

# Rules Of Practice

## Circuit Court of Illinois

### Fourth Judicial Circuit

Christian, Clay, Clinton, Effingham, Fayette, Jasper  
Marion, Montgomery and Shelby Counties

Adopted November 16, 1984      Effective November 16, 1984  
(Amended January 8, 2016)

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**RULES OF PRACTICE  
CIRCUIT COURT OF ILLINOIS  
FOURTH JUDICIAL CIRCUIT**

**RULE 1.      RULES OF COURT**

1-1      Power of Court to adopt rules: These rules are adopted pursuant to Supreme Court Rule 21 and Section 1-104(b) of the Code of Civil Procedure.

1-2      Existing rules repealed: These rules shall become effective on November 16, 1984. All prior rules of the Circuit Court of the Fourth Judicial Circuit, State of Illinois, are hereby repealed.

1-3      Amendment of rules: Any amendment of these rules shall be passed on by a majority vote of all Circuit Judges of the Fourth Judicial Circuit, with each voting Judge being mailed a copy of the proposed amendment at least ten (10) days prior to the vote thereon.

1-4      Filing of rules: All rules, and amendments thereto, shall be filed with the Administrative Director of Illinois Courts within ten (10) days after they are adopted, in accordance with Supreme Court Rule 21. Same shall also be filed with the Clerk of the Circuit Court in each County of the Fourth Judicial Circuit, and shall be made available to all attorneys practicing in this Circuit, upon request, or by direction of the Chief Judge.

1-5      Applicability and Construction: Applicability and construction of these rules shall be in accordance with these rules and Supreme Court Rules 1 and 2.

**RULE 2.      JUDICIAL ADMINISTRATION**

2-1      Chief Judge Election and Term: The Chief Judge shall be elected during April in odd numbered years. The term shall be for two years, commencing July 1 following the election. Voting shall be by secret ballot, either in person or by proxy. The Chief Judge shall not serve more than two full terms in succession. (Amended 4/10/15)

2-2      Acting Chief Judge: The Chief Judge shall designate one of the Circuit Judges to act as Chief Judge in his absence, who shall have the same powers and duties as Chief Judge.

2-3      Vacancy: Whenever a vacancy occurs in the office of Chief Judge, any two Circuit Judges may call a meeting of the Circuit Judges to select a Circuit Judge to fill such vacancy.

2-4 Regular Meetings: The Circuit Judges and the Associate Judges shall meet quarterly, on the second (2nd) Friday in the months of January, April, July and October. In the event any such regular meeting date falls on a court holiday, the meeting shall be on the first Friday thereafter which is not a court holiday.

2-5 Special Meetings: Special meetings may be called at any time by the Chief Judge or by any two Circuit Judges upon five (5) days notice to all Circuit Judges and Associate Judges.

### **RULE 3. JURORS -- TERM OF SERVICE**

3-1 Grand Jurors: Grand Jurors shall be called by the Chief Judge or his designate. Each Grand Jury and the members thereof shall serve for a term determined by the Chief Judge and the Resident Circuit Judge of the particular county, but in any event shall not exceed eighteen months. Grand Jurors shall be summoned to appear on the days determined by the Judge assigned to criminal jury trials. After being impaneled, sworn and instructed by the Court, the Grand Jury shall sit at such time as the Court may order and may be recessed from time to time to a day certain, or subject to recall. (Amended 1/12/01, Effective 7/1/01).

3-2 Petit Jurors: The Chief Judge or his designate shall certify to the Clerk of the Court the number of Petit Jurors required and the date and time and place at which they shall be summoned. The length of service for petit jurors shall be determined by the Chief Judge, Resident Circuit Judge and Trial Judge of any particular county, but in any event shall not exceed ~~three (3) months~~ six (6) months. The notice to each juror shall state the period of service for which they shall be summoned. (Amended 1/10/14)

3-3 Excuse: The Chief Judge or his designate shall have charge of excusing summoned jurors from service.

3-4 Rules Applicable: The Grand Jury and Petit Jury are subject to the rules of the County Jury Commission if such commission has been established within the particular county.

### **RULE 4. APPEARANCES -- TIME TO PLEAD -- WITHDRAWAL**

4-1 Appearances, time to plead and withdrawal: Appearances, time to plead and withdrawal of attorneys shall be in accordance with Supreme Court Rule 13, as amended from time to time.

## **RULE 5. MOTIONS**

### **5-1 Notice of Hearing of Motions:**

(a) Notice Required: Written notice of the hearing of all motions shall be given by the party requesting hearing to all parties who have appeared and have not theretofore been found by the Court to be in default for failure to plead, and to all parties whose time to appear has not expired on the date of notice. Notice of motion made within a court day of trial shall be given as directed by the court. Notice that additional relief has been sought shall be given in accordance with Supreme Court Rule 11.

(b) Content of Notice: The notice of hearing shall designate the motion Judge, shall show the title and number of the action, and the date and time when the motion will be presented. Notice of motion to be made shall state the nature of the motion. A copy of any written motion and of all papers presented therewith or a statement that they previously have been served, shall be served with the notice.

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

(d) Time of Notice: Except as otherwise provided in these rules, service of a notice of hearing of any motion shall be completed no later than the second court day preceding the hearing. If a notice of hearing is delivered before 4:00 p.m. by either personal service, or by leaving it in the office of a party's attorney or at an unrepresented party's residence, then service of the notice is complete as of the day of delivery; if such notice is delivered at or after 4:00 p.m., then service of the notice is complete on the first court day following delivery. Service of a notice of hearing given by any other method is complete as set forth in Supreme Court Rule 12. (Amended 1/8/16)

(e) Summary Judgment: A motion for summary judgment will not be heard before ten (10) days after service of the notice of motion under Supreme Court Rule 11.

### **5-2 Ex parte and Emergency Motions:**

(a) Ex Parte Applications: Every complaint or petition upon which it is sought to obtain ex parte an order for the appointment of a receiver, for a temporary restraining order, for a preliminary injunction or for an order of ne exeat shall be filed in the office of the Clerk, if that office is open, before application to a Judge for the order. (See Code of Civil Procedure, Sec. 2-1501, re: abolition of writs.)

(b) Notice Not Required: Emergency motions and motions which by law may be made ex parte may, in the discretion of the Court, be heard without calling the motion for hearing. Emergency motions shall, so far as possible be given precedence.

(c) Notice After Hearing: If a motion is heard without prior notice under this rule, written notice of the hearing of the motion showing the title and number of the action, the name of the Judge who heard the motion, date of the hearing, and the order of the Court thereon, whether granted or denied, shall be served by the attorney obtaining the order upon all parties not theretofore found by the Court to be in default for failure to plead thereto; and proof of service thereof shall be filed with the clerk within two (2) days after the hearing. Notice shall be given in the manner and to the persons described in Supreme Court Rule 11.

5-3 Failure to Call Motions for Hearing: The burden of calling for hearing any motion previously filed is on the party making the motion. If any such motion is not called for hearing within ninety (90) days from the date it is filed, the court may strike the motion or set the motion for hearing.

## **RULE 6. DISCOVERY**

6-1 Discovery Compliance: In all civil matters an original request for discovery shall be made by serving such request upon the party or parties upon whom it is directed. A copy of the request shall not be filed with the Clerk of the Court.

(a) Proof of service of the request for discovery shall be made by certification of counsel briefly describing the requests made together with proof of service on the party to whom it is directed. The certification shall be filed with the Clerk of the Court. If identical requests are made of multiple parties they may be included in one certification.

(b) Proof of compliance with a request for discovery in all civil matters shall be made by filing with the Clerk of the Court the certification of counsel showing that compliance has been made. The certification shall include a description of the documents filed with reference to the request made. The documents supplied in response to a discovery request shall not be filed with the Circuit Clerk.

(c) For the purpose of this Rule, Discovery shall include:

Interrogatories (Supreme Court Rule 213)  
Discovery of Documents, Objects, and Tangible Things  
(Supreme Court Rule 214)  
Discovery Deposition (Rule 210)

(d) Effective January 1, 1990, the Circuit Clerk is directed to refuse to accept any papers that are not permitted to be filed by this Rule.

(e) When necessary to the determination of any motion, a copy of all relevant discovery materials shall be attached as an exhibit to the motion and filed with the Clerk.

6-2 Days for Taking Depositions: Unless otherwise agreed by the parties or ordered by the Court, depositions shall not be taken on Saturdays, Sundays or court holidays.

6-3 Supreme Court Rule 218 Case Management Procedures are mandatory only for civil cases in which money damages sought exceed \$50,000.00, i.e. cases with Case Code Letter “L”. In all other civil cases, Rule 218 shall be invoked at the discretion of the assigned judge. (Approved by Supreme Court 1-31-96.)

## **RULE 7. PRE-TRIAL PROCEDURE**

### **7-1 Pre-trial Conferences:**

(a) Deleted as of April 15, 1991.

(b) Deleted as of April 15, 1991.

(c) Deleted as of April 15, 1991.

(d) Settlement Prior to Trial: In the event of settlement prior to trial, the attorneys for the parties shall notify the Judge promptly. If same occurs within seventy-two (72) hours preceding the time for commencement of trial, said attorneys shall additionally notify the Clerk of the Court, instant, personally, in order that unnecessary juror expense can be avoided.

(e) Deleted as of April 15, 1991.

### **7-2 Deleted as of April 15, 1991.**

### **7-3 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 period of one (1) year, the Court may summarily dismiss the cause of action for want of prosecution and it shall not thereafter be redocketed without good cause shown and leave of Court.

(b) Notice: Upon dismissal of any cause for want of prosecution, the Clerk of the Court shall give all pro se parties and all attorneys of record notice of the dismissal by regular U.S. Mail within ten (10) days of the dismissal. A copy of the notice with the Clerk's certificate of mailing shall be filed of record. Such cases shall not be redocketed if a motion to reinstate is not filed within thirty (30) days from the date of said notice.

7-4 Deleted as of April 5, 2002

7-5 Deleted as of April 5, 2002

**RULE 8. SPECIAL RULES PERTAINING TO FAMILY CASES**  
(Amended 1/8/16)

8-1 Family Cases Defined: Family cases are defined as any proceedings for an order or judgment relating to dissolution, legal separation or invalidation of marriage, paternity, support, custody, visitation, allocation of parental responsibilities (decision-making or parenting time), removal, relocation, third-party visitation, and related matters, including all ancillary proceedings. (Amended 1/8/16)

8-2 Notice of Dispute as to Child Custody or Allocation of Parental Responsibilities: If either child custody or allocation of parental responsibilities (decision-making or parenting time) is in dispute, the plaintiff will so inform the Court upon the filing of the initial pleadings, or as soon thereafter that a dispute is known to exist. In such a case, the Court may order a background investigation, appoint a court consultant and/or Guardian ad Litem and may order that one or both parties deposit with the Clerk of the Court all or a reasonable portion of the costs thereof. (Amended 1/8/16)

8-3 Financial Affidavit: The parties shall file with the Clerk a Financial Affidavit:

- (a) In all proceedings where there is a dispute involving attorney's fees, property, maintenance, support, child custody and/or allocation of parental responsibilities (decision-making or parenting time), or modification of any previous orders relating thereto;
- (b) As required by applicable law; and
- (c) As otherwise ordered by the Court.

The Financial Affidavit shall be in the form designated by the Illinois Supreme Court, if and when one is so designated, and until then, in the form found in Appendix A, with the same supporting documentary evidence attached as is required by 750 ILCS 5/501 for temporary issues. This filing shall be immediately sealed by the Clerk.

Financial Affidavits, when required, shall be filed within the same time period set forth in 750 ILCS 5/602.10 for submitting proposed parenting plans, or at least five (5) days prior to the hearing on contested issues, whichever is sooner, or as otherwise ordered by the court. If such Affidavit has been filed for purposes of a hearing on temporary relief, an additional Affidavit need not be filed prior to hearing for permanent relief unless there has been a substantial change of anything included therein. (Amended 1/8/16)

8-4 Statement of Proposed Disposition: In addition to the Financial Affidavit required in Rule 8-3, if there are any issues in dispute, each party shall file a written statement of proposed disposition, addressing all issues (both agreed and contested), within the same time period set forth in 750 ILCS 5/602.10 for submitting proposed parenting plans, or at least five (5) days prior to the hearing on contested issues, whichever is sooner, or as otherwise ordered by the court. If issues relating to custody, visitation or allocation of parental responsibilities are in dispute, the proposed disposition shall include a party's proposed parenting plan as may be required by 750 ILCS 5/602.10. If the issue of property apportionment is in dispute, the parties shall submit a statement of proposed apportionment, which shall include an itemization of all property claimed as marital and non-marital together with an estimated fair cash market value of each item. If the issue of apportionment of marital indebtedness is in dispute, the statement shall also include a proposed apportionment of marital indebtedness and shall include a listing of any non-marital indebtedness for which either party is currently liable. (Amended 1/8/16)

## **RULE 9. SMALL CLAIMS ACTIONS**

### **9-1 Procedure:**

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

(1) Notify the Clerk of the Court, in writing at least five (5) days prior to the appearance date on the summons, stating that he wishes to contest the claim and setting forth the title and number of the case, his name, address, telephone number and the 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 in the complaint.

(b) Failure of Defendant to Respond: If a defendant fails to respond as stated above, a default may be entered and judgment for the amount claimed, plus costs, may be taken against him.

(c) Setting of Trial Date: Upon being notified that the claim is contested, the Court shall fix a trial date and cause all parties to be notified of the time, date and place of trial.

(d) 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 the trial.

(e) Demand for Trial by Jury: Upon defendant's demand for trial by jury and payment of the jury fee, the Court shall automatically 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.

(f) Notice of Small Claims Rule: The Clerk of the Court shall transmit with each summons a copy of this rule and any other information deemed necessary by the Court. Subsections (b) and (d) shall be in bold type in such notice.

## **RULE 10. ADMINISTRATIVE RULES**

10-1 Designation of Court Facilities: All court will be held in the County Courthouse of each County, unless otherwise specifically ordered by the Chief Judge.

10-2 Court Hours: Court shall convene daily at 9:00 a.m.

10-3 Signing of Orders and Judgments: The Judge will sign only the original order and/or judgment. Copies and certified copies will be prepared by the Clerk if requested.

10-4 Removal of Files: Original files, documents or exhibits shall not be removed from the office of the Circuit Clerk or courtroom except by leave of Court or the Clerk of the Court and without first filing a receipt therefore.

10-5 Representation: No pleading or entry of appearance for an opposing party shall be prepared or acknowledged by any attorney, members of his firm or employee.

10-6 The circuit clerks shall accept the filing of pleadings in any case only at such times as the office of the circuit clerk is open for business as set by the county board of each county or as set by the circuit clerk, as the case may be in each respective county.

**RULE 11.      MEDIATION – FAMILY LAW** (Amended 1/8/16)

11-1    Statement of Purpose:    Mediation for cases involving disputed child custody, visitation, removal, allocation of parental responsibilities (decision-making or parenting time), relocation, third-party visitation, or a parenting plan, is adopted as the policy of the Fourth Judicial Circuit of Illinois. Mediation is a distinct practice, regardless of the mediator's core profession. The mediator's role is to allow the participants to define and clarify their differences with the intention of improving relationships and understanding. It is an exercise of their self-determination. This policy will promote amicable and practicable solutions to these issues. Parties are required to use mediation as a method of resolving such contested issues unless they are able to reach a fair agreement approved by the court or unless an impediment to mediation is found to exist. When a mediated resolution is appropriate for a case, these rules provide a format for mediation services. It is not the intention of the judges of the Fourth Judicial Circuit to avoid conducting contested hearings on these issues when appropriate. Rather, it is the intent of these rules to make available less costly and more amicable avenues of resolution when in the best interests of the parties and the minor children. The objective of mediation is not a settlement at any cost; rather it is to achieve a fair and reasonable agreement. (Amended 1/8/16)

11-2    Definitions:

(a)      These rules adopt by reference the definitions of “mediation”, “mediation communication”, “mediator”, “non-party participant” and “mediation party” contained in 710 ILCS 35/2 of the Illinois Uniform Mediation Act as if fully set forth herein, and the following definitions.

(b)      “Shuttle mediation” is a variant of the standard process in which the mediator meets separately with each party so that direct communication is only with the mediator who relays information, defines issues and suggests possible solutions as the participants remain in separate rooms.

(c)      An “impediment to mediation” is any condition, including but not limited to domestic violence or intimidation, substance abuse, child abuse, mental illness or a cognitive impairment, which hinders the ability of a party to negotiate safely, competently, and in good faith. Pursuant to these rules, the identification of impediments in a case is necessary to determine whether mediation should be required, and to insure that only those parties having a present, undiminished ability to negotiate are directed by the Court under these rules to mediate.

11-3 Subject Matter of Mediation:

Initially, court referred mediation will be limited to issues of custody, visitation, removal, allocation of parental responsibilities (decision-making or parenting time), relocation and third-party visitation. The parties may, by written agreement, choose to mediate child support, child related expenses or any other issues. (Amended 1/8/16)

11-4 Duties of the Mediator:

shall: (a) Commencement: At or prior to the initial session, the mediator

(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) Encourage each party to obtain independent legal counsel;

(5) Inform the parties that:

(i) mediation can be suspended or terminated at the request of either party after three (3) hours of mediation, or in the discretion of the mediator as outlined in Rule 4(a)(5)(ii);

(ii) the mediator may suspend or terminate the mediation: (1) if an “impediment to mediation” exists; (2) if either party is acting in bad faith; or (3) appears not to understand the negotiation, after reasonable efforts to address their lack of understanding have been made; (4) the prospects of achieving a reasonable agreement appear unlikely; or (5) 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;

(7) Confirm the parties’ understanding regarding the fee for services and any reduced fee arrangements for eligible parties with financial hardship;

(8) Reach an understanding with the parties as to whether the mediator may communicate with either party or their legal counsel or with other persons to discuss the issues in mediation in the absence of the parties. Any separate communication which does occur shall be disclosed to the parties at the first opportunity.

(9) Advise each party that they may be accompanied to mediation by an attorney or an advocate or another person who may also participate in the mediation. Said individual may also be available for consultation for each participant while mediation is in progress.

(10) Advise each party that children are not normally allowed to participate in mediation based upon the purpose of mediation; to-wit, to allow the parties to exercise their self-determination and reach a voluntary agreement and the negative impact participation may have on the children. However, in appropriate situations children may be allowed to participate in mediation so long as all parties and the mediator consent to said participation, in writing, and that each parent or the child's representative or guardian ad litem, if applicable, has the right to withhold consent. (Amended 6/1/11)

(b) Shuttle Mediation:

Shuttle Mediation may be utilized as deemed appropriate by the mediator.

(c) Reporting Risk of Bodily Harm and Abuse:

(1) A mediator shall promptly reveal information to the appropriate law enforcement agency to the extent it appears necessary to prevent a party from committing an act that would result in death or serious harm;

(2) Attorneys shall reveal information required by Rule 1.6 "Confidentiality of Information" under the Illinois Rules of Professional Conduct;

(3) The mandated reporting requirement of the Abuse and Neglected Child Reporting Act, 325 ILCS 5/1 et seq., as applied to mental health professionals shall also apply to all mediators.

(d) Conduct of Mediators:

The mediator shall comply with the “Model Standards of Conduct for Mediators” adopted in August 2005, as may be amended from time to time, by the American Bar Association, the American Arbitration Association, and the Association for Conflict Resolution to the extent that said standards do not conflict with any rule set forth in this mediation program.

(e) Written Agreements:

The mediator shall summarize, in writing, the agreements reached by the parties which shall be signed by the parties and the mediator. A copy shall be given to the parties and their attorneys, if any. The mediator shall advise each party to obtain legal assistance in drafting any final agreement or in reviewing any agreement drafted by the other party. The mediator shall advise the parties that decisions reached during mediation are not binding until reviewed by the attorneys, if the parties are represented by counsel, and approved by the court.

11-5 Qualifications of Mediators:

(a) Requirements:

Mediators must meet all of the following requirements:

(1) Formal Education:

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

(2) Training:

Completed a specialized training in family mediation consisting of a court-approved course of study or certification, to consist of at least 40 hours in the following areas:

(i) Conflict resolution;

(ii) Psychological issues in separation, dissolution and family dynamics;

(iii) Issues and needs of children in dissolution; and

(iv) Mediation process and techniques; or

(v) 20 hours of training in the foregoing areas and have 10 years of practical experience in handling custody/family disputes as a significant part of their professional duties.

(3) Insurance: Pursuant to Illinois Supreme Court Rule 99(b)(1) approved mediators shall have judicial immunity in the same manner and to the same extent as a judge. Professional liability insurance for any act or omission for which judicial immunity may not apply must be maintained.

(4) Office and Professional Experience: The mediator shall maintain an office within the Fourth Judicial Circuit or a county contiguous thereto, or conduct mediation at an agreed location within the Fourth Circuit, and have not less than three (3) years work experience in their profession or be licensed by the State of Illinois to practice in their field of expertise.

#### 11-6 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 5. 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 (10) days to the Chief Judge. The Chief Judge shall decide the appeal after an opportunity for the applicant or mediator to be heard.

#### 11-7 Referral Procedure:

(a) Upon the court's order or the parties' agreement to participate in mediation, the case shall be assigned a mediator. This mediator may be chosen per agreement of the parties. In absence of any agreement, the court shall assign a mediator from the list of qualified mediators, and the selection of the mediator shall be in the sole discretion of the judge. A Mediation Order shall be issued and signed by the court. A mediation status date will be set for no later than seven (7) weeks from the date the Mediation Order was issued. Parties must contact the mediator within seven (7) days of the entry of the Mediation Order to set up mediation. Each may submit a letter to the mediator identifying the issues and their position within fourteen (14) days of the Mediation Order. The letter shall not exceed two (2) pages and a copy of same must be submitted to the other party or their counsel, if represented.

(b) The court shall also designate in its Mediation Order what percentage of the mediation fee should be paid by each party, or whether the parties should not be required to pay any mediation fee because they have been found to be indigent persons, pursuant to 735 ILCS 5/5-105. Each party must file a financial affidavit prior to the Mediation Order being entered, unless the parties agree on the division of the mediation fee. Parties are obligated to participate in the mediation process when ordered by the court. The attorneys shall encourage their clients to mediate in good faith, and the parties shall participate in mediation in good faith.

(c) After entry of a Mediation Order by the Court, the absence of a party at a mediation session may result in sanctions, including reasonable costs to the other party for mediation and attorney's fees.

(d) If the appointed mediator has any conflict of interest, another mediator shall be appointed from the list. If a mediator is appointed to mediate a case involving indigent persons, but the mediator already has met his or her twelve-month requirement for such mediations, and so informs the court, the court shall appoint another mediator. The Chief Judge, or the person designated by the Chief Judge, shall keep a record of the cases involving indigent persons assigned to each mediator, to ensure a fair distribution of these cases to all mediators. By requesting inclusion on the list, each mediator agrees to handle, without any fee, three (3) mediations involving indigent persons within a twelve (12) month period.

(e) By the status date, the mediator shall submit a report to the court and the parties' legal counsel, in the form of a Mediator Report, notifying the court and legal counsel of information listed in this Rule under the section entitled Mediator Report.

#### 11-8 Mediator Report:

(a) These rules hereby adopt by reference the provisions on prohibited mediator reports as contained in 710 ILCS 35/7 as if fully set forth herein. In addition to those provisions, the following requirements apply to mediations under this rule.

(b) A Mediator Report, in compliance with 710 ILCS 35/7(b) must be filed prior to the status date and within fourteen (14) days after the last day of the mediation conference, and shall state the following:

(1) Whether an agreement has been reached by the parties;

(2) The number and duration of sessions conducted to date and the names of those in attendance;

(3) Whether mediation has been terminated or suspended.

(4) The fee charged, whether that fee has been paid in full and, if not so, the outstanding amount owed. For any outstanding amount owed, the court may direct the parties to pay said amount and establish what percentage each party will pay;

(5) Whether any additional mediation sessions are recommended;

(6) Other relevant information not considered privileged or confidential under these rules or the Uniform Mediation Act 710 ILCS 35/1 et seq which is adopted and incorporated herein to the extent same is not inconsistent with the procedural rules set forth in this mediation program;

(7) Whether any of the parties did not have legal counsel.

(c) In the event that all of the above information cannot be provided on the due date of the Mediator Report, the mediator shall advise the court as to the time necessary for the completion of the mediation process. It shall be within the court's discretion to extend mediation after the seven-week (7) status date.

#### 11-9 Litigation Status:

(a) Temporary Orders:

The court may issue temporary orders prior to or during mediation.

(b) Discovery:

Unless otherwise ordered by the court, discovery shall be limited to written discovery until mediation is terminated by order of the court.

(c) Attorney Letter to Mediator:

Each attorney may submit a letter to the mediator providing information with regard to the legal status of the case, including temporary or permanent orders which have been entered by the court and a statement of the unresolved legal issues. The attorney shall provide a copy of such letter to the opposing counsel or party. The letter provided by the attorney to the mediator shall not be confidential and may be disclosed by the mediator to both participants. The attorneys and mediator shall not have further communication with regard to the mediation process except if agreed by the parties in writing.

(d) Witnesses:

The mediator may not be called as a witness in litigation.

11-10 Termination of Mediation on Motion of a Party:

(a) Judicial Determination:

Any party may move the court at any time for a ruling that a case is ineligible for mediation based upon the factors set forth in 11-2(c) notwithstanding a contrary determination by a mediator.

(b) Filing a Motion:

Any such motion must be supported by affidavit setting forth specific facts as to why mediation would be inappropriate.

11-11 Entry of Judgment Order:

(a) Presentation of Order:

The final draft of each mediated agreement shall be presented to the court within twenty-eight (28) days following conclusion of mediation.

(b) Approval of Court:

The court shall examine the parties as to the content and intent of agreement and shall reject the agreement if any of its provision are found by the court to be unconscionable or contrary to the best interest of a minor child. If the agreement is approved, the court shall enter an appropriate judgment or order stating its findings and shall incorporate, either physically or by reference, the agreement so that the terms of such agreement are also the terms of the judgment or order. (Amended 6/1/11)

(c) Copies of all orders ordering mediation and docket entries approving mediation agreements shall be maintained by the clerk of the court and sent to the Chief Judge's Office on a quarterly basis for data compilation and reporting to the Illinois Supreme Court as required.

**RULE 12 CIVIL MEDIATION** (Added 6/1/11)

12-1 Purpose of the Mediation Process:

Mediation under these rules involves a voluntary 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.

12-2 Actions Eligible for Civil Mediation:

Referral by Judge or Stipulation:

The judge to whom a matter is assigned may order into mediation any issue in any contested civil matter asserting a claim filed as or appropriately classified as a civil case, including Law, Chancery and Probate cases, not otherwise covered under Rule 11. 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 an order of referral.

12-3 Scheduling of Mediation:

(a) Conference or Hearing Date:

Unless otherwise ordered by the court, the first mediation conference shall be held within eight (8) weeks of the Order of Referral. At least ten (10) days before the

conference, each party shall present to the mediator a brief, written summary of the case containing a list of issues as to each party. If the party filing the summary wishes its contents to remain confidential, the party 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 and may include the facts of the occurrence, opinions on liability, all damages and injury information, and any offers or demands regarding settlement. The names, addresses and email addresses 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. The parties or their attorneys may initiate contact with the mediator by conference call or otherwise to coordinate a mutually convenient date and time for the mediation conference.

(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 prior to the scheduled date for mediation. Notice of the hearing shall be provided to all interested parties, including any mediator who has been appointed. The motion shall set forth in detail, the facts and circumstances supporting the motion. Mediation shall be tolled until disposition of the motion.

12-4 Mediation Rules and Procedures:

(a) Appointment of the Mediator:

(1) Within fourteen (14) days of the Order of Referral, by agreement of the parties, the court shall designate:

(i) A certified mediator; or

(ii) A mediator who does not meet the certification requirements of these rules but who, in the opinion of the parties and upon review by and approval of the presiding judge, is otherwise qualified by training or experience to mediate all or some of the issues in the particular case.

(2) If the parties cannot agree upon a mediator within fourteen (14) days of the Order of Referral, the plaintiff's attorney (or another attorney agreed upon by all attorneys) shall so notify the court within the next seven (7) days, and the court shall appoint a certified mediator by such other procedures as may be adopted by administrative order of the Chief Judge.

(b) Compensation of the Mediator:

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

(2) When the parties cannot agree on a mediator, the court shall appoint a mediator from the list of mediators maintained by the court. The compensation for a mediator so appointed shall be shared proportionately by all parties participating in the mediation conference, unless otherwise ordered by the court.

(3) If any party has been granted leave to sue or defend as a poor person pursuant to Supreme Court Rule 298, the court shall appoint a mediator who shall serve pro bono without compensation from that party.

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

(c) Disqualification of a Mediator:

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

(d) Interim or Emergency Relief:

A party may apply to the court for interim or emergency relief at any time. Mediation shall continue while such a motion is pending absent a contrary order of the court or a decision of the mediator to adjourn pending disposition of the motion.

(e) Attendance at a Mediation Conference:

(1) All parties, attorneys, representatives with settlement authority, and other individuals necessary to facilitate settlement of the dispute shall be present at each mediation conference unless excused by court order or by the mediator. A party is deemed to appear at a mediation conference if the following persons are physically present:

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

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

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

(2) Upon motion, the court may impose sanctions against any party, or attorney, who fails to comply with this rule, including, but not limited to, mediation costs and reasonable attorney fees relating to the mediation process.

(f) Adjournments:

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

(g) Counsel:

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

(h) Communication with Parties:

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

(i) Termination of Mediation:

(1) Mediation shall be completed within seven (7) weeks of the first mediation conference unless extended by the order of the court or by stipulation of the parties.

(2) Mediation shall terminate prior to the end of seven (7) weeks in the following circumstances:

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

(ii) The parties have reached an impasse, as determined by the mediator;

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

(j) Report of Mediator:

Within 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. The report shall be signed by the mediator and shall designate, “full agreement,” “partial agreement” or “no agreement.”

(k) Imposition of Sanctions:

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

(l) Discovery:

Whenever possible, the parties are encouraged to limit discovery (prior to completing the mediation process) to the development of the information necessary to

facilitate a meaningful mediation conference. Discovery may continue throughout mediation.

(m) Confidentiality of Communications:

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

(n) Immunity:

Mediators shall be entitled to such immunity as shall be provided by law.

(o) Mechanism for Reporting:

The clerk of the court shall keep and maintain compiled statistics and records of all cases referred to mediation and shall file reports with the Administrative Office of the Illinois Courts as directed by the Chief Judge.

## 12-5 Mediator Qualifications

(a) Circuit Court Mediators:

The Chief Judge shall maintain a list of mediators who have been certified by the court and who have registered for appointment. For certification, a mediator of circuit court civil matters in this circuit must:

(1) Complete a civil case mediation training program approved by the Chief Judge of the Fourth Circuit Court of Illinois;

(2) Be a member in good standing of the Illinois Bar with at least eight years of practice or be a retired judge; and

(3) Be of good moral character; and

(4) Submit an application that is approved by the Chief Judge or his designee.

(b) Mediator General Standards:

In each case, the mediator shall comply with such general standards as may, from time to time, be established and promulgated in writing by the Chief Judge of the Circuit Court of the Fourth Judicial Circuit.

(c) Decertification of Mediators:

The eligibility of each mediator to retain the status of a certified mediator shall be periodically reviewed by the Chief Judge, and in any event no longer than three (3) years after date of appointment. Failure to adhere to this general order governing mediation or the general standards provided for above may result in the decertification of the mediator by the Chief Judge or the Chief Judge's designee.

(d) Mediator Pro Bono Requirement:

Each court-certified mediator shall agree to mediate without compensation when a court has determined that mediation might be beneficial and that the parties are indigent and have no resources to compensate a mediator. The Chief Judge, or the person designated by the Chief Judge, shall keep a record of the cases involving indigent persons assigned to each mediator, to ensure a fair distribution of these cases to all mediators. By requesting inclusion on the list, each mediator agrees to handle without any fee, one (1) mediation involving indigent persons within a twelve (12) month period.

CIRCUIT COURT OF ILLINOIS  
FOURTH JUDICIAL CIRCUIT  
\_\_\_\_\_ COUNTY, ILLINOIS

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

**FINANCIAL AFFIDAVIT**

\_\_\_\_\_, on oath states that my age is \_\_\_\_\_, and that:

(If Pre-Judgment):

|    |     |                        |                          |             |
|----|-----|------------------------|--------------------------|-------------|
| 1. | (a) | Date of Marriage _____ | Date of Separation _____ |             |
|    |     |                        | Child Support            | Maintenance |
|    |     | Paid since separation  | \$ _____                 | \$ _____    |

(If Post-Judgment)

|    |     |                                     |          |          |                   |
|----|-----|-------------------------------------|----------|----------|-------------------|
| 1. | (a) | Date of Dissolution _____           |          |          |                   |
|    |     | Date of Separation _____            |          |          |                   |
|    |     |                                     | C/S      | Maint.   | (Per week, month) |
|    |     | Ordered to be paid:                 | \$ _____ | \$ _____ | _____             |
|    |     | Paid since Dissolution              | \$ _____ | \$ _____ | _____             |
|    |     | Order has been amended _____ times. |          |          |                   |
|    |     | Now being paid:                     | \$ _____ | \$ _____ | _____             |
|    |     | Current Arrearage                   | \$ _____ | \$ _____ | _____             |

2. There are \_\_\_\_\_ children of the marriage, as follows:

|             |            |                      |                       |
|-------------|------------|----------------------|-----------------------|
| <u>Name</u> | <u>Age</u> | <u>Date of Birth</u> | <u>In Custody Of:</u> |
| _____       |            |                      |                       |
| _____       |            |                      |                       |
| _____       |            |                      |                       |
| _____       |            |                      |                       |
| _____       |            |                      |                       |

**APPENDIX A**

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

| <u>Name</u> | <u>Age</u> | <u>Date of Birth</u> | <u>Relationship</u> |
|-------------|------------|----------------------|---------------------|
| _____       | _____      | _____                | _____               |
| _____       | _____      | _____                | _____               |

4. Present Employment \_\_\_\_\_  
Address \_\_\_\_\_  
Hours of Employment \_\_\_\_\_

|                                    | Payroll Deductions        |
|------------------------------------|---------------------------|
| Hourly Wage \$ _____               | (a) Taxes \$ _____        |
| Weekly Gross Income \$ _____       | (b) Soc. Sec. \$ _____    |
| Total Deductions \$ _____          | (c) Medical Ins. \$ _____ |
| Take Home Pay \$ _____             | (d) Credit Union \$ _____ |
| Number of Dependents Claimed _____ | (e) Other \$ _____        |
| TOTAL DEDUCTIONS \$ _____          |                           |

5. My **MONTHLY** living expenses are as follows:  
(Rent) or (House Payment) \$ \_\_\_\_\_

|                              |                             |
|------------------------------|-----------------------------|
| Electricity \$ _____         | Car Ins. \$ _____           |
| Gas \$ _____                 | Gas, Oil & Repairs \$ _____ |
| Heating Oil \$ _____         | Hosp/Med. Ins. \$ _____     |
| Water \$ _____               | Life Ins. \$ _____          |
| Telephone \$ _____           | Personal Items \$ _____     |
| Trash Collection \$ _____    | Doctors \$ _____            |
| Sewer Charge \$ _____        | Dentists \$ _____           |
| Groceries/Household \$ _____ | Hospital \$ _____           |

|                              |         |                         |         |
|------------------------------|---------|-------------------------|---------|
| Restaurant Meals             | \$_____ | School (Meals/Supplies) | \$_____ |
| Charitable Contributions     | \$_____ | Cleaning & Laundry      | \$_____ |
| Haircuts/Beauty Shop         | \$_____ | Entertainment           | \$_____ |
| Union Dues                   | \$_____ | Gifts for Children      | \$_____ |
| Babysitting                  | \$_____ | Other                   | \$_____ |
| TOTAL MONTHLY LIVING EXPENSE |         | \$_____                 |         |

6. Debts: (payments to creditors other than noted at Paragraph No. 5 above)

| <u>To Whom Owed:</u> | <u>Purpose:</u>      | <u>Monthly Payment</u> | <u>Balance</u> |
|----------------------|----------------------|------------------------|----------------|
| a. _____             | Car Payment          | \$_____                | \$_____        |
| b. _____             | Furniture/ Appliance | \$_____                | \$_____        |
| c. _____             | Credit Card          | \$_____                | \$_____        |
| d. _____             | Credit Card          | \$_____                | \$_____        |
| e. _____             | _____                | \$_____                | \$_____        |
| f. _____             | _____                | \$_____                | \$_____        |
| g. _____             | _____                | \$_____                | \$_____        |
| h. _____             | _____                | \$_____                | \$_____        |
| i. _____             | _____                | \$_____                | \$_____        |
| j. _____             | _____                | \$_____                | \$_____        |
| TOTALS               |                      | \$_____                | \$_____        |

7. Assets: (List all cash, certificates of deposits, savings, checking and Credit Union Accounts, bonds, stocks, household goods and appliances, motor vehicles, boats, real estate, and all other property, real or personal, owned by you.)

| Description | Location | Fair Cash<br>Market Value | Co-owners<br>Names: |
|-------------|----------|---------------------------|---------------------|
| (a) _____   | _____    | \$ _____                  | _____               |
| (b) _____   | _____    | \$ _____                  | _____               |
| (c) _____   | _____    | \$ _____                  | _____               |
| (d) _____   | _____    | \$ _____                  | _____               |
| (e) _____   | _____    | \$ _____                  | _____               |
| (f) _____   | _____    | \$ _____                  | _____               |
| (g) _____   | _____    | \$ _____                  | _____               |
| (h) _____   | _____    | \$ _____                  | _____               |
| (i) _____   | _____    | \$ _____                  | _____               |

#### RETIREMENT FUND

| Type:     | Company: | Contributory/<br>Non/Contributory: | Present Value: |
|-----------|----------|------------------------------------|----------------|
| (a) _____ | _____    | _____                              | \$ _____       |
| (b) _____ | _____    | _____                              | \$ _____       |

#### LIFE INSURANCE

| Type:     | Company: | Beneficiary: | Present Value: |
|-----------|----------|--------------|----------------|
| (a) _____ | _____    | _____        | \$ _____       |
| (b) _____ | _____    | _____        | \$ _____       |

8. Other Income: Source: \_\_\_\_\_ Amount \$ \_\_\_\_\_  
Source: \_\_\_\_\_ Amount \$ \_\_\_\_\_

I have read the foregoing, together with \_\_\_\_ attached sheets following hereafter, and same are true and correct.

\_\_\_\_\_  
Signature

Subscribed and sworn to before  
me, this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Notary Public/Clerk

#### APPENDIX A

This form prepared by \_\_\_\_\_

Attorney for \_\_\_\_\_

**APPENDIX A**

(See Rule 8-3)

ATTACH SUPPORTING DOCUMENTARY EVIDENCE