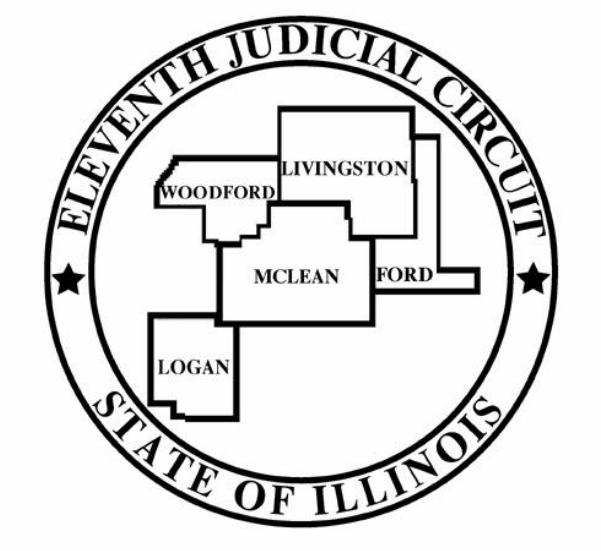
# RULES OF THE
# ELEVENTH JUDICIAL CIRCUIT COURT
# STATE OF ILLINOIS

## FORD, LIVINGSTON, LOGAN, McLEAN
## AND WOODFORD COUNTIES




***EFFECTIVE JANUARY 1, 2014***

**Rules of the Circuit Court of the Eleventh Judicial Circuit may be amended by the Court at any time without notice.**

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| August 1, 2006 | Circuit Rules revised and renumbered |
| February 27, 2007 | Circuit Rule 106 (E)(2) amended |
| June 7, 2007 | Circuit Rule 130 amended |
| March 14, 2008 | Circuit Rule 311 amended |
| September 10, 2008 | Circuit Rule 113 added (new) |
| May 6, 2009 | Circuit Rule 315 added (new) |
| August 8, 2009 | Circuit Rule 119 (C) amended |
| August 24, 2009 | Circuit Rule 212 (statutory reference renumbered) |
| December 13, 2010 | Circuit Rule 311 (A) amended |
| March 3, 2011 | Circuit Rule 211 (C) added (new) |
| June 3, 2011 | Circuit Rule 309 (amended) |
| September 10, 2012 | Circuit Rule 114 added (new) |
| November 19, 2012 | Circuit Rule 120 (H) added (new) |
| January 1, 2014 | Circuit Rules revised and renumbered |

## RULES 1-99 GENERAL RULES OF PRACTICE BEFORE THE CIRCUIT COURT

### RULE 1 ACCESS TO THE COURTS FOR INDIGENT PERSONS; FORMS; AND LEGAL ASSISTANCE BY COURT PERSONNEL

In order to provide equal access to justice, all Counties, Courts and Court personnel within this Circuit shall:

A. Provide a public law library through the use of County Law Library fees in the court facility; and

B. The Circuit Clerk offices shall provide the forms approved by either the Illinois Supreme Court, Conference of Chief Judges, Eleventh Judicial Circuit, or approved by the individual Circuit Courts, to parties and attorneys, or shall direct those requesting forms to the appropriate location or website to obtain and/or print forms. Any form in use in a different jurisdiction in Illinois shall be recognized by the Circuit Courts;

C. No Circuit Clerk, deputy circuit clerk or court personnel shall provide legal advice or make specific referrals to attorneys. Said personnel may assist in completing forms for those who are illiterate or cannot read or write in the English language. This rule does not prevent any person from being referred to specific programs which have been developed to provide legal assistance to indigent persons or other specified legal assistance programs.

### RULE 2 COURT ACCESSIBILITY UNDER THE AMERICANS WITH DISABILITIES ACT AND FOR THOSE NEEDING LANGUAGE INTERPRETERS

In order to provide equal access to justice the Court and court personnel have adopted the following protocols:

A. That the judges and court personnel, including Clerks, reporters, bailiffs, etc., endeavor to make the physical facilities and services of the courthouse available to persons with disabilities or those who request accommodation under the Americans With Disabilities Act;

B. That where appropriate and necessary, individual orders may be entered by the judges to comply with this Administrative Order, providing for, but not limited to, emergency designation of additional courtrooms, ordering certain court personnel to provide physical assistance, recessing of court to a more appropriate location, designating interpreters and providing essential equipment on a temporary basis; and

C. That every reasonable effort is made by court personnel to communicate effectively to aged and persons with disabilities that special services and equipment will be made available to them to insure their access to the due administration of justice.

D. Language interpreters will be made available to litigants, parties and witnesses who are unable to communicate effectively in English. Said language interpreters will be made available at County expense upon reasonable request by the party or by the attorney for said party.

### RULE 3 FACSIMILE, EMAIL OR ELECTRONIC FILING

A. No filing of any summons, petition, notice, motion or other document may be made in the Eleventh Judicial Circuit via facsimile (fax) or email absent leave of the court.

B. No Circuit Court within the Eleventh Judicial Circuit has received approval to initiate electronic filing of court cases.

**RULE 4 TELEPHONE CONFERENCES**

Attorneys may appear by telephone upon prior approval by the judge presiding in the case and notice to opposing counsel. Telephone conferences are limited to non-dispositive matters, and are neither allowed in any Criminal or Traffic case, nor in any civil or family case where the party represented by said counsel appears in person.

**RULE 5 MOTIONS**

A. Motions and Notice Requirements.

1. Every motion shall be filed in the office of the Circuit Clerk, if that office is open, before application to a judge for the order.

2. In the absence or unavailability of the judge assigned to the case, any judge may consider an emergency motion and issue an appropriate order in proper cases; subsequent matters relating to the cause in which the petition is filed shall be heard by the judge assigned to the individual case.

3. Any pro se motion filed by a party who is represented by counsel, except one that relates to alleged deficiencies in his/her attorney's representation, shall be stricken by the Court.

4. 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.

5. 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 thereof, whether granted or denied, shall be served by the party obtaining the order 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 within two (2) days after the hearing. Notice shall be given in the manner and to the persons described in Supreme Court Rule 11.

B. Notice of Hearing of Motion.

1. The proponent of the motion shall secure a hearing date from the judge to whom the case is assigned or the office responsible for scheduling matters for that judge. Written notice of the hearing of all motions shall be given by the party requesting the hearing to all other parties. Notice of motion made within a court day of trial shall be given as directed by the Court.

Notice for all other motions shall be given in the manner described in Supreme Court Rule 11.

2. No motion, unless allowed within the discretion of the Court, may be scheduled for hearing less than two (2) court days after the effective date of service as described in Supreme Court Rule 12.

3. The notice of hearing shall designate the judge, the title and case number of the action, the date and time the motion will be presented, and 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. Failure to Call Motion to Hearing. The burden of calling for hearing any motion previously filed is on the party making the motion. The court may at any time on its own motion set any such motion for hearing. Parties other than the proponent of the motion may set the proponent's motion for hearing if the proponent has not set a hearing date on the motion by the sixtieth (60th) day after the filing of 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 without notice.

D. Efforts to Schedule Motion Hearings. Reasonable effort is to be made by any party setting a motion for hearing to determine the availability of other parties for participation in the hearing on the proposed date and time, and accommodate the other parties' availability.

E. Written Orders. All orders presented to the court for entry shall demonstrate proof of service upon all opposing parties in compliance with Supreme Court Rule 11.

## RULE 6 DISCLOSURE OF PERSONAL OR FINANCIAL INFORMATION IN CASE FILES OR DISCOVERY MATERIALS

The disclosure of personal or financial information in case files or discovery materials shall comply with Illinois Supreme Court Rule 138.

## RULE 7 WRITTEN ORDERS

No written order entered shall be modified or altered except by a subsequent written Order. No bail fixed by a judge will be increased or decreased except in writing. No warrant issued by order of the court will be recalled except in writing.

## RULE 8 UNDER ADVISEMENT DECISIONS

Pursuant to the administrative authority delegated to the Chief Judge of each judicial circuit under Illinois Supreme Court Rule 21, all Eleventh Judicial Circuit judges are encouraged to render their decisions promptly when matters are ready for decision.

## RULES 9-99 RESERVED

## RULES 101 -149 CIVIL, LAW, ARBITRATION AND SMALL CLAIMS COURT RULES

### RULE 101 CIVIL FILING AND APPEARANCE REQUIREMENTS

A. Form of Summons.

1. The following "Notice to Defendants" shall be included within the summons issued by the Clerk in actions for money damages styled as small claims (SC) or arbitration (AR):

*Service of this summons upon you requires that you or your attorney appear in person at the time and place specified in the summons and make your presence known to the Clerk of the Court, at which time you will be required to file a written Entry of Appearance, and pay the required fee.*

*Your failure to respond to this summons in the manner prescribed above may result in a judgment being entered against you on the date set for your appearance in said summons, and said judgment will be for the amount claimed in the complaint and court costs.*

2. The following "Notice to Defendant" shall be affixed to summons issued by the Clerk in actions for forcible detainer, to-wit:

*You are required to personally appear at the time and place specified in the above summons. If you fail to do so, judgment may be entered against you for the relief asked in the complaint filed in this cause.*

3. The form of summons set forth in Supreme Court Rule 291 for proceedings under the Administrative Review Act and the form of summons set forth in Supreme Court Rule 292 to review an order of the Illinois Workers' Compensation Commission will be exclusively utilized by this court in such cases.

4. In all other cases, a summons requiring appearance within 30 days after service as set forth in Supreme Court Rule 101(d) will be utilized by this court.

5. Filing of any summons, notice, motion or other document via facsimile, electronic mail or other electronic transmission methods is not allowed.

B. Money Damages Affidavit. Supreme Court Rule 222(b) provides:

*"Any civil action seeking money damages shall have attached to the initial pleading the party's affidavit that the total money damages sought does or does not exceed $50,000. If the damages sought do not exceed $50,000, this rule shall apply."*

In accordance with said Rule, it is ordered that any civil action filed without such affidavit attached shall be deemed to be seeking damages not exceeding $50,000 for purposes of determining the appropriate discovery procedures to be utilized and Supreme Court Rule 222 shall govern the discovery process in all such cases.

### RULE 102 DISCOVERY AND PRETRIAL PROCEDURES

A. Interrogatories and Depositions.

1. In all civil matters an original request for discovery (including interrogatories, requests for production and requests to admit) shall be made by serving such request upon the party or parties upon whom they are directed. A copy of the request shall not be filed with the Circuit Clerk.

   Proof of service of the aforesaid request for discovery shall be made by certification of counsel briefly describing the request made, together with proof of service on the party to whom they were directed.

   Certification shall be filed with the clerk of the circuit court. If identical requests are made of multiple parties, they may be included in one certification.

2. Proof of compliance with requests for discovery in all civil matters (including interrogatories, requests for production and requests to admit) shall be made by filing with the Circuit Clerk the certification of counsel showing that compliance has been accomplished. The certification shall include a description of the documents filed with reference to the request made. The filing of discovery documents with the Circuit Clerk shall be in accordance with Supreme Court Rule 201 (m).

3. The Circuit Clerk is directed to refuse to accept any papers that are ordered not to be filed by this order.

4. Whenever any party has objection to any requests, or seeks to enforce compliance with any request or otherwise addresses a motion to the sufficiency of a response, he shall attach to his motion and file with the Circuit Clerk, a copy of all relevant discovery in order that the court may properly consider the motion.

5. Unless otherwise agreed by the parties or ordered by the court, depositions shall not be taken on Saturdays, Sundays or court holidays.

## RULE 103 CASE MANAGEMENT CONFERENCE PROCEDURES

Supreme Court Rule 218 Case Management Conference procedures are mandatory only for Law (L) cases. In all other civil cases, Supreme Court Rule 218 shall be invoked at the discretion of the assigned judge.

## RULE 104 COURT-ANNEXED CIVIL MEDIATION

In an effort to provide the citizens of the Eleventh Judicial Circuit with an expeditious and expense saving alternative to traditional litigation in the resolution of controversies, a program of Court-Annexed Mediation of civil cases is hereby established in McLean and Ford Counties.

A. Actions Eligible for Court-Annexed Mediation.

   1. Except as hereinafter provided, the judge to whom a matter is assigned may order any contested civil matter asserting a claim having a value, irrespective of defenses or setoffs, in excess of $50,000 referred to mediation. In addition, the parties to any such matter may file a

written stipulation to mediate any issue between them at any time. Such stipulation shall be incorporated into the order of referral.

2. Except as otherwise set forth in (A)(1) above, matters as may be specified by administrative order of the chief judge of the circuit shall not be referred to mediation except upon petition of all parties.

B. Scheduling of Mediation.

1. 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 side shall present to the mediator a brief, written summary of the case containing a list of issues as to each party. If the attorney filing the summary wishes its contents to remain confidential, she/he should advise the mediator in writing at the same time the summary is filed. The summary shall include the facts of the occurrence, opinions on liability, all damages and injury information, and any offers or demands regarding settlement. Names of all participants in the mediation shall be disclosed to the mediator in the summary prior to the session.

2. Within twenty-eight (28) days after the Order of Referral, the mediator shall notify the parties in writing of the location, date and time of the mediation conference.

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

   a. The issue to be considered has been previously mediated between the same parties pursuant to General Order of the Eleventh Judicial Circuit;
   b. The issue presents a question of law only;
   c. Other good cause is shown.

4. Within fourteen (14) days of the Order of Referral, any party may file a motion with the court to defer the proceeding. The moving party shall set the motion to defer for hearing 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.

C. Mediation Rules and Procedures.

1. Within fourteen (14) days of the Order of Referral, the parties may agree upon a stipulation with the court designating:

   a. A certified mediator; or
   b. 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.

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 seven (7) days of the expiration of the period to agree on a mediator, and the court shall appoint a certified mediator selected by rotation or by such other procedures as may be adopted by administrative order of the Chief Judge.

2. The mediator shall be compensated by the parties at the rate of $125 per hour unless otherwise agreed in writing. Each party shall pay a proportionate share of the total charges of the mediator.

3. Any party may move to enter an order disqualifying a mediator for good cause. If the court rules that a 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.

4. 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.

5. If a party fails to appear at a duly noticed mediation conference without good cause, the court upon motion shall impose sanctions, including an award of mediator and attorney fees and other costs, against the party failing to appear. If a party to mediation is a public entity that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision- making body of the entity. Otherwise, unless stipulated by the parties, or by order of the court, 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
    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.

6. The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference notwithstanding Section Nine (9) of this Rule. No further notification is required for parties present at the adjourned conference.

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

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

9. Mediation shall be completed within seven (7) weeks of the first mediation conference unless

extended by order of the court or by stipulation of the parties.

10. A mediator shall terminate a mediation conference when, in the mediator's opinion, no purpose would be served by continuing the conference, or an individual necessary to facilitate settlement of the dispute is not present.

    If the parties do not reach an agreement as to any matter as a result of mediation, or the mediation is terminated, the mediator shall report the lack of an agreement or termination to the court without comment or recommendation. The mediator shall report any Termination or No Agreement on a form similar to that in Appendix G.

11. If an agreement is reached, it shall be reduced to writing and signed by the parties and their counsel, if any, at the conclusion of the mediation. The report shall designate either full or partial agreement. This report shall be signed by the mediator and shall with filed with the Circuit Clerk within ten (10) days of the last day of the mediation conference. The report shall be in the same format as Appendix G.

12. 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.

13. Discovery may continue throughout mediation.

14. All oral or written communications in a mediation conference, other than executed settlement agreement, 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.

15. The following forms shall be used in conjunction with court- annexed mediation:

    a. Order of Referral to Court-Annexed Mediation
    b. Confidentiality Agreement and Nonrepresentation Acknowledgement
    c. Mediation Held/No Agreement Resulted
    d. Memorandum of Agreement
    e. Memorandum of Understanding/Agreement
    f. Order Appointing Mediator
    g. Mediator's Report

16. The Chief Judge of the Eleventh Circuit (or designee) shall maintain statistical data on all mediation proceedings and report said data to the Administrative Office of Illinois Courts and the presiding judge of the Civil Division of each county as required.

D. Mediator Qualifications.

1. The Circuit Clerks of McLean and Ford Counties 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 excess of $50,000 matters must:

a. Complete a mediation training program approved by the Chief Judge of the Eleventh Judicial Circuit; and
b. Be a member in good standing of the Illinois Bar with at least seven years of practice or be a retired judge; and
c. Be of good moral character.

2. 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 Eleventh Judicial Circuit.

3. The eligibility of each mediator to retain the status of a certified mediator may be periodically reviewed by the Chief Judge. Failure to adhere to this General Order governing mediation or the General Standards provided for above may result in the decertification of the mediator.

## RULE 105 COURT-ANNEXED MANDATORY ARBITRATION

Court-annexed mandatory arbitration proceedings are undertaken and conducted in the Counties of Ford and McLean, Eleventh Judicial Circuit, pursuant to approval of the Supreme Court of Illinois given on March 26, 1996.

A. Supervising Judge for Arbitration. The Chief Judge shall appoint in each county of the circuit having a court-annexed mandatory arbitration program, a judge to act as Supervising Judge for Arbitration, who shall have the powers and responsibilities set forth in these rules and who shall serve at the discretion of the Chief Judge.

B. Administrative Assistant for Arbitration. The Chief Judge shall designate an Administrative Assistant for Arbitration who shall have the authority and responsibilities set forth in these rules. The Administrative Assistant for Arbitration shall serve at the discretion of the Chief Judge under the immediate direction of the Trial Court Administrator.

C. Arbitration Center. The Chief Judge shall designate an Arbitration Center for arbitration hearings.

D. Arbitration of Certain Cases. The court-annexed mandatory arbitration program of the Eleventh Judicial Circuit is governed by the Supreme Court Rules for the Conduct of court-annexed mandatory arbitration Proceedings (Supreme Court Rules 86-95). Because arbitration proceedings are governed by both Supreme Court and local court rules, reference is made in the caption of each Local Rule to the Supreme Court Rule controlling the subject.

E. Actions Subject to Court-Annexed Mandatory Arbitration (Supreme Court Rule 86)

1. Arbitration proceedings are part of the underlying civil action, and therefore, all rules of practice contained in the Illinois Code of Civil Procedure and Illinois Supreme Court Rules shall apply to these proceedings.

2. All civil actions will be subject to court- annexed mandatory arbitration if such claims are solely for money in an amount exceeding $10,000 but not exceeding $50,000, exclusive of

interest and costs. Such cases shall be assigned to the Arbitration Calendar of the Eleventh Judicial Circuit at the time of initial case filing with the Circuit Clerk's office. All such cases will be provided with an AR designation pursuant to the AOIC Manual on Record Keeping.

3. Cases not originally assigned to the Arbitration Calendar may be ordered to arbitration on the motion of either party, by agreement of the parties or by Order of Court at a status call or pretrial conference when it appears to the Court that no claim in the action has a value in excess of $50,000, irrespective of defenses.

4. When a case not originally assigned to the Arbitration Calendar is subsequently so assigned pursuant to Supreme Court Rule 86(d), the Administrative Assistant for Arbitration shall promptly assign an arbitration hearing date for such case. In such cases, the date of the arbitration hearing shall be not less than sixty (60) days nor more than one-hundred and eighty (180) days from the date of assignment to arbitration, as determined by the Court considering the status of the case, the period of time necessary to afford the parties adequate preparation time and status of the arbitration calendar.

F. Appointment, Qualification and Compensation of Arbitrators (Supreme Court Rule 87)

1. Illinois-licensed attorneys in good standing and retired judges shall be eligible for certification and appointment as arbitrators by filing an approved application form with the Administrative Assistant for Arbitration and completing the required arbitrator training seminar. An applicant requesting to be certified as a chairperson shall certify the number of years engaged in the active trial practice of law. Applicants shall be certified as arbitrators and/or chairpersons by the Chief Judge of the circuit. The eligibility of each attorney to serve as an arbitrator may be reviewed periodically by the Administrative Assistant for Arbitration and Supervising Judge. All applicants must maintain a law office or residence in this circuit.

2. The Administrative Assistant for Arbitration shall maintain an alphabetical list of approved arbitrators to be called for service on a random basis. The list shall designate the arbitrators who are approved to serve as chairpersons.

3. Three arbitrators shall constitute a panel at least one of which must be certified as a chairperson. The chairperson must have been engaged in active practice of law for a period of five years or be a retired judge. Other panel members must have engaged in the active practice of law for a minimum of one year. Three arbitrators shall constitute a panel unless the parties stipulate using the prescribed form to a two arbitrator panel. In no instance shall a hearing proceed with only one arbitrator.

4. The Administrative Assistant for Arbitration shall notify the arbitrators of the hearing date at least 30 days prior to the assigned hearing date. The notification period may be less to those arbitrators who have agreed to serve on an emergency basis.

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

6. Upon completion of each day's arbitration hearings, arbitrators shall file a voucher with the

Administrative Assistant for Arbitration for submission to the Administrative Office of the Illinois Courts for payment of the prescribed compensation.

7. Each arbitrator shall take an oath of office in conformity with the form provided in Supreme Court Rule 94 in advance of the hearing.

G. Scheduling of Hearings (Supreme Court Rule 88)

1. On or before the first day of each July, the Administrative Assistant for Arbitration shall provide the Circuit Clerk's office with a schedule of available arbitration hearing dates for the next calendar year.

   Upon the filing of a civil action subject to these rules, the Clerk of the Circuit Court shall set a return date for the summons not less than twenty-one (21) days or more than forty (40) days after filing, returnable before the Supervising Judge for Arbitration. The summons shall require the plaintiff or the representative of the plaintiff and all defendants or their representatives to appear at the time and place indicated. The summons shall state in upper case letters on the upper right-hand corner "THIS IS AN ARBITRATION CASE."

   Upon the return date of the summons and the Court finding that all parties have appeared, the Court shall assign an arbitration hearing date not more than one year from the filing date or the earliest available hearing date thereafter. If one or more defendants have not been served within ninety (90) days from the date of filing, the Court may in its discretion dismiss the case as to unserved defendants for lack of diligence.

2. Any party to a case may request advancement or postponement of a scheduled arbitration hearing date by filing written motion with the office of the Circuit Clerk requesting such change. Such motion and notice of hearing thereon shall be served upon all other parties in the same manner as other motions and a copy of the motion and notice of time of hearing thereon shall likewise be served upon the Administrative Assistant for Arbitration. The motion shall be set for hearing on the calendar of the Supervising Judge for Arbitration and contain a concise statement of the reason for the change of hearing date. The Supervising Judge may grant such advancement or postponement upon good cause shown.

3. Consolidated actions shall be heard on the date assigned to the latest case involved.

4. Counsel for plaintiff shall give immediate notification in writing to the Administrative Assistant for Arbitration of any settlement of cases or dismissal. Failure to do so may result in the imposition of sanctions.

5. It is anticipated that the majority of cases to be heard by an arbitration panel will require two hours or less for presentation and decision. It shall be the responsibility of counsel for the plaintiff to confer with counsel for all other parties to obtain an approximation of the length of time required for presentation of the case and advise the Administrative Assistant for Arbitration at least fourteen (14) days in advance of the hearing date in the event additional hearing time is anticipated and the length of such additional time.

H. Discovery (Supreme Court Rule 89)

1. Discovery shall proceed as in all other civil actions and shall be completed not less than thirty (30) days prior to the arbitration hearing.

2. All parties shall comply completely with the provisions of Supreme Court Rule 222.

3. No discovery shall be permitted after the arbitration hearing, except upon leave of Court and for good cause shown.

I. Conduct of the Hearings (Supreme Court Rule 90)

1. The Supervising Judge for Arbitration shall have full supervisory powers over all questions arising in any arbitration proceedings, including the application of these rules.

2. A stenographic record of the hearing shall not be made unless a party does so at his/her expense. If a party has a stenographic record transcribed, notice thereof shall be given to all parties and a copy shall be furnished to any other party requesting same upon payment of a proportionate share of the total cost of making the record.

3. The statements and affidavits of witnesses shall set forth the name, address and telephone number of the witness.

4. Witness fees and costs shall be in the same amount and shall be paid by the same party or parties, as provided for in trials in the Circuit Court of this circuit.

5. Hearings shall be conducted in general conformity with procedures followed in civil trials. The chairperson shall administer oaths and affirmations to witnesses. Rulings concerning admissibility of evidence and applicability of law shall be made by the chairperson. At the commencement of the hearing, the attorneys for the parties will provide a brief written statement of the nature of the case which shall include a stipulation as to all of the relevant facts to which the parties agree. The stipulation shall include, if applicable, relevant contract terms, dates, times, places, location of traffic control devices, year, make and model of automobiles and of other vehicles, equipment or goods and products which are involved in the litigation and other relevant and material facts. However, the stipulation may not be used for evidentiary and/or impeachment purposes in any subsequent hearing and the written stipulation shall so state. The time devoted to the presentation of evidence should be limited to those facts upon which the parties genuinely disagree. Parties are encouraged to utilize the procedure set out in Supreme Court Rule 90 for admission of documents into evidence without foundation or other proof.

6. Any party requiring the services of a language interpreter during the hearing shall be responsible for providing same. Any party requiring the services of an interpreter or other assistance for the deaf or hearing impaired shall notify the Administrative Assistant for Arbitration of said need not less than seven (7) days prior to the hearing.

7. All exhibits admitted into evidence shall be retained by the panel until entry of the award. It is the duty of the attorneys or parties to retrieve such exhibits from the Administrative Assistant for Arbitration within seven (7) days following the conclusion of the arbitration hearing. All exhibits not retrieved shall be destroyed.

J. Default of a Party (Supreme Court Rule 91) A party who fails to appear and participate in the hearing may have an award entered against him/her upon which the Court may enter judgment. Costs that may be assessed under Supreme Court Rule 91 upon vacation of a default include, but are not limited to, payment of costs, attorney fees, witness fees, stenographic fees and any other out-of-pocket expenses incurred by any party or witness.

K. Award and Judgment on Award (Supreme Court Rule 92) The panel shall render its decision and enter an award on the same day of the hearing. The chairperson shall present the award to the Administrative Assistant for Arbitration who shall then file same with the Clerk of the Circuit Court. The Clerk of the Circuit Court shall serve a notice of the award upon all parties who have filed an appearance. In the event the panel of arbitrators unanimously finds that a party has violated the good-faith provisions of Supreme Court Rule 91(b), such finding accompanied by a factual basis shall be noted on a findings sheet. Such finding sheet shall become part of the award.

L. Rejection of the Award (Supreme Court Rule 93) Rejection of the award shall be in compliance with Supreme Court Rule 93.

M. Form of Oath, Award and Notice of Entry of Award (Supreme Court Rule 94) The Administrative Assistant for Arbitration shall provide the forms called for by these rules.

N. Duties of the Supervising Judge for Arbitration

1. Hear motions to interpret all Rules.
2. Hear motions to advance or postpone hearing.
3. Hear motions to consolidate cases.
4. Hear motions to vacate judgments.
5. Hear motions to enter judgment.
6. Hear all post-judgment enforcement proceedings.

## RULE 106 TRIAL AND POST TRIAL MATTERS

A. Enforcement of Confessed Judgments. In all civil cases where a judgment is based upon confession, the clerks of the Circuit Court of the Eleventh Judicial Circuit shall not accept an Affidavit for a Non-Wage Garnishment or an Affidavit for a Wage Garnishment and shall refuse to issue summons for such proceedings and said clerks shall likewise refuse to issue any Citation to discover assets which is directed to any third party until such judgment has been confirmed by order of court after service of process, however, a Citation to Discover Assets which is directed to the judgment debtor may be issued by the clerk prior to such judgment being confirmed.

B. Citations. In all proceedings under 735 ILCS 5/2-1402 (the Illinois Code of Civil Procedure), the court may, in its discretion, require the judgment debtor to be sworn and examined outside the presence of the court by counsel for the judgment creditor. Subject to the availability of a court reporter, the proceedings may be of record, and a transcript prepared for later examination by

the court.[1]

C. Post Trial Motions. Whenever the court has entered a judgment disposing of all pending matters in a case and there is filed any post-judgment motion seeking a new trial, judgment notwithstanding the finding, to vacate the judgment, for reconsideration of the judgment, or other like relief and movant has failed to file of record within ninety (90) days of filing the motion proof of notice of the setting of a hearing upon the motion, then the motion is stricken without further proceedings or notice on the 90th day.

## RULE 107 REPORTS AND ACCOUNTS OF FIDUCIARIES; ASSIGNMENTS

A. Reports and Accounts of Fiduciaries. In the event that an account of a fiduciary is presented in any applicable division of the Circuit Court by a bank or trust company authorized to administer trusts in the State of Illinois, the Court may waive the requirement of exhibiting the necessary vouchers for distributions, upon presentation of a certificate signed by an officer of the bank or trust company stating that the vouchers covering the disbursements in the account presented are on file with the bank or trust company and in the physical possession thereof and will be retained for a reasonable length of time.

B. Assignments.

1. Each assignment of, or power of attorney with respect to a distributee's interest in the estate of a decedent, or an interest in a judgment, or a distributee's interest in a partition suit, or funds on deposit or in the custody of the Clerk of the Court for other civil purpose, shall be presented to the presiding judge of the proper division of Court for approval of filing, by a verified petition.

2. The petition for approval shall be verified and state:

   a. The names and addresses of the assignor and assignee;
   b. The nature and value of the interest involved;
   c. In the case of assignment, the consideration, if any, paid or to be paid the assignor, and the fees and expenses charged or to be charged in connection therewith;
   d. In the case of a power of attorney, the fees and expenses charged or to be charged by the attorney in fact and his agents or representatives.

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[1] **COURT NOTE:** Section 2-1402 was designed to provide an efficient and expeditious procedure for discovery of assets and income of judgment debtors. There is no requirement that a judge be present during the examination of the judgment debtor. It is appropriate for the parties and counsel to appear, conduct the discovery hearing, and then apply to the Court for an appropriate order. In many cases the order will be an agreed order. In those cases where a dispute exists or a judicial determination is necessary, a transcript could be prepared (and taxed as a cost against the defendant when appropriate) and examined by the Court. The Court can quite appropriately enter an installment order or other orders on the basis of the transcript.

This procedure may not be practical in Small Claims (SC) and Law - Minor (LM) matters where court reporters are seldom available. However, counsel for a judgment creditor could be required to conduct a brief examination of the defendant, under oath, outside the court's presence. It is appropriate for the judge to admonish the defendant to answer questions and be cooperative during the examination.

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

**RULE 108 RECEIVERS**

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

1. Is related by blood or marriage to a party or attorney in the action;

2. Is an attorney for, or of counsel for any party in the action;

3. Is an officer, director, stockholder, or employee of a corporation the assets of which are in question; or

4. Stands in any relation to the subject of the controversy that would tend to interfere with the impartial discharge of his duties as an officer of the court.

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

C. Attorneys for Receivers. An attorney for the receiver shall be employed only upon order of the court upon written motion of the receiver stating the reasons for the requested employment and naming the attorney to be employed.

D. Inventories of Receivers. No later than thirty (30) days after his appointment, the receiver shall file with the court a detailed report and inventory of all property, real or personal, of the estate and designating the property within his possession or control.

E. Appraisal for Receivers.

1. Appraisers for receivers may be appointed only upon order of court or agreement of the parties with the approval of the court. If appraisers are appointed, they shall be selected by the court.

2. If no appraisers are appointed, the receiver shall investigate the value of the property of the estate and show in the inventory the value of the several items listed as disclosed by the investigation.

F. Reports of Receivers.

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

2. The court may prescribe forms to be used for reports of a receiver.

G. Receivers' Bonds.

1. Bonds with personal sureties shall be approved by the court. Unless excused by the court sureties shall execute and file schedules of property in a form approved by the court.

2. Bond with a corporation or association licensed to transact surety business in this State as surety will be approved only if a current certified copy of the surety's authority to transact business in the State, as issued by the Director of Insurance, is on file with the clerk of the court, and verified power of attorney or certificates of authority for all persons authorized to execute bonds for the surety is attached to the bond.

**RULE 109 COURT-ANNEXED SMALL CLAIMS MEDIATION (McLEAN COUNTY)**

In an effort to provide the citizens of the Eleventh Judicial Circuit with an expeditious and expense saving alternative to traditional litigation in the resolution of controversies, a program of Court-Annexed Small Claims Mediation for pro se litigants is hereby established in McLean County.

A. Introduction. Mediation under this order and pursuant to the following rules involves a confidential process by which a neutral mediator, appointed by the Court, assists in identifying the issues, reducing misunderstanding, clarifying priorities, exploring areas of compromise, and finding points of agreement as well as legitimate points of disagreement. Any agreement reached by the parties is to be based on the autonomous decisions of the parties and not the decisions of the mediator. It is anticipated that an agreement may not resolve all of the disputed issues, but the process can reduce points of contention. Parties are expected to mediate in good faith but are not compelled to reach an agreement.

B. Actions Eligible for Small Claims Mediation. All pro se small claims and arbitration cases may be referred to mediation by agreement of the parties. If there is an order of protection between the parties then mediation shall not take place until further inquiry of the Court.

C. Scheduling of mediation. All pro se small claims litigants shall be given the opportunity to participate in mediation at the first return date. Mediation may occur at any time during the small claims process; however, if the parties agree to participate in mediation at the first appearance and the case is settled at that time, the respondent’s appearance fee will be waived.

D. Conduct of the Mediation Conference.

1. Appointment of the Mediator. At the initial appearance date, the Court will designate a mediator who will handle the case from the assigned mediators available that day. If the case is not reduced to judgment that day, the case shall be set for trial.

2. Conflict of Interest. Unless fully disclosed and waived by the parties, a mediator must not have an interest in the outcome of the litigation, must not be retained or employed by any of the parties involved in the litigation, or be related to any of the parties in the litigation.

3. Compensation of the Mediator. The small claims mediators are volunteers and shall not be compensated.

4. Disqualification of a Mediator. If the Court determines that a mediator is disqualified from hearing a case, a qualified replacement shall be appointed. Nothing in this provision shall preclude mediators from disqualifying themselves or refusing any assignment.

5. Discovery. No discovery shall be conducted prior to the mediation.

6. Communication with Parties. The mediator may meet and consult privately with either party during the mediation session.

7. Completion of Mediation. Mediation shall be completed within the court session that the mediator is appointed.

8. Absence of Parties and Subsequent Termination of Mediation. If both parties agree to mediation and then either one fails to appear at the mediation, the case will be sent back to the presiding judge for disposition as if mediation had never been scheduled.

   The mediator shall report the termination of the mediation without comment. The case will then be set for trial.

9. No Agreement. If the parties do not reach an agreement, the mediator and the parties shall report the lack of an agreement to the Court without comment or recommendation. The case will then be set for trial.

10. Agreement. If an agreement is reached, it shall be reduced to writing and signed by the parties at the conclusion of the mediation. The mediator and the parties must notify the Court that an agreement was reached, submit the agreed order, and if approved, the Court shall enter a judgment order on that agreement.

11. Imposition of Sanctions. In the event of any breach or failure to perform under the court order, the Court upon motion may impose sanctions, including costs, attorney fees, or other appropriate remedies.

12. 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.

13. Reports to Supreme Court. The chief judge or his/her designee shall provide for the maintenance of records of mediations conducted pursuant to these rules including the

number of mediations conducted, the number of mediations resulting in full or partial agreements and those resulting in no agreement. Such information shall be furnished to the Supreme Court through its administrative office quarterly or at such other interval as may be directed, but in no event less than once a year.

14. Peer Review Process. All volunteer mediators will be subject to Peer Review once a year. The review will be conducted by a member of the Peer Review Committee. The peer reviewer will contact the mediator prior to the mediation date, and will observe the mediation. After the mediation, the peer reviewer will debrief the mediator and then meet with the Peer Review Committee to discuss his or her observations. Following the committee meeting, the Peer Review Committee Chair will contact the volunteer with the committee's decision.

E. Mediator Qualifications

1. General Requirements. The Chief Judge shall maintain a list of mediators who have been certified by the circuit court and who have registered for appointment. For certification, a small claims mediator must: complete an application and mandatory Small Claims Mediation training approved by the chief judge; mediate a minimum of six (6) cases following training; participate in regularly scheduled mediator meetings; abide by the ethical guidelines of a professional mediator; support and respect workplace and client diversity; submit the required documentation associated with all cases in a timely manner; and maintain the strictest level of confidentiality regarding clients and their cases.

2. Previous Certification. All attorneys who have previously been certified to be a court-annexed major civil case mediator under local court rules shall be deemed to be qualified for the purpose of participating in Small Claims Court Mediation.

3. Continuing Responsibilities as a Certified Mediator. In each case, the mediator shall comply with this local rule regarding mediation and such other general standards as may, from time to time, be established and promulgated in writing by the Chief Judge of the Eleventh Judicial Circuit.

4. Decertification of Mediators. The chief judge of the circuit court may decertify a mediator previously certified under these rules for any of the following reasons:

    a. Revocation or suspension of any professional license held by the voluntary mediator in the State of Illinois;
    b. Failure or refusal of the mediator to comply with this local rule governing mediation or any general standards issued by the circuit court regarding mediation;
    c. Other unprofessional conduct by the mediator that interferes with the ability of the circuit court to provide appropriate mediation services;
    d. The request of the mediator to be decertified; or
    e. At the discretion of the Chief Judge.

## RULE 110 RESIDENTIAL MORTGAGE FORECLOSURE MANDATORY MEDIATION (McLEAN COUNTY)

The Eleventh Judicial Circuit Court, with the approval of the Illinois Supreme Court, has established by Circuit Court Rule a Residential Mortgage Foreclosure Mandatory Mediation program in McLean County.

All forms referenced in this rule are available through the Circuit Clerk or available on the McLean County Circuit Court website. The following administrative procedures are established in order to comply with Supreme Court Rule 99.1:

A. Filing fee/Complaint: In all McLean County cases where a complaint is filed to foreclose a residential real estate mortgage (as defined in 735 ILCS 5/15-1203, 15-1207, and 15-1219), the complaint shall clearly designate that the case is subject to mediation and the Circuit Clerk shall charge an additional $25.00 filing fee to defray the cost of the Mandatory Residential Mortgage Foreclosure Mediation Program. The filing fee may be refunded by order of the Court pursuant to Section H of this Rule. The fees collected shall be forwarded to the McLean County Treasurer and maintained in a separate fund subject to disbursement on order of the Chief Judge of the Eleventh Judicial Circuit.

B. Summons: In all Residential Mortgage Foreclosure cases, plaintiffs shall use a Summons Form specifically tailored for those cases. Attorneys may generate forms for use in foreclosure mediation cases as long as they are substantially similar to the forms approved by the court.

C. Attachments to Summons: In all Residential Mortgage Foreclosure cases, Plaintiff shall attach to the Summons a Notice of Mandatory Mediation and a Foreclosure Mediation Program Initial Questionnaire. The parties may generate forms for use in foreclosure mediation cases as long as they are substantially similar to the forms approved by the court.

D. 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 a least 42 days but no 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 McLean 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.

E. 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 the Alias Summons.

F. Counterclaims to Foreclose a Mortgage: Where the complaint to foreclose a mortgage takes the form of a Counterclaim (i.e. the original complaint is a mechanics lien), any counterclaims to foreclose a mortgage must pay the extra $25 filing fee. Any party in a counterclaim seeking to foreclose a residential mortgage may request mediation by contacting court scheduling 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.

G. Second Lienholders – Right to Participate: 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.

H. Stay of Foreclosure Proceedings: No further action to pursue the foreclosure can occur during the mediation timeline (which begins on the date the summons is issued and ends on the date the mediator files a report). The defendant's obligation to answer the complaint and the court case are stayed for this period. No motions, except motions pertaining to mediation, can be filed during this time.

   Motions which may be filed during the mediation process are those related to a stay or termination of foreclosure proceedings for the following reasons:

   1. Active Duty Military Service (735 ILCS 5/15-1501.5)

   2. Other objections to jurisdiction over the person (725 ICLS 5/15-1505.6)

   3. Stay of proceedings by the US Bankruptcy Court under 11 U.S.C. § 362 (a)

   4. Foreclosure of non-residential or commercial property (not eligible for the program)

   Any motion for stay must clearly state the reason that the case is not subject to the mediation process, must include supporting documentation, and must be verified pursuant to the Illinois Code of Civil Procedure (735 ILCS 5/1-109). The Motion must be presented to and approved by the Supervising Judge for Residential Mortgage Foreclosure Mediation.

I. 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.

J. Pre-Mediation Conference Procedure: At the pre-mediation conference, defendants' cases will be assessed by pro bono counsel for the defendant and/or a HUD certified-counseling agency. If a loan modification is deemed feasible, defendants shall provide a completed modification packet and/or settlement offer to plaintiff's counsel. Plaintiff's counsel shall provide to defendant's counsel an itemized list of any missing information within 14 days of the packet being served. Once all information is received, Plaintiff's counsel shall file a Certificate of Readiness to Engage in Mediation and mediation will be schedule within 45 days. In addition, Plaintiff's counsel shall provide Defendant's counsel with a completed Plaintiff's questionnaire within 30 days of filing the Certificate. Representatives of the lender are not required to attend the pre-mediation conference.

K. Mediation: At the mediation, plaintiff's counsel must appear. In addition, plaintiff's representative with full authority to make decisions on the case must appear in person or by telephone. The representative may be an underwriter, loss mitigation person, or any other representative with full authority to enter into a loan modification agreement or to negotiate a disposition. All defendant borrowers shall be present in person, with their attorney and/or housing counselor. The mediator shall admonish all parties of the need to complete matters in a timely fashion and to participate in the mediation process in good faith. The Court may consider appropriate sanctions for any party not participating in good faith.

L. Timing of Mediation: 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.

M. Phone Usage: Since it is contemplated that plaintiff's counsel and lender's representatives will need to consult telephonically during the mediation process, plaintiff's counsel and lender shall be allowed to use phones and computers for the purpose of aiding the mediation process. In no case are photographs or recordings of the proceedings, parties or personnel attending allowed.

N. Documents to Remain Confidential: All documents used by the mediation coordinator and the mediator, except for official reports to the court regarding the results of the mediation or pre-mediation conference, are to be kept confidential and will be maintained in a separate place for the use of the judge. They are not official court records. One of the program's goals is to encourage the parties to fully communicate by engaging in confidential mediation process.

O. Rules: Any mediation ordered pursuant to this rule shall be conducted in accordance with the Mandatory Residential Foreclosure Mediation Rules established by the Eleventh Judicial Circuit through the office of the Chief Judge. A copy of the Foreclosure Mediation rules may be obtained in the office of the Chief Judge or on the McLean County website. The Mandatory Residential Foreclosure Mediation is a pilot program and further procedures, rules and guidelines may be issued by the court as needed.

P. Compliance with Supreme Court Rule 99.1: The Circuit Court of McLean County has collaborated with the University of Illinois College of Law Community Preservation Clinic and Mid-Central Community Action to provide pro bono legal services and HUD-certified housing counseling services to eligible homeowners who are defendants in mortgage foreclosure actions. The University of Illinois College of Law Community Preservation Clinic has received grant funding to enable it to provide pro bono legal services to defendants in mortgage foreclosure proceedings. The Clinic and the Circuit Court are committed to seek additional grants in the future in order to ensure the viability of the program.

Q. Provision of Foreign Language Interpreter: Any party who requests a foreign language interpreter shall be provided one without cost. Said requests should be submitted to the Trial Court Administrator in advance of any pre-mediation conference or mediation hearing so that an interpreter may be obtained prior to the commencement of the conference or hearing.

R. Training of Judges, Key Personnel and Mediators: The Circuit Court has established Mediation Program Rules which sets forth the qualifications for mediators and the training requirements. The Circuit Court shall provide in-service continuing education and peer review to key personnel and mediators who are a part of the mediation program. Judges assigned to hear mortgage foreclosure cases shall participate in judicial training offered through the Administrative Office of Illinois Courts Judicial Education program and other similar training opportunities.

**RULE 111 DORMANT CALENDAR**

A dormant calendar is hereby established in the Circuit Court of the Eleventh Judicial Circuit.

A. Transfer of Cases. Any Circuit or Associate judge may, by order entered in the case on the court's

own motion, transfer to the dormant calendar any pending case in which a party is also a party to a bankruptcy proceeding in federal court which causes a stay of proceedings in said cause or in which a party is on active duty in the military service of the United States. Cases transferred to the dormant calendar pursuant to the order shall not be considered as pending cases for statistical purposes.

B. Reinstatement to Active Calendar. Upon the removal of such bankruptcy stay or upon such active duty status terminating, any circuit or associate judge shall, by order in the case, transfer said case to the active calendar of the court to be disposed of accordingly and said case shall be considered as a pending case for statistical purposes.

C. Call of the Dormant Calendar. Annually, in the month of May, the Circuit Clerk of each county shall prepare a list of all cases transferred to the dormant calendar for over twelve (12) months. A copy of the list shall be delivered by the Clerk to the Presiding Judge of each County, or in McLean County, the presiding judge of each division. The Presiding Judge receiving a list of cases pending on the dormant calendar for more than twelve (12) months shall order a call of the cases so pending in the month of June annually. On the annual call of the dormant calendar, determination shall be made whether the case should remain on the calendar, be dismissed, or be reinstated as an active case.

**RULES 112-149 RESERVED**

## RULES 151-199 DISSOLUTION, FAMILY AND JUVENILE COURT RULES

### RULE 151 COORDINATION OF CHILD CUSTODY PROCEEDINGS

In accordance with Supreme Court Rule 903, whenever possible and appropriate, all child custody proceedings relating to an individual child shall be conducted by a single judge. Whenever a child custody proceeding (as defined in Supreme Court Rule 900) is filed, and there is a child custody matter already pending before another judge involving the same child, the judges involved shall confer as often as needed and jointly determine which court(s) shall control and hear said issues and shall consider the impact of such orders on siblings, relatives and parties in each case as well as whether consolidation of such cases may be impracticable because of the arrangement of courtrooms, facilities and assignment of auxiliary court personnel.

### RULE 152 COORDINATION OF DISSOLUTION, FAMILY AND ORDER OF PROTECTION CASES

A. All hearings under the Illinois Domestic Violence Act (750 ILCS 60/101 et. seq.) involving the same parties in any dissolution of marriage or civil union proceeding, or any family or paternity proceeding within the same county shall be consolidated in the pending Dissolution (D) or Family (F) case as appropriate. The respective Courts of this Circuit may retain their local practice regarding filing a separate court file for the Order of Protection or consolidating such pleadings.

B. Following a court hearing for an emergency order of protection where an existing dissolution or family case exists, the court, if applicable, shall transfer the case to the appropriate docket of the judge presiding over the dissolution of marriage or civil union, or family case.

### RULE 153 CHILD PROTECTION MEDIATION (McLEAN COUNTY FAMILY DIVISION)

A. Compliance with Supreme Court Rule 99 (b)(2). The Child Protection Mediation Program for McLean County, Illinois has promulgated rules for the conduct of the mediation proceedings which are in compliance with Supreme Court Rule 99 (b)(2). A person who is approved by the Chief Judge of the Eleventh Judicial Circuit to act as a mediator under these rules shall have judicial immunity in the same manner and to the same extent as a judge.

B. Actions eligible for referral to mediation.

   1. Child Protection Cases. Pursuant to Supreme Court Rule 905 (a), the Child Protection Mediation program shall make mediation available in cases involving the custody of or visitation of a child(ren) that are initiated under Article II of the Juvenile Court Act of 1987. The mediation program focuses on issues pertaining to temporary or permanent custody and visitation, which can impact the permanency of a minor child. Any matter or conflict that may be delaying or impeding visitation or any custody determination is appropriate for mediation. When the court determines that a matter is appropriate for mediation it shall be referred to mediation regardless of the stage of the child protection proceeding. However, because establishing permanency is of primary importance, and because of the necessity to begin permanency planning immediately upon removal of the minor child(ren) from the care of his

or her parents/guardians, priority will be given to those cases where shelter care has been ordered and prior to the adjudication, if any, of the child(ren).

Cases shall be excused from mediation if the Court determines that an impediment to mediation exists. In Child Protection cases, attorneys, social workers, CASA volunteers, family members, GALs or any other individual involved in the case may request that it be referred to mediation. The Court may also refer cases to mediation *sua sponte* and over any party's objection.

2. Other cases. Pursuant to Supreme Court Rule 905(a), the Child Protection Mediation Program may make mediation available in cases involving custody of or visitation with a child that are initiated under articles III and IV of the Juvenile Court Act of 1987, and guardianship matters involving a minor under article XI of the Probate Act of 1975 if a Court determines that such matter is appropriate for mediation. Any matter or conflict that may be delaying or impeding visitation or any custody determination is appropriate for mediation. When the court determines that a matter is appropriate for mediation it shall be referred to mediation regardless of the stage of the proceeding. However, because establishing permanency is of primary importance, and because of the necessity to begin permanency planning immediately upon removal of the minor child(ren) from the care of his or her parents/guardian, priority will be given to those cases where shelter care has been ordered and prior to the adjudication of the child.

   Cases shall be excused from mediation if the Court determines that an impediment to mediation exists. In Child Protection cases, attorneys, social workers, CASA volunteers, family members, GALs or any other individual involved in the case may request that it be referred to mediation. The Court may also refer cases to mediation *sua sponte* and over any party's objection.

C. Appointment and qualifications of the mediators.

1. Appointment of Mediators. The Judge assigned to Juvenile Abuse and Neglect cases, with the consent and approval of the Chief Judge of the Circuit Court of the Eleventh Judicial Circuit, will appoint mediators from a list of approved Mediators, which shall be established by the Chief Judge.

2. Child protection mediators shall possess one or more of the following: (1) a bachelor's, master's or doctoral degree in psychology, social work, marriage and family therapy, conflict resolution, or other behavioral science, substantially in the field of juvenile and family law related to family relations, domestic violence, or child development, from an accredited college or university; (2) a Juris Doctorate degree with demonstrated experience or (3) a background in mediation with experience acceptable to the Court. Additionally, all child protection mediators shall successfully complete a minimum 40 hour mediation training skills program, the content of which is acceptable to the Chief Judge of the Eleventh Judicial Circuit, plus additional child protection training which shall be approved by the Chief Judge of the McLean County Circuit Court.- Mediators shall also have knowledge and/or experience of the local child protection and juvenile court systems, the dynamics of child welfare administration and local community resources.

3. All mediators shall serve on a *pro bono* basis.

4. All mediations shall be co-mediated.

D. Scheduling of Mediation Conferences. Referral to mediation shall be made by an Order to Mediation. Mediation sessions shall be held at the Eleventh Judicial Circuit Arbitration Center, located at 200 W. Front Street, Room 400B, Bloomington, Illinois 61701. When a case is referred to mediation, the involved individuals shall be provided with a date and time for the initial mediation session. All individuals expected to participate in mediation sessions must complete intake forms and submit them. When a case is ordered to mediation, a return date before the Judge will be set.

E. Conduct of the conferences.

1. Who may participate. The Court may order, and it is expected that parents, guardians, foster parents, attorneys, guardians ad litem, social workers, case managers from the POS agency, and CASA volunteers will actively participate in the mediation sessions. Other professionals involved with the family, such as counselors, sponsors, and school personnel may be included. In addition, individuals involved with a participant in a supportive capacity may be permitted to accompany the participant to mediation and to participate in the session if his or her participation is likely to help resolve the issues. However, the actual list of participants included in any mediation session will be determined on a case-by case basis. Following the initial mediation session, subsequent sessions may be scheduled which include various combinations of individuals who participated in the initial sessions, as well as others who did not previously participate. The mediators have the discretion to exclude an individual if it is determined that doing so would advance the mediation process and the discussion focused on the best interests of the child and the permanency for the child(ren).

2. The mediator may conduct a child interview prior to the session to determine whether it is appropriate for the minor to participate in the mediation. The child(ren)'s guardian ad litem shall be present, and the CASA and/or case manager may be present during the interview. After consultation with the child(ren)'s guardian ad litem, the mediator shall make all final determinations as to the appropriateness of a child's participation in the mediation process.

F. The Mediation Process. The mediation program shall use a facilitative co-mediation model which involves an orientation by one of the mediators; brief opening statement by each participant; open discussions facilitated by the mediators; and caucuses with select individuals in various combinations as needed.

G. Discovery. Pursuant to the Uniform Mediation Act, 710 ILCS 35/1 et seq. seq., mediation communications are privileged against disclosure and not subject to discovery or admissible in evidence in a judicial, administrative, arbitral, or other adjudicative process, including related pre-hearing and post-hearing motions, conferences and discovery.

Mediation communications are also privileged against disclosure and not subject to discovery or admissible in evidence in a legislative hearing or similar process. Disclosure of mediation communications shall not be compelled in any arbitration, administrative hearing, adjudication, civil action, or non-criminal proceeding in which, pursuant to law, testimony can be compelled to be given. Evidence or information that is otherwise admissible or subject to discovery does not

become inadmissible or protected from discovery solely by reason of its disclosure or use in mediation.

H. Absence of a party at conference and sanctions. Participation in all mediation sessions required to address the issues referred to mediation, and other issues raised during the initial session, is mandatory for all persons ordered by the Court to participate. A mandated person who fails to participate in the mediation may be subject to Court-ordered sanctions. Upon agreement of those present, a mediation session may proceed in the absence of an ordered individual if the mediator deems it appropriate.

I. Termination and report of Mediation Conference. Each session will end with the consensus of the parties unless a mediator determines the session should be terminated prior to such consensus. The mediators shall have the power to suspend or terminate the mediation process if it is determined that the mediation cannot be conducted in a safe and balanced manner. The mediator shall also suspend or terminate the mediation process if it is determined that any party is unable to participate in an informed manner for any reason, including fear or intimidation.

J. Mediation Report. A mediation report shall be completed by the mediators at the end of each mediation session and submitted to the Court and the Arbitration Administrator. The report shall also inform the Court if an ordered party failed to appear. Additionally, the report shall indicate whether the mediation parties reached full agreement, partial agreement, or no agreement. Any agreement will be reduced to writing and shall be attached to the mediation report. If the mediation does not occur, the report shall inform the Court why it did not occur, whether an informal discussion was facilitated among the parties in attendance, and whether the case has been or will be reset for mediation. If, after the initial meeting, it was determined that the case is not suitable for mediation at the time, the report will so indicate.

K. Finalization of Agreement. If an agreement is reached, the mediators will assist the mediation parties in memorializing their agreement. Any executed Memorandum of Agreement is tendered to the Court for approval. Once the Court approves and enters the Memorandum of Agreement it is fully enforceable by the Court.

L. Confidentiality. Except as provided in paragraph (M) below, all mediation communications occurring during the mediation process shall remain confidential in accordance with the terms of the Uniform Mediation Act. Mediation communications shall not be disclosed in meetings, case reviews, staffing, or in similar settings. In addition, mediation communications shall not be recorded in memoranda, case notes, reports, case plans, uniform progress reports, or similar documents.

M. Exceptions. In the mediation process, any mediator or mediation participant may disclose:

1. New allegations of abuse or neglect that are revealed during the mediation process;

2. Threats or statements made in mediation where failure to disclose is likely to result in serious or imminent harm to any person

3. Communications that activate mandatory reporting obligations, in accordance with the provisions of the Abused and Neglected Child Reporting Act (325 ILCS 5/1-5/4), of an mediator, mediation party, or nonparty participant;

4. As otherwise expressly provided by law.

N. Mechanism for reporting to the Supreme Court on the mediation program. The Circuit Court of McLean County through the Office of the Chief Judge shall report to the Supreme Court the number of cases submitted to mediation pursuant to this rule. This report shall also contain the type and number of issues resolved through the mediation program. Said report shall be submitted to the Supreme Court for the calendar year not later than the first day of March of the next calendar year.

**RULE 154 MEDIATION OF CHILD CUSTODY AND VISITATION ISSUES**

A. In any dissolution or family case involving contested issues of child custody, visitation or removal, either temporary or permanent, the court shall order the parties to mediation prior to the setting of any contested hearing unless the court determines an impediment to mediation exists.

B. A mediation referral form shall be sent to the mediator within three (3) days of the entry of the Order for Mediation, and shall be completed by counsel for the Petitioner or such other party as the Court directs.

C. Unless otherwise ordered by the Court, the first mediation conference shall be held within twenty-one (21) days of the Order for Mediation. If both parties have not contacted the mediator to set an evaluation conference within fourteen (14) days of the Order for Mediation, the mediator shall notify the parties, in writing, of the time, date, and location of the mediation.

D. Conduct of Mediation. Any mediation ordered pursuant to the rule shall be conducted in accordance with the Standards and Procedures for Court-Referred Matrimonial and Family Mediation by a mediator whose name appears on the court-approved list of mediators maintained at the office of the Circuit Clerk. The moving party's attorney, or Judge when both parties are pro se, shall be responsible for completion of the Mediation Referral form and for forwarding that form to the mediator(s) selected.

E. The content of all mediation sessions shall be confidential and the mediator(s) shall not be served with a subpoena or called as a witness.

F. Any person seeking to become a mediator should apply in writing to the Chief Judge of the Eleventh Judicial Circuit. The applicant should set forth his/her background and experience in mediation and provide proof that the Minimum Qualifications of Matrimonial and Family Dispute Mediators are met. Upon approval by the Chief Judge of an applicant as a mediator, the individual shall be added to the list of approved mediators maintained in the office of the Chief Judge.

G. Each mediator shall file a copy of the mediator report with the court file and the Arbitration Administrator within five (5) days of completing mediation.

H. The Chief Judge of the Eleventh Circuit (or designee) shall maintain statistical data on all family mediation proceedings, and report said data to the Administrative Office of Illinois Courts and to the Presiding Judge of the Family Division of each county as required.

I. Any mediation ordered pursuant to this rule shall be conducted in accordance with the Standards and Procedures for Court-Ordered Mediation of Custody and Visitation established by the Chief Judge. A copy of the Standards and Procedures may be obtained in the office of the Chief Judge or on the McLean County website.

**RULE 155 ATTORNEY QUALIFICATIONS IN CHILD CUSTODY AND VISITATION**

A. Counsel appointed by the court to participate in child custody and visitation matters must possess the ability, knowledge, and experience to do so in a competent and professional manner. Attorneys appointed by the court to represent children in child custody cases and guardianship cases when custody and visitation is an issue shall have the following minimum qualifications:

1. Be licensed and in good standing with the Illinois Supreme Court.

2. Ten (10) hours in the two years prior to the date the attorney is appointed in approved continuing legal education courses in the area of child development, roles of guardian ad litem and child representative, ethics in child custody cases, relevant substantive state, federal, and case law in custody and visitation matters, family dynamics, including substance abuse, domestic abuse, and mental health issues.

3. One pro bono representation in the year prior to the appointment.

B. Attorneys seeking appointment in child custody and visitation case shall apply in writing to the Chief Judge of the Eleventh Judicial Circuit. The applicant should set forth his/her qualifications as set forth above. A list of Attorneys so qualified shall be maintained by the Chief Judge's office.

C. To remain on the approved list, each attorney shall attend continuing legal education courses consisting of at least five (5) hours every two year period and submit verification of attendance to the Office of the Chief Judge at the time of attendance or upon request. The five hours should include courses in child development; ethics in child custody cases; relevant substantive law in custody, guardianship and visitation issues; domestic violence; family dynamics including substance abuse and mental health issues; and education on the roles and responsibilities of guardians ad litem, child representatives, and attorneys for children. Attendance at relevant programs sponsored by this circuit may be included as a portion of this continuing education requirement.

**RULE 156 DISSOLUTION, CIVIL UNION AND FAMILY CASES**

A. Dissolution and family cases are defined as any proceedings for an order, judgment or decree relating to dissolution of marriage or civil union, parentage, separate maintenance or declaration of invalidity of marriage including proceedings concerning such matters as temporary support, maintenance, child custody or support.

1. Affidavit of Income and Expenses. In all proceedings involving petitions for attorney's fees, court costs, maintenance, support and/or custody of children and modification of any previous orders relating thereto, the parties shall prepare an affidavit of income and

expenses) with proof of service pursuant to Supreme Court Rule 11, unless for good cause shown the court otherwise directs.

The Affidavits of Income and Expenses shall not be filed with the Circuit Clerk, but parties shall provide a courtesy copy to the judge assigned to the case prior to any hearing. Any financial document, bank record or affidavit of income and expenses offered and received as an exhibit shall be filed in accordance with Supreme Court Rule 138, and shall be considered impounded, unless the court orders otherwise.

2. Unless otherwise provided in the order for support, all support payments shall be made to the State Disbursement Unit (SDU).

B. Dissolution Venue. In any case brought pursuant to the Illinois Marriage and Dissolution of Marriage Act where neither petitioner nor respondent resides in the county; where the initial pleading is filed, counsel for the petitioner shall file with said pleading a written motion, which shall be set for hearing and ruled upon before any other issue is taken up, advising that the forum selected is not one of proper venue and seeking an appropriate order from the court allowing a waiver of the venue requirements of § 104 of said Act.

C. Parenting Education. All parents of minor children involved in any action concerning custody, modification of custody, visitation, or removal shall participate in a parenting education program approved by the Chief Judge not later than sixty (60) days after the initial case management conference, unless excused by the Trial Judge for good cause shown. Parents of minor children subject to this rule that fail to file a certificate of completion with the Clerk of the Court may not be granted a final order of custody or visitation.

D. Joint Simplified Dissolution. Joint simplified dissolutions shall be conducted in accordance with the terms and provisions of 750 ILCS 5/451-457. Pursuant to 750 ILCS 5/453, the Clerk of the Circuit Court shall provide forms at the request of parties desiring to file a Petition for Joint Simplified-Dissolution of Marriage. Pursuant to 750 ILCS 5/456, the contents of forms to be used in simplified dissolution cases shall be provided for by court rule. The Circuit Clerk also may make available a brochure that describes the requirements, nature, and effect of a simplified dissolution.

E. Mediation of Financial or Property Issues

1. In any dissolution of marriage or civil union or family case involving contested issues of financial support, distribution of assets, distribution of financial obligations and debt or distribution of property, either temporary or permanent, the court may, at the request of either party or on the court's own motion, enter an Order for Mediation.

2. A mediation referral form shall be sent to the mediator in all cases within 3 days of the entry of the Order for Mediation. Unless otherwise ordered by the court, the first mediation conference shall be held within twenty-one (21) days of the Order for Mediation. If both parties have not contacted the mediator to set an evaluation conference within fourteen (14) days of the Order for Mediation, the mediator shall notify the parties, in writing, of the time, date and location of the mediation.

3. Any mediation ordered pursuant to this rule shall be conducted in accordance with the Standards and Procedures for Court-Referred Financial Issues Mediation by a mediator whose name appears on the court-approved list of mediators maintained in the office of the Chief Judge. The moving party's attorney, or Judge when both parties are pro se, shall be responsible for completion of the Mediation Referral form and for forwarding that form to the mediator(s) selected.

4. The content of all mediation sessions shall be confidential and the mediator(s) shall not be served with a subpoena or called as a witness.

5. Any person seeking to become a financial mediator should apply in writing to the Chief Judge of the Eleventh Judicial Circuit. The applicant should set forth his/her background and experience in mediation and should show that the Minimum Qualifications of Mediators are met. Upon approval by the Chief Judge of an applicant as a mediator, the individual shall be added to the list of approved financial/property mediators maintained in the office of the Chief Judge.

6. Each mediator shall file a copy of the mediator report with the court file and the Arbitration Administrator within five (5) days of completing mediation.

7. The Chief Judge of the Eleventh Circuit (or designee) shall maintain statistical data on all financial mediation proceedings, and report said data to the Administrative Office of Illinois Courts and the presiding Judge of the Family Division of each county as required.

## RULE 157 PARENTING COORDINATION IN DISSOLUTION AND FAMILY CASES (McLEAN COUNTY)

In an effort to provide the citizens of the Eleventh Judicial Circuit with an expeditious and expense saving alternative to traditional litigation in the resolution of high conflict custody and visitation cases, a program of Parenting Coordination is hereby established in McLean County.

A. Appointment - The Court may appoint a parenting coordinator when it finds the following:

   1. The parties failed to adequately cooperate and communicate with regard to issues involving their children, or have been unable to implement a parenting plan or parenting schedule;

   2. Mediation has not been successful or has been determined by the judge to be inappropriate; or

   3. The appointment of a parenting coordinator is in the best interests of the child or children involved in the proceedings.

      Notwithstanding the above, the court may appoint a parenting coordinator by agreement of the parties.

B. Qualification - The parenting coordinator shall possess the *Minimum Qualifications of Matrimonial and Family Dispute Mediators* which have been established by the Chief Judge of the Eleventh Judicial Circuit.

C. Confidentiality - Communications with the parenting coordinator shall not be confidential, except that upon the agreement of both parties and the parenting coordinator, the court may deem all or any specific part of the communications with the parenting coordinator to be confidential, if such designation appears to be in the best interests of the children.

D. Duties:

1. The parenting coordinator shall educate, mediate, monitor court orders and make recommendations to the court as necessary. In addition, the parenting coordinator may recommend approaches that will reduce conflict between parents and reduce unnecessary stress for the children.

2. The parenting coordinator may monitor parental behaviors and mediate disputes concerning parenting issues and report any allegations of noncompliance to the court, if necessary.

3. The parenting coordinator shall recommend outside resources as needed, such as random drug screens, parenting classes and psychotherapy.

4. The parenting coordinator may recommend detailed guidelines or rules for communication between parents.

5. The parenting coordinator shall maintain communication among all parties by serving, if necessary, as a conduit for information.

6. The parenting coordinator may meet with the parties, the children, and significant others jointly or separately. The parenting coordinator shall determine if the appointments shall be joint or separate.

7. Each parent should direct any disagreements or concerns regarding the children to the parenting coordinator.

8. The parenting coordinator shall work with both parents to attempt to resolve the conflict and, if necessary, shall recommend an appropriate resolution to the parents.

9. The parenting coordinator shall not have any decision-making authority which is the sole province of the court.

10. The parenting coordinator shall not serve as a custody evaluator in any proceeding involving one or more parties for whom the parenting coordinator has provided parenting coordination services.

11. The parenting coordinator shall not be permitted to give a recommendation or opinion concerning the ultimate issue of fact, law, or mixed issue of fact and law as to child custody, primary physical residence, or visitation. Recommendations or opinions on lesser issues, as stated above, may be conveyed by the parenting coordinator to the parents and the court.

12. No parenting coordinator shall be held liable for civil damages for any act or omission in the scope of the parenting coordinator's employment or function, unless such person acted in

bad faith or with malicious purpose, or in a manner exhibiting wanton and willful disregard of the rights, safety or property of another.

E. Expenses of the Parties – Expenses of the Parent Coordinator shall be borne by the parties and shall not be assessed against or paid for by McLean County.

**RULE 158 DETENTION OF JUVENILE STATUS OFFENDERS**

A. The McLean County Juvenile Detention Center is prohibited from detaining all juvenile status offenders and non-offenders. A status offender is defined as a juvenile accused of an offense that would not be criminal if committed by an adult, such as truancy, curfew violations, running away from home or a placement, or ordinance violations such as consumption of alcohol or tobacco.

B. The McLean County Juvenile Detention Center is prohibited from placing in secure detention any juvenile detained for criminal contempt or on a warrant when the sole underlying offense is a status offense as defined in Section A of this rule.

C. In the event a juvenile is arrested on an outstanding warrant and where the underlying offense is a status offense, the arresting agency is hereby authorized to release the juvenile on a personal recognizance bond to either the parent(s), guardian, an officer of the Department of Children and Family Services or Juvenile Court Services as appropriate.

**RULES 159-198 RESERVED**

## RULES 201-299 CRIMINAL FELONY, MISDEMEANOR, DUI, TRAFFIC AND ORDINANCE VIOLATION COURT RULES

### RULE 201 APPEARANCE BONDS; BAIL IN ARTICLE V OFFENSES; BAIL DEPOSIT

A. Appearance Bonds. In the absence or unavailability of the presiding judge, any judge of the Circuit Court of the Eleventh Judicial Circuit may set bond for a defendant under arrest where a judge or Supreme Court Rule has not previously provided for the amount of the bond.

B. Bail in Article V Offenses. The highest ranking officer on duty of any law enforcement agency located in the Eleventh Judicial Circuit, or his or her designee, and the Clerk of the Circuit Court of each county within the Circuit and any Deputy Circuit Clerk designated by him or her, may let to bail any person charged with an offense covered by Supreme Court Rules 526, 527 and 528, and any such law enforcement officer may also authorize the release, except as prohibited by Supreme Court Rule 553(d), by giving individual bonds in the amount required by Supreme Court Rules 526, 527 and 528. Bail may be taken in accordance with this Rule in any county, municipal or other building housing governmental units, police station, sheriff's office or jail, district headquarters building of the Illinois State Police, weigh station or portable scale unit established for enforcement of truck violations under Supreme Court Rule 526(b)(1) or similar ordinances which are located in the Eleventh Judicial Circuit.

C. Form of Recognizance Bonds. Persons being released upon personal recognizance bonds may be released by signing a separate bond form or by signing a uniform traffic ticket and complaint or a conservation ticket and complaint or other complaint agreeing to comply with the conditions relative to appearance printed thereon.

D. Consolidation. Multiple charges arising out of the same occurrence for which an accused is eligible for release on posting a single bond under Supreme Court Rule 503 are hereby consolidated for appearance by operation of this Circuit Administrative Rule.

   The authority admitting an accused to bail on all such multiple traffic, misdemeanor, ordinance violations and conservation charges shall enter the same single date and time for initial appearance in court upon the face of the bond and/or traffic citation.

E. Use of Bail Bond Deposit.

   1. In all cases where 100% of the bond has been deposited, or in any case applicable under Supreme Court Rule 530, where the cause is dismissed by the prosecuting authority or dismissed for want of prosecution, the Circuit Clerk shall return 100% of the bond deposit to the defendant unless otherwise ordered by the Court.

   2. In all traffic (TR) cases where a 10% bond has been posted pursuant to the provisions of 725 ILCS 5/110-7 and Supreme Court Rule 530, and the Court orders an *ex parte* judgment and conviction be entered and the bond to be applied, the Clerk of the Circuit Court, without further written order or record sheet entry entered in the cause, shall:

a. Use the bail bond deposit to satisfy the costs, fines, additional fines, contributions, assessments, restitution, Public Defender fees, attorney fees or child support obligations assessed against the defendant in the case in which the bail bond has been deposited.

b. Satisfy any child support obligations of the same defendant incurred in a different case, in the amount ordered by the Court.

c. Transfer the remaining bail bond deposit to satisfy the fines, additional fines, court costs, contributions, assessments, restitution, or Public Defender fees of the same defendant incurred in a different case in which there is insufficient bond to cover the payment of such financial obligations.

Other than child support obligations, the Clerk of the Circuit Court shall not transfer the excess bail bond deposit in one case to satisfy the obligations of that same defendant incurred in a different case if the defendant has executed an assignment of the right to a refund of the bail bond deposit at the time the bail amount was deposited without the consent of the defendant's assignee or unless the Clerk is ordered to do so by the Court.

3. In all other cases where a bond is posted, and the bond is ordered forfeited, the Circuit Clerk shall disburse the monies in accordance with 725 ILCS 5/110-7 or 725 ILCS 5/110-8 as applicable unless otherwise ordered by the Court.

**RULE 202 PROCEDURES FOR THE DETERMINATION OF PROBABLE CAUSE AND SETTING BOND ON WEEKENDS AND HOLIDAYS**.

A. Any person arrested without a warrant, who is in custody at a time when the next regularly scheduled court session is not within forty-eight (48) hours of the arrest, shall be entitled to review of probable cause and a determination of bond in the manner set forth herein.

B. On weekends or on court holidays when more than forty-eight (48) hours will elapse before a regularly scheduled probable cause hearing can be conducted, the Chief Judge shall designate the time, date and location of said hearings by Administrative Order.

C. All judges of the Eleventh Judicial Circuit, both Circuit and Associate, shall be designated by Administrative Order to conduct probable cause hearings and affix bond for those persons in custody during said times that court sessions are scheduled on weekends and holidays. Judges of the Eleventh Judicial Circuit shall be authorized to interchange with each other for purposes of conducting hearings under this order.

D. All State's Attorneys and Assistant State's Attorneys of the Eleventh Judicial Circuit are hereby designated special prosecutors for the purposes of conducting probable cause hearings relative to this order.

E. Counties are not required to transport any defendant to the McLean County Law & Justice Center for the purpose of making determinations of probable cause and setting bond under this order.

F. Procedures for Weekend or Holiday Bond Court Hearings:

1. Any peace officer who arrests a person without a warrant, and causes said person to be incarcerated by the Sheriff of the County of arrest, shall provide to the Sheriff of the County a verified statement setting forth the allegations establishing probable cause to arrest. The State's Attorney of said county, or their designee, shall provide to the Court a written charging decision, based on the verified statement and any police reports or witness statements provided by the arresting agency to the State's Attorney conducting the screening, and a criminal history containing sufficient factual information from which the Court can make a determination of probable cause and set bond.

2. The Sheriff of said County shall make said documents available to the McLean County State's Attorney, or their designee, by 12:30 PM on the date of the weekend/holiday bond court.

3. The State's Attorney, or their designee, shall present a probable cause statement and bond recommendation to the Judge presiding over the weekend/holiday bond court beginning promptly at 1:00 PM at the McLean County Law & Justice Center, or any other location designated by the presiding judge, on the date of the weekend/holiday bond court.

4. The assigned judge shall review the probable cause statement and bond recommendation, and based on the review, probable cause shall/shall not be established and the appropriate bond set based on the facts of the case and criminal history of the defendant. The judge shall enter the findings on an order, which shall be filed with the Circuit Clerk by the State's Attorney of the appropriate county on the first business day following the court proceeding. The State's Attorney of McLean County, or their designee, is charged with the responsibility of providing the order(s) to the Sheriff of each county as necessary. The format of the order shall be substantially similar to the attached form.

   Nothing in this order shall prevent a judge from conducting a *McLaughlin* hearing within their assigned county in a manner that substantially complies with the provisions set forth above.

**RULE 203 APPOINTMENT OF PUBLIC DEFENDER (McLEAN COUNTY)**

A. The initial appointment of the Public Defender in McLean County felony cases shall be a provisional appointment. Final appointment shall be confirmed only after the defendant has reported to the Court Screening Officer as directed and provided the information and documentation requested by the Court Screening Officer. At the time of the appointment and thereafter as necessary a written order shall be served upon the defendant requiring compliance with the screening procedures.

B. The Court Screening Officer shall initially determine whether the defendant meets the eligibility guidelines for the appointment of the public defender considering current HHS poverty tables. In the event the Court Screening Officer determines that the defendant does not meet the eligibility guidelines, the Officer shall submit the information obtained from the screening process to the Judge assigned the case, with copies to the defendant and counsel. After reviewing said screening information, the Judge shall make the determination at a hearing as to final appointment of the Public Defender.

**RULE 204 DEMAND FOR SPEEDY TRIAL**

Any demand for speedy trial made by a defendant pursuant to 725 ILCS 5/103-5 shall be made in writing as a separate document, containing proper case caption and case number, signed and dated by the defendant and/or defendant's attorney. The original of the written demand for speedy trial shall be filed at the time of the demand with the Circuit Clerk and made a part of the Court file, and a copy of such demand shall be served upon the State's Attorney, with proof of service made a part of the Court file. No demand for speedy trial shall be accepted by the Court unless filed in accordance with this Rule, absent a finding by the Court that the State had actual notice of the demand and that the interests of justice require recognition of such demand.

**RULE 205 DISCOVERY PROCEDURES IN CRIMINAL CASES**

A. In all felony cases wherein the defendant pleads not guilty, the Court shall enter a reciprocal discovery order. The order will be entered on the date of the arraignment, unless the Court directs otherwise. The order will comply with the requirements of Supreme Court Rules 411-417. The discovery materials required to be exchanged between the parties shall not be filed in the court file to which it relates.

B. Proof of service on the party to whom the material is directed shall be made by certification of counsel responsible for the case. The certification shall include the name and case number of the case to which it relates, be filed with the Clerk of the Circuit Court and meet the following minimum requirements for identifying the specific material provided:

   1. The State's Attorney shall certify that material within the possession or control of the State required to be disclosed by Supreme Court Rule 412 has been provided and identify the categories of material by specific reference to subparagraphs (a), and its subparts, (b) and (c), and to Supreme Court Rule 415(b) and Supreme Court Rule 417, if applicable, setting out the number of pages of material, so provided as to each said reference.

   2. The attorney for the defendant shall certify that material within the possession or control of defendant or his counsel required to be disclosed by Supreme Court Rule 413 has been provided and identify the categories of material by specific reference to subparagraphs (c) and (d) and its subparts, and to Supreme Court Rule 415(b) and Supreme Court Rule 417, if applicable, setting out the number of pages of materials so provided as to each said reference.

C. The Clerk of the Circuit Court is directed to refuse to accept papers that are ordered not to be filed by this rule.

**RULE 206 PROCEDURES FOR ISSUANCE OF SUBPOENA DUCES TECUM**

A. The Circuit Clerk shall issue subpoenas limited to the production of specified documents, objects or tangible things when requested by the prosecutor or the defendant's attorney. The subpoena shall require the person or entity to whom it is directed to produce the designated documents, objects or tangible things. Subpoenas shall be returnable to the judge assigned to the case at a time that the Court is normally in session. It shall be the responsibility of the party requesting the subpoena to secure a return date with the judge presiding over the case. A notice of hearing

indicating the return date shall be served by the party requesting the subpoena in accordance with these Rules on all parties to the case.

B. Only completed subpoenas shall be submitted to the Circuit Clerk for issuance. Subpoenas issued pursuant to this Rule shall be served in accordance with Supreme Court Rules.

C. In cases where the documents, objects or tangible things sought are protected under the privacy rules of the Federal Health Insurance Portability and Accountability Act (HIPAA), the party seeking the items shall also give notice of the issuance of the subpoena, including a copy of the subpoena including the return date, to the person who holds the privacy privilege to the documents, objects or tangible things involved.

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

E. The person to whom the subpoena is directed who has constructive or actual possession or control of the specified documents, objects or tangible things, may comply with the subpoena, without personal appearance, by providing complete and legible copies to the Court together with a certificate that compliance is complete and accurate on or before the return date listed on the subpoena. Subpoenaed materials shall not be mailed or provided to the Circuit Clerk's Office, and the Circuit Clerk is by this Rule directed to refuse acceptance or filing of such material.

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

*YOU MAY COMPLY WITH THIS SUBPOENA BY APPEARING IN PERSON IN COURT ON THE RETURN DATE WITH THE SUBPOENAED MATERIALS. YOU MAY ALSO COMPLY BY MAILING LEGIBLE AND COMPLETE COPIES OF ALL SPECIFIED DOCUMENTS, OBJECTS OR TANGIBLE THINGS REQUESTED IN THIS SUBPOENA AT LEAST FIVE (5) DAYS BEFORE THE RETURN DATE TO THE PRESIDING JUDGE AT THE ADDRESS NOTED IN THE SUBPOENA. THE CASE NUMBER SHOULD BE IDENTIFIED ON THE OUTSIDE OF THE ENVELOPE. COMPLIANCE BY MAIL REQUIRES THAT THE ATTACHED CERTIFICATE BE SIGNED AND RETURNED ALONG WITH THE SUPOENAED MATERIALS. DO NOT SEND THESE MATERIALS TO ANYONE OTHER THAN THE JUDGE PRESIDING STATED ABOVE.*

G. A certification page containing the following language shall be sent with all subpoenas issued pursuant to this Rule:

> I hereby certify, under penalty of perjury and contempt of court, that I have examined the subpoena issued in this case and that the documents, objects or tangible things attached hereto represent full and complete compliance with said subpoena.
>
> Date: _____ Signature: _____

Printed name: _____

**RULE 207 USE OF PLEA AGREEMENT FORMS**

In all felony cases in which a Plea Agreement is tendered to the Court pursuant to the provisions of Supreme Court Rule 402, counsel shall submit a written Plea Agreement which includes:

- The charges or counts to which a guilty plea is being entered;
- The charges or counts being dismissed;
- The maximum jail or Illinois Department of Corrections sentence agreed to;
- The amount of fines, costs, restitution and other financial obligations;
- Defendant's prior record;
- A waiver of the pre-sentence investigation report if an agreed plea;
- The amount of time of supervision or probation;
- Any additional conditions of the agreement.

**RULE 208 PRE-SENTENCE REPORTS**

730 ILCS 5/5-3-4 provides for the filing and disclosure of pre-sentence reports. This section provides that the report shall be opened for inspection to the defendant's attorney at least three (3) days prior to imposition of sentence unless such three (3) day requirement is waived.

In order to provide for the orderly disposition of sentencing hearings, the Adult Probation Department of each county of the Circuit is hereby authorized to send by regular mail, postage prepaid, a copy of the pre-sentence report to the defendant's attorney, considering the time schedule as set forth in 750 ILCS 5/5-3-4.

**RULE 209 JUDGMENT/SENTENCING ORDER TO DEPARTMENT OF CORRECTIONS**

In all criminal cases, where a defendant is sentenced to imprisonment in the Illinois Department of Corrections, a written order shall be entered in substantially the same form as the most current version approved by the Conference of Chief Judges of the order entitled "*Judgment--Sentence to Illinois Department of Corrections*." Copies of the forms are available from each Circuit Clerk's office.

**RULE 210 ADMINISTRATIVE SANCTIONS FOR OFFENDERS WHO HAVE VIOLATED PROBATION**

Pursuant to 730 ILCS 5/5-6-1, it is ordered that an administrative sanctions program be established in each of the five counties of the Eleventh Judicial Circuit. The program shall be administered by the Court Services Department or Probation Department in each county for the offenders who are supervised by that department. The program shall be administered in a manner consistent with the procedures for establishing an administrative sanctions program. Administrative Sanction Program guidelines shall be

available from each of the Court Services departments.

**RULE 211 WARRANT CALENDAR**

A. Transfer of Cases. Any pending case in which a warrant for arrest has been outstanding for a period of six (6) months is, by operation of this Rule, transferred to the warrant calendar. Cases transferred to the warrant calendar pursuant to this Rule shall not be considered as pending cases for statistical purposes.

B. Reinstatement to Active Calendar. Upon the arrest of any defendant in a cause previously transferred to the warrant calendar, the cause is reinstated to the active calendar of the Court to be considered as a pending case for statistical purposes.

C. Call of the Warrant Calendar. Annually in the month of May the Circuit Clerk of each county shall prepare a list of all cases transferred to the warrant calendar for over twelve (12) months. A copy of the list shall be delivered by the Clerk to the office of the State's Attorney of the county and to the Presiding Judge of each County, or in McLean County, the presiding judge of each division. The Presiding Judge receiving a list of cases pending on the warrant calendar for more than twelve (12) months shall order a call of the cases so pending in the month of June annually. On the annual call of the warrant calendar, determination shall be made whether the case should remain on the calendar, be dismissed, or be reinstated as an active case.

This procedure shall be applicable for all counties within the Circuit unless said County adopts an alternative procedure in writing.

**RULE 212 AUTHORITY TO ISSUE SEARCH WARRANTS AND EAVESDROPPING DEVICE ORDERS**

Any judge of the Circuit Court of the Eleventh Judicial Circuit, upon proper application, may issue a search warrant and rule upon an application for use of an eavesdropping device as provided under the Illinois Code of Criminal Procedure.

**RULE 213 POST-TRIAL PROCEEDINGS**

A. In all felony cases, post-trial proceedings shall be heard by the judge who entered the judgment and sentence in the case. In the event the judge who entered the judgment and sentence in the case is no longer serving as a judge, the matter shall be assigned according to administrative rule. For purposes of this Rule, post-trial proceedings are defined as:

1. Motion For New Trial;

2. Motion To Reconsider Sentence;

3. Motion To Withdraw Guilty Plea and Vacate Judgment;

4. Post-Conviction Petition under 725 ILCS 5/122-1 et seq.;

5. Petition For Relief From Judgment under 735 ILCS 5/2-1401; and

6. Other post-judgment motions (i.e.: Motion To Vacate Fines; Motion To Amend Mittimus; Motion For Pre-Trial Detention Credit; etc.).

B. In all cases subject to Supreme Court Rule 605(b) and (c) in which a Motion To Reconsider Sentence or Motion To Withdraw Plea of Guilty and Vacate Judgment are filed, the court shall not proceed to hearing on the motion until the defendant's attorney has filed a certificate in compliance with Supreme Court Rule 604(d). For purposes of this Rule, the certificate of compliance must include all of the certifications set forth in the suggested form included in the appendix to these Rules as Appendix B.

**RULES 214-299 RESERVED**

## RULES 301-330 CIRCUIT COURT ADMINISTRATION AND OPERATION

### RULE 301 MEETINGS OF CIRCUIT JUDGES

A. Meetings of the Circuit Judges and meetings of the Circuit and Associate Judges shall be called by the Chief Judge. Five days notice, in writing, of any meeting shall be given by the Chief Judge. The five-day notice in writing requirement may, in matters of emergency, be waived by the Chief Judge. No action shall be taken at an emergency meeting called by the Chief Judge unless three-fourths of the Circuit Judges consent at the meeting called to a consideration of the emergency agenda.

B. With respect to meetings of the Circuit Judges, any two Circuit Judges may request, in writing, a meeting of the Circuit Judges. In the event of a request for a meeting of both the Associate and Circuit Judges, any three judges may request, in writing, a meeting of the judges of the Circuit. The written request shall be directed to the Chief Judge. Upon receipt of the written request pursuant to his/her Order, the Chief Judge shall immediately call a meeting of the Circuit Judges or the Circuit and Associate Judges in compliance with the request.

### RULE 302 ELECTION, TERM AND TENURE OF CHIEF JUDGE; CHIEF JUDGE (ACTING CHIEF JUDGE) -- DUTIES; CHIEF JUDGE'S DOCKET

A. Election, Term and Tenure of Chief Judge.

1. The Circuit Judges of the Eleventh Judicial Circuit shall select by secret ballot one Circuit Judge to serve as Chief Judge for a term of two (2) years. Prior to the expiration of the term, the Chief Judge shall call a meeting of all Circuit Judges to select a Chief Judge.

2. All Circuit Judges are eligible candidates for Chief Judge, unless a Judge or Judges declare a refusal to be a candidate. A majority of all votes cast is required for the election of a Chief Judge.

3. A committee appointed by the Chief Judge shall canvass the votes and announce the results on each ballot. The Judge receiving a majority of votes cast will be elected as Chief Judge. In the event a judge does not receive a majority of the votes cast, a second ballot will be taken on the two or more judges receiving the highest number of votes, and the balloting shall continue until one Judge receives the majority of the votes cast, and be deemed elected.

4. The Chief Judge elected will take office on the first day of January, unless a vacancy is being filled, in which case he/she will take office immediately on election for the unexpired term.

5. Any four or more Circuit Judges may request removal of the Chief Judge by writing to the Administrative Office of the Illinois Courts to request a vote by all Circuit Judges in their Circuit upon the question; “Shall the present Chief Judge be retained in office?" If the majority of the votes cast by the Judges voting on the question are in the negative, the Chief Judge is thereby removed from office.

6. A Chief Judge desiring to resign shall call a meeting of the Circuit Judges of the Circuit,

designating a time and place of meeting. Upon acceptance of the resignation, the Judges will immediately proceed to the election of a successor Chief Judge. The duly elected successor Chief Judge immediately shall take office for the remainder of the unexpired term.

B. Chief Judge (Acting Chief Judge)--Duties. The office of the Chief Judge shall have general administrative authority over the Courts in the several counties of the Eleventh Judicial Circuit, subject to the authority of the Supreme Court of the State of Illinois and Supreme Court Rule 21. Said Chief Judge shall have said general administrative authority, including authority to provide for divisions--general and specialized--for appropriate times and places to hold Court as provided by the Constitution of the State of Illinois, and all other powers and duties as may be prescribed by law or Supreme Court Rules.

C. Assignments. The Chief Judge shall by Administrative Order:

1. Make assignments of judges to the several divisions of the Court.

2. Make assignments of court reporters for specified judges or to divisions as the need of the Circuit dictates.

D. Seniority. In the absence of ability of the Chief Judge to act, he/she may select one of the Circuit Judges to act in his stead. If no such designation of an acting Chief Judge is made, the Circuit Judge having the highest seniority in judicial service is Acting Chief Judge. In the event the senior judge is absent or incapacitated to act, the Judge next in seniority shall be Acting Chief Judge.

E. Chief Judge's Docket. The Chief Judge of the Eleventh Judicial Circuit shall maintain a "*Chief Judge's Docket*" in which he shall enter all Orders, Administrative Evidence of Consent, etc., from time to time. The said docket shall be kept in the office of the Chief Judge and permanently retained.

## RULE 303 ESTABLISHMENT OF DIVISIONS OF THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT

A. Each matter assigned to the respective divisions of the Court will be those designated by the Administrative Director of the Illinois Courts as described in the Uniform Record Keeping manual.

B. Circuit Judges duly elected or appointed and Associate Circuit Judges duly appointed in the Eleventh Judicial Circuit are authorized to hear cases in the Circuit, subject only to restrictions which apply by virtue of law or Supreme Court Rule 295.

C. The following, by County and Division designation, are the various divisions of the Circuit Court of the Eleventh Judicial Circuit of Illinois:

**Ford County**.

All matters and cases arising in the County of Ford shall be heard by the Circuit Court of Ford County, and all divisions of said Court are abolished.

**Livingston County.**

**Circuit Division**
**Associate Division**

**Logan County**

**General Division**
**Associate Division**

**McLean County**

**Civil Division**
**Criminal Division**
**Family Division**

**Woodford County**

**General Division**
**Associate Division**

E. In any county where there have been multiple divisions established, the Circuit Clerk shall maintain a list of cases assigned to each division, and maintain a list of cases assigned to each judge.

## RULE 304 SUBSTITUTION OR RECUSAL OF JUDGE

Upon the recusal of the judge originally assigned to a case, or upon the granting of a motion for substitution of judge pursuant to 735 ICLS 5/2-1001(a)(i) or (a)(ii), or the granting of a motion for substitution in all criminal and traffic cases, the following procedure shall apply:

A. The presiding Circuit Judge of each county, or the presiding Circuit Judge of each division within McLean County, shall reassign the case to another judge within the respective county or division.

B. If the recusal or motion for substitution involves the presiding Circuit judge of a county or division, the case shall be referred to the Chief Judge for reassignment. Such request for reassignment shall be in writing, and a copy of said referral shall be filed in the court file.

C. If none of the judges within the County may hear the specific case; or all have recused themselves, the case shall be referred to the Chief Judge for reassignment. Such request for reassignment shall be in writing, and a copy of said referral shall be filed in the court file.

D. If no judge within the Circuit may preside, the Chief Judge shall follow the procedures for assignment as proscribed by the Illinois Supreme Court.

E. All matters pending before the judge prior to reassignment shall be stayed.

## RULE 305 JURORS

A. Organization of Jury Commission, Number of Jurors, Jury Calendar

1. Jury Commissions shall be appointed in the counties of Livingston, Logan and McLean as provided by 705 ILCS 310/1. In the counties of Ford and Woodford, the Circuit Clerk shall act as Jury Coordinator.

2. Annually, in consultation with the judges and as otherwise provided by law, the jury commission or jury coordinator shall determine the number of persons to serve as petit jurors, grand jurors and coroner's jurors for the following year. The respective juror lists shall be compiled as provided by 705 ILCS 305/1(b).

3. Annually the Chief Judge shall issue an administrative order adopting a circuit-wide jury calendar stating when petit juries will be summoned in each county.

B. Call of Jurors

1. Petit jurors shall be called as requested by each judge in accordance to the jury calendar of the County, or as provided by other local rule.

2. Grand jurors will be called in each county as provided by law.

3. Coroner jurors will be called in each county as provided by law.

C. Administrative Authority. Pursuant to 705 ILCS 305/10.2, the Chief Judge of the Eleventh Judicial Circuit hereby authorizes the Resident Circuit Judge in each county [or Judge(s) assigned the administrative authority in McLean County] to excuse summoned jurors upon reasonable cause, or continue their service, and regulate their assignments to the various courtrooms within the County.

D. Investigations of Jurors or Communication with Jurors.

1. Before the trial, a lawyer connected therewith shall not communicate with or cause another to communicate with anyone he knows to be a member of the venire from which the jury will be selected for the trial of the case.

2. During the trial:

   a. A lawyer, or any other person, connected therewith shall not communicate with or cause another to communicate with any member of the jury.
   b. The above paragraph does not prohibit a lawyer from communicating with jurors in the course of official proceedings.
   c. After discharge of the jury from further reconsideration of a case with which the lawyer was connected, the lawyer shall not ask questions of or make comments to a member of that jury until the venire of which he is a member has been discharged, nor shall the lawyer thereafter ask questions of or make comments to a member of the venire that are calculated merely to harass or embarrass the juror, or to influence his actions in future jury service.
   d. A lawyer shall not conduct or cause, by financial support or otherwise, another to conduct

a vexatious or harassing investigation of a juror.

e. All restrictions imposed by this rule upon a lawyer also apply to communications with or investigations of members of a family of a juror.

f. A lawyer shall reveal promptly to the court improper conduct by a juror, or by another toward a juror or a member of the juror's family, of which the lawyer has knowledge.

3. Juror home addresses and dates of birth shall not be included in materials provided to counsel or parties. Disclosure of city of residence and year of birth is allowed. Social Security numbers shall not be required on the juror questionnaire or qualification form. All information collected is considered impounded unless ordered otherwise.

**RULE 306 MARRIAGE AND CIVIL UNION DIVISIONS**

A. Pursuant to Supreme Court Rule 40, a Marriage and Civil Union Division has been established in the Counties of Ford, Livingston, Logan and McLean.

B. The Marriage and Civil Union Division shall be in session at such times as the judges thereof shall direct.

C. The Circuit Clerk shall collect the fee as set by Supreme Court Rule for each marriage or civil union performed, unless waived by the judge for good cause shown.

D. All fees received and accounting for said Division shall be maintained by the Circuit Clerk in accordance with Supreme Court Rule 40 and the accounting standards as set by the Administrative Office of Illinois Courts.

**RULE 307 COURTROOM MANAGEMENT AND DECORUM**

A. Cell Phones, Computers and All Other Electronic Devices

1. All persons appearing in Court, whether they are parties to the case, witnesses, victims or members of the public, must turn off all cell phones, computers and all other electronic devices prior to entrance to the courtroom.

2. All attorneys must silence all cell phones and electronic devices upon entry to the courtroom.

3. Attorneys may only operate personal computers within the courtroom during the course of a hearing in which they are participating, and may do so only to assist in the presentation of their case.

4. Authorized court personnel, to include judges, court clerks, court services personnel and court reporters, may operate computers, including laptops and personal computers, within the courtroom while court is in session when such operation is in furtherance of, or related to, official court business.

5. Upon prior approval of the judge presiding in the case, established media representatives may operate personal computers or tablet devices to report on court proceedings while court is in

session, unless otherwise ordered by the court to cease said operation. Any person operating personal computers or related electronic devices under this section must clearly display authorized media credentials as provided in Section B(1) below.

B. Cameras, Video Recorders and Audio Recorders

1. Photography, video recording and/or audio recording of court proceedings in McLean County are governed by Supreme Court MR 2634 (January 2012). In all other Counties within the Circuit, Section B (2) governs.

2. The taking of photographs in the courtroom or its environs, audio or video recording in the courtroom or its environs or radio or television broadcasting from the courtroom or its environs, during the progress of or in any way connected with judicial proceedings, whether or not court is actually in session, is prohibited. The word "environs" shall at all times include the hallways and rooms immediately adjacent to the courtroom, and it shall be understood that, in the interest of a fair trial, the court may expand the area of environs in a special order. This rule may be suspended at the discretion of the Court during adoptions, marriages or ceremonial proceedings.

3. The provisions of Section B(2) do not apply to video and audio closed- circuit transmission of appearances of defendants in custody that occur between a courtroom and jail facility pursuant to 725 ILCS 5/106(D).

C. Media and Interviews

1. No interview of any person, including the judge, shall be held in the courtroom.

2. In certain cases, the Sheriff may designate a specified area or location for interviews, camera and video locations and parking for the media. Media identification may be issued by the Sheriff at his or her discretion.

3. In no instance is any portion of the courtroom reserved specifically for any media personnel, media outlet or agency with the exception of any order issued in conjunction with Section B above.

D. Clothing and Hats / Headgear

1. Any person appearing for court, or attending a court proceeding, may be barred from the courtroom and their case may be reset if the judge determines that their clothing is inappropriate or offensive to the Court. Any person who falls within this provision shall be given an opportunity to change clothing or cover the inappropriate portions of the message displayed prior to the matter being reset or any other sanction being imposed.

2. All persons entering a courtroom shall remove their coat or outerwear and hat or headgear. The only exception to this requirement is listed in item E(2) below.

E. Religious and/or Sacred Headgear

1. All persons entering any court facility in the Eleventh Judicial Circuit are subject to search as

defined by the policies and procedures of the Sheriff of said county. All persons entering may be required to remove any and all headgear if security measures require such action. Any persons claiming exemption to the search policies due to religious beliefs or requirements shall be allowed to remove the item and/or be searched in a private area, under the direct supervision of courthouse screening personnel or Sheriff's court security detail.

2. Any person entering a courtroom seeking exemption to item D(2) above due to religious beliefs or requirements shall be allowed to retain their headgear only upon review of the matter by the judge assigned to the case.

F. Newspapers, Magazines, Books and other print or reading materials

All persons who enter a courtroom shall be prohibited from reading materials while in the public sections of the courtrooms. Any attorney may review case materials in preparation for a case, but may be ordered out of the courtroom by the judge (or designee) if such activity provides any distraction to the current proceeding.

G. Food, Beverages and other similar items

All food, beverages and other similar items are not allowed within the courtroom by any person, unless specifically authorized by the judge presiding in the case.

Any person in violation of any of the above provisions may be subject to sanctions or further contempt proceedings by the judge presiding in the case.

These policies and procedures may be modified or amended by the judge presiding in any cause before the Court in order to maintain an orderly and equitable proceeding.

## RULE 308 FINES, FEES, SURCHARGES, COSTS AND RESTITUTION

A. All counties within the Eleventh Judicial Circuit shall maintain a schedule of the various fees, fines and surcharges collected within the County, and where appropriate, the County Board or Court shall from time to time amend those fees. A schedule of such fines, fees and surcharges, including fees charged for services by the Court Services office or various testing fees, shall be available from each Circuit Clerk's office. All counties shall comply with Supreme Court Rule 298 for the application of the waiver of such fees, fines or other financial obligation.

B. The County Treasurer of each county shall establish separate budget and revenue lines when directed by Statute, County Board Resolution or Court Order to account for said fines, fees, surcharges or other financial accounts.

C. The Clerk of the Circuit Court shall remit not less frequently than once each month all fines, fees, court costs and restitution paid during the calendar month following the month in which said monies were collected to the state officer entitled thereto, to the County Treasurer, or to the treasurer of the local governmental entity entitled thereto; and all financial transactions of the Clerk of the Circuit Court shall be recorded reasonably contemporaneously with, and in no event later than ten (10) business days after the transaction in the financial records of the Clerk of the Circuit Court.

D. The financial and accounting records of the Clerk shall be kept in a manner consistent with the uniform bookkeeping system adopted by the Illinois Supreme Court or any other bookkeeping or accounting system adopted by the Clerk of the Circuit Court and approved by the certified public accountant retained by the county board to audit the financial records of the county.

E. Where required by Statute, the presiding Circuit Judge in each county [or the designated judge(s) in McLean County] shall review and /or approve expenditures made from the various specialized County funds.

**RULE 309 RESTRICTED AREAS**

The Livingston County Law & Justice Center, McLean County Law & Justice Center and Woodford County Courthouse have been designed and constructed for security purposes. The area of the judges' chambers, secretaries and court reporters' offices, jury rooms and facilities, microfilm and machine room area are within the restricted area designed to provide limited access. For the purpose of uniformity with respect to the restricted area, the Court finds that it is necessary to provide, by Administrative Order, standards regarding access to this area.

Access to the restricted areas shall be unlimited for the following categories of persons:

- Circuit and Associate Judges assigned to the Eleventh Judicial Circuit;
- Court reporters assigned to and employed in the Eleventh Judicial Circuit;
- Administrative staff employed in and by the Eleventh Judicial Circuit;
- The Circuit Clerk and the Clerk's deputies;
- The sheriff and his deputies;
- Lawyers having court business;
- Probation officers and their administrative staff;
- Petit jurors;
- Bailiffs employed by the Circuit Court and by the Sheriff;
- Security and custodial personnel.

All other persons shall gain access to the restricted area in the following manner:

The secretaries or other court personnel in the restricted area who are designated this responsibility shall respond to a request to an appropriate purpose or need for admittance. Those not so admitted shall be given directions to the office which can appropriately accommodate their purpose.

**RULES 310 - 329 RESERVED**

**RULE 330 ADOPTION OF RULES**

A. These Administrative Rules are effective on **January 1, 2014**. All previous orders or Rules, insofar as they conflict with these orders, are hereby vacated and set aside.

B. The Circuit Clerks of the respective counties of the Eleventh Judicial Circuit shall enter all of the

foregoing orders of record, and may reproduce them for use by the Judges and the Bar of this Court.

C. The respective Circuit Clerks of the Eleventh Judicial Circuit shall have a copy of the Administrative Rules of this Circuit available for examination in the office of the Clerk at all times.

D. Under the general administrative authority of the Court, the Chief Judge may adopt new rules or amend these rules without further notice.

## APPENDIX A

STANDARDS AND PROCEDURES FOR COURT-ORDERED MEDIATION OF
CUSTODY AND VISITATION ISSUES AND/OR DISSOLUTION AND FAMILY MATTERS

1. Definition. For purposes of these standards and procedures, dissolution of marriage or civil unions and family mediation is defined as a procedure whereby individuals submit custody, visitation or financial issues disputes to qualified third participants, not to decide the disputes, but to impartially assist the participants to achieve their own fair settlement. While dissolution of marriage or civil unions and family dispute mediation may be viewed as an alternate means of resolution, it is not a substitute for independent legal advice, full disclosure of relevant facts, and consent which is fully informed in the perspective of local legal norms.

2. Subject Matter. Court-referred mediation will be limited to child custody, visitation and removal or financial and property issues.

3. Initial Advice of Mediators. At the initial orientation session mediators should minimally advise the mediating participants as follows:

   A. Neither therapy nor marriage counseling are part of the mediator's function.

   B. The participants should not begin dissolution of marriage or civil unions mediation unless they are agreed that their marriage or civil union is to be dissolved and that they are submitting for mediation of the disputed issues in connection with child custody, visitation, removal or financial and property issues.

   C. The issues to be mediated should be delineated from the outset.

   D. The proposed resolution of the mediated issues will be documented in a written summary. This summary will form the basis of the formal mediated agreement, presented to the court for approval.

   E. No legal advice will be given by the mediator.

   F. An attorney-mediator will not act as attorney for either or both participants and no attorney-client relationship will be formed.

   G. Each participant is strongly encouraged to obtain independent legal counsel to assist and advise him or her throughout the mediation. Any documents used in the mediation should be available to such counsel.

   H. Independent legal counsel will not be present at any mediation session without the agreement of the participants.

   I. If independent legal counsel is not obtained the court must be so advised when the mediated agreement is presented for approval. The participants should be aware that the court may refuse to approve the agreement if it does not meet legal standards.

   J. The mediation can be suspended or terminated at any time on the request of either participant or on the request of the mediator. The mediator shall suspend or terminate the mediation if it appears that either participant is acting in bad faith, that the best interest of minor children are not being given priority, that either participant does not fully understand the negotiations, that an impediment to mediation exists or that the prospects of achieving a responsible agreement appear unlikely.

   K. The costs of the mediation must be agreed upon, as well as the method and responsibility for payment.

   L. The mediator shall not voluntarily disclose any of the information obtained through the process of

mediation without the consent of both participants, except when nondisclosure would appear to create a clear and imminent danger to an individual or to society.

M. The mediator shall reach an understanding with the participants as to whether the mediator may communicate with either participant or their independent legal counsel or with any third parties to discuss the issues in mediation in the absence of the participants. Any separate communication which does occur should be communicated to the participants at the first opportunity.

N. The mediator should assess the ability and willingness of the participants to mediate at the orientation and throughout the process and shall advise the participants if the prospects of successful mediation appear unlikely.

4. Memorandum of Understanding. At the initial session the mediator should provide the participants with a written statement or memorandum of understanding which includes all of the foregoing information in paragraph 3 and any other provisions which are appropriate. This memorandum should be taken and studied by the participants separately. There should be adequate time allowed for each participant to consult with independent legal counsel before the second session begins. At the second session the mediator should determine whether any modifications of the memorandum are desired. The memorandum as modified should be signed by the participants if they wish to proceed with the mediation. This is not a binding contract but a memorandum of mutual understanding and expectations.

5. Minimum Qualifications of Custody & Visitation Dispute Mediators.

   A. Mediators are required to have a:

      i. A law degree or a master's degree in psychology, sociology, counseling, child development, education, social work or the equivalent in a related discipline.

      ii. Two years of work experience in law, or a professional field is required.

      iii. Basic Training. Complete a specialized training in family mediation, consisting of a course of study approved by the Association of Conflict Resolution (ACR) or otherwise approved by the Chief Judge, to consist of forty (40) hours in the following areas:

         - Conflict resolution;
         - Psychological issues in separation, dissolution and family dynamics;
         - Issues and needs of children in dissolution;
         - Mediation process and techniques; and
         - Screening for impediments to mediation, including domestic violence, sexual abuse, chemical and/or substance abuse and mental illness.

      iv. Continuing education by participation in monthly meetings conducted by the Eleventh Judicial Circuit Mediators which incorporate peer supervision.

6. Minimal Qualifications of Financial and Property Issues Mediators:

   a. All financial and property issues mediators shall meet the Minimum Qualifications of Custody and Visitation Dispute Mediators, and in addition, shall have the following:

      i. Advanced Training.

         - Complete at least eight hours of specialized training in dealing with financial and property issues; **or**

- Complete a one (1) day advanced training program for Financial Mediation approved by the Chief Judge.

7. Insurance. All mediators shall maintain professional liability insurance which covers the mediation process. A copy of said insurance coverage shall be submitted to the Chief Judge of the Eleventh Judicial Circuit on or before January 31st of each year.

8. Attorney-Mediators. Attorneys who act as mediators shall make it clear to the participants that they are not representing either or both of them and that no attorney-client relationship is being formed with either of them. They may bring impartial legal information to the process and may define legal issues, but they shall not advise either participant so as to direct the participants' decision on a given issue or advocate the individual interests of either participant. The participants must be referred to independent legal counsel for that advice or advocacy. Legal information brought to the mediation process by an attorney who represents neither participant is not a substitute for independent legal counsel. The attorney-mediator may draft the mediated agreement if requested to do so by the parties, but may not represent either party before a court in connection with the matter.

9. Non-attorney-Mediators. Any attempt of non-attorney-mediators to interpret law, to advise participants of their legal rights and responsibilities, to direct decisions on issues which require knowledge of the law or to draft the mediated agreement constitutes the illegal practice of law. The mediator has a continuing duty to advise participants of the need for independent legal counsel, and that an agreement reached without independent legal counsel may not be approved by the court if it does not meet legal standards.

10. Impartiality of Mediators. In order to avoid the appearance of impropriety, a mediator who has represented or has had a professional relationship with either participant prior to the mediation may not mediate the dispute unless the prior relationship is disclosed and each participant consents to the mediator notwithstanding the prior relationship. A mediator who is a mental health professional shall not provide counseling or therapy to the participants during the mediation process. An attorney-mediator may not represent either participant in any matter during the mediation process or in a dispute between the participants after the mediation process. Impartiality is not the same as neutrality in questions of fairness. The mediator should discuss the issues with a concern for fairness throughout the mediation and should avoid unreasonable positions on the part of either participant. The mediator has a duty to communicate to the participants his or her bias on any mediated issue.

11. Referrals by Mediators. While mediators must encourage the participants to obtain independent legal counsel, they shall not refer them to specific attorneys or attempt in any other manner to influence their choice of counsel because such referral relationships may adversely affect the attorney's exercise of independent professional judgment on behalf of the participant and may create the appearance of impropriety. Mediators may, however, encourage the participants to use any attorney referral services provided by bar associations or the courts. Mediators should refer participants to other professionals when appropriate for mental health counseling.

12. Mediation Disclosures. A precondition to any mediated settlement should be a full and complete disclosure of all relevant facts to the same degree as would be expected in the normal discovery process, unless the participants both specifically agree to a lesser disclosure.

13. Settlement Criteria and Standards. The mediator should promote equal understanding by the participants and should refer each of them to independent legal counsel or for expert consultation if their lack of knowledge is impeding the balance of the negotiation. If the mediator is an attorney the participants should be cautioned that the mediator cannot advise them about or serve their individual interests, and that any mediator comments in respect to the law are not a substitute for independent legal advice. The participants shall be advised that while either participant can settle for less or give more on a particular issue with respect to their legal rights and obligations, he or she cannot do so without informed consent which is best achieved with the advice of independent legal counsel. The participants must be advised that an unreasonable agreement may not be approved by the court and that an unconscionable agreement will not be approved by the court.

14. The Best Interests of Children. The mediator has a duty to promote the best interests of children involved in the mediation even when the participants agree to a resolution which is not in the children's best interest. The mediator has a duty to inform the participants where the children's best interest are being overlooked or not given their proper priority.

15. The Suspension or Termination of Mediation. A mediator has a duty to suspend mediation when it appears that either participant is unable or unwilling to reach a reasonable agreement or when the mediator believes a participant does not understand the substance or implications of the agreement. In the event of a suspension, the mediator may suggest to the participants that either or both are in need of professional consultation outside the mediation process.

    A mediator shall terminate mediation when the mediator believes a reasonable agreement cannot be reached, when the mediation process appears to be harmful to either participant, when either participant is acting in bad faith, or when the best interests of minor children are not being given proper priority.

16. Sanctions for Failure to Appear. If any party fails to appear at a duly scheduled mediation conference without good cause, the court, upon motion, may impose sanctions, including an award of mediator and attorney fees and other costs, against the party failing to appear. The mediator shall not be served with a subpoena or called as a witness in a sanction or contempt proceeding.

17. The Attorney's Duty When Representing a Party to Mediation. An attorney has the same duties to the client who is participating in mediation as to the client in any other matter, whether the attorney is engaged before or after a mediated agreement has been reached. Discovery should be employed to the point where the attorney is satisfied that reasonable full disclosure has been achieved, unless the client specifically directs the attorney to the contrary. The client should be advised of all relevant options and alternatives and the ramifications thereof based on the available information. The client should be advised of the potential results of the litigation of a particular issue in order to formulate an informed consent in connection with the mediated agreement. If the agreement for some reason appears unreasonable or unconscionable, the attorney should so advise the client. Where only one or neither participant was represented by independent legal counsel during mediation, the court should be so advised when approval of the mediated agreement is sought.

18. Mediation fees. The mediator should explain the fees for mediation and reach an agreement with the participants for payment at the orientation session. A mediator shall not charge a contingency fee or base the fee in any manner on the outcome of the mediation process. A flat fee for the entire mediation may be charged as agreed at the outset. Hourly rates may be on a sliding scale taking into account the financial means of the participants or the complexity of the subject matter, but once established the rate shall be uniform throughout the process. No bonus should be given or penalty charged in connection with the success or failure of the mediation.

19. Court-Mandated Mediation Program. The Court may mandate mediation to assist in the disposition of child custody, visitation and financial issues disputes. The participants may be required to attend a minimum 3-hour evaluation proceeding to be completed within 30 days in order to determine whether their dispute can be successfully mediated. Other than attendance at such evaluation proceedings, any further participation should be voluntary and consistent with the foregoing standards and principles.

    a. Referral Procedure. The court-referred mediator must be selected from a list of approved mediators available in the Circuit Clerk's office and the Office of the Chief Judge. Complete resumes and individual fee schedules are available for review in the Circuit Clerk's office. Pro bono mediation will be done on a voluntary rotating basis for those cases who file a "*Petition for Leave to File as a Poor Person*" and whose petition has been allowed by the Court. The attorneys and participants in a given case must agree on a mediator from the Court-approved list. In the event parties are unable to agree on a mediator, the Court shall select one. Each attorney should inform the client to contact the mediator directly to schedule appointments. Each attorney may provide a letter to the mediator which provides information with regard

to the legal status of the case, including what orders have been entered by the Court, whether temporary or permanent in nature, how long this matter has been in litigation, and what are the unresolved legal issues. The letter which is provided by the attorney to the mediator shall not be confidential and may be disclosed by the mediator to both parties. The attorney and mediator shall have no further communication with regard to the substance of the mediation, except with the express permission of the parties.

b. Reporting Procedure. Upon the reaching of an informal agreement through the mediation process, the mediator will draft a memorandum of understanding for review by the participants. Upon final review, a copy of this memorandum shall then be sent to each participant and each respective attorney. The attorneys will review the memorandum, give advice and opinions, and draft a formal agreement to submit to the court. The mediator shall submit the court approved report form to the court and to the attorneys following the completion/termination of mediation. The mediator shall not be called as a witness in any litigation, including juvenile proceedings.

19. Complaints against Mediators. Any complaint made against a mediator is to be adjudicated before a panel of three (3) mediators approved by the Tenth Judicial Circuit Court, State of Illinois, chosen at random by the Chief Judge of the Eleventh Judicial Circuit Court. The hearing is to take place within 160 days of the filing of the complaint with the Chief Judge at the time and place designated by the panel. The recommendation of the panel is to be mailed to the Chief Judge within 45 days of the hearing.

20. Nothing contained in these rules precludes the Chief Judge from removing a mediator from the approved list.

**APPENDIX B**

**Attorney's 604(d) Certificate**

ELEVENTH JUDICIAL CIRCUIT COURT
_____ COUNTY, IL

THE PEOPLE OF THE STATE OF ILLINOIS,

VS. Case Number: _____ CF _____

_____
Defendant.

**ATTORNEY'S RULE 604(d) CERTIFICATE**

Pursuant to Illinois Supreme Court Rule 604(d), I the undersigned attorney certify to the court the following:

1. I have consulted with the defendant ____ by mail ____ in person to ascertain defendant's contentions of error in the sentence or the entry of the plea of guilty;
2. I have examined the trial court file and the report of proceedings of the plea of guilty;
3. I have made any amendments to the motion necessary for adequate presentation of any defects in those proceedings.

DATE: _____ _____
Attorney for Defendant

Name of Attorney: _____

Address: _____

City/State/Zip Code: _____

Telephone Number: _____