be called by the Presiding Judge or his designate, as the case may be, for a period of time to be designated by the Presiding Judge. The Presiding Judge or his designate, as the case may be, shall certify to the Clerk of the Court the number of petit jurors required, together with the date, time and place of reporting and period of service.

(c) Jury summons. The Circuit Clerk shall issue and cause to be served a jury summons on all grand jurors and petit jurors at least fifteen (15) days prior to the first day of service. Jury summons may be served by U. S. Mail, postage prepaid, to the address as listed in the records of the Jury Commission.

(d) Jury excuses. The Presiding Judge, his designate, or Jury Commission, as the case may be, is authorized to excuse summoned jurors upon reasonable cause or to continue their service, and regulate their assignments to the various courtrooms within the county.

(e) Rules applicable. All activities involving drawing, summoning, impaneling both grand and petit jurors shall be conducted as set forth in the appropriate sections of 705 ILCS 305 (Jury Act) and 705 ILCS 310 (Jury Commission Act). Specific activities and areas requiring further clarification within Kankakee County are set forth herein, otherwise both counties are bound by appropriate provisions of the Acts.

1) Initial questionnaires shall be sent monthly to a number of prospective jurors as set by the Chief Judge and/or the Jury Commissioners as drawn from the annually prepared jury list. Responses shall be reviewed periodically by the Jury Commissioners and the questionnaires of those not disqualified for reasons as set forth in 705 ILCS 305/10.2 shall be tendered to the Jury Commission Secretary for preparation of cards. The Commission shall have the discretion to admonish prospective jurors who do not return the initial questionnaires that failure to comply may result in the matter being referred to the Chief Judge or any Circuit Judge designated by him for further proceedings.

2) The cards prepared by the Secretary shall be set aside to be added to the drum in chronological order and the numbers determined by the Chief Judge and/or the Jury Commission.

3) The Secretary shall prepare an alphabetical roster corresponding to the cards drawn corresponding to a designated period of jury service, said roster to include jurors previously summoned and excused with the provision that they appear at a specific future period. The Secretary shall annotate the list with comments relative to jurors seeking to be excused upon

summons for the first time, only on the condition that they agree to specific alternate date for service and jurors previously excused who for any reason again seek to be excused. The list shall be presented to the Chief Judge or a Circuit Judge designated by him for review, approval and exercise of the discretion provided for in 705 ILCS 310/10 on the Friday preceding the Monday the jurors are to report for service. Any juror who fails to appear in obedience to summons without having previously been excused in the manner stated above may be dealt with in the manner prescribed by law.

[Adopted eff. March 17, 1997; revised May 4, 1998]

Rule 1.13 DECISIONS WITHIN SIXTY (60) DAYS

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

For the purposes of Rule 1.13, a matter is taken under advisement:

- (a) If the issue to be decided is a factual issue, at such time as the proofs have been closed;
- (b) If the issue to be decided is a legal issue, at such time as the Court has received briefs as may have been ordered by the court and heard arguments as may have been ordered;
- (c) If the issues are both factual and legal, it shall be considered as if the case involved legal issues only, after the proofs have been closed.

When the Court takes any matter in a case under advisement, that fact shall be reflected in a docket entry. When the court subsequently decides that matter in a case, that fact shall be reflected in a docket entry,

When the matter taken under advisement is continued for decision either generally or for more than 21 days, it shall be the responsibility of the Court to report this to the Chief Judge by ordering that the Clerk of the Court prepare and deliver a copy of that docket entry to the Chief Judge.

When the Court decides a matter in a case which has previously been reported to the Chief Judge, then it shall be the responsibility of the court to order that the Clerk of the Court prepare and deliver a copy of that docket entry to the Chief Judge.

It shall be the responsibility of the Chief Judge to maintain records reflecting cases that have been taken under advisement, and to require an explanation from a judge whenever a matter remains under advisement for longer than 60 days.

[Adopted eff. Feb 1, 2004; amended March 11, 2005]

PART 2. CLASSIFICATION, FILING AND ASSIGNMENT OF SMALL CLAIMS, LAW MAGISTRATE AND LAW CASES

Rule 2.1 CLASSIFICATION AND FILING OF CASES

(a) Small Claims. Cases in which damages sought are \$10,000 or less shall be filed with the Small Claims Division of the Clerk of the Circuit Court's office.

(b) Law Magistrate. Cases in which damages sought are greater than \$10,000 up to \$50,000 exclusive of interest and costs shall be filed with the Small Claims Division as well. LM cases are also subject to Rule 222 provisions with emphasis on inclusion of damages affidavit and disclosure procedures. Summons used in conjunction with all LM cases shall be specific date summons.

(c) Law. Cases in which damages exceed \$50,000 exclusive of interest and costs shall be filed with the Clerk of the Circuit Court. The initial pleadings shall have an appropriate damages affidavit attached.

[Adopted eff. March 17, 1997; Amended September 16, 2008]

Rule 2.2 ASSIGNMENT OF CASES.

(a) Small Claims and Law. Cases shall be assigned by the Clerk's Office in accordance with the current case assignment summary as entered by the Chief Judge.

(b) Law Magistrate. Cases shall be assigned to the judge designated on the current case assignment summary. All matters wherein either side files a jury demand will be referred to the civil jury call presiding judge for further proceedings. These procedures in no way obviate the requirement to file the money damages affidavit or disclosure as and when required by Rule 222.

[Adopted eff. March 17, 1997; Amended September 16, 2008]

PART 3. MOTIONS

Rule 3.1 MOTION PRACTICE

(a) Filing. Except for ex parte and emergency motions, all motions shall be filed with the Clerk of the Court at least three (3) days prior to their presentment to the Court. In any cause of action, the Court may designate a date by which all motions are to be filed. A motion may not be filed subsequent to that date except by leave of Court. The title of each motion shall indicate the relief sought and the statutory section, if any, under which the motion is presented (authority for relief sought.)

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

(c) Oral argument. The allowance of oral arguments upon motions shall be discretionary with the Court. In each case the assigned judge may fix a briefing schedule and decide a motion without hearing oral arguments.

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

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

(f) Time of notice. Unless otherwise ordered by the Court, notice by personal service shall be made not less than 72 hours prior to the hearing, and notice by U. S. Mail shall be mailed not less than seven (7) days prior to hearing. Proof of service or mailing shall be made of record. Notices served by facsimile transmission ("FAX") upon attorneys consenting to service by FAX in accordance with Supreme Court Rule 11 shall be transmitted on or before the fifth court day preceding the hearing of the motion.

(g) Summary judgment. Unless by leave of Court for good cause shown, a motion for summary judgment shall not be heard until fourteen (14) days after the last date for filing a responsive pleading.

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

presentment to the Court.

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

If a motion is heard without prior notice under this rule, and the motion is allowed written notice of the hearing and the order entered shall be served personally or by U.S. mail upon all parties not theretofore found by the Court to be in default for failure to plead, and proof of service thereof shall be filed with the Clerk of the Court within three (3) days of the hearing thereon.

(i) Motion to continue.

1. **Policy.** It is the policy of the Court that court events occur when they are scheduled. Continuances are to be allowed only in extraordinary cases where justice would otherwise be denied. No party should presume a case will be continued even though all parties are in agreement. These rules apply to all civil and criminal cases.

If a motion to continue is contested, the burden is on the movant to obtain a hearing date on the motion before the date of the trial or hearing sought to be continued, if possible.

If the motion is uncontested, the motion and proposed order shall recite the agreement of all parties to allow the continuance, but the agreement of the parties to a continuance is not binding on the Court. In any civil case, uncontested motions to continue shall signed by the parties themselves.

2. **Compliance.** All motions for continuance shall fully comply with Supreme Court Rule 231, section 2-1007 of the Code of Civil Procedure, and section 114-4 of the Code of Criminal Procedure of 1963, as applicable.

3. Continuances may be granted only by the Court

4. There shall be no telephone continuances. Cases will not be continued by the Clerk.

5. **Attorney Engaged.** A party may be entitled to a continuance on the ground that his attorney is actually engaged in another trial or hearing. Any motion for continuance shall be in writing and supported by affidavit setting forth the name and case number of the other case, place of trial or hearing, the date the other matter was set for trial or hearing, name of judge and anticipated length of trial or hearing, together with the number of and reasons for any prior continuances in the case sought to be continued. No trial will be continued a second time upon the motion of the same party on the ground of the prior engagement of his attorney.

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

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

(k) Failure to call motions for hearing. The burden of obtaining an allotment for hearing or briefing schedule in a civil case is on the party making the motion. If an allotment for hearing is not obtained by the moving parties within one hundred twenty (120) days from the date it is filed, the court may deem the motion withdrawn and deny the relief requested with, or without, leave to refile.

(l) Dispositive Pre-trial Motions. Unless for good reason and by leave of Court, no dispositive motion may be filed or set for hearing within 60 days of a scheduled trial date.

[Adopted eff. March 17, 1997; revised Feb. 3, 1998; revised Oct. 1, 1998, eff. Immediately; revised June 25, 2004]

PART 4. PROCEEDINGS BEFORE TRIAL

Rule 4.1 PLEADINGS TO BE READILY COMPREHENSIBLE

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

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

[Adopted eff. March 17, 1997]

Rule 4.2 WRITTEN INTERROGATORIES

(a) Standard Form and Procedure. The party serving written interrogatories shall serve one copy to each party required to answer the interrogatories and all other parties entitled to notice. Amended Supreme Court Rule 213 effective January 1, 1996 shall govern all other issues relative

to written interrogatories.

(b) Limitation on Interrogatories. No party shall serve on any other party more than 30 written interrogatories in the aggregate, including subsection, without leave of court upon a showing of good cause or agreement of the parties other than forms approved by the Illinois Supreme Court. The identity of opinion witnesses, some of whom were formerly disclosed under Rule 220, now repealed, may now be obtained through 213 interrogatories. Of major importance is the requirement by the requested party to seasonably supplement or amend any prior answer or response wherever new or additional information subsequently becomes known to that party without tender of supplemental interrogatories by the requesting party.

[Adopted eff. March 17, 1997]

Rule 4.3 DISCOVERY DOCUMENTS

(a) Restrictive Filing. Except as provided by Supreme Court Rule or leave to court, depositions, interrogatories, requests, answers or responses thereto and other discovery documents shall not be filed with the Clerk of the Court except for copies of discovery requests to any nonparty as required by Supreme Court Rule 201 et seq.

(b) Proof of Serving and Answering Discovery Documents. Discovery documents may be served and answered personally or by U.S. Mail. Proof of serving or answering discovery documents shall be filed with the Clerk of the Court and shall contain the case title and number, date mailed or personally served, the sending and receiving parties and adequately identify the particular discovery documents being served or answered. The proof of service, upon being filed with the Clerk of the Court, shall be prima facie evidence that such document was served or answered.

[Adopted eff. March 17, 1997]

Rule 4.4 CASE MANAGEMENT AND SETTLEMENT

(a) Case Management Conferences. Amended Supreme Court Rule 218 effective January 1, 1996 requires case management conferences to be held within 35 days after the parties are at issue and in no event more than 182 days following the filing of a complaint. Conferences for cases filed after January 1, 1996 shall be set at the time the complaint is filed. Conferences for cases set prior to January 1, 1996 shall be set upon the Court's motion or the parties as appropriate. No law case not now set for trial and not excepted from the this requirement will be set for trial until the requisite Case Management Conference is held. The Illinois Supreme Court has approved our Administrative Order 96-5 effective April 2, 1996 which mandates Rule 218 procedures for Law cases only. In all other civil cases, Rule 218, may be invoked at the discretion of the presiding judge. Copies of the Rule 218 Case Management Order Forms are available at the office of the Clerk of the Circuit Court.

(b) Settlement Prior to Trial. In the event of settlement prior to a scheduled pretrial settlement conference or prior to trial, the attorneys shall forthwith notify the judge that the cause has been settled. While settlement conferences are not mandated for cases other than those as set forth under Family Law guidelines, they are strongly encouraged.

[Adopted eff. March 17, 1997]

Rule 4.5 EXHIBITS

(a) Pretrial Marking of Exhibits. At the pretrial conference, case management conference or at any other time as may be designated by the court, the court may direct that the parties identify all of the exhibits they expect to offer into evidence. Each of the exhibits shall upon presentation be marked for identification by the attorneys as the court may direct to include party, number, date and case number. The parties shall then stipulate as to the exhibits to which there are no objections, and such exhibits shall be admitted into evidence without necessity of further foundation. Any exhibit identified before or during the course of a trial shall thereafter be kept in the custody of the attorneys unless otherwise directed by the court. All parties to Law cases, both jury and non-jury, may receive Case Management Orders from the court approximately 30 days before scheduled trial dealing with exhibits and other routine pre-trial housekeeping items. Compliance with same is mandatory.

(b) Custody of exhibits. In civil cases, the circuit clerk's office shall take custody of those exhibits admitted in evidence and those not admitted but offered for the record unless otherwise ordered by the Court. All exhibits in civil cases in which the circuit clerk's office exhibit file indicates no activity for two years shall be destroyed without notice to the parties.

[Adopted eff. March 17, 1997; revised eff. Feb 3, 1998, revised Sept. 16, 2008]

Rule 4.6 DISMISSAL FOR WANT OF PROSECUTION

(a) Procedure. In all cases where no appeal is pending and there has been no action of record for a minimum of nine (9) months, the court may, upon fourteen (14) days notice to the attorneys, or parties, if a pro se proceeding, notice the matter up for status on its own motion and if appropriate summarily dismiss the cause of action and it shall not be redocketed without leave of court for good cause shown.

[Adopted eff. March 17, 1997]

PART 5. TRIALS

Rule 5.1 JURY TRIALS

(a) Voir Dire Examination of Prospective Jurors. In the event the court does not permit direct examination of prospective jurors by counsel pursuant to Supreme Court Rule 234, counsel may submit written questions to the court for its consideration for use in voir dire examination. If the court allows counsel to supplement its voir dire examination, counsel may submit a question or questions to the court and request the court, at its discretion, to ask such question of the prospective jurors during the court's examination. Counsel shall not repeat questions previously asked by the court.

[Adopted eff. March 17, 1997]

PART 6. DRAFT ORDERS AND POST-JUDGMENT NOTICES

Rule 6.1 WRITTEN DRAFT ORDERS

When the court enters a final judgment in any cause of action it may direct that a written order be submitted, and counsel shall submit said order to the court within thirty (30) days. Unless excused by the court, all orders shall be tendered to opposing counsel or a pro se party for approval as to form before being signed by the court. In the event of a dispute as to form, the court shall decide the controversy after hearing from all parties. Insofar as practicable, orders entered instantaneously by the Court shall be reduced to writing by the parties within twenty-four (24) hours and tendered to the Court for signature.

[Adopted eff. March 17, 1997]

Rule 6.2 POST-JUDGMENT NOTICES – when Warnings Required

Notices of hearing to discover assets, petitions for adjudication of contempt, and any other hearing where a warrant of arrest may issue for a party's failure to appear after receipt of notice shall, in addition to the time, date and place of hearing, include the following words in bold type or underlined: "Failure to appear at this hearing may result in the issuance of a warrant of arrest".

[Adopted eff. March 17, 1997]

PART 7. SMALL CLAIMS ACTIONS

Rule 7.1 PROCEDURE IN SMALL CLAIMS ACTIONS

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

(1) notify the Clerk of the Court, in writing, at least seven (7) days prior to the appearance date on the summons, stating that he wishes to contest the claim and set forth the title and number of

the case, his or her name, address, telephone number, and name and address of the plaintiff and his attorney, if any, or

(2) file a written motion or answer, or

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

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

(b) Setting of Trial Date. Upon being notified that the claim is contested, the court may:

(1) fix a trial date and cause all parties to be notified of the time, date and place of trial, or

(2) set the matter for docket call and pretrial conference before the trial date.

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

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

[Adopted eff. March 17, 1997]

PART 8. DOMESTIC RELATIONS

Rule 8.1 SPECIAL RULES PERTAINING TO MATRIMONIAL CASES (MANDATORY IN KANKAKEE COUNTY, MAY BE MODIFIED AS REQUIRED IN IROQUOIS COUNTY BY WRITTEN AMENDMENT AND APPROVED BY THE CHIEF JUDGE)

(a) Matrimonial Cases Defined. For purposes of these rules, matrimonial cases are defined as any proceeding for an order of judgment relating to Dissolution of Marriage, Legal Separation, Orders of Protection related to dissolution proceedings and Invalidation of Marriage, and include all ancillary proceedings of any kind.

(b) Filing and Setting Procedures. Filing and notice shall be in accordance with 735 and 750 ILCS et seq. Settings or status dates and all uncontested grounds or other short matters shall be placed on the call pursuant to any standing order set b the Judge assigned to that courtroom.

[Adopted eff. March 17, 1997]

Rule 8.2 ADMINISTRATIVE PROCEDURES

(a) All contested dissolution and post-dissolution cases shall be pre-tried without exception. Pre-trial hearings shall be conducted by the judge assigned to the file at such time as the judge's calendar shall permit. No less than 3 working days prior to the date of pre-trial, a Matrimonial Pre-trial Memorandum shall be filed, (Appendix C). At pre-trial each party shall submit the following:

1. List of exhibits
2. List of Witnesses
3. Written suggestion for resolution of contested matters

(b) No Case shall be pre-tried or tried without timely tender of the required forms and affidavits as appropriate to the proceedings. Failure to comply may subject a party to sanctions.

(c) Counsel or the parties as appropriate shall inform the Clerk of the Circuit Court when filing Petitions for Order of Protection when dissolution proceedings are in progress or vice-versa. In the event a dissolution petition has previously been filed, the Petition for Order of Protection will be made a part of the dissolution file. In the event the Petition for Order of Protection is filed prior to the Petition for Dissolution, the files shall be consolidated for all further proceedings.

(d) Uncontested grounds and all other matters uncontested may be noticed and heard without requisite forms and affidavits being presented. Said uncontested hearings shall be set pursuant to all standing orders set by the Judge assigned to that courtroom. If grounds only are heard, a status or pre-trial date will be set at that time. All subsequent hearings will be conducted in conformance with these guidelines.

(e) All matters alleging irreconcilable differences as grounds where the parties have lived separate and apart in excess of six months but less than two years shall require the filing of a stipulation and waiver form appended as Appendix A prior to commencement of hearing on grounds.

(f) Cases set for hearing on all uncontested matters shall proceed with grounds and no other matters until the Court has entered its finding on grounds.

(g) Court reporters shall be made available, *when requested; and if available* for all matrimonial proceedings. Said availability is a matter of courtesy and *not* a matter of right. Should the parties not be willing to proceed without the benefit of a court reporter, it is their responsibility to provide one should none be available to the Court. Unavailability of a court reporter where the

parties have not had sufficient time to obtain one and are unwilling to proceed without a reporter shall constitute grounds to continue the proceedings. A court reporter shall be required for all uncontested prove-ups where no agreed order carrying both attorneys' and/or parties' signature as appropriate is tendered to the court at the time of presentation of the uncontested prove-up.

(h) *All* matters involving resolution of temporary maintenance, child support and attorneys fees shall be decided upon tender of the parties' financial affidavits appended as Appendix B with addendum if appropriate. The parties shall prepare, exchange and file with the Clerk of the Circuit Court said affidavits not less than seven (7) days prior to hearing date set to adjudicate said matters. Unless extraordinary circumstances are presented to the Court by affidavit setting forth circumstances requiring an evidentiary hearing, all matters resolving temporary maintenance and/or child support shall be based solely upon the aforementioned affidavits and representations of counsel. Should the Court find subsequently that permanent maintenance and/or support are warranted in greater or lesser amounts than previously ordered, it may modify its order and may give the aggrieved party credit for any overpayment or underpayment in determining property division during dissolution proceedings.

(i) *All* subsequent proceedings involving financial matters, either pre-dissolution or post-dissolution, shall require submission of new financial affidavits or affidavits by both parties that the circumstances previously represented have not materially or substantially changed. In the event the proceedings has not previously required submission of an Affidavit such shall be submitted for the current proceeding. Where substantial differences exist between the parties as to the fair cash market value of any items of property or assets, independent appraisals or valuations may be required, with costs where appropriate to be apportioned as the court directs.

(j) In the event that custody or visitation are disputed issues, either temporary or permanent, the parties will inform the Court and each other at the time the petition or answer is filed, but in no instance less than seven (7) days before a hearing date is scheduled as to the issues. Depending upon the circumstances in each case, the Court may order mediation, a background investigation, appointment of a Guardian Ad Litem, a SCR 215 evaluation of the parties, or any combination thereof with costs chargeable to either or both of the parties where appropriate and may require that all or a reasonable portion of the costs be deposited with the Clerk of the Court.

(k) No post-dissolution proceedings regarding custody or visitation except by leave of Court will be set for hearing where a Joint Parenting Agreement entered into by the parties requires mediation of their differences and no mediation has occurred. Where the parties have agreed to mediate their differences as they relate to parenting, custody or visitation, or if the Court has so ordered, an affidavit from an agreed mediator or agency to the effect that the parties have made a good faith effort to mediate their differences and have failed to do so shall be filed and approved by the court before scheduling further proceedings. Representations by the parties or their counsel to that effect shall not satisfy this requirement. Failure to participate in such required mediation may subject a party to sanctions. Mediation shall occur without the presence of counsel and the provisions of 710 ILCS 20/6 shall be applicable to the mediation process and any

subsequent court hearings.

(l) Where the Court requires a written judgment order and none is tendered at the time of the final hearing, the Court shall designate the party to prepare the order at the final hearing or if the matter is taken under advisement, by the clerk's docket notification of the Court's findings to the parties. In all cases where such is required, a written judgment order shall be tendered to the Court bearing both attorneys' and/or parties' signatures, as appropriate within thirty (30) days of the final hearing or the date of docket entry. In the event the parties tender to the Court an agreed order as to all matters, grounds having been previously established, no evidence need be presented so long as the judgment order is signed by both attorneys and/or the parties as appropriate. Support orders shall be effective at time of pronouncement unless otherwise ordered by the Court.

(m) All post-dissolution proceedings filed more than 30 days after a judgment of dissolution is entered or any post-dissolution motions relating to the judgment order filed within 30 days of entry of a judgment order have been disposed of shall require notice to the party against whom the motion or petition is directed. No notice shall be required as to the party's former attorney based upon the aforementioned conditions.

(n) Where the cases are multiple set, trial docket shall be called promptly at the time designated by the presiding judge. The first listed case called for which the parties are present and ready shall be the first case tried. All other cases in which the parties announce that they have settled the case may be allowed to prove up their settlements before commencing the case to be tried. Once a trial has commenced, it shall continue until completed except that no case, shall be heard beyond six (6) hours (two afternoons) unless parties/counsel have previously scheduled time in excess thereof, and in that case, only to the limit of time previously scheduled. Where exceptional circumstances arise requiring a limited additional period to complete the hearing the Court may, at its discretion, schedule additional time. Any case not completed within the aforementioned time frame will be rescheduled on a subsequent docket date or to a specific first date set by the Court.

Cases not called on docket date shall be set approximately 30 days from that docket date. Cases not tried on first two docket dates shall be given first setting on third docket date. Cases docketed, ready for trial and not called may have subpoena authority, as appropriate, extended to next trial date. Cases called on such first case setting date shall only be continued for good cause shown. Agreement of the parties shall not be considered good cause. Failure to proceed to hearing may cause said case to be dismissed for want of prosecution if plaintiff is not ready for trial or for sanctions involving attorney's fees where defendant is not ready. In the event a continuance is allowed, said case shall receive a new first case setting date.

The Court shall be advised of all hearings requiring the presence of parties and/or witnesses whose presence cannot be quickly and conveniently arranged in order that first setting status may be granted on a date certain for trial.

No matrimonial case shall continue beyond its scheduled time frame so as to preempt any portion of a

morning call or any non-matrimonial case previously set for an afternoon hearing.

(o) See appendix for domestic relations forms referred to within this section.

[Adopted eff. March 17, 1997]

PART 9. DIVORCE MEDIATION PROGRAM RULES OF PROCEDURE

RULE 1 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.

[Adopted eff. Jan 1, 2007]

RULE 2. MEDIATION MANDATORY

- A. Matters Subject to Mediation. The designated judge shall order mediation (pursuant to the Court-Approved Order form) of any contested issue of parental responsibility, custody, visitation, removal or access to children arising in any action not otherwise determined to be ineligible pursuant to this program. The parties may not proceed to a judicial hearing on contested issues arising in that case without leave of court, or until the mediation process has been concluded and its outcome has been reported to the court.
- B. 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 923 (a)(3). 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 1 (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.

[Adopted eff. Jan 1, 2007]

RULE 3. REFERRAL ASSIGNMENT PROCEDURE

- A. 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 a party and/or by marital funds 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.
 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 7.
 4. The parties shall contact the mediator within two (2) 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 21st 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.

[Adopted eff. Jan 1, 2007]

RULE 4. 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 a minimum of three (3) hours of mediation, or in the discretion of the mediator as outlined in Rule 4 (A)(5)(b);
 - b. the mediator may suspend or terminate the mediation if an impediment exists, if either party is acting in bad faith or appears not to understand the negotiation, the prospects of achieving a responsible agreement appear unlikely, or if the needs and interests of the minor children are not being considered. In the event of a suspension or termination, the mediator may suggest a referral for outside professional services;
6. Explain that the mediation process is confidential as outlined in Rule 6;
7. Confirm the parties' understanding regarding the fee for services and any reduced fee arrangements for eligible parties with financial hardship; and
8. Reach an understanding with the parties as to whether the mediator may communicate with either party or their legal counsel or with other persons to discuss the issues in mediation in the absence of the parties. Any separate communication which does occur shall be disclosed to the parties at the first opportunity.

- 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.

[Adopted eff. Jan 1, 2007]

RULE 5. 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.

[Adopted eff. Jan 1, 2007]

RULE 6. CONFIDENTIALITY

- A. Privacy of Sessions: Mediation sessions shall be private. 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 in compliance with these rules. (See Appendix A.)

- C. 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.
- D. 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.

[Adopted eff. Jan 1, 2007]

RULE 7. 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 written accounting of the agreement by the mediator shall not be deemed to be the unauthorized practice of law. 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 administrative assistant for the Chief Judge.
 - 3. Reports to the Supreme Court: The administrative assistant to 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).

[Adopted eff. Jan 1, 2007]

RULE 8. 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.

C. [Adopted eff. Jan 1, 2007]

RULE 9. 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 Iroquois County bar, a member of the Kankakee County bar, a practicing attorney-mediator, a practicing mental health professional, 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. This committee shall meet and report no less than annually to the Chief Judge.
- 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 eff. Jan 1, 2007]

RULE 10. QUALIFICATION FOR MEDIATORS

- A. Requirements. Mediators shall meet all of the following requirements:
1. Complete specialized training in family mediation consisting of a Court approved course of study of certification, to consist of at least 40 hours which includes but is not limited to 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 and techniques; and
 - E. Recognition of impediments as defined by Rule 1(B).
 2. Complete additional training as required by the Court from time to time.
 3. Hold a graduate degree in a field that includes the study of law, 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 otherwise approved by the Chief Judge.

4. If engaged in a licensed discipline, maintain said license in full force and effect.
5. Agree to serve at the discretion of the Chief Judge.
6. Agree to mediate on a rotating basis no more than five (5) reduced fee or pro bono cases per year as identified by the Court.
7. Provide evidence of malpractice insurance in an amount set by the Chief Judge.

[Adopted eff. Jan 1, 2007]

RULE 11. LIST OF MEDIATORS

- A. Establishment of List. The Chief Judge shall establish a list of court approved mediators. All applicants for inclusion on the list shall possess the minimum qualifications set out in Rule 10. The Court, in its discretion, may require any biographical or other relevant information from an applicant in order to determine whether the applicant should be included on the list. For good cause shown the Court 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.
- B. Denial/Removal from List. An applicant denied inclusion on or removed from the court-approved list may appeal the decision in writing within ten days to the Chief Judge. The Chief Judge shall decide the appeal after an opportunity for the applicant or mediator to be heard.

[Adopted eff. Jan 1, 2007]

9.2 FORMS

Confidentiality Agreement (see next page)

Mediation Order (see page after Confidentiality Agreement)

Confidentiality Agreement

I agree not to call as a witness the mediator, or any employee or agent of the mediator, to testify, or subpoena any records of the mediator, in any matter related to the mediation. I agree not to testify in court regarding what went on in the mediation.

In general, the mediator will treat all information provided during mediation sessions as confidential. No information obtained during mediation will be given to any outside person or organization unless both of us agree, with the following exceptions:
The Court or statute requires otherwise; there are allegations of child abuse or child neglect; there are threats of harm or actual harm to another person; or there is a dispute about the mediator’s fee. Unless otherwise agreed, the mediator will be in contact with our attorneys. Except for the above, information gathered from individual sessions will not be shared by the mediator without agreement from me.

Signed

Date: _____

Signed

Date: _____

Mediator

Date: _____

IN THE CIRCUIT COURT OF THE TWENTY-FIRST JUDICIAL CIRCUIT
KANKAKEE COUNTY, ILLINOIS

IN RE THE MARRIAGE OF)
)
 PETITIONER)
 AND) CASE NO.
 RESPONDENT)

ORDER FOR MEDIATION

It appearing that certain disputes in regard to child custody or visitation have arisen between the parties, and in accordance with this Court's policy requiring mediation of such disputes, NOW THEREFORE,

IT IS HEREBY ORDERED:

1. That the parties select a mediator from the Court-approved list of mediators on file in the Circuit Clerk's office.
2. That the parties shall select a mediator from said list within 7 days from the date of this Order, or in the event that the attorneys and clients cannot agree on a mediator, the Judge hearing the case will select a mediator from the court-approved list.
3. The mediator will be paid as follows: _____

_____.

When the parties are referred to mediation, they shall be required to attend a minimum of three hours of mediation to be completed within 30 days.

4. That the parties shall complete the entire mediation process within 45 days from the date of this Order, except that an extension may be granted by the Court, upon a representation of the mediator that sufficient progress is being made in the mediation process and that additional time may be necessary to complete the mediation process, or upon application of either party if good cause is shown.
5. That neither attorney for either party will communicate with the mediator except as allowed by local rule.
6. That the parties shall cooperate and make themselves available in any reasonable manner deemed necessary for the purposes of this Order.
7. That no custody or visitation hearing shall be set until such time as the mediation process is completed pursuant to the Mediation Program Rules.
8. That the mediator shall only report to the Court that mediation has been completed or terminated as provided by local rule.

Dated: _____

Enter: _____

PART 10. PROBATE PROCEEDINGS

Rule 10.1 ADMISSION OF WILL TO PROBATE WHEN HOLOGRAPHIC OR IN LANGUAGE OTHER THAN ENGLISH

(a) Holographic Will. When a will is handwritten, the petitioner shall file a typewritten copy of the will along with the petition to probate 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 in English along with the petition to probate and a certification by a qualified translator that the translation of the will is true and correct.

[Adopted eff. March 17, 1997]

Rule 10.2 EXPENDITURES FROM WARD'S ESTATE

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

[Adopted eff. March 17, 1997]

Rule 10.3 WITHDRAWAL OF WARD'S MONEY

(a) Petition to Withdraw. A petition to withdraw funds deposited or invested, as provided in Section 24-21 of the Probate Act 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 shall 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 otherwise excused by the court, within 30 days after entry of the order for withdrawal, the petitioner shall file receipts for all sums expended. All unexpended funds shall be redeposited in accordance with section 24-21 of the Probate Act.

(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 Section 24-21 of the Probate Act. A receipt of the bank or other financial institution is a voucher for accounting purposes.

(c) When Value of Ward's Estate Less Than Small Estate. If the value of the ward's estate being administered is or becomes less than the small estate amount specified in Section 25-2 of the Probate Act and no part of the estate consists of real estate or a pending cause of action for person 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.

[Adopted eff. March 17, 1997]

Rule 10.4 DISMISSAL FOR WANT OF ACTION

Whenever the court determines that there has been no activity in an estate for a period of not less than 2 years (other than one for independent administration), the court may set the estate for status call and direct the Clerk to give notice of the time, date and place to the attorney of record, personal representative, or both, at their last known address. At the status call, if the court finds that the estate is dormant and cannot be conveniently terminated, it may dismiss the estate for want of action or direct a citation issue to the attorney of record, personal representative, or both, pursuant to these rules.

[Adopted eff. March 17, 1997]

Rule 10.5 PERIODIC ACCOUNTING

(a) When required – executor/administrator. Every executor and administrator shall present the account and evidence of disbursements required by Section 24-1 of the Probate Act:

(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 Section 24-11 of the Probate Act:

- (1) Within 30 days after the expiration of one year after the issuance of letters;
- (2) Annually after the date of the first account;
- (3) Within 30 days after the termination of his office; and
- (4) At such other times as the court may order.

(c) Requests for extension of time to file. Requests for an extension of time to a definite date or for an order allowing accounting in a particular estate less frequently than above provided shall be filed by verified petition of the personal representative specifying the reasons for the request.

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

- (1) In any case in which it appears from the record that an annual accounting is not necessary;
- (2) For any reason which is apparent from the record of the estate and which exists without fault of the petitioner;
- (3) For other good cause.

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

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

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

(d) Periodic Accounting Not Filed – Notice And Citation. In any case in which an account has not been filed within the time specified in paragraphs (a) and (b) above or on the date certain set by court order, the following procedure is prescribed:

- (1) The clerk shall mail to the attorneys of record in the estate a notice that the account is due.
- (2) If the account is not presented within 60 days after the date such notice was mailed, the clerk

shall issue a citation directing the personal representative to account as required or to appear on a date fixed by the Court to show cause why he should not do so, or be removed as personal representative.

(3) If the personal representative fails to account or to appear as directed, or if, having appeared, he fails or refuses to account as required or to show cause why he should not do so, his letters shall be revoked and he may be subject to contempt of court. Lack of sufficient time on the part of the personal representative or his attorney will not constitute good cause for failure to account as required by this rule.

(4) At the time of the issuance of a citation required by this rule, the Clerk shall mail notice of the pendency of the citation proceeding, and return date thereof, to all persons interested in the administration of the estate, including unpaid creditors.

(e) Notice of Accounting. Unless waived by the person entitled thereto, notice of the hearing on any account intended to be binding pursuant to Section 24-2 or Section 24-11(b) of the Probate Act, shall be given as follows:

(1) On an account of a guardian or guardian to collect: to the ward, to each claimant whose claim is filed and remains undetermined or unpaid, and to other persons entitled to notice. If a person entitled to notice other than the ward is represented by an attorney whose appearance is on file, notice as required for motions shall be sent to the attorney not less than fourteen (14) days before the date set for hearing.

(2) Notice to all other persons entitled to notice shall be as follows:

(i) Notice, accompanied by a copy of the account, shall be given in person or sent by mail to the last know address not less than 14 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 21 days prior to the hearing.

(ii) If the name or present post office address of the person is not known to the representative or his or her attorney, notice shall be given by one publication in a newspaper of general circulation in the county of the hearing not less than 21 days before the date of hearing, unless waived by the court.

(iii) The notice shall contain the time, date, place and nature of the hearing in substantially the following sentence: "If the account is approved by the judge upon hearing, in the absence of fraud, accident or mistake, the account as approved is binding upon all persons to whom this notice is given."

[Adopted eff. March 17, 1997]

Rule 10.6 INDEPENDENT ADMINISTRATION – STATUS REPORT

Whenever an order is entered granting independent administration in a decedent's estate pursuant to Section 5/28-2 of the Probate Act, a status date shall be set for a date certain 14 months after the entry of the order. Upon the failure of counsel for the independent representative to appear on that status date, the Court may revoke letters of office. In the event that a case is dismissed, the Clerk of the Court shall send notice as provided in Rule 3.7(b) of these rules.

[Adopted eff. March 17, 1997]

Rule 10.7 INACTIVE DOCKET – GUARDIANS OF PERSON

(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 and law, the proposed settlement is just and proper.

(b) Appointment for Guardian ad Litem. If no attorney is employed by the representative, the judge may, on his own motion, appoint a Guardian ad Litem to investigate the merits of the proposed settlement.

(c) Notice of hearing. At least fourteen (14) days notice of the hearing on the petition for the appointment and distribution of the proceeds of the settlement of an action for the death of a decedent shall be given to the surviving spouse and any next of kin who have not consented thereto in writing. The court shall appoint a Guardian ad Litem for any minor or disabled adult next of kin unless such appointment is not deemed necessary for the protection of such person or his estate.

If the decedent left no surviving spouse or next of kin entitled to recover, notice of the filing of a petition for settlement under the Wrongful Death Act and of the hearing thereon shall be given by the representative or his attorney to the persons named in paragraphs (a), (b), and (c) of Section 2 of that Act, including persons furnishing hospital, medical or funeral services for the decedent, unless 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 or disabled adult shall appear in open court.

(e) Court's Approval of Fee Required. If any attorney enters into a contingent fee contract with a representative for prosecuting a cause of action for person injuries (other than a claim under the Workmen's Compensation Act or the Workman'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 judgment or settlement, proceeds become distributable to a minor or disabled adult, the court hearing or settling the case shall determine the expenses, proper disbursements, and reasonable compensation to be paid for attorney services, and the judge may direct that the proceeds be deposited or invested in accordance with the provisions of Section 24-21 of the Probate Act without the appointment of a personal representative in a probate proceeding. If a personal representative is necessary to execute settlement papers, or if the court determines that a personal representative is necessary to administer the proceeds, then the proceeds shall be distributed only to a personal representative appointed in a probate proceedings.

[Adopted eff. March 17, 1997]

PART 11. CRIMINAL PROCEEDINGS

Rule 1.1 APPEARANCE OF DEFENDANTS BY CLOSED CIRCUIT TELEVISION

A. Pursuant to 725 ILCS 5/106D-1, the County of Kankakee has established a closed circuit television system for the appearance of defendants at certain criminal proceedings. Appropriate facilities have been established at the Kankakee County Jail for this purpose. The system has the following features:

1. The Defendant and the Judge can see and hear each other simultaneously.
2. The Defendant and the Judge each view a split screen television picture, consisting of four separate views by which each can see the other, each can see himself, those at the bench, and those in the courtroom. The attorneys in the case can see the same split screen. The voices of the Judge, the Defendant and the attorneys are broadcast over the courtroom public address system.
3. A separate phone line has been established for private communication between the Defendant and his attorney. The phone to be used by the attorney is located in a private area between the main criminal courtrooms (rooms 300 and 309).
4. In any first appearance conducted by closed circuit television, the Defendant is first provided with a copy of the charge(s) against him by jail personnel.

B. The following types of proceedings may be conducted by closed circuit television, without the

Defendant's personal appearance in Court:

1. First appearances – Felony, Misdemeanors, Traffic, or Violation of Probation
2. Bail hearings
3. Waiver of a preliminary hearing
4. Arraignment on an information or indictment at which a plea of not guilty will be entered
5. Presentation of a jury waiver
6. Any setting, status hearings, hearings on motions to continue
7. Any hearing conducted under the Sexually Violent Persons Commitment Act at which no witness testimony will be taken
8. Any other proceedings where the Defendant's presence is not required by the Constitution of the United States, or by the Constitution of the State of Illinois

C. The following types of proceedings may be conducted by closed circuit television upon waiver of the defendant:

1. Taking of pleas of guilty

D. The following types of proceedings may not be conducted by closed circuit television:

1. Trials, or evidentiary hearings, (unless the Defendant has been removed from the courtroom by order of the trial judge.)
2. Return of a jury verdict (unless the Defendant has been removed from the courtroom by order of the trial judge.)
3. Any other proceedings where the Defendant's presence is required by the Constitution of the United States, or by the Constitution of the State of Illinois.

[Adopted eff. April 16, 2003, Amended Sept. 15, 2008]

PART 12. TRAFFIC COURT PROCEEDINGS

Rule 1.1 Upon the granting of any motion to vacate a judgment in a traffic case, the Clerk shall forthwith send notice of the vacation of that judgment to the Office of the Secretary of State. This shall be done without regard to whether there is a balance owed in that file, or in

any other case.

Rule 1.2 When a person has received a stop or suspension of his or her driving privilege because of unpaid traffic tickets, the Clerk shall tender the required release upon payment of all traffic fines which have been, or could have been, sent in to the Secretary of State for failure to pay. Such release shall not be withheld because of any other unpaid obligation to the County.

Rule 1.3 A. Pursuant to 625 ILCS 5/3-707, the following persons are hereby appointed officers of the court designated to review the documentation demonstrating that at the time of arrest, the motor vehicle was covered by a liability insurance policy in accordance with section 7-601 of the Vehicle Code: “Traffic courtroom clerks; the Circuit Clerk of Kankakee County”

B. The following policies and procedures shall be followed when reviewing insurance documentation:

1. Proof of Insurance that shall be accepted over the counter is limited to:

a). an original Illinois Insurance Card

b). an original Insurance Policy Declaration Page

c). a fax copy of an original Insurance Policy Declaration Page sent directly to the Circuit Clerk’s office from an insurance agent whose office is located in Kankakee or Iroquois counties, stating that on the date charged in the charging document, **b** vehicle described in the charging document was insured.

d). a fax copy of a letter sent directly to the Circuit Clerk’s office from an insurance agent whose office is located in Kankakee or Iroquois counties stating that on the date charged in the charging document the vehicle described in the charging document was insured. This letter must be on the agent’s official letterhead stationery.

2. The document presented must show the dates of coverage as well as identify the make and year of the covered vehicle. The coverage period must include the date of the arrest on the ticket for a dismissal to occur. Application documents or cancellation documents are not to be accepted. The required documents need not be brought in by the Defendant, but may be brought in by someone on his or her behalf.

3. If there is a question as to coverage, the clerk should require the person to appear before the judge on the ticket return date or the next court date thereafter. In the event that Courtrooms 109 or 200 are in session, then the clerk may attempt a “walk-in” procedure at the discretion of the judge. If neither of those courtrooms is in session, the clerk can, at the

clerk's discretion, attempt a walk-in procedure for any available judge.

4. If the uninsured motor vehicle ticket is dismissed and the remaining tickets are then non-must-appear tickets, those remaining tickets may be handled over the counter in the same manner as other non-must-appear tickets are currently handled.

5. Only those persons designated by this Order may review insurance documentation.

6. The court docket entry should indicate "Proof of Insurance reviewed by _____ (clerk's initials), case dismissed."

C. That this Order shall also include no insurance tickets written under municipal Ordinances, and they shall be handled under the procedure set forth in paragraph B, above.

D. That upon acceptance of proof of insurance as set forth in this Order; it is ordered that the no-insurance ticket shall be dismissed.

PART 13. MEDIATION OF CIVIL CASES – NON DIVORCE

Rule 13.1 Purpose of the Mediation Process

Mediation under these Rules involves a confidential process whereby a neutral mediator, selected by the parties or appointed by the court, assists the litigants in reaching a mutually acceptable agreement. It is an informal and non-adversarial process. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving, exploring settlement alternatives and reaching an agreement. Parties and their representatives are required to mediate in good faith. Mediation may be required pursuant to Rule 13.2.

Rule 13.2 Actions Eligible for Civil Division Mediation

Referral by Judge or Stipulation. The judge to whom a matter is assigned may order into mediation any issues in any contested civil matter that asserts a claim having a value, regardless of defenses or set-offs. In addition, the parties to any such matter may file a written stipulation to mediate any issue between them at any time. Such stipulation shall be incorporated into the order of referral. However, no actions for Forcible Entry may be referred to mediation.

Rule 13.3 Fees for Mediation

Each of the parties to any action which is referred to mediation shall be required to pay an assessed fee, prior to the mediation, in accordance with the following schedule:

Cases Referred	Fee (Each Party)
SC Cases where demand is less than \$2,500	\$100.00
SC Cases where demand is between \$2,500-\$14,999	\$200.00
LM Case (Except actions for forcible entry)	\$300.00
L Cases.	\$500.00

Rule 13.4 Scheduling of Mediation

A. Conference or Hearing Date. Unless otherwise ordered by the Court, the first mediation conference shall be held within four (4) weeks of the appointment of the mediator.

At least ten (10) days before the conference, each party shall present to the mediator a written summary of the case containing a list of issues as to that party. If the attorney filing the summary wishes its contents to remain confidential, she/he should advise the mediator, in writing, at the same time this summary is filed. The summary shall include the facts pertaining to the issue being mediated, the facts of the occurrences, opinions on liability, all damages and injury information, and any offers or demands regarding settlement. Names of all participants in the mediation shall be disclosed to the mediator in the summary prior to the session.

B. Notice of Date, Time and Place. Within twenty-eight (28) days after the order of referral, the mediator shall notify the parties, in writing, of the date and time of the mediation conference. Unless all parties in the mediation otherwise agree, mediation conferences shall occur at office of the mediator unless otherwise ordered.

C. Motion to Dispense with Mediation. A party may move, within fourteen (14) days after the Order of Referral, to dispense with mediation if:

1. The issue to be considered has been previously mediated between the same parties.
2. The issue presents a question of law only.
3. Other good cause is shown.

D. Motion to Defer Mediation. Within fourteen (14) days of the Order of Referral, any party may file a motion with the Court to defer the mediation. The movant shall set the motion to defer the mediation proceeding for hearing prior to the scheduled date for mediation. Notice of hearing shall be provided to all interested parties, including the mediator who has been appointed. The motion shall set forth, in detail, the facts and circumstances supporting the motion. Mediation shall be tolled until disposition of the motion.

13.5 Mediation Rules and Procedure

A. Appointment of the Mediator.

1. Within fourteen (14) days of the Order of Referral, the parties may agree upon a stipulation with the court designating:
 - a. A mediator currently on the Approved Mediator list of the Twenty-First Judicial Circuit; or
 - b. A mediator who is not on the Approved Mediator list but who, in the opinion of the parties and upon review and approval of the Presiding Judge, is otherwise qualified, by training or experience, to mediate all or some of the issues in the particular case.
2. If the parties cannot agree upon a mediator within fourteen (14) days of the Order of Referral, the plaintiff's attorney, or another attorney agreed upon by all attorneys, shall notify the court within the next seven (7) days, and the court shall appoint an attorney on the Approved Mediator List by rotation or by such other procedures as may be adopted by administrative order of the Chief Judge.

B. Compensation of the Mediator.

1. Each mediator shall agree to mediate one (1) case during any twelve (12)-month period without compensation.
2. When a mediator is selected by the parties, the mediator's compensation shall be paid by the parties, as agreed upon between the parties and the mediator. If the parties in the mediation are unable to agree, then the mediator shall be paid the fee which is prescribed by these rules as charged to the parties as fees above.
3. When the parties cannot agree upon a mediator, the court shall appoint a mediator from

the list of mediators maintained by the Court. The compensation for a mediator so appointed shall be shared proportionally by all parties participating in the mediation conference and shall be in the amounts of the fees required to be deposited by the parties in these rules.

4. If any party has been granted leave to sue or defend as a poor person pursuant to Supreme Court Rule 298, the Court shall appoint a mediator who shall serve Pro Bono, without compensation from any party to the action. Any such appointment shall be credited towards the obligation under these rules to serve without compensation.
5. The fee of the appointed mediator shall be subject to appropriate order or judgment for enforcement.

C. Disqualification of a Mediator. Any party may move to enter an order disqualifying a mediator for good cause. If the Court rules that mediator is disqualified from hearing a case, an order shall be entered setting forth the name of a qualified replacement. Nothing in this provision shall preclude mediators from disqualifying themselves or refusing any assignment. The time for mediation shall be tolled during any period in which a motion to disqualify is pending.

D. Interim or Emergency Relief. A party may apply to the Court for interim or emergency relief at any time. Mediation shall continue while such motion is pending absent a contrary order of the court or a decision on the mediator to an adjournment pending disposition of the motion.

E. Attendance at a Mediation Conference.

1. All parties, attorneys, representatives for settlement authority, and other individuals necessary to facilitate settlement of the dispute shall be present at each mediation conference unless excused by court order.
2. A party is deemed to appear at a mediation conference if the following persons are physically present:
 - a. The party, or its representative having full authority to settle without further consultation, and, in all instances, the plaintiff must appear at the mediation conference; and
 - b. The party's counsel of record, if any; and
 - c. A representative of the insurance carrier for any insured party who is not such

carrier's outside counsel and who has full authority to negotiate and recommend settlements to the limits of the policy or the most recent demand, whichever is lower, without further consultation. Such appearance may be by telephonic conference provided that the representative is available at all times during the mediation conference.

3. Upon motion, the Court may impose sanctions against any party or attorney who fails to comply with this rule, including, but not limited to, mediation costs and reasonable attorney's fees relating to the mediation process.

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

G. Counsel. The mediator shall at all times be in control of the mediation and the procedures to be followed in the mediation. Counsel should be permitted to communicate privately with their clients at any time during the mediation.

H. Communication with Parties. The mediator may meet and consult privately with either party and his/her representative during the mediation process.

I. Termination of Mediation.

1. Mediation shall be completed within four (4) weeks of the first mediation conference unless extended by order of the court or by stipulation of the parties.
2. Mediation shall terminate prior to the end of four (4) weeks in the following circumstances:
 - a. All issues referred for mediation have been resolved.
 - b. The parties have reached an impasse, as determined by the mediator.
 - c. The mediator concludes that the willingness or ability of any party to participate meaningfully is so lacking that an agreement on voluntary terms is unlikely to be reached by prolonging the negotiations.

J. Report of Mediator. Within fourteen (14) days after the termination of mediation for any reason, the mediator shall file with the court a report in a form prescribed by the Chief Judge as to whether or not an agreement was reached by the parties. This report is only mandatory in cases ordered to mediation by the court or by stipulation of the parties.

The report should be signed by the mediator and shall designate, “full agreement,” “partial agreement” or “no agreement”. A copy of the report should also be filed with the administrative assistant to the Chief Judge or his/her designee.

K. Imposition of Sanctions. In the event of any breach or failure to perform under the agreement, the Court upon motion may impose sanctions, including costs, attorney’s fees, or other appropriate remedies, including entry of judgment on the agreement.

L. Discovery. Whenever possible, the parties are encouraged to limit discovery (prior to completing the mediation process) to the development of the information necessary to facilitate a meaningful mediation conference. Discovery may continue throughout mediation.

M. Confidentiality of Communications. All oral or written communications in a mediation conference, other than executed settlement agreements, shall be exempt from discovery and shall be confidential and inadmissible as evidence in the underlying cause of action unless all parties agree otherwise. Evidence with respect to an alleged settlement agreement shall be admissible in proceedings to enforce the settlement, but for no other purpose. Subject to the foregoing, unless authorized by the parties, the mediator shall not disclose any information obtained during the mediation process and shall not be permitted to testify for any party regarding any communications or any other process relating to the mediation.

N. Immunity. Mediator shall be entitled to all immunity available pursuant to applicable law.

O. Mechanism for Reporting. The Clerk of the Court shall keep and maintain compiled statistics and records on all cases referred to mediation and shall file reports with the Administrative Office of the Illinois Courts as directed by the Chief Judge.

13.6 Qualifications of Mediators.

A. The Chief Judge, or the designee of the Chief Judge, shall maintain a list of mediators who have been approved by the court for mandatory arbitration in the Twenty-First Judicial Circuit.

B. In addition to being a licensed Illinois attorney and registered with the Illinois Attorneys Registration and Disciplinary Commission, the following qualifications shall be necessary prior to appointment by the presiding judge for such a position:

1. If the Applicant has successfully completed a mediation training course with at least forty (40) hours of training in a course approved by the Chief Judge or the Chief Judge's designee, such applicants shall be deemed qualified.
2. If an applicant is not so trained as a mediator, the applicant may apply to the Chief Judge or the designee of the Chief Judge to be appointed to be a mediator. Among the qualifications to be considered by the Chief Judge or the designee of the Chief Judge in determining the appointment of any applicant shall be the following:
 - a. That the applicant has previously served as a mediator in at least five (5) cases.
 - b. That the applicant has been in the practice of law for at least fifteen (15) years, with at least five (5) years as a licensed Illinois attorney.
 - c. That the applicant has tried at least five (5) substantial civil cases to jury trial.
3. Upon an applicant meeting either of the above requirements, the applicant shall then have his or her name added to the list of Approved Mediators.

FORMS

Mediator Application and Self-Certification of Qualifications (see next page)

Order Requiring Mediation (SC, LM, and L Civil Cases)

Final Report of the Mediator (Rule 13.5J)

**IN THE CIRCUIT COURT OF THE 21ST JUDICIAL CIRCUIT
KANKAKEE COUNTY, STATE OF ILLINOIS**

Mediator Application and Self-Certification of Qualifications

To Supervisor: Submitted on ___/___/___; Approved/Disapproved on ___/___/___.

1. MEDIATOR/APPLICANT BASIC DATA

Name: _____
Firm: _____
Address: _____
City: _____ State: _____ Zip: _____
Telephone: _____ Fax: _____
E-Mail: _____
ARDC No.: _____

2. REPORTING OF EXPERIENCE/QUALIFICATIONS

All information provided in this application must be true and correct. In Sections 2A, 2B, and 2C, if you are unable to provide exact data for a particular question, please indicate that it is merely an estimate by circling your answer.

A. Legal Experience

Years of legal practice: _____
Number of mediation participated in as lawyer (mediator): _____
If former judge: Number of years on the bench: _____ Years retired: _____
I have had significant experience as a lawyer in matters pertaining to (check all applicable):
___ Chancery ___ General Tort ___ Product Liability
___ Commercial ___ Medical Malpractice ___ Real Property Disputes
___ Construction ___ Probate ___ Other (list case types below)
___ Employment/ ___ Personal Injury _____
Wrongful/Termination

B. Mediation Experience

Years of experience as a mediator: _____
Total number of mediations conducted as a mediator: _____
If you were a co-mediator, please indicate how many were co-mediations: _____
I have received approximately _____ case assignments as a mediator.
Approximately ___ of those cases involved actual mediation hearing sessions, whether in person or by phone.
I have conducted (fill in blanks with a number) mediations in the following areas. Place a mediation in the single best fitting category. Do not categorize the same mediation in more than one category.
___ Chancery ___ General Tort ___ Product Liability
___ Commercial ___ Medical Malpractice ___ Real Property Disputes
___ Construction ___ Probate ___ Other (list case types below)
___ Employment/ ___ Personal Injury _____
Wrongful/Termination

C. Mediation Results

My overall settlement rate (settlement during, or subsequent to, mediation sessions) is _____% or I am new to mediation practice ___.
My settlement rate on the cases I have mediated is as follows:
___% Chancery ___% General Tort ___% Product Liability

___ % Commercial ___ % Medical Malpractice ___ % Real Property Disputes
 ___ % Construction ___ % Probate ___ % Other (list case types below)
 ___ % Employment/
 Wrongful/Termination ___ % Personal Injury _____

D. Mediation Training

Please list any mediator training programs or seminars that you have attended and completed.

Date	Location	Sponsor/Provider	Title/Program Description	Hours

E. Affiliations or Certifications

Please list any programs, court systems, administrative bodies, or other entities where you are an eligible, listed, or certified mediator.

1. _____
2. _____
3. _____
4. _____
5. _____

F. Professional Affiliations

Identify any current or past relevant professional affiliations and dates.

Affiliation	Type(ADR/Legal/Other)	Dates

G. Mediation Style

Please provide a brief description of your mediation style (no more than 100 words).

H. Additional Information

If you wish to include any additional information for consideration, such as contact information for persons familiar with your relevant past mediation experience, letters of reference regarding your performance in mediation, or other information which you feel might inform potential mediation users of your experience, expertise, and qualification, please attach materials you wish to this Application and indicate the number of pages you are attaching. ___ Pages of additional information regarding the mediator are attached.

3. GENERAL AFFIRMATIONS

- A. I have read the Circuit Court of Kankakee County Rules for Mediation of Civil Cases – Non Divorce.
- B. I agree to comply fully with the relevant provisions of the Circuit Court of Kankakee County Rules, as was as any general orders and any modifications thereto governing mediation.
- C. I agree to complete the forms as prescribed by the Presiding Judge pursuant to these Rules.
- D. Check each of the following that applies
 - I am currently a mediator in a State of Illinois mediation program in another County in the State of Illinois.
 - I have served as a mediator in at least five (5) cases.
 - I have successfully completed mediation training course consisting of forty hours of training in a course which has been approved by the Chief Judge or the Chief Judge’s designee.
 - I have practiced law for at least fifteen years, with at least five years as a licensed Illinois attorney.
 - I have tried at least five substantial civil cases in a jury trial, with supporting documentation to be provided upon request if not supplied with this application.
- E. I consent to public disclosure of the information contained in this Application.
- F. I understand that neither participation in any training program nor inclusion on the Court’s list of certified mediators guarantees my selection as a mediator for any case.

In making this application, I certify and attest that all of the information contained in this Application or attached hereto is true and correct. I further agree that I will notify the Court in writing of the occurrence of any event which would disqualify me as a mediator.

Date: _____ Signature: _____

Name (Print or Type): _____

IN THE CIRCUIT COURT OF THE 21ST JUDICIAL CIRCUIT
KANKAKEE COUNTY, STATE OF ILLINOIS

Plaintiff)
vs.) Case No.
Defendant.)

ORDER REQUIRING MEDIATION (SC, LM and L CIVIL Cases)

The Court finds that certain disputes between the parties exist, and that this Court has determined mediation of such dispute consistent with Supreme Court and Local Rules is appropriate:
THEREFORE, IT IS HEREBY ORDERED THAT:

1. All parties are required to participate in mediation.
2. The selection of the mediator must be pursuant to Rule 13.5(a).
3. The appearance of counsel who will try the case and each party or representative of each party with full authority to enter into full and complete compromise and settlement is mandatory pursuant to Twenty-First Judicial Circuit Rule 13.5.
4. The Court may impose sanctions against parties who do not attend the conference or violate the terms of the applicable Rules of the Twenty-First Judicial Circuit.
5. The fees of the mediator shall be set by agreement of the parties and mediator or, alternatively shall be paid by each party as follows:
 - \$100.00 (SC cases where demand is less than \$2,500)
 - \$200.00 (SC cases where demand is between \$2,500 and \$14,999)
 - \$300.00 (LM cases except for Forcible Entry)
 - \$500.00 (L cases)
6. The Mediation shall occur as follows:
 - As set forth in the attached stipulation approved by the Court
 - Pursuant to the procedure set forth in the Twenty-First Circuit Rules §13.1 et. Seq.0.
7. Within seven (7) business days of the entry of this Order the parties shall contact and schedule an appointment with the following qualified person who is appointed to serve as the mediator in this case:
 - _____ (name)
 - _____ (street address)
 - _____ (city & phone no.)
8. This case is continued to _____ at _____ AM/PM in Room _____ of the Kankakee County Courthouse for status of the mediation.

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE TWENTY-FIRST JUDICIAL CIRCUIT
KANKAKEE COUNTY, ILLINOIS

)	
Plaintiff,)	
)	
Vs.)	Case no.
)	
)	
)	
Defendant.)	

FINAL REPORT OF THE MEDIATOR
(RULE 13.5J)

Now comes, _____, mediator in the above referenced case and files this final report with the Court as to the results of the mediation:

Mediation session(s) were held on the following dates: _____.

This matter was:

_____ Resolved fully after mediation

_____ Resolved partially after mediation

_____ Unresolved after mediation

Date: _____

Mediator

The mediator shall file a copy of this report with the Court and with the Administrative Assistant of the Chief Judge or his/her designee.

APPENDIXES

Appendix A. Affidavit

IN THE CIRCUIT COURT OF THE 21ST JUDICIAL CIRCUIT
KANKAKEE COUNTY, ILLINOIS

IN RE: THE MARRIAGE OF)	
)	
_____)	
Plaintiff)	
and)	Case No.
)	
_____)	
Defendant)	

AFFIDAVIT

NOW COME the Plaintiff, _____, and the Defendant _____, and hereby stipulate as follows:

1. That we are husband and wife, having been married on the _____ day of _____, _____.
2. That we have lived separate and apart since _____, a continuous period not less than six (6) months.
3. That there has been an irretrievable breakdown of our marriage and it is our desire to obtain a Judgment for Dissolution of Marriage without the proof of fault, and we hereby waive and relinquish the two (2) year requirement of living separate and apart as required by 750 ILCS 5/401 (a) (2).
4. That this waiver is being made knowingly and without coercion. That we each have had the advice of counsel or if not represented by counsel hereby waive the right to consult counsel and wish to be bound by this waiver.

_____	_____
Plaintiff	Defendant

CERTIFICATION

Under penalties of perjury as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certify the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief, and as to such matters, the undersigned certify as aforesaid that they each verily believe the same to be true.

_____	_____
Plaintiff	Defendant

[Adopted eff. March 17, 1997]

Appendix B. Financial Affidavit

IN THE CIRCUIT COURT OF THE TWENTY-FIRST JUDICIAL CIRCUIT
KANKAKEE COUNTY, ILLINOIS

IN RE: THE MARRIAGE OF _____)
 _____)
 _____)
 Plaintiff)
 vs. _____) Case No. _____)
 _____)
 Defendant)

FINANCIAL AFFIDAVIT

Pre-Judgment Post-Judgment

I, _____, on oath state that my present age is _____, and that:

1. (a) **(PRE-JUDGMENT ONLY)**: The parties have been married for _ years, were separated on _____, _____, and since that time the obligor has paid \$ _____ in child support, and \$ _____ in maintenance to his spouse;

(b) **(POST-JUDGMENT ONLY)**: The marriage of the parties was dissolved on _____, _____. The obligor was ordered to pay \$ _____ child support and \$ _____ in maintenance to his spouse. The said order was amended _____ times and the obligor is now paying \$ _____ in child support and \$ _____ in maintenance. The obligor (is not) (is) presently in arrears (in the sum of \$ _____).

2. There are _____ children of the marriage, age (s) _____, and presently in the custody of _____.

3. I have additional persons dependent on me for support as follows:

Name: _____ Relationship _____

4. My MONTHLY living expenses are as follows:

Rent or House Payment		Medical/Hospital Insurance	
Electricity		Life Insurance	
Property Taxes		Real Estate Insurance	
Heating		Personal Items	

Water		Doctors	
Telephone		Dentists	
Trash Collection		Hospital	
Sewer Charges		School Exp. (Meals, Supplies)	
Groceries/Household		Cleaning & Laundry	
Restaurant Meals		Entertainment	
Charitable Contributions		Gifts/Toys/Books for Children	
Haircuts/Beauty shop		Babysitting	
Home Repair/Maint.		Other	
Car Insurance		Other	
Gas, Oil & Repairs		Other	

5. Debts. (payments to creditors other than noted above)

To Whom Owed:	Purpose	Payment per month	Balance Owed:
a.			
b.			
c.			
d.			
e.			
f.			
g.			
h.			
i.			
j.			

EMPLOYMENT INCOME

6. Present Employment _____
 Address _____

Number of Dependents Claimed _____

Number of Dependents Allowed to Claim _____

Pay Period: () Weekly () Bi-weekly () Semi-monthly () Monthly

Current Payroll Deductions:

Hours of Employment		(a) Taxes	
Hourly Wage		(b) Social Security	
Gross Income		(c) Medical Insurance (for children)	
Total Deductions		(d) Union Dues	
Take-Home Pay		(e) Retirement/Disability Contributions	
		(f) Other:	
		Total Deductions	

ENTITLED PAYROLL DEDUCTIONS
(to be completed if not claiming all Allowed Dependents)

Hours of Employment		(a) Taxes	
Hourly Wage		(b) Social Security	
Gross Income		(c) Medical Insurance (for children)	
Total Deductions		(d) Union Dues	
Take-home Pay		(e) Retirement/Disability Contributions	
		(f) Other:	
		Total Deductions	
Tax Refund last year		Amount	
Tax Refund current year		Amount	

7. Assets: (List all cash, certificates of deposit, savings, checking and Credit Union accounts, bonds stocks, household goods and appliances, motor vehicles, real estate and all other property, real or personal of a value in excess of \$100.00 owned by you or your spouse.)

Description	Location	Fair Cash Market Value	Name of Co-Owners, Joint Tenants or Partners, if any	Marital or Non-Marital and Source

RETIREMENT FUND

Present Type	Company	Contributory Non-Contributory	Value

LIFE INSURANCE

Type	Company	Amount of Coverage	Beneficiary	Present Value

Appendix C – Matrimonial Pre-Trial Memorandum

IN THE CIRCUIT OF THE TWENTY-FIRST JUDICIAL CIRCUIT
KANKAKEE COUNTY, ILLINOIS

IN RE: THE MARRIAGE OF)	
)	
_____)	
Plaintiff)	
)	
and)	Case No.
)	
_____)	
Defendant)	

MATRIMONIAL PRE-TRIAL MEMORANDUM

Husband's Age _____ Marriage Date ___/___/___
Wife's Age _____

Names	Birthdates	Ages of Children

If custody is an issue, please answer the following:

1. Is an investigation requested by either party? Yes___ No ___
2. Does either party accuse the other of abuse of any kind? Yes___ No ___
3. Does either party object to Joint legal custody? Yes___ No ___
 If so, objection is made by: Plaintiff ___ Defendant ___
4. Length of time estimated for custody hearing _____

AGREED MARITAL PROPERTY: (If any matter not agreed put NA)

ITEM	FMV	Debt	Equity	Awarded to H/W

AGREED NON-MARITAL PROPERTY: (If any matter not agreed put NA)

ITEM	FMV	Debt	Equity	Awarded to H/W

DISPUTED PROPERTY: (If any matter not agreed put NA)

Item	FMV	Debt	Equity	Awarded to H/W

Identify any expert witnesses you may call regarding property:

Plaintiff's experts _____

Defendant's experts _____

Monthly Income of Parties: Attach Financial Affidavit for each party if not previously required to be filed or if filed attach Affidavit that circumstances previously represented have not substantially changed.

Maintenance:

Is Maintenance sought by either party? Yes _____ No _____

By which party? Plaintiff _____ Defendant _____

Child Support:

Amount of child support to be paid if guidelines are followed _____

List any basis for claim to deviate from guidelines (must advise Court if any party is disputing)

Special health problems of parties and / or children (must advise Court if any party is disputing)

Stipulations and uncontested issues:

Other Issues:

Identify all other issues which will be subject matter of the hearing

Estimated Length of Trial: _____ hours

Date and location of any prior negotiation session: _____

PLAINTIFF'S / DEFENDANT'S EXHIBITS

No.	Description	No Objection	Objection Basis	Resolution

Attorney for Petitioner / Plaintiff

Attorney for Respondent / Defendant

[adopted eff. March 17, 1997]

Confidentiality Agreement

I agree not to call as a witness the mediator, or any employee or agent of the mediator, to testify, or subpoena any records of the mediator, in any matter related to the mediation. I agree not to testify in court regarding what went on in the mediation.

In general, the mediator will treat all information provided during mediation sessions as confidential. No information obtained during mediation will be given to any outside person or organization unless both of us agree, with the following exceptions: the Court or statute requires otherwise; there are allegations of child abuse or child neglect; there are threats of harm or actual harm to another person; or there is a dispute about the mediator's fee. Unless otherwise agreed, the mediator will be in contact with our attorneys. Except for the above, information gathered from individual sessions will not be shared by the mediator without agreement from me.

Signed

Signed

Date: _____

Date: _____

Mediator

Date: _____

IN THE CIRCUIT COURT OF THE TWENTY-FIRST JUDICIAL CIRCUIT
KANKAKEE COUNTY, ILLINOIS

IN RE THE MARRIAGE OF)
)
 PETITIONER)
 AND) CASE NO.
 RESPONDENT)

ORDER FOR MEDIATION

It appearing that certain disputes in regard to child custody or visitation have arisen between the parties, and in accordance with this Court's policy requiring mediation of such disputes, NOW THEREFORE,

IT IS HEREBY ORDERED:

- a That the parties select a mediator from the Court-approved list of mediators on file in the Circuit Clerk's office.
- b That the parties shall select a mediator from said list within 7 days from the date of this Order, or in the event that the attorneys and clients cannot agree on a mediator, the Judge hearing the case will select a mediator from the court-approved list.
- c The mediator will be paid as follows: _____

_____.

When the parties are referred to mediation, they shall be required to attend a minimum of three hours of mediation to be completed within 30 days.

- d That the parties shall complete the entire mediation process within 45 days from the date of this Order, except that an extension may be granted by the Court, upon a representation of the mediator that sufficient progress is being made in the mediation process and that additional time may be necessary to complete the mediation process, or upon application of either party if good cause is shown.
- e That neither attorney for either party will communicate with the mediator except as allowed by local rule.
- f That the parties shall cooperate and make themselves available in any reasonable manner deemed necessary for the purposes of this Order.
- g That no custody or visitation hearing shall be set until such time as the mediation process is completed pursuant to the Mediation Program Rules.
- h That the mediator shall only report to the Court that mediation has been completed or terminated as provided by local rule.

Dated: _____

Enter: _____

ADMINISTRATIVE ORDERS

ADMINISTRATIVE ORDER NO. 2013-14

RESIDENTIAL MORTGAGE FORECLOSURE MANDATORY MEDIATION PROGRAM

WHEREAS, the Circuit Court with the approval of the Illinois Supreme Court has established by Circuit Court Rule a Residential Mortgage Foreclosure Mandatory Mediation Program; and,

WHEREAS, said program shall commence on October 1, 2013;

NOW, THEREFORE, IT IS HEREBY ORDERED that the following Administrative Procedures are established effective October 1, 2013:

1. **FILING FEE:** In all cases where the Complaint seeks to foreclose a mortgage (residential, commercial, industrial or other) the Circuit Clerk shall charge as additional \$150.00 filing fee to defray the cost of the Residential Mortgage Foreclosure Mandatory Mediation Program. The fees collected shall be forwarded to the Kankakee County Treasurer and maintained in a separate fund subject to disbursement on order of the Chief Judge of the Twenty-First Judicial Circuit.
2. **SUMMONS:** In all Residential Mortgage Foreclosure cases, plaintiff shall use a Summons Form specifically tailored for those cases and attached hereto and made a part hereof as Exhibit A. Law firms may generate their own forms as long as they are substantially similar to the Circuit Court Approved Form. The Circuit Clerk will make the determination as to whether law firm generated forms are substantially similar to the Clerk's forms.
3. **ATTACHMENTS TO SUMMONS:** In all Residential Mortgage Foreclosure cases, Plaintiff shall attach a Notice of Mandatory Mediation attached hereto and made a part hereof as Exhibit B and a Foreclosure Mediation Program Initial Questionnaire attached hereto and made a part hereof as Exhibit C. Law Firms may generate their own forms as long as they are substantially similar to the Circuit Court Approved Forms. The Circuit Clerk will make the determination as to whether law firm generated forms are substantially similar to the Clerk's forms
4. **SCHEDULING OF PRE-MEDIATION SCREENING CONFERENCE:** In all Residential Mortgage Foreclosure cases plaintiff shall select a date and time for the conference from a list of dates issued by the Circuit Court. The date shall be at least 42 days but not more than 60 days from the issuance of Summons. Said Date shall be inserted in the Residential Mortgage Foreclosure Summons. If service is by Publication, plaintiff shall pick a date from the Circuit Court list which is at least 42 days, but not more than 60 days from the date of first publication in a newspaper of general circulation in Kankakee County, Illinois. When service is by publication, plaintiff shall file a copy of the Affidavit for Publication containing the date for the Pre-mediation Screening Conference with the Circuit Clerk so the Clerk can add the case to the Pre-mediation Screening calendar for the date selected.

5. **ALIAS SUMMONS:** If an alias summon becomes necessary, the plaintiff shall select a new date for the pre-mediation screening Conference at least 42 days and not more than 60 Days from the issuance of the Alias Summons. No Court order will be required for the issuance of an Alias Summons.
6. **COUNTERCLAIMS TO FORECLOSE A MORTGAGE:** Where the complaint to foreclose a mortgage takes the form of a Counterclaim (for example, the Original Complaint was for a Mechanic's Lien), any counterclaims to foreclose a mortgage must pay the extra \$150 filing fee required under the Mandatory Mediation Program. Any party in a counterclaim seeking to foreclose a residential mortgage (as defined in the Illinois Mortgage Foreclosure Act) shall have the right to ask for mediation under the Mandatory Mediation Program by contacting the Clerk's office to schedule a mediation date. The party requesting and scheduling said date must provide notice of any scheduled date to all other parties to the action
7. **SECOND LIENHOLDERS' RIGHT TO PARTICIPATE IN MEDIATION:** Any 2nd lienholders may attend any scheduled mediations. To the extent the mediators request that a 2nd lienholder be invited to attend, the plaintiff's counsel shall provide such notice to any other lienholders.
8. **PLACING MEDIATION ON HOLD STATUS:** In the event a plaintiff lender places a file on "hold", it may ask the mediator to reset the mediation to a future date which may be greater than 30 days, provided, however, if all parties to the mediation are not in attendance, the plaintiff's counsel shall provide prompt notice of such rescheduled date to all parties not in attendance.
9. **PRE-MEDIATION CONFERENCE PROCEDURE:** At the Pre-mediation Screening Conference, if the Mediator determines that a Formal Mediation will be beneficial, Mediator shall direct Plaintiff's Counsel to provide to the borrower a Loan Modification Packet. Mediator shall also schedule the formal Mediation at a time consistent with sufficient time for the borrower to complete the packet and the lender to have sufficient time to analyze the Loan Modification Packet from an underwriting perspective. If the timing for those two things is uncertain, the Mediator may adjourn the Pre-Mediation Screening to a future date for status.
10. **HUD CERTIFIED HOUSING COUNSELORS:** At the Pre-mediation Conference, the mediator shall make available to borrowers information regarding HUD certified counseling available, and if possible make arrangements to have a HUD Certified Counselor available at the Pre-mediation Conference for initial consultation with the borrower.
11. **ATTORNEY INFORMATION:** At the Pre-mediation Conference the mediator shall inform the borrowers of legal resources available through Prairie State Legal Services.
12. **INTERPRETER:** If an interpreter is necessary, the mediator shall recess the Mediation for sufficient time to allow meaningful access for an interpreter.
13. **ADMONITIONS TO BORROWER AND LENDER:** At the Pre-Mediation Screening the Mediator shall admonish both the borrower and the lender of the need to complete matters in a timely fashion and participate in good faith.
14. **FORMAL MEDIATION:** At the Formal Mediation, Lender must be represented in person by a person with full authority to make decisions on the case. That person may be an Underwriter, Loss

Mitigation Person, or any company representative with full authority to enter into Loan Modification Agreements or to negotiate a Deed in Lieu disposition. All defendant borrowers shall also be present in person and further may have their attorney or a housing counselor at the Formal Mediation.

15. **TIMING OF FORMAL MEDIATION:** Formal Mediation shall be scheduled in a timely fashion with a goal not to extend the period of Redemption under the Illinois Mortgage Foreclosure Act. All parties shall use their best efforts to achieve a timely disposition and not delay the proceedings.
16. **CELL PHONE USAGE:** Since it is contemplated that Plaintiff's Counsel and Lender's Representatives will need to consult telephonically in the Mediation Process, Mediators, all counsel and Lender's Representatives shall be allowed to bring Cell Phones into the place where the mediation program takes place, solely for the purpose of aiding in the Mediation Process. In no case are photographs or recordings of the proceedings or personnel attending allowed.
17. **DOCUMENTS TO REMAIN CONFIDENTIAL:** All documents used by the mediator, with the exception of official reports to the Court of the results of the mediation or pre-mediation conference, are to be kept confidential. They are not official court records and are not discoverable. The goal is to have the parties engage in a confidential mediation process. The reports of the Pre-Mediation and Mediation conference filed with the Court will be maintained in a separate place in the Court file for the use of the Presiding Judge.

It is further ordered that this Residential Mortgage Foreclosure Mandatory Mediation Program being experimental in nature, further procedures and Guidelines will be issued by the Court as necessary.

ADOPTED Nov. 20, 2013; eff. Dec. 1, 2013