ILLINOIS

SUPREME COURT

RULES

ARTICLE I. GENERAL RULES

Rule 1. Applicability

General rules apply to both civil and criminal proceedings. The rules on proceedings in the trial court, together with the Civil Practice Law and the Code of Criminal Procedure, shall govern all proceedings in the trial court, except to the extent that the procedure in a particular kind of action is regulated by a statute other than the Civil Practice Law. The rules on appeals shall govern all appeals.

Amended October 21, 1969, effective January 1, 1970; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982.

Committee Comments

(Revised July 1, 1971)

This rule changed former Rule 1, in effect until January 1, 1967, which provided that the rules applied only to civil proceedings unless the rules or their context indicated otherwise. In the revised rules, separate articles contain the rules applicable to civil proceedings (articles II and III) and those applicable to criminal proceedings (articles IV and VI). Certain general provisions (article I) apply to both.

The second sentence of Rule 1 establishes for trial court proceedings the same standard for determining applicability that appears in section 1 of the Civil Practice Act.

The third sentence was revised in 1969 when the appeals rules were broadened to cover all appeals. The authority for supersedure of inconsistent statutes is found in the provision of the Judicial Article, effective January 1, 1964 (former Illinois Const., art. VI, §7), repeated in the new constitution effective July 1, 1971 (art. VI, §16), that directs the Supreme Court to "provide by rule for expeditious and inexpensive appeals." See Committee Comments to Civil Appeals Rules and Rule 601.

Supersedure by the criminal appeals rules (Rule 601 *et seq.*) of the appeals provisions of the Code of Criminal Procedure of 1963 is covered by Rule 601.

The effective date of the revised rules and their applicability to pending proceedings are covered in the order adopting the rules.

Rule 2. Construction

(a) Standards. These rules are to be construed in accordance with the appropriate provisions of the Statute on Statutes (5 ILCS 70/0.01 *et seq.*), and in accordance with the standards stated in section 1-106 of the Code of Civil Procedure (735 ILCS 5/1-106).

(b) Definitions. The following meanings are to be given terms used in these rules:

(1) "Judge" also includes associate judge and justice.

(2) "Judgment" also includes decree, determination, decision, order, or portion thereof.

(3) "Document" means a pleading, motion, ~~notice, affidavit, memorandum, brief, petition, or other document or combination of documents~~ photograph, recording, or other record of information or data required or permitted to be filed, either on paper or in an electronic format.

(4) "Written" or "in writing" means in the form of a document, whether electronic or on paper.

(5) "Signed" or "signature" also includes the execution of any court-approved digital signature.

(6) "Original" is the first authentic instrument of a document, recording, or photograph; however, if the transmission is by

approved electronic means, the transmission received by the clerk of the court shall serve as the original.

Amended effective July 1, 1971; amended May 28, 1982, effective July 1, 1982 ; amended May 30, 2008, effective immediately; amended Jan. 4, 2013, eff. immediately; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

(Revised July 1, 1971)

This rule was adopted effective January 1, 1967.

Paragraph (a) makes it clear that the same principles that govern the construction of statutes are applicable to the rules.

Paragraph (b) defines terms that appear frequently in the rules. Like article VI of the Illinois Constitution the rules use the single word "judgment," instead of "judgment, decree," *etc*.

Subparagraph (b)(1) was amended in 1971 to delete the reference to "magistrate," consistent with the abolition of the office of magistrate by the Illinois Constitution of 1970.

Rule 3. Rulemaking Procedures

(a) Purpose and Applicability.

(1) These procedures are adopted to provide for the orderly and timely review of proposed rules and proposed amendments to existing rules of the Supreme Court; to provide an opportunity for comments and suggestions by the public, the bench, and the bar; to aid the Supreme Court in discharging its rulemaking responsibilities; to make a public record of all such proposals; and to provide for public access to an annual report concerning such proposals.

(2) The Supreme Court reserves the prerogative of departing from the procedures of this rule. An order of the Supreme Court adopting any rule or amendment shall constitute an order modifying these procedures to the extent, if any, they have not been complied with in respect to that proposal.

(b) Supreme Court Rules Committee. There shall be a Rules Committee which shall be appointed by the Supreme Court. The Administrative Office of the Illinois Courts shall serve as secretary of the Rules Committee. The Rules Committee shall have the following responsibilities:

(1) To implement rulemaking procedures, as provided in paragraph (d) of this rule, for proposed rules or amendments to existing rules received from the Administrative Office.

(2) To periodically review rules in areas which no other committee is specifically charged with the responsibility for reviewing to ensure that such rules facilitate the administration of justice.

(3) To conduct public hearings and submit the annual report as required by administrative order of the Supreme Court. The annual report shall be a public record.

(c) Initiation of Proposal.

Proposed rules and proposed amendments to existing rules of the Supreme Court should be forwarded to the Administrative Office of the Illinois Courts, c/o Secretary—Supreme Court Rules Committee, 222 N. LaSalle Street, 13th Floor, Chicago, Illinois 60601 or submitted via e-mail to RulesCommittee@illinoiscourts.gov. All proposals shall offer specific language for the proposed rule or amendment, as well as a concise explanation of the proposal.

(d) Procedures for Proposed Rules and Rule Amendments.

(1) If the substance of a proposal received under paragraph (c) of this rule is within the scope of a Supreme Court committee or Judicial Conference committee, the Administrative Office shall forward the proposal to the appropriate committee for review and recommendation.

The Administrative Office also shall forward a copy of the proposal to the Rules Committee, along with notice of the Supreme Court or Judicial Conference committee to which the proposal has been forwarded.

The Rules Committee shall forward a copy of the proposal to the Clerk of the Supreme Court where it will be given a number and placed upon the docket of the Clerk of the Supreme Court.

The committee to which the proposal has been forwarded shall review the proposal for content and style. Within 12 months of the transmission of the proposal from the Administrative Office, the committee to which the proposal has been forwarded shall advise the Administrative Office whether the proposal is recommended for adoption by the Supreme Court. If the proposal is recommended for adoption, the Rules Committee shall place the proposal on the agenda for the next public hearing. In its annual report to the Supreme Court, the Rules Committee shall report the docket number, the content of the proposal, any report submitted by the Supreme Court committee or Judicial Conference committee (including a minority report), the response to the proposal, any comments or revisions submitted by the Supreme Court committee or Judicial Conference committee, the Rules Committee's recommendation, and any alternative proposal the Rules Committee developed in response to public comment.

If the committee to which the proposal has been forwarded does not recommend the proposal for adoption by the Supreme Court, the Rules Committee shall not place the proposal on the agenda for public hearing, but shall report the nonrecommended status to the Clerk of the Supreme Court and the Supreme Court in its annual report.

(2) If the substance of a proposal received under paragraph (c) is in an area where no other committee is specifically charged with responsibility, the Administrative Office shall forward the proposal to the Rules Committee for review of content and style.

The Rules Committee shall forward a copy of the proposal to the Clerk of the Supreme Court where it will be given a number and placed upon the docket of the Clerk of the Supreme Court. If, after review, the Rules Committee determines that the proposal is recommended for adoption by the Supreme Court, the Rules Committee shall place the proposal on the agenda for the next public hearing. In its annual report to the Supreme Court, the Rules Committee shall report the docket number, the content of the proposal, the response to the proposal, the Rules Committee's recommendation, and any alternative proposal the Rules Committee developed in response to public comment.

If the proposal submitted does not have substantial merit, is duplicative of pending proposals, or is not within the Supreme Court's rulemaking authority, the Rules Committee shall not place the proposal on the agenda for public hearing. However, the Rules Committee shall report the proposal as not recommended in its annual report to the Supreme Court.

(3) If a proposed rule or an amendment to an existing rule is submitted under paragraph (c) by a Supreme Court committee or a Judicial Conference committee, the Administrative Office shall forward the proposal to the Rules Committee. The Rules Committee shall forward a copy of the proposal to the Clerk of the Supreme Court where it will be given a number and placed upon the docket of the Clerk of the Supreme Court. The Rules Committee shall not review the proposal.

The Rules Committee shall place the proposal on the agenda for the next public hearing. In its annual report to the Supreme Court, the Rules Committee shall report the docket number, the content of the proposal, any report submitted by the Supreme Court committee or Judicial Conference committee (including a minority report), the response to the proposal, any comments or revisions submitted by the Supreme Court committee or Judicial Conference committee, the Rules Committee's recommendation, and any alternative proposal the Rules Committee developed in response to public comment.

(e) Responsibilities of Other Committees. Each committee appointed by the Supreme Court, other than the Rules Committee, shall have the following responsibilities:

(1) To periodically review the entire body of rules for which the Supreme Court has indicated the committee is responsible to ensure that those rules continue to facilitate the administration of justice.

(2) To review proposed amendments to existing rules or proposals for new rules transmitted to the committee pursuant to paragraph (c) of this rule. Within 12 months of the transmission of the proposal from the Administrative Office, the committee shall advise the Administrative Office whether the proposal is recommended or not recommended for adoption by the Supreme Court.

If the committee determines that a proposal that has been forwarded to it by the Administrative Office should be adopted, it shall so inform the Administrative Office and provide the Administrative Office with the original proposal and a statement of the committee's reasoning.

If the committee determines that a proposal that has been forwarded to it by the Administrative Office should not be adopted, it shall so inform the Administrative Office and provide the Administrative Office with the original proposal and a

statement of the committee's reasoning.

(3) To designate the committee chair, or another member, to represent the committee at any Rules Committee public hearing where a proposal recommended by the committee is scheduled to be held out for public comment. The committee chair, or his or her designee, may sit with the Rules Committee for purposes of answering questions or addressing testimony from individuals offering public comment on the committee's proposal.

(4) Nothing in this rule shall preclude a Supreme Court or Judicial Conference committee from holding a public hearing independently of the Rules Committee, with prior approval of the Supreme Court.

(f) Submissions Other Than Annual Report. When the Rules Committee makes a submission of a proposed rule or amendment separate from its annual report, the committee shall, to the degree practicable, comply with the content requirements of the Supreme Court's administrative order concerning notice and hearing and shall accompany the submission with a statement of:

(1) its reasons for believing that the Court should take action on its proposal prior to the time for action on the next annual submission, and

(2) describe the steps taken by the committee to comply with the Supreme Court's administrative order regarding public notice, opportunity for comment, and public hearing.

(g) Distribution of New Rules or Amendments. Following the adoption of new rules or amendments, the Clerk of the Supreme Court shall promptly cause copies thereof to be distributed.

(h) Effective Date of Rule Changes. The effective date of all new rules or amendments shall be as ordered by the Supreme Court. If an effective date is not ordered, the new rule or amendment shall take effect on the following July 1.

Adopted September 28, 1994, effective October 1, 1994; amended December 3, 1997, effective January 1, 1998; amended October 5, 2000, effective November 1, 2000; amended May 24, 2006, effective immediately; amended March 22, 2010, effective immediately; amended June 22, 2017; eff. July 1, 2017.

ADMINISTRATIVE ORDER
MR No. 10549

(a) Public Meetings

(1) Except as otherwise provided in Rule 3, no rule shall be presented to the Court for adoption without first having been held out for public comment by the bench, bar, and public at a public meeting of the Rules Committee.

(2) All proposals for which the Rules Committee has completed its style and content review and those proposals submitted to the Rules Committee by other Supreme Court committees and Judicial Conference committees recommended for adoption by the Supreme Court shall be considered at the next public meeting. Any proposal on which the Rules Committee has not completed its content review or any proposal which a Supreme Court committee or Judicial Conference committee has not forwarded to the Rules Committee for placement on the public meeting agenda will not be considered at the next public meeting.

(3) A public hearing may be scheduled when either the significance of a particular proposal or the number of proposals ready for public comment would justify holding such a hearing. At least 60 days prior to the date designated for the public hearing, the Rules Committee shall cause notice of the public meeting and an invitation for comments to be distributed by the most economical means, including notification through the Illinois Court's electronic messaging services, such as list mail or Twitter broadcasts. Additionally, ~~a hard copy of~~ the notice shall be ~~mailed~~ distributed to each clerk of the court to be posted in a conspicuous place. The text of the proposed rules or amendments shall be posted on the Court's Web site~~, with hard copies~~ and be available by request from the Administrative Office of the Illinois Courts.

(4) Each committee of the Supreme Court may within 21 days following the public meeting respond to public comments received at the meeting by submitting to the Rules Committee:

(i) any revision to a proposal that was recommended by the committee, or

(ii) responsive comments of the committee.

(5) A committee of the Judicial Conference may within 21 days following the public meeting respond to public comments received at the meeting in the following manner. The committee may submit to the Conference (or the Executive Committee acting in its stead) for approval any revision to a proposal that was recommended by the committee or any responsive comment. The revised rule or response to public comments shall be included in the annual report on proposed rules and amendments unless the Conference instructs otherwise within 21 days of its receipt of the submission.

(b) Annual Report on Proposed Rules and Amendments

(1) The Rules Committee shall submit its annual report on rules to the Chief Justice and file it with the Clerk of the Supreme Court.

(2) The report shall include for each proposal: the docket number, the content of the proposal, any report submitted by the Supreme Court committee or Judicial Conference committee (if applicable) including any minority report, the response to the proposal, any comments or revisions submitted by the Supreme Court committee or Judicial Conference committee (if applicable), the Rules Committee's recommendation, and any alternative proposal the Rules Committee developed in response to public comment.

(3) The annual report shall be a public record.

(4) Whenever a lengthy rule or amendment is recommended, the Rules Committee shall prepare and submit a summary thereof for distribution. Whenever the Administrative Office distributes such a summary, the Office shall make provision for supplying the full text of the recommended rule or amendment to any interested person upon reasonable request.

Adopted September 28, 1994, effective October 1, 1994; amended December 3, 1997, effective January 1, 1998; amended October 5, 2000, effective November 1, 2000; amended March 22, 2010, effective immediately; amended June 22, 2017, eff. July 1, 2017.

Rules 4-5. Reserved

Rule 6. Citations

~~Citations of cases must be by title, to the page of the volume where the case begins, and to the pages upon which the pertinent matter appears in at least one of the reporters cited. It is not sufficient to use only *supra* or *infra*.~~ Citation of Illinois cases filed prior to July 1, 2011, and published in the Illinois Official Reports shall be to the ~~o~~Official ~~r~~Reports, but the citation to the North Eastern Reporter and/or the Illinois Decisions may be added. For Illinois cases filed on or after July 1, 2011, and for any case not published in the Illinois Official Reports prior to that date and for which a public-domain citation has been assigned, the public-domain citation shall be given and, where appropriate, pinpoint citations to paragraph numbers shall be given; a citation to the North Eastern Reporter and/or the Illinois Decisions may be added but is not required. ~~Quotations may be cited from either the official reports or the North Eastern Reporter or the Illinois Decisions.~~ Citation of cases from other jurisdictions that do not utilize a public-domain citation shall include the date and may be to either the official ~~S~~state reports or the National Reporter System, or both. If only the National Reporter System citation is used, the court rendering the decision shall also be identified. For other jurisdictions that have adopted a public-domain system of citation, that citation shall be given along with, where appropriate, pinpoint citations to paragraph numbers; a parallel citation to an additional case reporter may be given but is not required. Textbook citations shall include the date of publication and the edition. Illinois statutes shall generally be cited to the Illinois Compiled Statutes (ILCS) but citations to the session laws of Illinois or to the Illinois Revised Statutes shall be made when appropriate. ~~Prior to January 1, 1997, statutory citations may shall be made to the Illinois Revised Statutes shall be given where appropriate instead of or in addition to the Illinois Compiled Statutes.~~

Adopted January 20, 1993, effective immediately; amended May 31, 2011, effective July 1, 2011.

Commentary

(May 31, 2011)

Background

The system of case citation that has historically prevailed in the United States relies upon the elements of printed case reporters, that is, volume number, case name, beginning and pinpoint page numbers, and year of filing. In Illinois, citations have been made to our state's official reporters (Illinois Reports and Illinois Appellate Reports), with parallel citations to the appropriate West regional reporter (North East Reporter and/or Illinois Decisions) also allowed. But reliance upon printed reports for access to the courts' opinions has diminished with the rise of electronic databases, such as those found on the Court's own Internet website, Westlaw and Lexis-Nexis, and various CD-ROMs. In this state, the Illinois Supreme and Appellate Courts' opinions have been made available on the judiciary's website since 1996. However, the requirement that case citations be made to printed reporters has prevented direct citation of those opinions, even though they are now widely available on various electronic databases.

To remedy this situation, the Illinois Supreme Court has amended Supreme Court Rule 23, and has entered an administrative order in relation to Rule 23, to direct Illinois reviewing courts to assign, at the time of filing, public-domain case designator numbers (*e.g.*, "2011 IL 102345") , as well as internal paragraph numbers, to all opinions and Rule 23 orders filed after July 1, 2011. Further, any opinions that were filed prior to July 1, 2011, but not released for publication until a later date will be assigned a public-domain case designator number and internal paragraph numbers by the Reporter of Decisions. All opinions that have been assigned public-domain case designators and paragraph numbers will be posted to the Illinois judiciary's website.

Additionally, Rule 6 has been amended to require the use of public-domain case citations for all Illinois reviewing court opinions filed or released for publication after July 1, 2011. The amendments to Rules 6 and 23 will thus introduce a new system of case citations to Illinois law based directly on the decisions of the courts. It should be noted, though, that while amended Rule 6 requires a citation to the courts' public-domain numbering and paragraphing scheme in lieu of an Illinois Official Reports citation, the rule continues to allow citations to the unofficial regional reporters.

Citations

A public-domain case designators is unique to each opinion and is comprised of the year of decision, the court abbreviation, and a unique identifier number derived from the docket number. A public-domain citation shall include the designator preceded by the case title and will be in accord with the following examples:

Supreme Court

People v. Doe, 2011 IL 102345

Appellate Court Districts

People v. Doe, 2011 IL App (1st) 101234

People v. Doe, 2011 IL App (2d) 101234

People v. Doe, 2011 IL App (3d) 101234

People v. Doe, 2011 IL App (4th) 101234

People v. Doe, 2011 IL App (5th) 101234

Appellate Court Workers' Compensation Division

Doe v. Illinois Workers' Compensation Comm'n, 2011 IL App (1st) 101234WC

In the above, a citation to *People v. Doe*, 2011 IL 102345, shows *People v. Doe* as the case name; 2011 as the year of decision; the Illinois Supreme Court as the court of decision; and 102345 as the court-assigned identifier number, which, in the Supreme Court, is the docket number and, in the Appellate Court, is the last six digits of the docket number.

Where a subsequent opinion is filed under the same docket number, such as upon reconsideration of the cause after remand, a sequential capital letter will be appended to the unique-identifier number, regardless of the year-designation portion of the citation:

People v. Doe, 2011 IL App (1st) 101236

People v. Doe, 2012 IL App (1st) 101236-B

Orders filed under Illinois Supreme Court Rule 23 will have the letter "U" appended to the unique-identifier number:

People v. Roe, 2011 IL App (5th) 101237-U

Additionally, Illinois reviewing court opinions will include internally numbered paragraphs. Where a pinpoint citation to an opinion is appropriate, the citation shall include the public-domain citation followed by the pinpoint paragraph or paragraphs of the opinion. *E.g.*:

People v. Doe, 2011 IL App (1st) 101234, ¶ 15

People v. Doe, 2011 IL App (1st) 101234, ¶¶ 21-23

People v. Doe, 2011 IL App (1st) 101234, ¶¶ 57, 68

For those opinions filed prior to July 1, 2011, but not released by the filing court for publication until after that date, the Reporter of Decisions office will add internal paragraph numbers, as well as the public-domain designator numbers.

Rules 7-89. Reserved

Rule 9. Electronic Filing of Documents

(a) Electronic Filing Required. Unless exempt as provided in paragraph (c), all documents in civil cases shall be electronically filed with the clerk of court using an electronic filing system approved by the Supreme Court of Illinois.

(b) Personal Identity Information. If filing a document that contains Social Security numbers as provided in Rule 15 or personal identity information as defined in Rules 138 or 364, the filer shall adhere to the procedures outlined in Rules 15, 138, and 364.

(c) **Exemptions.** The following types of documents in civil cases are exempt from electronic filing:

(1) Documents filed by a self-represented litigant incarcerated in a local jail or correctional facility at the time of the filing;

(2) Wills;

(3) Documents filed under the Juvenile Court Act of 1987; and

(4) Documents in a specific case ~~by court order,~~ upon good cause shown by certification. Good cause exists where a self-represented litigant is not able to e-file documents for the following reasons: no computer or Internet access in the home and travel represents a hardship; a disability, as defined by the Americans with Disabilities Act of 1990, that prevents e-filing; or a language barrier or low literacy (difficulty reading, writing, or speaking in English). Good cause also exists if the pleading is of a sensitive nature, such as a petition for an order of protection or civil no contact/stalking order.

A Certification for Exemption From E-filing shall be filed with the court—in person or by mail—and include a certification under section 1-109 of the Code of Civil Procedure. The court shall provide, and parties shall be required to use, a standardized form expressly titled "Certification for Exemption From E-filing" adopted by the Illinois Supreme Court Commission on Access to Justice. Judges retain discretion to determine whether good cause is shown. If the court determines that good cause is not shown, the court shall enter an order to that effect stating the specific reasons for the determination and ordering the litigant to e-file thereafter.

Judges retain discretion to determine whether, under particular circumstances, good cause exists without the filing of a certificate, and the court shall enter an order to that effect.

(d) Timely Filing. Unless a statute, rule, or court order requires that a document be filed by a certain time of day, a document is considered timely if submitted before midnight (in the court's time zone) on or before the date on which the document is due. A document submitted on a day when the clerk's office is not open for business will, unless rejected, be file stamped as filed on the next day the clerk's office is open for business. The filed document shall be endorsed with the clerk's electronic file mark setting forth, at a minimum, the identification of the court, the clerk, the date, and the time of filing.

(1) If a document is untimely due to any court-approved electronic filing system technical failure, the filing party may seek appropriate relief from the court, upon good cause shown.

(2) If a document is rejected by the clerk and is therefore untimely, the filing party may seek appropriate relief from the court, upon good cause shown.

(e) Effective Date. This rule is effective July 1, 2017 for proceedings in the Supreme Court and the Appellate Court. For proceedings in the circuit court, this rule is effective January 1, 2018.

Adopted June 22, 2017, eff. July 1, 2017; amended Dec. 13, 2017, eff. immediately.

Committee Comments
(December 13, 2017)

a. The implementation of electronic filing in Illinois courts should not impede a person's access to justice.

b. Where a party has filed a Certification for Exemption From E-filing or the court has granted a good-cause exemption *sua sponte*, that party may file documents in person or by mail unless ordered otherwise by the court.

Rule 10. Size and Specifications of Documents Filed in the Illinois Courts

(a) Page Size. Except as otherwise provided in these rules, the page size of all documents filed in all courts of this State shall be 8½ inches by 11 inches. The court encourages use of recycled paper if the filing is in paper form.

(b) Legibility. Documents filed shall be legibly written, typewritten, printed, or otherwise prepared.

(c) Electronic Specifications. Documents filed electronically must conform to the technical specifications contained in the eFileIL Electronic Document Standards (as published at http://efile.illinoiscourts.gov).

(d) Rejection. If a document is rejected by the clerk, the party may correct the deficiency identified by the clerk and resubmit the document for filing. If the filing party believes, in good faith, that the deficiency identified by the clerk cannot or should not be corrected, the filing party may seek appropriate relief from the court, upon good cause shown.

Adopted January 5, 1981, effective January 1, 1982; amended June 25, 1990, effective July 1, 1990; amended Oct. 24, 2012, effective Jan. 1, 2013; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

Rule 10 was added in 1981.

Rule 11. Manner of Serving Documents Other Than Process and Complaint on Parties Not in Default in the Trial and Reviewing Courts

(a) On Whom Made. If a party is represented by an attorney of record, service shall be made upon the attorney. Otherwise service shall be made upon the party.

(b) E-mail Address. An attorney must, and a self-represented party may, include on the appearance and on all pleadings filed in court an e-mail address to which documents and notices will be served in conformance with Rule 131(d).

~~**(b)**~~**(c) Method.** Unless otherwise specified by rule or order of court, ~~D~~documents shall be served electronically. Electronic service may be made either through the court electronic filing manager or an approved electronic filing service provider, if available. For all parties for which such service is not available, the filer shall make service to the e-mail address(es) identified by the party's appearance in the matter. If service is made by e-mail, the documents may be transmitted via attachment or by providing a link within the body of the e-mail that will allow the party to download the document through a reliable service provider.

If a self-represented party so opts, or if service other than electronic service is specified by rule or order of court, or if extraordinary circumstances prevent timely electronic service in a particular instance, service of documents may be made by ~~any~~ one of the following alternative methods:

(1) *Personal Service.* Delivering ~~them~~ the document to the attorney or party personally;

(2) *Delivery to Attorney's Office or ~~Unrepresented~~ Self-Represented Party's Residence.* Delivery of the document to an authorized person at the attorney's office or in a reasonable receptacle or location at or within the attorney's office.~~Leaving them in the office of the attorney with the attorney's clerk, or with a person in charge of the office; or if~~ If a party is not represented by counsel, by leaving ~~them~~ the document at the party's residence with a family member of the age of 13 years or older;~~upwards;~~

(3) *United States Mail.* Depositing ~~them~~the document in a United States post office or post office box, enclosed in an envelope~~, plainly addressed to the attorney at the attorney's business~~ to the party's address, as identified by the party's appearance in the matter, ~~or to the party at the party's business address or residence,~~ with postage fully prepaid; or

(4) *Third-Party Commercial Carrier.* Delivery of the document through ~~Delivering them to~~ a third-party commercial carrier or courier, to the party's address, as identified by the party's appearance in the matter, with delivery charge fully prepaid. ~~including deposit in the carrier's pick-up box or drop off with the carrier's designated contractor enclosed in a package, plainly addressed to the attorney at the attorney's business address, or to the party at the party's business address or residence, with delivery charge fully prepaid;~~

~~(5) *Facsimile Transmission.* Transmitting them via facsimile machine to the office of the attorney or party, who has consented to receiving service by facsimile transmission. Briefs filed in reviewing courts shall not be served by facsimile transmission;~~

~~(i) A party or attorney electing to serve pleadings by facsimile must include on the certificate of service transmitted the telephone number of the sender's facsimile transmitting device. Use of service by facsimile shall be deemed consent by that party or attorney to receive service by facsimile transmission. Any party may rescind consent of service by facsimile transmission in a case by filing with the court and serving a notice on all parties or their attorneys who have filed appearances that facsimile service will not be accepted. A party or attorney who has rescinded consent to service by facsimile transmission in a case may not serve another party or attorney by facsimile transmission in that case.~~

~~(ii) Each page of notices and documents transmitted by facsimile pursuant to this rule should bear the circuit court number, the title of the document, and the page number.~~

~~(6) *E-mail Transmission.* Transmitting them via e-mail to all primary and secondary e-mail addresses of record designated by the attorney or unrepresented party in conformance with Rule 131 (d); or~~

~~(7) *Electronic In-box.* Transmission through a service provider that provides an electronic in-box for those parties registered to use the service.~~

~~**(c)**~~**(d) Multiple Parties or Attorneys.** In cases in which there are two or more plaintiffs or defendants who appear by different attorneys, service of all documents shall be made on the attorney for each of the parties. ~~If one attorney appears for several parties, that attorney is entitled to only one copy of any document served upon the attorney by the opposite side.~~ When more than one attorney appears for a party, service ~~of a copy~~ upon one of them is sufficient.

~~**(d) E-mail Address.** An attorney must include on the appearance and on all pleadings filed in court an e-mail address to which documents may be served in conformance with Rule 131(d).~~

(e) Notice of E-mail Rejection. If a party serving a document via e-mail receives a rejection message or similar notification

suggesting that transmission was not successful, the party serving the document shall make a good-faith effort to alert the intended recipient of a potential transmission problem and take reasonable steps to ensure actual service of the document.

~~(e)~~(f) Limited Scope Appearance. After an attorney files a Notice of Limited Scope Appearance in accordance with Rule 13(c)(6), service of all documents shall be made on both the attorney and the party represented on a limited scope basis until: (1) the court enters an order allowing the attorney to withdraw under Rule 13(c) or (2) the attorney's representation automatically terminates under Rule 13(c)(7)(ii).

Amended April 8, 1980, effective May 15, 1980; amended April 10, 1987, effective August 1, 1987; amended October 30, 1992, effective November 15, 1992; amended December 29, 2009, effective immediately; amended Oct. 24, 2012, effective Jan. 1, 2013; amended Dec. 21, 2012, eff. Jan. 1, 2013; amended June 14, 2013, eff. July 1, 2013; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Committee Comment
(December 9, 2015)

In amending Rule 11 to provide for e-mail service, the Committee considered whether special additional rules should apply to documents served by e-mail, *e.g.*, specified file formats, scan resolutions, electronic file size limitations, etc. The Committee rejected such requirements in favor of an approach which provides flexibility to adapt to evolving technology and developing practice. The Committee further anticipates good faith cooperation by practitioners. For example, if an attorney serves a motion in a format which cannot be read by the recipient, the Committee expects the recipient to contact the sender to request an alternative electronic format or a paper copy.

Committee Comment
(December 21, 2012)

New subparagraphs (b)(6) and (7) were created to allow for service of documents electronically. The amendments facilitate electronic communications among the court, parties, and counsel and complement the expansion of e-filing in the trial courts. However, electronic service may not be appropriate in all instances. For example, absent a secure method for electronic service of documents, other service options should be used for cases or documents filed confidentially.

Committee Comments
(December 29, 2009)

The rules on service and filing have been revised to provide for sending documents via third-party commercial carrier. Under these rules, the term "delivery" refers to all the carrier's standard pick-up methods, such as dropping a package in a UPS or FedEx box or with a UPS or FedEx contractor.

Rule 12. Proof of Service in the Trial and Reviewing Courts; Effective Date of Service

(a) Filing. When service of a document is required, proof of service shall be filed with the clerk.

(b) Manner of Proof. Service is proved:

(1) in the case of electronic service through the court electronic filing manager or an approved electronic filing service provider, by an automated verification of electronic service, specifying the time of transmission and e-mail address of each recipient;

(2) in the case of service by e-mail, by certification under section 1-109 of the Code of Civil Procedure of the person who initiated the transmission, stating the date of transmission and the e-mail address of each recipient;

~~(1)~~(3) by written acknowledgment from ~~signed by~~ the person served;

~~(2)~~(4) in case of service by personal, office, or residential delivery, by certification under section 1-109 of the Code of Civil Procedure of the person who made delivery, stating the time and place of delivery; ~~certificate of the person, as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109 (West 2012)), who made delivery;~~

~~(3)~~(5) in case of service by mail or by delivery to a third-party commercial carrier, by certification under section 1-109 of the Code of Civil Procedure ~~certificate~~ of the person~~, as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109 (West 2012)),~~ who deposited the document in the mail or delivered the document to a third-party commercial carrier or courier, stating the time and place of mailing or delivery, the complete address ~~which~~that appeared on the envelope or package, and the fact that proper postage or the delivery charge was prepaid; or

~~(4)~~(6) in case of service by mail by a self-represented litigant residing in a correctional facility, ~~*pro se* petitioner from a correctional institution,~~ by certification under ~~as provided in~~ section 1-109 of the Code of Civil Procedure ~~(735 ILCS 5/1-109 (West 2012))~~ of the person who deposited the document in the institutional mail, stating the time and place of deposit and the complete address to which the document was to be delivered.~~;~~

~~(5) in case of service by facsimile transmission, by certificate of the person, as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109 (West 2012)), who transmitted the document via facsimile machine, stating the time and place of transmission, the telephone number to which the transmission was sent, and the number of pages transmitted; or~~

~~(6) in case of service by e-mail, by certificate of the person, as provided in section 1-109 of the Code of Civil Procedure (735 ILCS 5/1-109 (West 2012)), who transmitted the document via e-mail, stating the time and place of transmission to a designated e-mail address of record.~~

(c) Effective Date of Service ~~by Mail.~~ Service by electronic means or by personal, office, or residential delivery is complete on the day of transmission. Service by delivery to a third-party commercial carrier or courier is complete on the third court day after delivery of the package to the third-party carrier. Service by U.S. mail is complete four days after mailing.

~~**(d) Effective Date of Service by Delivery to Third-Party Commercial Carrier.** Service by delivery to a third-party commercial carrier is complete on the third business day after delivery of the package to the third-party carrier.~~

~~**(e) Effective Date of Service by Facsimile Transmission.** Service by facsimile machine is complete on the first court day following transmission.~~

~~**(f) Effective Date of Service by E-mail.** Service by e-mail is complete on the first court day following transmission.~~

~~**(g) Effective Date of Service by Electronic In-box.** Service by electronic in-box under Rule 11(b)(7) is complete on the first court day following transmission.~~

Amended effective July 1, 1971, and July 1, 1975; amended October 30, 1992, effective November 15, 1992; amended December 29, 2009, effective immediately; amended Dec. 21, 2012, eff. Jan. 1, 2013; amended Jan. 4, 2013, eff. immediately; amended September 19, 2014, eff. immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended Oct. 6, 2016, eff. Nov. 1, 2016; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

(December 29, 2009)

The rules on service and filing have been revised to provide for sending documents via third-party commercial carrier. Under these rules, the term "delivery" refers to all the carrier's standard pick-up methods, such as dropping a package in a UPS or FedEx box or with a UPS or FedEx contractor.

Rule 13. Appearances~~—~~Time to Plead~~—~~Withdrawal

(a) Written Appearances. If a written appearance is filed, copies of the appearance shall be served in the manner required for the service of copies of pleadings.

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

(c) Appearance and Withdrawal of Attorneys.

(1) *Addressing the Court.* An attorney shall file a~~his~~ written appearance or other pleading before addressing ~~he addresses~~ the court unless the attorney is presenting a motion for leave to appear by intervention or otherwise.

(2) *Notice of Withdrawal.* An attorney may not withdraw his or her appearance for a party without leave of court and notice to all parties of record.~~, and, unless~~ Unless another attorney is substituted, the attorney must give reasonable notice of the time and place of the presentation of the motion for leave to withdraw, by personal service, certified mail, or a third-party carrier, directed to the party represented at the party's ~~by him at his~~ last known business or residence address. Alternatively, the attorney may give such notice electronically, if receipt is acknowledged by the party. Such notice shall advise said party that to insure notice of any action in said cause, the party should retain other counsel therein or file with the clerk of the court, within 21 days after entry of the order of withdrawal, a~~his~~ supplementary appearance stating therein an address to ~~at~~ which service of notices or other documents may be made.~~had upon him.~~

(3) *Motion to Withdraw.* The motion for leave to withdraw shall be in writing and, unless another attorney is substituted, shall state the last known address(es) of the party represented. The motion may be denied by the court if granting the motion~~the granting of it~~ would delay the trial of the case, or would otherwise be inequitable.

(4) *Copy to be Served on Party.* If the party does not appear at the time the motion for withdrawal is granted, either in person or by substitute counsel, then, within three days of the entry of the order of withdrawal, the withdrawing attorney shall serve the order ~~a copy thereof shall be served~~ upon the party ~~by the withdrawing attorney~~ in the manner provided in paragraph (c)(2) of this rule~~,~~ and file proof of service of the order.~~shall be made and filed.~~

(5) *Supplemental Appearance.* Unless another attorney is, at the time of such withdrawal, substituted for the one withdrawing, the party shall file in the case within 21 days after entry of the order of withdrawal a supplementary appearance, stating therein an address at which the service of notices or other documents may be had upon him or her. A self-represented litigant may supply an e-mail address for service, pursuant to Rule 11(b). In the case of the party's ~~his~~ failure to file such supplementary appearance, subsequent notices and filings ~~notice, if by mail or by third-party carrier,~~ shall be directed to the party~~him~~ at the~~his~~ last known business or residence address.

(6) *Limited Scope Appearance*. An attorney may make a limited scope appearance on behalf of a party in a civil proceeding pursuant to Rule of Professional Conduct 1.2(c) when the attorney has entered into a written agreement with that party to provide limited scope representation. The attorney shall file a Notice of Limited Scope Appearance, prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article I Forms Appendix ~~in the form attached to this rule~~, identifying each aspect of the proceeding to which the limited scope appearance pertains.

An attorney may file a Notice of Limited Scope Appearance more than once in a case. An attorney must file a new Notice of Limited Scope Appearance before any additional aspect of the proceeding in which the attorney intends to appear. A party shall not be required to pay more than one appearance fee in a case.

(7) *Withdrawal Following Completion of Limited Scope Representation*. Upon completing the representation specified in the Notice of Limited Scope Appearance filed pursuant to paragraph (6), the attorney shall withdraw by oral motion or written notice as provided in parts (i)-(ii) of this paragraph. A withdrawal for any reason other than completion of the representation shall be requested by motion under paragraphs (c)(2) and (c)(3).

(i) If the attorney completes the representation at or before a court hearing attended by the party the attorney represents, the attorney may make an oral motion for withdrawal without prior notice to the party the attorney represents or to other parties. The court must grant the motion unless the party objects on the ground that the attorney has not completed the representation. The order granting the withdrawal may require the attorney to give written notice of the order to parties who were neither present nor represented at the hearing. If the party objects that the attorney has not completed the representation, the court must hold an evidentiary hearing on the objection, either immediately or on a specified later date. After hearing the evidence, the court must grant the motion to withdraw unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance.

(ii) An attorney also may withdraw by filing a Notice of Withdrawal of Limited Scope Appearance, prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article I Forms Appendix ~~in the form attached to this rule~~. The attorney must serve the Notice on the party the attorney represents and must also serve it on other counsel of record and other parties not represented by counsel, unless the court by order excuses service on other counsel and other parties. The attorney must also serve the Notice on the judge then presiding over the case. The attorney must file proof of service in compliance with this paragraph. Within 21 days after the service of the Notice, the party may file an Objection to Withdrawal of Limited Scope Appearance, prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article I Forms Appendix ~~in the form attached to this rule~~. The party must serve the Objection on the attorney and must also serve it on other counsel of record and other parties not represented by counsel unless the court by order excuses service on other counsel and other parties. If no timely Objection is filed, the attorney's limited scope appearance automatically terminates, without entry of a court order when the 21-day period expires. If a timely Objection is filed, however, the attorney must notice a hearing on the Objection. If the ground for the Objection is that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance, the court must hold an evidentiary hearing. After the requisite hearing, the court must enter an order allowing the attorney to withdraw unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance.

Adopted June 15, 1982, effective July 1, 1982; amended February 16, 2011, effective immediately; amended Jan. 4, 2013, eff. immediately; amended June 14, 2013, eff. July 1, 2013; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

(rev. June 14, 2013)

Rule 13 was added in 1982. It was patterned after Proposed Uniform Circuit Court Rule III, which was prepared by a special committee of the Illinois State Bar Association and approved by the ISBA Board of Governors on June 22, 1976. Under paragraph (c) of this rule, an attorney's written appearance on behalf of a client before any court in this State binds the attorney to continue to represent that client in that cause until the court, after notice and motion, grants leave for the attorney to withdraw. See Rule of Professional Conduct 1.16(c).

Committee Comments

(June 14, 2013)

Paragraph (c)(6) addresses the provision of limited scope representation to clients under Rule of Professional Conduct 1.2(c). The paragraph is not intended to regulate or impede appearances made pursuant to other types of limited engagements by attorneys, who may appear and withdraw as otherwise provided by Rule 13.

An attorney making a limited scope appearance in a civil proceeding must first enter into a written agreement with the party disclosing the limited nature of the representation. The limited appearance is then effected by using the form Notice of Limited Scope Appearance appended to this Rule. Utilizing this standardized form promotes consistency in the filing of limited scope appearances, makes the notices easily recognizable to judges and court personnel, and helps ensure that the scope of the representation is identified with specificity.

A party on whose behalf an attorney has filed a Notice of Limited Scope Appearance remains responsible, either personally or through an attorney who represents the party, for all matters not specifically identified in the Notice of Limited Scope Appearance.

Paragraph (c)(6) does not restrict (1) the number of limited scope appearances an attorney may make in a case, (2) the aspects of the case for which an attorney may file a limited scope appearance such as, for example, specified court proceedings, depositions, or settlement negotiations, or (3) the purposes for which an attorney may file a limited scope appearance. Notwithstanding the absence of numeric or subject matter restrictions on filing limited scope appearances, nothing in the Rule restricts the ability of a court to manage the cases before it, including taking appropriate action in response to client or lawyer abuse of the limited scope representation procedures.

Paragraph (c)(7) provides two alternative ways for an attorney to withdraw when the representation specified in the Notice of Limited Scope Appearance has been completed. The first method—an oral motion—can be used whenever the representation is completed at or before a hearing attended by the party the attorney represents. Prior notice of such a hearing is not required. The attorney should use this method whenever possible, because its use ensures that withdrawal occurs as soon as possible and that the court knows of the withdrawal.

The second method—filing a Notice of Withdrawal of Limited Scope Appearance—enables the attorney to withdraw easily in other situations, without having to make a court appearance, except when there is a genuine dispute about the attorney's completion of the representation. The Notice must be served on the party represented and on other counsel of record and other parties not represented by counsel unless the court excuses service on other counsel of record and other parties not represented by counsel. The Notice must also be served on the judge then presiding over the case to ensure that the judge is made aware that the limited scope representation has been completed, subject to the client's right to object. The attorney's withdrawal is automatic, without entry of a court order, unless the client files a timely Objection to Withdrawal of Limited Scope Appearance.

If the attorney makes an oral motion to withdraw pursuant to paragraph (c)(7)(i), with or without client objection, or if the client files a timely Objection to Withdrawal of Limited Scope Appearance pursuant to paragraph (c)(7)(ii), the court must allow the attorney to withdraw unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance. An evidentiary hearing is required if the client objects to the attorney's withdrawal based on the attorney's failure to complete the representation. A nonevidentiary hearing is required if the client objects on a ground other than the attorney's failure to complete the representation, although the primary function of such a hearing is to explain to the client that such an objection is not well-founded. A court's refusal to permit withdrawal of a completed limited scope representation, or even its encouragement of the attorney to extend the representation, would disserve the interests of justice by discouraging attorneys from undertaking limited scope representations out of concern that agreements with clients for such representations would not be enforced.

A limited scope appearance under the rule is unrelated to "special and limited" appearances formerly used to object to the lack of personal jurisdiction. The use of such appearances ended with the adoption of Public Act 91-145, which amended section 2-301 of the Code of Civil Procedure (735 ILCS 5/2-301) effective January 1, 2000.

~~Form for Limited Scope Appearance in Civil Action~~

-

~~IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT~~

~~_____ COUNTY, ILLINOIS~~

~~(OR, IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS)~~

-

_____	)	-
~~Plaintiff/Petitioner~~	)	-
-	)	-

v.	)	No.
-	)	-
-	)	-
_____	)	-
Defendant/Respondent	)	-

-

NOTICE OF LIMITED SCOPE APPEARANCE

-

1. The attorney, _____, and the Party, _____, have entered into a written agreement dated_____ providing that the attorney will provide limited scope representation to the Party in the above-captioned matter in accordance with Paragraphs 3 and 4, below.

2. The Party is Plaintiff Petitioner Defendant Respondent in this matter. (Circle one)

3. The attorney appears pursuant to Supreme Court Rule 13(c)(6). This appearance is limited in scope to the following matter(s) in which the attorney will represent the Party (check and complete all that apply):

-

□ In the court proceeding (identify) on the following date: _____

□ And in any continuance of that proceeding

□ At the trial on the following date: _____

□ And in any continuance of that trial

□ And until judgment

□ At the following deposition(s): _____

□ If a family law matter, specify the scope and limits of representation: _____

□ Other (specify the scope and limits of representation): _____

-

4. If this appearance does not extend to all matters to be considered at the proceeding(s) above, identify the discrete issues within each proceeding covered by this appearance:_____

5. The attorney may withdraw following completion of the limited scope representation specified in this appearance as follows:

a. orally move to withdraw at a hearing attended by the Party, at which the Party may object to withdrawal if the Party contends that the limited scope representation specified in this appearance has not been completed; or

b. file a Notice of Withdrawal of Limited Scope Representation in the form attached to Supreme Court Rule 13. If the attorney files such a Notice, the attorney shall serve it upon the Party and upon all counsel of record and other parties not represented by counsel unless the court excuses service upon other counsel and other unrepresented parties, and upon the judge then presiding over this case. The method of service shall be as provided in Supreme Court Rule 11 unless the court orders otherwise. If the Party objects to the withdrawal, the Party may, within 21 days after the date of the attorney's service of the Notice of Withdrawal of Limited Scope Appearance, file an Objection to Withdrawal of Limited Scope Appearance in the form attached to Supreme Court Rule 13. The attorney will provide a copy of the form of Objection to the Party with the attorney's Notice, including instructions for filing and service of an Objection. If the Party timely serves an Objection, the attorney shall notice the matter for hearing to rule on the Objection.

6. Service of pleadings on the attorney and party named above shall be made in accordance with Supreme Court Rule 11(e).

7. By signing below, the Party being represented under this Limited Scope Appearance:

a. agrees to the delivery of all court papers to the addresses specified below; and

b. agrees to inform the court, all counsel of record, and all parties not represented by counsel of any changes to the Party's address information listed below during the limited scope representation.

-

_____ _____

Signature of Attorney Name of Attorney

_____ _____

Attorney's Address Attorney's Telephone Number

_____ _____

Attorney's E-Mail Address Attorney Number

_____ _____

Signature of Party Name of Party

_____ _____

Party's Address Party's Telephone Number

_____

Party's E-Mail Address

_____

Date

Form for Notice of Withdrawal of Limited Scope Appearance

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
_____ COUNTY, ILLINOIS
(OR, IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS)

_____	)	
Plaintiff/Petitioner	)	
	)	
v.	)	No.
	)	
	)	
_____	)	
Defendant/Respondent	)	

NOTICE OF WITHDRAWAL OF LIMITED SCOPE APPEARANCE

I withdraw my Notice of Limited Scope Appearance for _____ [party], pursuant to Supreme Court Rule 13(c)(7).

I have completed all services within the scope of the Notice of Limited Scope Appearance, and I have completed all acts ordered by the court within the scope of that appearance.

Service of documents upon me under Supreme Court Rule 11(e) will no longer be required upon the later of: (a) 21 days after service of this Notice or, (b) if _____ [party] files and serves an Objection to Withdrawal of Limited Scope Appearance within 21 days after service of this Notice, entry of a court order allowing my withdrawal. Service of documents on _____[party] continues to be required.

NOTICE TO _____[party]: You have the right to object to my withdrawal as your lawyer if you believe that I have not finished everything that I had agreed to do. To object, you must:

1. Fill in the blanks in the attached form of Objection to Withdrawal of Limited Scope Appearance, including the Certificate of Service and sign where indicated.

2. File the original Objection with the court by _____ __, ____, [date to be filled in by lawyer] which is 21 days after the date that I am filing and serving this Notice.

3. On the same day that you file the Objection with the court, send copies of it to me and to the other persons listed in the Certificate of Service attached to the Objection. Also, check the boxes in the Certificate of Service to show how you sent the copy to each person.

If you file and serve an Objection within the 21-day period, I will arrange to have a hearing date set by the court. I will send you notice of the date. You must appear at the hearing and explain to the judge why you believe that I have not finished everything that I had agreed to do for you.

_____ _____

Signature of Attorney Name of Attorney

_____ _____

Attorney's Address Attorney's Telephone Number

_____ _____

Attorney's E-Mail Address Attorney Number

_____

Date

Proof of Filing and Service

I certify that this Notice has been filed with the court on the ___ day of _____, 20__, and on the same day I served this Notice on the following, including the Party that I represented, all counsel of record and parties not represented by counsel, and the judge now presiding over this case, by the method checked below for each.

[List Name and Address of Each] [Check Method of Service}

The Honorable _____ [ ] US Mail, Postage Prepaid [ ] Messenger
_____ [ ] Personal Delivery [ ] Facsimile
_____ [ ] Email
_____
_____

[Client]_____ [ ] US Mail, Postage Prepaid [ ] Messenger
_____ [ ] Personal Delivery [ ] Facsimile

_____ [ ] Email
_____
_____

[Repeat Same Information for Each Other Counsel of Record and Unrepresented Party]

_____
Signature of Attorney

Form for Objection To Withdrawal of Limited Scope Appearance

****

[To Withdrawing Attorney: On the Copy of This Form Sent to the Client, List the Parties and Addresses in the Certificate of Service and Complete All Parts of the Form Except the Statement of Grounds, the Signature Block Information, the Date of Filing and Service of the Objection, the Client's Method of Service, and the Client's Signatures]

****

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
_____ COUNTY, ILLINOIS
(OR, IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS)

_____	)	
Plaintiff/Petitioner	)	
	)	
v.	)	No.
	)	
	)	
_____	)	
Defendant/Respondent	)	

OBJECTION TO WITHDRAWAL OF LIMITED SCOPE APPEARANCE

I, _____, object to my attorney's Notice of Withdrawal of Limited Scope Appearance filed on _____.

My attorney has not finished everything he or she had agreed to do in the Notice of Limited Scope Appearance. I understand this is the only basis for me to present a valid objection to my attorney's notice of withdrawal. The specific services that my attorney has not completed are:
_____
_____
_____
_____.

I understand that my objection will be set for a court hearing and I will be required to appear at that hearing and explain to a judge what services my attorney has not completed that he or she had agreed to do for me.

_____ _____

Signature of Party Name of Party

_____ _____

Party's Address Party's Telephone Number

_____

Party's E-Mail Address

_____

Date

Proof of Filing and Service

I certify that this Objection has been filed with the court on the ___ day of _____, ____, and on the same day I served this Objection on the following by the method checked below for each.

[List Name and Address of Each] [Check Method of Service}

[Attorney Who Represented Client] [ ] US Mail, Postage Prepaid
_____ [ ] Messenger
_____ [ ] Personal Delivery [ ] Facsimile
_____ [ ] Email

[Repeat Same Information for Each Other Counsel of Record and Unrepresented Party]

_____

Signature of Party

Committee Comments

Rule 13 was added in 1982. It was patterned after Proposed Uniform Circuit Court Rule III, which was prepared by a special committee of the Illinois State Bar Association and approved by the ISBA Board of Governors on June 22, 1976. Under paragraph (c) of this rule, an attorney's written appearance on behalf of a client before any court in this State binds the attorney to continue to represent that client in that cause until the court, after notice and motion, grants leave for the attorney to withdraw. (See Code of Professional Responsibility, Rules 2-110, 5-102 and 5-105.) This is true whether a final judgment has been entered in the cause or the contract of employment has been carried out. See Rule 7-101(a)(2).

Rule 14. Reserved

Rule 15. Social Security Numbers in Pleadings and Related Matters.

(a) Applicability. This rule applies to all documents filed with the court in all cases except civil cases. The confidential

treatment of an individual's Social Security number in civil case court filings is separately provided for in Rule 138.

(b) Unless otherwise required by law or ordered by the court, parties shall not include Social Security numbers in documents filed with the court, including exhibits thereto, whether filed electronically or in paper. If disclosure of an individual's Social Security number is required for a particular filing, only the last four digits of that number shall be used. The filing must be accompanied by a Notice of Confidential Information Within Court Filing, prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article I Forms Appendix~~confidential information form in substantial compliance with the attached **NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING**~~, which shall identify the full Social Security number and shall remain confidential, except as to the parties or as the court may direct.

(c) Neither the court, nor the clerk, will review each pleading for compliance with this rule. If a pleading is filed without redaction, a party or identified person may move the court to order redaction. If the court finds the inclusion of the Social Security number was willful, the court may award the prevailing party reasonable expenses, including attorney fees and court costs, incurred in making or opposing the motion.

(d) This rule does not require any party, attorney, clerk or judicial officer to redact information from a court record that was filed prior to the adoption of this rule; provided, however, that a party may request that a Social Security number be redacted in a matter that preceded the adoption of this rule.

Adopted October 4, 2011, effective January 1, 2012; renumbered April 26, 2012, eff. immediately; amended Dec. 24, 2013, eff. Jan. 1, 2014; amended June 22, 2017, eff. July 1, 2017.

Committee Comment

(October 4, 2011)

This rule was adopted pursuant to section 40 of the Identity Protection Act (5 ILCS 179/40 (West 2010)).

~~**[Appendix]**~~

~~(Revised July 25, 2012)~~

~~In the Circuit Court of the _____ Judicial Circuit,~~

~~_____ County, Illinois~~

~~(Or, In the Circuit Court of Cook County, Illinois)~~

~~_____~~	~~)~~	-
~~Plaintiff/Petitioner,~~	~~)~~	-
-	~~)~~	-
~~v.~~	~~)~~	~~Case No. _____~~
-	~~)~~	-
~~_____~~	~~)~~	-
~~Defendant/Respondent~~	~~)~~	-

-

-

~~**NOTICE OF CONFIDENTIAL INFORMATION WITHIN COURT FILING**~~

~~Pursuant to Illinois Supreme Court Rule 15, the filer of a court record at the time of filing shall include a confidential information form which identifies the full social security numbers for any individuals whose social security numbers are redacted within the filing. **This information will not be available to the public and this document will be stored in a separate location from the case file.**~~

~~**Party/Individual Information:**~~

-

~~1. Name: _____~~
~~Address: _____~~
~~_____~~
~~Phone: _____~~
~~SSN: _____~~
~~2. Name: _____~~
~~Address: _____~~
~~_____~~
~~Phone: _____~~
~~SSN: _____~~
~~(Attach additional pages, if necessary.)~~

Rules 16-17 Reserved

Rule 18. Findings of Unconstitutionality

A court shall not find unconstitutional a statute, ordinance, regulation or other law, unless:

(a) the court makes the finding in a written order or opinion, or in an oral statement on the record that is transcribed;

(b) such order or opinion clearly identifies what portion(s) of the statute, ordinance, regulation or other law is being held unconstitutional;

(c) such order or opinion clearly sets forth the specific ground(s) for the finding of unconstitutionality, including:

(1) the constitutional provision(s) upon which the finding of unconstitutionality is based;

(2) whether the statute, ordinance, regulation or other law is being found unconstitutional on its face, as applied to the case *sub judice*, or both;

(3) that the statute, ordinance, regulation or other law being held unconstitutional cannot reasonably be construed in a manner that would preserve its validity;

(4) that the finding of unconstitutionality is necessary to the decision or judgment rendered, and that such decision or judgment cannot rest upon an alternative ground; and

(5) that the notice required by Rule 19 has been served, and that those served with such notice have been given adequate time and opportunity under the circumstances to defend the statute, ordinance, regulation or other law challenged.

Adopted July 27, 2006, effective September 1, 2006.

Committee Comment
(July 27, 2006)

This rule is intended to implement the principles encapsulated in *People v. Cornelius*, 213 Ill. 2d 178 (2004), and *In re Parentage of John M.*, 212 Ill. 2d 253 (2004), concerning the duties incumbent upon the circuit court when declaring state statutes to be unconstitutional.

Rule 19. Notice of Claim of Unconstitutionality or Preemption by Federal Law

(a) Notice Required. In any cause or proceeding in which the constitutionality or preemption by federal law of a statute, ordinance, ~~or~~ administrative regulation, or other law affecting the public interest is raised, and to which action or proceeding the State or the political subdivision, agency, or officer affected is not already a party, the litigant raising the constitutional or preemption issue shall serve an appropriate notice thereof on the Attorney General, State's Attorney, municipal counsel or agency attorney, as the case may be.

(b) Contents and Time for Filing Notice. The notice shall identify the particular statute, ordinance, ~~or~~ regulation, or other law, and shall briefly describe the nature of the constitutional or preemption challenge. The notice shall be served at the time of suit, answer or counterclaim, if ~~constitutionality~~ the challenge is raised at that level, or promptly after the constitutional or preemption question arises as a result of a circuit or reviewing court ruling or judgment.

(c) Purpose of Notice. The purpose of such notice shall be to afford the State, political subdivision, agency or officer, as the case may be, the opportunity, but not the obligation, to intervene in the cause or proceeding for the purpose of defending ~~the constitutionality of~~ the law or regulation challenged. The election to intervene shall be subject to applicable provisions of law governing intervention or impleading of interested parties.

Adopted February 21, 1986, effective August 1, 1986; amended July 27, 2006, effective September 1, 2006.

Rule 20. Certification of Questions of State Law From Certain Federal Courts

(a) Certification. When it shall appear to the Supreme Court of the United States, or to the United States Court of Appeals for the Seventh Circuit, that there are involved in any proceeding before it questions as to the law of this State, which may be determinative of the said cause, and there are no controlling precedents in the decisions of this court, such court may certify such questions of the laws of this State to this court for instructions concerning such questions of State law, which certificate this court, by written opinion, may answer.

(b) Contents of Certification Order. A certification order shall contain:

(1) the questions of law to be answered; and

(2) a statement of all facts relevant to the questions certified and showing fully the nature of the controversy in which the questions arose.

(c) Record Before Certifying Court. This court may require the original or copies of all or of any portion of the record before the certifying court to be filed with it, if, in the opinion of this court, the record or a portion thereof may be necessary in answering the questions.

(d) Briefs and Argument. Proceedings in this court shall be those provided in these rules governing briefs and oral arguments, except that the time for filing briefs specified in Rule 343 begins to run from the day this court agrees to answer the certified question of law, and the parties retain the same designation as they have in the certifying court.

(e) Costs of Certification. Fees and costs shall be the same as in civil appeals docketed before this court and shall be equally divided between the parties unless otherwise ordered by the certifying court.

Adopted August 30, 1983, effective October 1, 1983; amended April 1, 1992, effective August 1, 1992.

Committee Comments

This rule permits the Supreme Court of the United States or the United States Court of Appeals for the Seventh Circuit to certify a question of Illinois law to the Supreme Court of Illinois, which question may be controlling in an action pending before said court and upon which no controlling Illinois authority exists.

The Court of Appeals for the Seventh Circuit has a rule which encourages certification in jurisdictions that have a rule similar to the one provided herein. See Rule 13 of the Rules of the United States Court of Appeals for the Seventh Circuit.

Subparagraph (a) establishes the standard for certification and also makes the acceptance of certification by the Supreme Court of Illinois discretionary.

Subparagraph (b) establishes the contents of a certification order.

Subparagraph (c) provides that the Supreme Court of Illinois may require the original or copies of all or any portions of the record before the certifying court.

Subparagraph (d) provides that briefs and arguments are to be governed by the Supreme Court of Illinois rules dealing with briefs and oral arguments. Amended in 1992 to provide that the time schedule for briefs will not begin to run until the court decides that it will answer the certified question.

Subparagraph (e) of the rule provides for fees and costs in the Supreme Court of Illinois.

Rule 21. Circuit Court Rules and Filing of Rules; Administrative Authority; ~~and~~ General Orders; ~~Filing of Rules~~

(a) ~~Appellate Court and~~ Circuit Court Rules. A ~~majority of the Appellate Court judges in each district and a~~ majority of the circuit judges in each circuit may adopt rules governing civil and criminal cases which are consistent with these rules and the statutes of the State, and which, so far as practicable, shall be uniform throughout the State. All rules of court shall be filed with the Administrative Director within 10 days after they are adopted.

(b) Administrative Authority. Subject to the overall authority of the Supreme Court, the chief circuit judge shall have the authority to determine, among other things, the hours of court, available leave time to which a judge is entitled, and to instruct the way in which a judge on the bench is expected to behave. In the exercise of this general administrative authority, the chief judge shall take or initiate appropriate measures to address the persistent failure of any judge to perform his or her judicial duties.

(~~b~~ c) General Orders. The chief judge of each circuit may enter general orders in the exercise of his or her general administrative authority, including orders providing for assignment of judges, general or specialized divisions, and times and places of holding court.

(~~c~~ d) Proceedings to Compel Compliance With Certain Orders Entered by a Chief Circuit Judge. Any proceeding to compel a person or agency other than personnel of the circuit court to comply with an administrative order of the chief circuit judge shall be commenced by filing a complaint and summons and shall be tried without a jury by a judge from a circuit other than the circuit in which the complaint was filed. The proceedings shall be held as in other civil cases.

~~**(d) Filing of Rules.** All rules of court shall be filed with the Administrative Director within 10 days after they are adopted.~~

Amended August 9, 1983, effective October 1, 1983; amended December 1, 2008, effective immediately.

Committee Comments

(Revised December 1, 2008)

This rule consists of paragraphs (2), (3), and (4) of former Rule 1, which was revised effective January 1, 1964.

New paragraph (b) was adopted December 1, 2008, to clarify that a chief circuit judge's administrative role includes the authority, and the responsibility, to address the persistent failure of any judge to perform his or her judicial duties. Such failure may be due to, among other things, professional incompetence, poor case load management, or chronic absenteeism. Depending on the facts involved, the expectation is that the chief circuit judge will take or initiate appropriate action to remedy the situation. It shall be the duty of the chief judge to provide counseling, if deemed necessary or appropriate, and to report violations of the Canons to the Judicial Inquiry Board. In circumstances where there is uncertainty as to whether the conduct at issue is violative of the Canons, the chief judge shall report the conduct, with substantial particularity, to the Supreme Court.

Rule 22. Appellate Court Organization; Administrative Authority; Appellate Court Rules

(a) Divisions-Appellate Districts.

(1) Each district of the Appellate Court shall consist of one division unless the Supreme Court provides otherwise by order. The First District shall sit in the city of Chicago. The Second District shall sit in the city of Elgin. The Third District shall sit in the city of Ottawa. The Fourth District shall sit in the city of Springfield. The Fifth District shall sit in the city of Mount Vernon. With the approval of the chief justice of the Supreme Court, a division may sit at any place in the State. The Appellate Court in each district shall be in session throughout the year, and each division shall sit periodically as its judicial business requires. Each division shall sit in panels of three judges as hereinafter provided.

(2) Oral arguments in the appellate court will normally be held in the courthouse provided for that purpose in the appropriate city designated in subparagraph (a)(1). However, with the approval of all the parties and the chief justice, a panel of the appellate court may, on occasion, agree to set an oral argument to be held in a suitable, alternative location but outside the courthouse in which the panel would otherwise normally preside.

(b) Assignment to Divisions-Designation of Panels. The Supreme Court shall assign judges to the various divisions. The presiding judge of a division shall designate judges serving in that division to sit in panels of three. Such a three-judge panel shall constitute the division for purposes of rendering a decision in a case. The Executive Committee of the First District, upon request of a division of that district, may designate any Appellate Court judge of that district to sit in the place of a judge of the requesting division for such case or cases as may be designated in the request.

(c) Decisions. Three judges must participate in the decision of every case, and the concurrence of two shall be necessary to a decision. One judge may decide motions of course.

(d) Divisions—Presiding Judge. The judges of each division shall select one of their number to serve as presiding judge of that division for a term of one year.

(e) Executive Committee of the Appellate Court of Illinois. The presiding judges of the Second, Third, Fourth, and Fifth Districts and the members of the Executive Committee of the First District shall constitute the Executive Committee of the Appellate Court of Illinois. Meetings of the executive committee may be called by any three of its members, and meetings of the Appellate Court may be called by the executive committee.

(f) Executive Committee of the Appellate Court in the First Appellate District. There shall be an Executive Committee of the First District composed of one member of each division, which committee shall exercise general administrative authority. The executive committee shall select one of its number as chairman.

(g) Administrative Authority. Subject to the overall authority of the Supreme Court, the presiding judge of each district, and the chairman of the Executive Committee in the First District, shall have the authority to determine, among other things, the hours of court, available leave time to which a judge is entitled, and to instruct the way in which a judge on the bench is expected to behave. In the exercise of this general administrative authority, the presiding judge of each judicial district and the chairman of the Executive Committee in the First District shall take or initiate appropriate measures to address the persistent failure of any judge to perform his or her judicial duties.

(h) Appellate Court Rules. A majority of the appellate court judges in each district may adopt rules governing civil and criminal cases which are consistent with these rules and the statutes of the state, and which, so far as practicable, shall be uniform throughout the state. All rules of court shall be filed with the Administrative Director within 10 days after they are adopted.

(i) Workers' Compensation Commission Appeals. A five-judge panel of the Appellate Court will sit as the Workers' Compensation Commission division of each district of the Appellate Court. The Workers' Compensation Commission division will hear and decide all appeals involving proceedings to review orders of the Workers' Compensation Commission. The division will sit, periodically, as its judicial business requires, at any place in the State it chooses. Five judges must participate in the decisions of the Workers' Compensation Commission division, and the concurrence of three shall be necessary to a decision. If a judge designated to serve on this panel cannot participate, the alternate designated by the Supreme Court shall participate. Motions of course may be decided by one judge.

Amended effective July 1, 1971, and December 9, 1974; amended July 30, 1979, effective October 15, 1979; amended February 1, 1984, effective February 1, 1984, with Justice Moran dissenting (see *Yellow Cab Co. v. Jones* (1985), 108 Ill. 2d 330, 342); amended April 10, 1987, effective August 1, 1987; amended November 20, 1991, effective immediately; amended October 15, 2004, effective January 1, 2005; amended May 23, 2005, effective immediately; amended December 1, 2008, effective immediately; amended June 22, 2017, eff. July 1, 2017.

Committee Comments

(December 1, 2008)

New paragraph (g) was adopted December 1, 2008, to clarify that a presiding judge's administrative role includes the authority, and the responsibility, to address the persistent failure of any judge to perform his or her judicial duties. Such failure may be due to, among other things, professional incompetence, poor case load management, or chronic absenteeism. Depending on the facts involved, the expectation is that the presiding judge will take or initiate appropriate action to remedy the situation. It shall be the duty of the presiding judge to provide counseling, if deemed necessary and appropriate, and to report violations of the Canons to the Judicial Inquiry Board. In circumstances where there is uncertainty as to whether the conduct at issue is violative of the Canons,

the presiding judge shall report the conduct, with substantial particularity, to the Supreme Court.

(Revised February 1, 1984)

As originally adopted, Rule 22 was derived from former Rule 56-2, effective January 1, 1964, and modified June 24, 1965, without change in substance.

Paragraph (a)

As originally adopted, paragraph (a) provided that the Appellate Court should sit in divisions and specified the number of divisions in each of the five districts, four in the First, and one in each of the other districts. It was amended in 1971 to reflect the creation of a fifth division in the First District, and again in 1974, to authorize the creation of a second division in the Second District.

In 1979, the paragraph was amended. Under the paragraph, as amended, each district constitutes a single division unless the Supreme Court provides otherwise by order. A division may consist of four, five, or six judges. Cases are assigned to panels of three judges. The concurrence of two is necessary for a decision.

Paragraph (b)

In 1979, paragraph (b) was amended to permit the presiding judges to designate judges within their division to sit in panels. The authority of the Executive Committee of the First District to make designations on request of a division was retained.

Paragraph (c)

Paragraph (c) provides that three judges must participate in the decision of every case, and that two shall be necessary to a decision, other than a ruling on a motion of course. The 1979 amendments to the rule made no change in paragraph (c). Thus, though a division may consist of more than three judges, it sits in panels of three.

Paragraph (d)

The 1979 amendment retained the one-year term for the presiding judges, but eliminated the provision in the pre-1979 text requiring that the position of presiding judge be rotated among the judges of the division.

Paragraph (e)

Until 1979, paragraph (e) provided that the presiding judge of each division should be a member of the Executive Committee of the Appellate Court of Illinois. In that year it was amended to provide that the presiding judges of the Second, Third, Fourth, and Fifth Districts, together with the members of the Executive Committee of the Appellate Court in the First Appellate District, shall constitute the Executive Committee of the Appellate Court of Illinois. The 1979 amendment makes some change in the First District representation on the Executive Committee, since the members of the Executive Committee of the Appellate Court in the First Appellate District are not necessarily the presiding judges of the divisions of the First District.

Paragraph (f)

Paragraph (f) was amended in 1979 to reflect the deletion from paragraph (a) of the specific provision setting out the number of divisions in each district. There was no change in substance.

Paragraph (g)

Paragraph (g) was added in 1984 to provide for the creation of the Industrial Commission division of the Appellate Court. A single panel of five appellate judges, one from each district (or alternates designated by the Supreme Court), will hear and decide all cases involving proceedings to review orders of the Industrial Commission. The procedure was adopted to relieve the Supreme Court of the growing burden of hearing all such appeals (see amended Rule 302(a)), and to insure that such appeals will continue to enjoy the traditional benefits of speedy consideration and uniform application of the law, the need for which was considered the original justification for giving such cases preferred status in the first place.

Notices of appeal from trial court orders disposing of cases involving review of Industrial Commission orders will be filed in the circuit court in accordance with Rule 303, and copies thereof will be sent to the clerk of the Appellate Court, as required in Rule 303(a)(4).

Rule 23. Disposition of Cases in the Appellate Court

The decision of the Appellate Court may be expressed in one of the following forms: a full opinion, a concise written order, or a

summary order conforming to the provisions of this rule. All dispositive opinions and orders shall contain the names of the judges who rendered the opinion or order.

(a) Opinions. A case may be disposed of by an opinion only when a majority of the panel deciding the case determines that at least one of the following criteria is satisfied:

(1) the decision establishes a new rule of law or modifies, explains or criticizes an existing rule of law; or

(2) the decision resolves, creates, or avoids an apparent conflict of authority within the Appellate Court.

(b) Written Order. Cases which do not qualify for disposition by opinion may be disposed of by a concise written order which shall succinctly state:

(1) in a separate introductory paragraph, a concise syllabus of the court's holding(s) in the case;

(2) the germane facts;

(3) the issues and contentions of the parties when appropriate;

(4) the reasons for the decision; and

(5) the judgment of the court.

(c) Summary Order. In any case in which the panel unanimously determines that any one or more of the following dispositive circumstances exist, the decision of the court may be made by summary order. A summary order may be utilized when:

(1) the Appellate Court lacks jurisdiction;

(2) the disposition is clearly controlled by case law precedent, statute, or rules of court;

(3) the appeal is moot;

(4) the issues involve no more than an application of well-settled rules to recurring fact situations;

(5) the opinion or findings of fact and conclusions of law of the trial court or agency adequately explain the decision;

(6) no error of law appears on the record;

(7) the trial court or agency did not abuse its discretion; or

(8) the record does not demonstrate that the decision of the trier of fact is against the manifest weight of the evidence.

When a summary order is issued it shall contain:

(i) a statement describing the nature of the case and the dispositive issues without a discussion of the facts;

(ii) a citation to controlling precedent, if any; and

(iii) the judgment of the court and a citation to one or more of the criteria under this rule which supports the judgment, *e.g.*, "Affirmed in accordance with Supreme Court Rule 23(c)(1)."

The court may dispose of a case by summary order at any time after the case is docketed in the Appellate Court. The disposition may provide for dismissal, affirmance, remand, reversal or any combination thereof as appropriate to the case. A summary order may be entered after a dispositive issue has been fully briefed, or if the issue has been raised by motion of a party or by the court, *sua sponte*, after expiration of the time for filing a response to the motion or rule to show cause issued by the court.

(d) Captions. All opinions and orders entered under this rule shall bear a caption substantially conforming to the requirements of Rule 330. Additionally, an opinion or order entered under subpart (a) or (b) of this rule must clearly show the date of filing on its initial page.

(e) Effect of Orders.

(1) An order entered under subpart (b) or (c) of this rule is not precedential and may not be cited by any party except to support contentions of double jeopardy, *res judicata*, collateral estoppel or law of the case. When cited for these purposes, a copy of the order shall be furnished to all other counsel and the court.

(2) An order entered under subpart (b) of this rule must contain on its first page a notice in substantially the following form:

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

(f) Motions to Publish. If an appeal is disposed of by order, any party may move to have the order published as an opinion. The motion shall set forth the reasons why the order satisfies the criteria for disposition as an opinion and shall be filed within 21 days of the entry of the order.

(g) Electronic Publication. In order to make available to the public all opinions and orders entered under subparts (a) and (b) of this rule, the clerks of the Appellate Court shall transmit an electronic copy of each opinion or order filed in his or her district to the webmaster of the Illinois Supreme and Appellate Courts' Web site on the day of filing. No opinion or order may be posted to the Web site that does not substantially comply with the Style Manual for the Supreme and Appellate Courts.

(h) Public-Domain Case Designators

An opinion or order entered under subpart (a) or (b) of this rule must be assigned a public-domain case designator and internal paragraph numbers, as set forth in the accompanying administrative order.

Effective January 31, 1972; amended effective July 1, 1975; amended February 19, 1982, effective April 1, 1982; amended May 18, 1988, effective August 1, 1988; amended November 21, 1988, effective January 1, 1989; amended and Commentary and Administrative Order adopted June 27, 1994, effective July 1, 1994; amended May 30, 2008, effective immediately; amended September 13, 2010, effective January 1, 2011; amended May 31, 2011, effective July 1, 2011.

M.R. No. 10343
(Amended November 21, 2017)
(October 4, 2011)

Under the general administrative and supervisory authority granted the Illinois Supreme Court over the courts of this state (Ill. Const. 1970, art. VI, §16), the order entered under Supreme Court Rule 23, dated May 31, 2011, is amended as follows:

(A) Assignment of Public-Domain Case Designators

The Districts of the Illinois Appellate Court shall assign a public-domain case designator to those opinions filed on or after July 1, 2011. This designator number for an opinion must be unique to that opinion and shall include the year of decision, the court abbreviation, and an identifier number comprised of the final six digits of the docket number, or the final six digits of the initial docket number in a consolidated appeal, without use of the hyphen. In the case of opinions by the Workers' Compensation Commission Division of the Appellate Court, the letters "WC" shall be added as a suffix. The public-domain identifier shall appear at top of the first page of an opinion and shall be in the following form:

[year] IL App (1st) [no.]

[year] IL App (2d) [no.]

[year] IL App (3d) [no.]

[year] IL App (4th) [no.]

[year] IL App (5th) [no.]

Workers' Compensation Commission Division

2011 IL App ([dist.]) [no.]WC

By way of example, should the First District file an opinion in cause No. 1–10–1234 in 2011, the public-domain case designator will be "2011 IL App (1st) 101234."

Where a second opinion is filed under the same docket number after remand, a capital letter "B" will be appended to the case-designator number, regardless of the year-designator portion of the citation:

2011 IL App (1st) 101159

2012 IL App (1st) 101159-B

Any further opinions arising from the same appeal shall be assigned an alphabetic letter consecutive to the preceding opinion.

However, where an opinion is withdrawn while jurisdiction has been retained by the issuing court, the new opinion or order in the matter shall be given the same case-designator number as the withdrawn opinion without the addition of a sequential alphabetic designator.

Orders filed under Illinois Supreme Court Rule 23(b) shall have the letter "U," preceded by a hyphen, appended to the case-designator number:

2011 IL App (5th) 101160-U

A subsequently filed unpublished order in the same cause of action will result in use of both a "U" and an alphabetic designator:

2011 IL App (5th) 101160-UB

Use of the "U" designator for unpublished decisions and use of an alphabetic designator ("B," "C," *etc*.) for a subsequent opinion or order are independent elements of the case-designator number:

2011 IL App (5th) 101160-U [unpublished; initial decision]

2011 IL App (5th) 101160-B [published; decision after remand]

2011 IL App (5th) 101160-UC [unpublished; decision after second remand]

Should an unpublished order under Supreme Court Rule 23 be converted to a published opinion, the "U" designation shall be deleted.

(B) Internal Paragraphing of Opinions

Illinois reviewing court opinions shall include internally numbered paragraphs as directed below. Use of internal paragraph numbers allows a pinpoint citation to the appropriate portions of an opinion when cited for a specific proposition. Such a citation will include the case name, the public-domain designator number, and the specific, or pinpoint, paragraph or paragraph numbers within the opinion:

People v. Doe, 2011 IL App (1st) 101157, ¶ 15

People v. Doe, 2011 IL App (1st) 101157, ¶¶ 21-23

People v. Doe, 2011 IL App (1st) 101157, ¶¶ 57, 68

Except for the materials denoted in paragraph below, each paragraph of text is to be numbered consecutively beginning after the heading "OPINION" or "ORDER" (including the lead-in line to a separate opinion and any joiner lines thereto).

(2) The numbering of paragraphs within a separate opinion shall be consecutive to the final paragraph number of the opinion that precedes it, beginning with the lead-in line to the separate opinion, as shown in the example below:

¶ 43 CONCLUSION
¶ 44 For the reason stated, the judgment of the circuit court is reversed and the cause is remanded to that court for further proceedings.

¶ 45 Judgment reversed;
¶ 46 cause remanded.

¶ 47 JUSTICE DOE, dissenting:
¶ 48 Because I believe the circuit court correctly resolved the issues presented in the motion to suppress, I would affirm.

The following portions of an opinion do not constitute new paragraphs and shall not be numbered:

(a) indented (blocked) text, regardless of the nature material (*e.g.*, quotation, listing of issues, *etc.*) or the length of the material;

(b) text immediately following indented text, unless such text begins a new paragraph;

(c) text within footnotes;

(d) appendices or other attachments.

If quoted text, including indented quotations, is derived from a source that uses numbered paragraphs under a public-domain system of citation, the numbers from the original source shall not be shown in the quoted material but in the citation only.

If a supplemental document is filed, the paragraph numbering in the original document shall be continued into the supplemental document, including any lead-in lines and document headings (*e.g.*, "Supplemental Opinion"; "Dissent Upon Denial of Rehearing").

~~Where revisions are made to an opinion following filing that result in the addition of a new paragraph or paragraphs, the new paragraph(s) shall be denoted by use of the paragraph number that preceded the new materials, plus the addition of consecutive, alphabetical letters (*e.g.*, ¶ 11b, ¶ 11c, etc.)~~

Each paragraph number shall be shown using the paragraph symbol, followed by a space, and then the number (*e.g.*, ¶ 1). The paragraph number is placed at the left margin, followed by a tab that indents the paragraphed text, as follows:

> ¶ 23 The appellate court found that *Grant* supported its conclusion that the designation of the NAF in the agreement to arbitrate was integral to the agreement. Specifically, citing *Grant*, the court noted:
>
> "[The NAF] has a very specific set of rules and procedures that has implications for every aspect of the arbitration process."
>
> Thus the court found that section 5 of the Arbitration Act could not be used to reform the arbitration provision.
>
> ¶ 24 The defendant argues that the appellate court erroneously determined there is a split in federal case law as to the proper application of section 5 of the Act.

M.R. 10343

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered December 18, 2006.

***In re* Administrative Order No. M.R. 10343**

On the court's own motion, effective January 1, 2007, the administrative order entered in M.R. No. 10343, on June 27, 1994, is hereby vacated.

Order entered by the Court.

Commentary
(June 27, 1994)

By this amendment, Rule 23 creates a presumption against disposing of Appellate Court cases by full, published opinions and authorizes a third type of disposition by summary order in select circumstances. The concept of the traditional "Rule 23 order"

remains, but conciseness is encouraged. Disposition by order rather than by opinion reflects the precedential value of a case, not necessarily its merits.

Two of the criteria upon which a case could qualify for disposition by opinion and the preference for publishing cases which include concurring and/or dissenting opinions have been eliminated consistent with the presumption against publication.

Rule 24. Research Department in Each District of the Appellate Court

In each Appellate Court district there shall be a research department supervised by a director of research and staffed by such number of staff attorneys as the Supreme Court may from time to time determine. The research departments in each district shall perform such duties as may be assigned to it by the presiding judge of the district or, in the First District, by the Executive Committee. The research department of the various districts shall coordinate their activities, exchange information, and publish and maintain a manual of procedures for the research staff. An assistant to the Supreme Court may be assigned by that court to coordinate the activities of the research departments hereby created. The director of research and all staff attorneys employed in any research department shall be graduates of law schools approved by the American Bar Association.

Adopted July 30, 1979, effective October 15, 1979; amended April 10, 1987, effective August 1, 1987.

Committee Comments

Rule 24 is new. It recedes from the recommendation of the 1972 committee report for a statewide research department and incorporates the development of research departments in each district with a coordination of the activities of those departments by an assistant to the Supreme Court.

Rules 25-29. Reserved

Rule 30. Administrative Duties of the Chief Justice and the Administrative Director

(a) The Chief Justice. The chief justice of the Supreme Court shall be responsible for the administration of all courts in the State. To assist the chief justice~~him~~, the court shall appoint an Administrative Director to serve at its pleasure, who shall report directly to the chief justice. If there is a vacancy in the office of the chief justice, the senior justice shall serve temporarily as acting chief justice. Seniority shall be determined as provided in Rule 31. If the chief justice is absent or unable to serve, the senior justice shall serve temporarily as acting chief justice.

(b) The Administrative Director. The Administrative Director of the courts shall be generally responsible for the enforcement of the rules, orders, policies and directives of the Supreme Court and the chief justice relating to matters of administration. At the direction of the chief justice and the Supreme Court, the Administrative Director shall develop, compile and promulgate administrative rules and directives relating to case processing, records and management information services, personnel, budgeting and such other matters as the chief justice and the Supreme Court shall direct. The Administrative Director also shall perform such other functions and duties as may be assigned by the chief justice or by the Supreme Court.

Adopted November 21, 1988, effective January 1, 1989; amended June 22, 2017, eff. July 1, 2017.

Rule 31. Seniority in the Supreme Court

Seniority among the judges of the Supreme Court shall be determined by length of continuous service, but if the terms of two or more judges begin at the same time they shall determine the seniority as between or among themselves by lot, unless they are able

to determine it by agreement.

Committee Comments

This is former Rule 56 without change of substance.

Rule 32. Reserved

Rule 33. Library of Supreme Court

The librarian of the library of the Supreme Court shall not permit any person except judges of the court to take any book from the library without the consent of the court or the chief justice. No books shall be marked or underlined, nor shall the pages of any book be folded down. Any person who offends against the provisions of this rule is in contempt of the Supreme Court.

Committee Comments

This is former Rule 55 with minor language changes.

Rules 34-38. Reserved

Rule 39. Appointment of Associate Judges

(a) Terms.

(1) The terms of all associate judges in office shall expire on June 30th of every fourth year subsequent to 1975, regardless of the date on which any judge is appointed. Notwithstanding the provisions for conditional notices of vacancy as contained in paragraph (a)(2) of this rule, the office of an associate judge shall be vacant upon his or her death, resignation, retirement, or removal, or upon the expiration of his or her term without his or her reappointment. When a sitting associate judge submits in writing his or her resignation, the chief judge of the circuit may, no sooner than 120 days before the effective date of such resignation, cause notice of the vacancy to be given pursuant to subpart (b) of this rule, provided that the candidate appointed to fill the vacancy shall not take office before the effective date of such resignation.

(2) In those instances where a sitting associate judge is running unopposed or where two or more associate judges are the only candidates opposing one another in the general election and an associate judge vacancy therefore can be anticipated, the Administrative Director may, upon the chief judge's request, approve posting of a conditional notice of vacancy not more than 30 days prior to the general election and absent a letter of resignation from a sitting associate judge. The conditional notice of vacancy shall clearly advise potential associate judge candidates that the vacancy is contingent upon certification by the Illinois Board of Elections of general election results declaring a sitting associate judge the winner. Prior to the distribution of ballots provided for in paragraph (b)(4), the Director shall await the Illinois Board of Elections' certification of the general election results.

(b) Filling Vacancies. Vacancies in the office of associate judge shall be filled in the following manner:

(1) *Notice of Vacancy.* Upon approval of the Director of the Administrative Office of the Illinois Courts, the chief judge of the circuit shall, after forwarding a copy of the notice to the Director, cause notice to be given to the bar of the circuit, in the same manner as notice of matters of general interest to the bar is customarily given in the circuit, that the vacancy exists and will be filled by the judges of the circuit. The notice of vacancy shall be given as soon as practicable, but no later than 30 days after the accumulation of five consecutive vacancies for which notice has not been given. If the chief judge of the circuit fails to give notice within the time period prescribed by this provision, the Chief Justice of the Supreme Court may direct the Director

of the Administrative Office of the Illinois Courts to give notice of the vacancies in the manner prescribed by this rule.

(2) *Applications and Certification.* Any attorney who seeks appointment to the office of associate judge must be a United States citizen, licensed to practice law in this state, and a resident of the unit from which he/she seeks appointment. Applicants shall have 30 days after the notice of vacancy is given within which to electronically file with the Director of the Administrative Office of the Illinois Courts a signed application on the form prescribed and furnished by the Director. If an applicant is not able to submit an application electronically, an applicant shall have 30 days after the notice of vacancy is given within which to file with the Director of the Administrative Office of the Illinois Courts two signed originals of an application on the form prescribed and furnished by the Director. Applications must be received by the Director within the 30-day period. Applications transmitted via facsimile will not be accepted. At the close of the application process, the Director shall certify to the chief judge a list of those applicants who have timely filed and provide a copy of those applications.

(3) *Nomination.* In judicial circuits having a population of more than 500,000, the chief judge of each circuit and at least two but not more than 10 additional circuit judges selected by their fellow circuit judges shall serve as a nominating committee for candidates for appointment to the office of associate judge of their circuit. If there are fewer than 20 circuit judges in a circuit, all of the circuit judges may sit as a nominating committee. When one or more vacancies in the office of associate judge are to be filled, the nominating committee shall select from the applications filed twice as many names of qualified candidates as there are vacancies to be filled.

(4) *Distribution of Ballots and Related Materials.*

(i) In judicial circuits having a population of more than 500,000, the chief judge shall notify the Director of the names of those candidates selected by the nominating committee and request that the Director initiate the balloting process. Within 14 days after the chief judge's notification, the Director shall place the name of each candidate on a ballot in alphabetical order. The ballot shall also contain blank spaces equal in number to the number of vacancies to be filled, in which spaces may be written the name of any qualified applicant whose name does not appear on the ballot as a candidate.

(ii) In judicial circuits having a population of less than 500,000, the chief judge shall request that the Director initiate the balloting process. Within 14 days after the chief judge's request, the Director shall place the name of each candidate on a ballot in alphabetical order.

(iii) A ballot and a brief biographical synopsis of each candidate shall be mailed to each circuit judge in the circuit. Each ballot shall also be accompanied by a stamped, addressed return envelope, an envelope marked "For Ballot Only," and a signature card. Upon request, any circuit judge may obtain a copy of the complete application of any applicant.

(5) *Balloting.* Each circuit judge shall complete his or her ballot by voting for one candidate for each vacancy to be filled, enclose the ballot in the envelope marked "For Ballot Only," seal the envelope, sign the signature card, and enclose that envelope and signature card in the stamped, addressed return envelope, which shall be delivered to the Director within 14 days of the date the ballots were distributed. The Director shall count the ballots which are accompanied by a signed signature card, tabulate the results and certify them to the chief judge, maintaining the secrecy of the ballots.

(6) *Results of Balloting; Runoffs.*

(i) In judicial circuits having a population of more than 500,000 the candidates receiving the most votes shall be declared to be appointed to fill the vacancies. Where a tie prevents a winner from being declared, reballoting shall proceed in the manner provided above for the first balloting except that ballots shall include only the names of those candidates whose tied votes prevented a winner from being declared.

(ii) In judicial circuits having a population of less than 500,000 the candidates receiving votes from a majority of the circuit judges who have voted shall be declared to be appointed to fill the vacancies. If there are not enough candidates receiving majorities to fill all the vacancies, the Director shall list alphabetically on a runoff ballot the remaining candidates, in number equal to twice the number of remaining vacancies, who received the most votes in the first balloting (or twice that number plus any who are tied with the candidate in the list who received the least number of votes). The candidates receiving the most votes in the runoff balloting shall be declared to be appointed to vacancies not filled as a result of the first balloting. Where a tie prevents a winner from being declared, reballoting shall proceed in the manner provided above for the first balloting except that ballots shall include only the names of those candidates whose tied votes prevented a winner from being declared.

(c) Reappointment of Associate Judges Upon Expiration of Their Terms.

(1) *Request for Reappointment.* An associate judge may file a request for reappointment with the chief judge of the circuit at least three months but not more than six months before the expiration of his or her term. At least 63 days before the expiration of the terms of associate judges, each chief judge shall certify to the Director the names of the associate judges in the circuit who have requested reappointment.

(2) *Distribution of Ballots.* At least 40 days before the expiration of the terms of associate judges, the Director shall prepare and distribute ballots on which each circuit judge shall vote on the question whether each associate judge who has requested reappointment shall be reappointed for another term. Each ballot shall be accompanied by a stamped, addressed return envelope, an envelope marked "For Ballot Only," and a signature card.

(3) *Balloting.* Each circuit judge shall complete his or her ballot, enclose it in the envelope marked "For Ballot Only," seal the envelope, sign the signature card, and enclose the sealed envelope and signature card in the stamped, addressed return

envelope, which shall be delivered to the Director within 14 days after it was distributed. The Director shall count the ballots which are accompanied by a signed signature card, tabulate the results and certify them to the chief judge, maintaining the secrecy of the ballots. If three fifths of the circuit judges voting on the question vote in favor of reappointment of an associate judge, he or she shall be declared reappointed for another term.

(d) Definition of "Circuit Judge." For the purposes of this rule, "circuit judge" shall include a circuit judge elected or appointed to a term of office within a circuit (or a unit defined by law which is smaller than the circuit), including a circuit judge who is assigned to the Supreme or the Appellate Court (whether relieved of judicial duties on the circuit court or not), and a circuit judge temporarily recalled from retirement and assigned to judicial duty as a circuit judge in the circuit from which the circuit judge had been elected or appointed, but shall not include a circuit judge who was elected or appointed in another circuit but is temporarily assigned to a circuit which is in the process of selecting or retaining an associate judge. A circuit judge appointed to office during the balloting period may vote to fill associate judge vacancies in his or her circuit if the circuit judge has been sworn in and has provided a copy of his or her signed oath of office to the Director. The newly appointed circuit judge must complete and deliver his or her ballot to the Director within the same 14-day period that the ballots were distributed to the circuit judges under paragraph (b)(5). In no instance will the 14-day period specified in paragraph (b)(5) be extended for those circuit judges appointed to office during the balloting period.

Effective July 1, 1971; amended effective October 14, 1971; amended April 1, 1992, effective August 1, 1992; amended December 3, 1997, effective January 1, 1998; amended December 17, 1999, effective immediately; amended March 16, 2001, effective immediately; amended November 27, 2002, effective immediately; amended May 28, 2003, effective immediately; amended January 25, 2007, corrected January 26, 2007, effective February 1, 2007; amended April 23, 2009, effective July 1, 2009; amended Oct. 30, 2012, effective immediately; amended Dec. 28, 2012, eff. immediately; amended Jan. 29, 2015, eff. immediately; amended Aug. 10, 2015, eff. Sept. 1, 2015; amended Oct. 15, 2015, eff. immediately.

Committee Comments

(July 1, 1971)

This rule implements section 8 of article VI of the new Illinois Constitution, which provides, "Associate Judges shall be appointed by the Circuit Judges in each circuit as the Supreme Court shall provide by rule."

Rule 40. Marriage and Civil Union Divisions

(a) Creation. The chief judge of any judicial circuit may, by administrative order, establish a marriage and civil union division in any county in the circuit and specify the times and places at which those judges willing to perform marriages solemnizations and civil union certifications will normally be available to do so. A marriage and civil union fund may be established on a circuitwide basis rather than a county-by-county basis when the chief judge, along with the majority of circuit judges, determines that the circuit=s judicial needs are best served by a circuitwide fund.

(b) ClerkBFee. The chief judge may provide that the clerk of the circuit court or someone designated by the clerk shall attend each regular session of each marriage and civil union division to assist the judge assigned thereto. The chief judge may set a fee to be collected by the clerk in an amount not to exceed $10 for each marriage solemnization or civil union certification performed. No additional fee or gratuity will be solicited or accepted.

(c) Trust Account. The fees received shall be deposited in a federally insured or fully collateralized bank account in the name of the AMarriage and Civil Union Fund of the Circuit Court of _____ County@ or the AMarriage and Civil Union Fund of the _____ Circuit Court.@ The trustees of the account shall be three in number, consisting of the chief judge, the administrative secretary to the chief judge, and a resident circuit judge of the county. If there is no administrative secretary to the chief judge, or if there is no resident circuit judge of the county, the chief judge shall designate one or two fellow circuit judges as his or her co-trustees. Money in a marriage and civil union fund may be spent in furtherance of the administration of justice for the following items:

bank charges;
business meal costs when an agenda is prepared for the meeting;
courtroom and judicial office improvements;
electronic legal research services;
equipmentBpurchase, repair, and service;
judicial robesBpurchase, repair, and cleaning;
jury room supplies and equipment;
legal publications;
membership dues for legal and judicial associations;
name plates for judges;
office supplies;
pictures, plaques, and frames for the courthouse;

public education/awareness program materials;
training courses approved by the judicial education committee;
training and professional education programs for nonjudicial employees of the judicial branch; and
travel for judicial business, not to exceed reimbursement levels consistent with the Supreme Court=s travel reimbursement guidelines for judicial and nonjudicial members of the judicial branch.

Payment of a reasonable per diem fee to the clerk, or person designated by the clerk, who attends the marriage and civil union division on a day other than a regular working day may be made from the fund.

(d) Reporting and Auditing Requirements.

(1) Funds with Balances Under $50,000 at the end of the State Fiscal Year. For marriage and civil union funds that reflect a balance under $50,000 at the end of each State Fiscal Year (June 30), the chief judge of the circuit shall file, quarterly in the next fiscal year, reports with the Administrative Director of the Illinois Courts. The reports shall be filed not later than the fifteenth of each October, January, April and July. The report shall contain (i) the name of the marriage and civil union fund; (ii) the quarter end date; (iii) the balance on hand at the beginning of the quarter; (iv) the total income, including a detailed list of any income other than marriage and civil union fees for the quarter; (v) the total expenses for the quarter with a detailed list including the name of the vendor paid, description of the goods or services purchased, and the amount of each expense, and (vi) such other information as deemed necessary by the Administrative Director. The report shall be in a format prescribed by the Administrative Office. These reports shall be prepared by the administrative secretary or the resident judge and approved by the chief circuit judge.

(2) Funds with Balances of $50,000 and over at the end of the State Fiscal Year. On an annual basis, and not later than September 30, the chief judge of the circuit shall file with the Administrative Director of the Illinois Courts a professional, independent audit conducted by an accredited audit firm for each marriage and civil union fund in his or her circuit reflecting a balance of $50,000 and over at the end of the prior State fiscal year. The content of the annual audit shall be consistent with the reporting requirements contained in paragraphs (d)(1)(i) through (d)(1)(vi) of this rule.

(3) Records relating to the revenue and expenses of the marriage and civil union funds shall be retained in either paper or electronic format for the current State Fiscal Year plus five (5) prior fiscal years.

(e) Excess Funds to County Treasurer. The trustees for all marriage and civil union funds shall pay into the county general fund or other judicial-related county funds such amounts as in their judgment may be appropriate.

Effective April 1, 1974; amended January 7, 2002, effective March 1, 2002; amended October 29, 2004, effective January 1, 2005; amended May 24, 2006, effective immediately; amended December 6, 2006, effective January 1, 2007; amended December 17, 2007, effective January 1, 2008; amended May 26, 2011, effective immediately; amended October 1, 2014, eff. immediately.

JUSTICE FREEMAN, dissenting:

I would quickly join the court in adopting the March 1, 2002, amendments to Supreme Court Rule 40 (134 Ill. 2d R. 40), which increase auditing and spending accountability, but for my fundamental constitutional concern with certain parts of the rule itself. Notwithstanding the amendments, the collection and disbursement of marriage fees is simply beyond this court's constitutional authority. So, while I commend the efforts taken today by my colleagues, I must dissent because the provisions amended are themselves invalid under the separation of powers doctrine.

Although there is no question that the Illinois Constitution provides this court with the authority to create, within the circuit courts, marriage divisions such as those provided for in Rule 40(a), our Constitution gives to the General Assembly–not this court–the power to set and control the deposit and disbursement of fees. The Constitution states that "[f]ees may be collected as provided by law and by ordinance and shall be deposited upon receipt with the treasury of the unit." (Emphasis added.) Ill. Const. 1970, art. VII, §9. The phrase "by law," as used in our Constitution, means the General Assembly's entire lawmaking process and encompasses the "normal legislative manner." Quinn v. Donnewald, 107 Ill. 2d 179, 186-87 (1985). This court has recognized that the normal legislative manner consists of the vote of a majority of both houses of the General Assembly, with presentment to the Governor for his or her action, bills that successfully passed each house of the legislature. Quinn, 107 Ill. 2d at 186-87. In defining the phrase "by law," this court specifically relied on the drafters' meaning of the phrase as was recorded at the Constitutional Convention. Quinn, 107 Ill. 2d at 186. In particular, the court noted the remarks of Delegate Wayne W. Whalen, who stated that

" '[t]he reason for the addition of the words "by law" was to point out to you that it was not the intent of the Committee of the Whole or the Substantive Committee that the General Assembly could act in any other way than the law-making process. As you know, the General Assembly can act by rule, it can act by resolution; that was not the intent. The intent was to use the entire law-making process as set out in the constitution, so to clarify this ambiguity we added the term "by law" ***.' " Quinn, 107 Ill. 2d at 186, quoting 3 Record of Proceedings, Sixth Illinois Constitutional Convention 2180 (statements of Delegate Whalen).

Delegate Whalen's construction of the phrase is faithful to its commonly understood legal meaning–Black's Law Dictionary notes that the phrase "provided by law" when used in a constitution or statute generally means "prescribed or provided by some statute"

(Black's Law Dictionary 1102 (5th ed. 1979)), and his construction was understood by the delegates to be the meaning of the phrase throughout the entire constitutional document. See 4 Record of Proceedings, Sixth Illinois Constitutional Convention 3416 (comments of Delegate Netsch, stating "the Style and Drafting Committee has adopted a practice *** whereby the expression 'by law' refers only to laws enacted by the General Assembly"); see also 4 Record of Proceedings, Sixth Illinois Constitutional Convention 2629 (comments of Delegate Nudelman). In short, the constitutional provision "as provided by law" means "as by provided by statute." In other words, the Constitution means to exclude, as the source of fee provisions, any rulemaking authority, judicial or otherwise.

Any doubt about this construction is dispelled by the fact that the Constitution provided, in juxtaposition, that fees might also be collected by municipal ordinances. An "ordinance" is defined as "a local rule enacted by a unit of government pursuant to authority delegated by the State." City of Peoria v. Toft, 215 Ill. App. 3d 440, 443 (1991). In light of the phrase "by law or ordinance," the Constitution demands that fees be enacted through the legislative process, on a statewide basis or on a local government basis, as opposed to any judicial rulemaking process.

Pursuant to this constitutional grant of authority, our General Assembly has set out an extensive fee schedule in the Clerks of Courts Act (705 ILCS 105/0.01 et seq. (West 1998)), which is arranged according to county population. See 705 ILCS 105/27.1 (West 1998) (pertaining to counties of 180,000 or less); 705 ILCS 105/27.1a (West 1998) (pertaining to counties over 180,000, but not more than 650,000); 705 ILCS 105/27.2 (West 1998) (pertaining to counties over 650,000, but less than 3 million); 705 ILCS 105/27.2a (West 1998) (pertaining to counties of 3 million or more). The Act sets a $10 fee for all in-court marriages in counties having populations of not more than 650,000. See 705 ILCS 105/27.1(b)(3), 27.1a(a–1) (West 1998). The legislature has not expressly provided a fee amount for in-court marriages performed in counties having populations greater than 650,000. In these counties, the legislature has provided that "[a]ny fees not covered in this Section shall be set by rule or administrative order of the Circuit Court with the approval of the Administrative Office of the Illinois Courts." 705 ILCS 105/27.2(r), 27.2a(r) (West 1998). Thus, we, as a court, have been given authority by the legislature to set a fee for in-court marriages performed in counties having populations of over 650,000. Rule 40(b), which provides for a $10 marriage fee, is only constitutional in those counties where the legislature has not expressly provided for an in-court marriage fee.

This court's authority to direct the deposit and disbursement of the fees collected by the clerks of the circuit courts is also governed by our Constitution. Section 9(a) states:

"Compensation of officers and employees and the office expenses of units of local government shall not be paid from fees collected. Fees may be collected as provided by law and by ordinance and shall be deposited upon receipt with the treasurer of the unit. Fees shall not be based upon funds disbursed or collected, nor upon the levy or extension of taxes." Ill. Const. 1970, art. VII, §9(a).

In order to implement this constitutional ban on fee offices within units of local government and the judicial system, the General Assembly enacted the Fee Deposit Act in 1972. Kaden v. Kagann, 260 Ill. App. 3d 256, 265 (1994). Section 2 of the Fee Deposit Act mandates

"All elected or appointed officials of units of local government, and clerks of the circuit courts, authorized by law to collect fees which collection is not prohibited by Section 9 of Article VII of the Constitution, shall deposit all such collected fees upon receipt with the county treasurer or treasurer of such other unit of local government, as the case may be, except as otherwise provided by law; and except that such officials may maintain overpayments, tax redemptions, trust funds and special funds as provided for by law or local ordinance." 50 ILCS 315/2 (West 1998).

Section 2 of the Fee Deposit Act requires that, except as "provided by law" to the contrary, monies collected by the clerks of the circuit court cannot be deposited with any entity other than the county treasurer. As noted above, the phrase "provided by law" means a statute–not judicial rulemaking. Furthermore, section 2's reference to "trust funds" does not mean trust funds provided by judicial rule, but rather those "provided for by law or local ordinance." The trust fund established in Rule 40(c) does not fall within the ambit of this exception. Indeed, my research has not revealed the "law or local ordinance" by which the in-court marriage fees collected under Rule 40 may be excepted from deposit with the county treasurer and, instead, placed in a trust fund. The General Assembly, by way of the Fee Deposit Act, has expressly directed that all fees collected by the clerks of the circuit court be deposited with the treasurer of the county in which the court sits. To the extent that this court, through Rule 40, directs otherwise, it would appear that this court is improperly acting in an area wholly reserved, by constitutional fiat, to our legislature.

Our Constitution is silent as to the disposition or disbursement of fees. Our appellate court has recognized that the drafters of the 1970 Constitution, in contemplating the inclusion of a provision in the Constitution that would direct the disposition of fees, believed the issue was a matter for the General Assembly. Kaden, 260 Ill. App. 3d at 261 (acknowledging that it was "clear from this debate *** the drafters intended that the General Assembly determine where such fees should be deposited"). I would point out the comments of Delegate Fay: "I must respectfully urge the defeat of this proposed amendment, and the reason I do so is because *** the legislature could take care of this matter, and I think that we should let them do so rather than engraft this in the constitution where it is not needed." 4 Record of Proceedings, Sixth Illinois Constitutional Convention 2632-33 (statements of

Delegate Fay). These statements led the appellate court to conclude that the Constitution left the matter of fee disbursement to the authority of our legislative branch of government and that neither the state nor the counties have a constitutional right to fees collected by the circuit court clerks. Kaden, 260 Ill. App. 3d at 260-61.

In the absence of an express constitutional provision on a subject, the legislature is free to act. County of Stark v. County of Henry, 326 Ill. 535, 538 (1927). The General Assembly has comprehensively provided for the disbursement of clerks' fees in the Clerks of Courts Act. Section 27.5 of that Act states that

"All fees, fines, costs, additional penalties, bail balances assessed or forfeited, and any other amount paid by a person to the circuit clerk that equals an amount less than $55, except restitution under Section 5–5–6 of the Unified Code of Corrections, reimbursement for the costs of an emergency response as provided under Section 5–5–3 of the Unified Code of Corrections, any fees collected for attending a traffic safety program under paragraph (c) of Supreme Court Rule 529, any fee collected on behalf of a State's Attorney under Section 4–2002 of the Counties Code or a sheriff under Section 4–5001 of the Counties Code, or any cost imposed under Section 124A–5 of the Code of Criminal Procedure of 1963, for convictions, orders of supervision, or any other disposition for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be disbursed within 60 days after receipt by the circuit clerk as follows: 47% shall be disbursed to the entity authorized by law to receive the fine imposed in the case; 12% shall be disbursed to the State Treasurer; and 41% shall be disbursed to the county's general corporate fund. Of the 12% disbursed to the State Treasurer, 1/6 shall be deposited by the State Treasurer into the Violent Crime Victims Assistance Fund, 1/2 shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, and 1/3 shall be deposited into the Drivers Education Fund. For fiscal years 1992 and 1993, amounts deposited into the Violent Crime Victims Assistance Fund, the Traffic and Criminal Conviction Surcharge Fund, or the Drivers Education Fund shall not exceed 110% of the amounts deposited into those funds in fiscal year 1991. Any amount that exceeds the 110% limit shall be distributed as follows: 50% shall be disbursed to the county's general corporate fund and 50% shall be disbursed to the entity authorized by law to receive the fine imposed in the case. Not later than March 1 of each year the circuit clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the preceding year based upon independent verification of fines and fees. All counties shall be subject to this Section, except that counties with a population under 2,000,000 may, by ordinance, elect not to be subject to this Section. For offenses subject to this Section, judges shall impose one total sum of money payable for violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act, unless those amounts are specifically waived by the judge. With respect to money collected by the circuit clerk as a result of forfeiture of bail, ex parte judgment or guilty plea pursuant to Supreme Court Rule 529, the circuit clerk shall first deduct and pay amounts required by Sections 27.3a and 27.3c of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution." (Emphases added.) 705 ILCS 105/27.5 (West 1998).

The comprehensive treatment could not more strongly demonstrate the legislature's intention that all fees covered by the law, except those the legislature wanted to exempt, were to be disbursed in the manner described. In fact, the reference to our Rule 529 shows that when the General Assembly wanted to refer to monies collected by way of this court's rules, it expressly so provided. Moreover, the fact that the General Assembly specifically referred to this section as a "denial and limitation" on the home rule power provides further proof of the intention that the General Assembly itself solely provide for the disbursement of fees collected by the clerks of our courts. The disbursement provisions contained in Rule 40 are at odds with the statutory provisions mandated by our legislature. Because our Constitution intends for this matter to be left to the legislature and not this court, I believe that the conflict must be resolved in favor of the legislature.

In sum, the Constitution mandates that fees must be collected by statute (or ordinance) and not by judicial rule. The legislature has expressly provided for the collection of fees in the Clerks of Courts Act and has further provided that any fees not covered specifically in that Act shall be set by rule or administrative order of the circuit court with the approval of the Administrative Office of the Illinois Courts. So it is by legislative enactment that the court may, by rule, set those fees not otherwise provided by law. Our Constitution also mandates that fees collected be deposited with the treasurer of the unit. There is no complementary constitutional provision which mandates the manner in which fees collected by clerks of the courts shall be disbursed; rather the matter is left to legislative authority. The General Assembly has implemented the constitutional mandate regarding fee deposits through enactment of the Fee Deposit Act and has provided for fee disbursements through enactment of the Clerks of Courts Act. Neither of these pieces of legislation grant to this court any authority whatsoever to direct either the deposit or disposition of fees.

Other observations support this conclusion. I refer specifically to the duty given by the legislature to the county boards to provide for court facilities. See 55 ILCS 5/5–1106 (West 1998). Section 5–1106 of the Counties Code mandates that the county board of each county provide reasonable and necessary expenses for the use of, inter alios, judges and clerks of the courts. The Code further mandates each county board to provide for proper rooms and offices for the accommodation of the circuit court of the county and to provide "suitable furnishings for such rooms and offices. *** The court rooms and furnishings thereof shall meet with reasonable minimum standards prescribed by the Supreme Court of Illinois. Such standards shall be substantially the same as those generally accepted in court rooms as to general furnishings, arrangement of bench, tables and chairs, cleanliness, convenience to litigants, decorations, lighting and other such matters relating to the physical appearance of the court room." 55 ILCS 5/5–1106 (West 1998). These mandates from the General Assembly are in harmony with the fee deposit and disbursement system established by the

legislature–the fees revert directly to the county, which is charged with the responsibility of providing the upkeep of its courts.

The only conclusion that can be reached in light of the foregoing is that this court simply lacks the authority to create marriage trust funds in the manner prescribed in Rule 40. The Illinois Attorney General reached the same conclusion in 1977, when he issued an opinion finding that Rule 40 was inoperative insofar as it authorized deposits and disbursements of fees in contravention of statute. See 1977 Ill. Att'y Gen. Op. 159. Again, the fact that the amendments are well-intended and commendable must be separated from the fact that the collection and disbursement provisions of Rule 40 violate the separation of powers doctrine. This is no small concern. We, as an institution charged with the solemn authority to measure the constitutionality of legislative acts, must also be diligent to circumscribe our conduct to what is constitutionally permissive. Unfortunately, that has not occurred with respect to Rule 40. For these reasons, I respectfully dissent.

Committee Comment
(May 24, 2006)

Rule 40 provides that marriage funds may be expended to support judicial "training courses approved by the judicial education committee." Under this provision, marriage funds may be expended for only those judicial education programs which have been approved for the award of continuing judicial education credit, pursuant to the Supreme Court's Comprehensive Judicial Education Plan for Illinois Judges. The role of the Illinois Judicial Conference Committee on Education, under Rule 40, is limited to review and recommendation to the Supreme Court regarding the award of judicial education credit. The authority to expend marriage funds for those courses approved by the Court for the award of judicial education credit rests with the chief circuit judges.

Rule 41. Judicial Conference

(a) Duties. There shall be a Judicial Conference to consider the work of the courts, to suggest improvements in the administration of justice, and to make recommendations for the improvement of the courts.

(b) Membership.

(1) The membership of the Judicial Conference shall consist of:

(A) The Chief Justice of the Supreme Court of Illinois, who shall preside over the conference;

(B) The other members of the Supreme Court, who shall be *ex officio* members of the conference, and the Director of the Administrative Office of the Illinois Courts, who shall also be an *ex officio* member;

(C) The chairperson of the Executive Committee of the Appellate Court of the First Judicial District and the presiding judge of the appellate court in each judicial district other than the First Judicial District;

(D) Thirty judges from the First Judicial District, including the chief circuit judge;

(E) Ten judges from each judicial district other than the First Judicial District, including at least one chief circuit judge from each judicial district.

(F) The Supreme Court may appoint any judge, lawyer, or person involved with the judicial branch or administration of justice as an advisor to the Judicial Conference.

(2)(A) All members designated in subparagraphs (1)(D), (E) and (F) shall be appointed by the Supreme Court.

(B) One-third of the initial members appointed by the Court from the First Judicial District shall serve until January 1, 1994; one-third shall serve until January 1, 1995; and one-third shall serve until January 1, 1996, or until their successors are appointed. In each of the other judicial districts, four of the initial members appointed by the Court shall serve until January 1, 1994; three shall serve until January 1, 1995; and three shall serve until January 1, 1996, or until their successors are appointed. Each term thereafter shall be for three years subject to the discretion of the Supreme Court, and no member or advisor may be appointed to more than two full consecutive terms (six years) subject to the discretion of the Supreme Court.

(c) Executive Committee.

(1) The Supreme Court shall appoint six members of the conference from the First Judicial District and two members from each of the other districts to serve on the Executive Committee, which shall act on behalf of the conference when the conference is not in session.

(2) The Chief Justice shall serve as chairperson of the committee, and shall convene the committee as necessary to attend to the business of the conference.

(3) At least 60 days prior to the date on which the Judicial Conference is to be convened the committee shall submit to the Supreme Court a suggested agenda for the annual meeting.

(d) Other Committees. The Supreme Court shall appoint such other committees as are necessary to further the work of the conference. The Executive Committee shall annually receive from each committee a recommendation as to whether that committee should be maintained or abolished and make appropriate recommendations to the Supreme Court. Each recommendation shall be accompanied by a justification for the recommendation.

(e) Meetings of Conference. The conference shall meet at least once annually at a place and on a date to be designated by the Supreme Court.
(f) Secretary. The Administrative Office of the Illinois Courts shall be secretary of the conference.

Amended effective July 1, 1971; amended March 1, 1993, effective immediately; amended September 23, 2008, effective immediately; amended Oct. 11, 2012, effective immediately; amended Oct. 4, 2013, eff. Nov. 1, 2013; amended Dec. 9, 2014, eff. Oct. 1, 2014, *nunc pro tunc*.

Committee Comments
(Revised July 1, 1971)

This is former Rule 56--1, as amended January 25, 1966, with minor language changes.

Subparagraph (b) was amended in 1971 to delete the reference to "associate judges" of the circuit courts. Prior to the adoption of the 1970 Constitution, associate judges of the circuit court, as elected judges, were members of the Judicial Conference, but magistrates were not. Under the 1970 Constitution all elected judicial officers are called judges, and appointive judicial officers formerly called "magistrates" are called "associate judges." The 1971 amendment reflects this change in terminology.

Rule 42. Conference of Chief Circuit Judges

(a) Responsibilities. A conference of the chief circuit judges shall meet regularly to consider problems relating to the administration of the circuit courts and such other matters as may from time to time be referred to the conference by this court.

(b) Membership, Officers. The duly elected chief judge of each judicial circuit shall be a member of the conference of chief circuit judges. The chief judges shall select one of their number to serve as chairman of the conference and another to serve as vice-chairman. The chairman and vice-chairman shall serve two-year terms, beginning on January 1 of each even-numbered year and ending on December 31 of each odd-numbered year.

(c) Meetings. The conference shall meet at such times and places as may be designated by the members.

(d) Secretary. The Administrative Office of the Illinois Courts shall be secretary of the conference.

Adopted September 29, 1978, effective November 1, 1978; amended June 15, 1982, effective July 1, 1982.

Rule 43. ~~Seminars on Capital Cases~~ Reserved.

~~**(a)** In order to insure the highest degree of judicial competency during a capital trial and sentencing hearing Capital Litigation Seminars approved by the Supreme Court shall be established for judges that may as part of their designated duties preside over capital litigation. The Capital Litigation Seminars should include, but not be limited to, the judge's role in capital cases, motion practice, current procedures in jury selection, substantive and procedural death penalty case law, confessions, and the admissibility of evidence in the areas of scientific trace materials, genetics, and DNA analysis. Seminars on capital cases shall be held twice a year.~~

~~**(b)** Any circuit court judge or associate judge who in his current assignment may be called upon to preside over a capital case shall attend a Capital Litigation Seminar at least once every two years.~~

Adopted March 1, 2001, paragraph (a) effective immediately, paragraph (b) effective one year after adoption of the rule.

Committee Comments

Special Supreme Court Committee on Capital Cases

March 1, 2001

~~The committee's proposal to require judicial training follows from the finding that reliability and fairness in a capital trial depend upon the skill and knowledge of the trial judge, the prosecutor, and counsel for the defense. The training requirement for judges~~

~~complements rules establishing minimum qualifications for defense counsel and prosecutors in capital cases. See Rules 416(d), 701 and 714. Rule 43 establishes a regular series of Capital Litigation Seminars, and provides that judges who may preside over capital cases in the course of their regular assignment must attend a seminar at least once every two years. Aside from the direct benefits of the training seminars, Rule 43 will also insure that continuously updated training and reference materials are available to judges who hear capital cases.~~

~~Rule 43 is intended to increase judicial training and access to information and should not be viewed as a limitation on the kind or amount of training judges receive. For example, in requiring attendance at seminars, Rule 43 is not intended to foreclose the use of video conferencing, Internet access, or other technological means to participate in training from remote locations. Trial judges are encouraged to participate in additional training whenever possible.~~

~~It is contemplated that any judge who presides over a capital case on or after the effective date of paragraph (b) of the rule will have prior thereto attended a Capital Litigation Seminar.~~

Rules 44-45. Reserved

Rule 46. Official Record of Court Proceedings

(a) Taking of the Record. The record of court proceedings may be taken by stenographic means or by an electronic recording system approved by the Supreme Court. All transcripts prepared as the official record of court proceedings shall be prepared pursuant to applicable supreme court rules.

(b) Security of the Record. The confidentiality of court proceedings and the retention and safekeeping of notes and electronic recordings shall be maintained consistent with standards established by the Supreme Court through its Administrative Office.

(c) Court Reporting Personnel. For purposes of this rule and other supreme court rules regarding the official record, "court reporting personnel" shall include:

(1) court reporters as defined by the Court Reporters Act (705 ILCS 70/1);

(2) court personnel who have fulfilled the training and certification standards promulgated by the Supreme Court and consistent with paragraph (d) of this rule; and

(3) certified shorthand reporters hired through an agency or as an independent contractor by a private party or parties to take a stenographic record in court proceedings.

(d) Electronic Recording of Court Proceedings.

(1) The Supreme Court shall provide for and prescribe the types of electronic recording equipment that may be used in the circuit courts. Those jurisdictions with electronic recording systems installed are required to properly utilize and staff such equipment in order to produce a reliable verbatim record of the proceedings.

(2) Court reporting personnel, including court reporters as defined by the Court Reporters Act (705 ILCS 70/1), must successfully complete training and certification designed to qualify them to operate electronic recording equipment, prepare transcripts from such proceedings, and certify the record on appeal. Such training and certification shall be consistent with standards established by the Supreme Court, through its Administrative Office. >

(3) Electronic recordings of proceedings shall remain under the control of the court having custody of them. The chief judges shall provide for the storage and safekeeping of such recordings consistent with the standards referenced in paragraph (b) of this rule.

(4) The Administrative Office shall monitor the operation of electronic recording equipment, the security of the electronic

recordings, and the training of court reporting personnel to assure that each county is in compliance with this rule.

Adopted December 13, 2005, effective immediately.

Rules 47-55. Reserved

Rule 56. Temporary Assignment to Other Duties

(a) Policy. In order to promote public confidence in the integrity and impartiality of the judiciary, and taking into consideration the nature and severity of any charges against or implications of improper conduct by a judge, a chief judge of the circuit court, or the presiding judge in the appellate court, whichever the case may be, may temporarily assign a judge to restricted duties or duties other than judicial duties. A chief circuit judge, or the presiding appellate judge, whichever the case may be, shall enter a written administrative order setting out the reasons for such assignments. The reasons for such assignments may include, but need not be limited to, the following:

(1) the judge has been formally charged with the commission of a crime which involves moral turpitude or reflects adversely upon the judge's fitness to serve; or

(2) a complaint has been filed with the Courts Commission by the Judicial Inquiry Board or a judge has allegedly committed a violation of the Code of Judicial Conduct which involves fraud, ~~or~~ moral turpitude, persistent nonperformance of judicial duties or threatens irreparable injury to the public, to the judicial branch of government, or to the orderly administration of justice;

(3) a judge has been publicly implicated in conduct which, if true, would constitute impropriety or an appearance of impropriety which involves moral turpitude or threatens irreparable injury to the public, to the judicial branch of government, or to the orderly administration of justice; or

(4) There is reasonable cause to believe that a medical examination would reveal that a judge is mentally incompetent or physically unable to perform his or her duties, whether the impairment is caused by injury, infirmity, a chemical dependency, other disease, or by any other cause whatever, and it appears that the incompetence is or may be permanent or will likely be of such duration that the judge's continued assignment to judicial duties could result in irreparable injury to the public, impede the orderly administration of justice, or bring dishonor on the judicial system. Determinations as to a judge's mental or physical ability to perform his or her duties shall be in compliance with all applicable federal and state disability laws.

(b) Form and Service of Order. The chief judge's order shall be served personally upon the judge. If the judge is unavailable or the judge's whereabouts are unknown, the order shall be served by mailing a copy of the order by ordinary mail to the judge's last known address.

(c) Petition for Return to Full Assignment. Any judge temporarily assigned pursuant to this rule may request that the chief judge vacate the order. In the alternative the judge may, at any time, petition the Supreme Court for a return to full-duty assignment. A petition filed with the Supreme Court shall be in accordance with procedures outlined in Rule 383.

Adopted November 29, 1990, effective December 1, 1990; amended December 1, 2008, effective immediately.

Committee Comments

Each judge is elected or appointed to a term of office specified by section 10 of article VI of the Illinois Constitution. During such tenure, a judge is vested with the full jurisdiction of the court to which elected or appointed. However, the matters over which the judge may exercise that jurisdiction on a day-to-day basis is determined in large measure by the judge's *assignment* and is subject to the chief judge's general administrative authority. (Supreme Court Rule 21(b); see *People v. Joseph* (1986), 113 Ill. 2d 36.) The chief circuit judge may assign any judge serving in the circuit to any judicial duty. Assignment of a judge to restricted duties or to duties other than judicial duties (or assignment to no duties) is not expressly dealt with in the Illinois Constitution, but the Committee believes that power falls within the general administrative powers granted to the chief judge by our constitution.

While not normally considered a binding authority on the interpretation of the Illinois Constitution, the Illinois Courts Commission appears to confirm that, in its opinion, the chief circuit judge does possess such power.

In *In re Murphy* (1968), 1 Ill. Cts. Com. 3, the Courts Commission found that Chief Circuit Judge Boyle had acted properly (and, presumably, within the scope of his constitutional powers) when he relieved the respondent of his duties both before the investigation commenced and during the pendency of proceedings before the Commission:

"[T]his Commission finds:

(1) That the action of Chief Judge Boyle in relieving this respondent of his duties and his letter suggesting to the Supreme Court that an investigation should be made by the Commission was a proper action;

* * * >

(6) That the action of Chief Judge Boyle in relieving the respondent of his duties during the pendency of this hearing was proper."

This rule suggests circumstances which might warrant assignment of judges to restricted duties or to duties other than judicial duties and provides a procedure by which a chief circuit judge may temporarily assign judges to restricted duties or to duties other than judicial duties. This rule is modeled, in part, on Rule 774, Interim Suspension, under which the Supreme Court, on its own motion or on motion of the ARDC Administrator, may temporarily suspend an attorney from the practice of law, pending the outcome of prosecutions or investigations.

A judge assigned under this rule may seek relief either by asking the chief judge to vacate the order or by petitioning the Supreme Court for a return to a full-duty assignment. If the judge believes that a request directed to the chief judge would be unavailing, the judge is not bound to exhaust that possible remedy before filing his petition with the Supreme Court.

Assignments under this rule do not affect a judge's right to salary or to any of the emoluments of office, and are not disciplinary in nature. (*Cf. In re Kaye* (1974), 1 Ill. Cts. Com. 36.) If a judge is to be removed from office, suspended without pay, censured or reprimanded for any misconduct, or if a judge is to be suspended, with or without pay, or retired for being either physically or mentally unable to perform his or her duties, the Judicial Inquiry Board and the Courts Commission are responsible for conducting hearings and proceedings and imposing whatever remedy may be appropriate.

Rule 57. Reserved

Rule 58. Judicial Performance Evaluation

(a) Definitions.

(1) Whenever the word "judge" is used in this rule, it includes only circuit and associate judges.

(2) Whenever the pronoun "he" is used in this rule, it includes the feminine as well as the masculine form.

(b) Preamble. The courts, the public and the bar have a vital interest in a responsive and respected judiciary. In its supervisory role and pursuant to its power over the court system and judges, the court has determined that the periodic evaluation of a judge's performance is a reliable method to promote judicial excellence and competence. Accordingly, the court has authorized a program ~~for~~ of mandatory judicial performance evaluation. The program shall be supervised by the court and shall be implemented and ~~administered~~ monitored by a committee appointed by the court designated as the ~~Planning and Oversight Committee for a~~ Judicial Performance Evaluation ~~Program~~ Committee ~~(Oversight Committee)~~, which shall establish procedures to implement this program.

(c) Purpose. There shall be a mandatory program of judicial performance evaluation for the purpose of achieving excellence in the performance of individual judges and the improvement of the judiciary as a whole.

(d) Confidentiality. The program must be conducted candidly and in strict confidence so that evaluations may be based on objective criteria and the areas for improvement determined fairly. The disclosure of evaluation information would be counterproductive to the goals of the evaluation program, reduce the free flow of comment, and result in the termination of the program. The following rules of confidentiality are essential to the successful implementation of the judicial evaluation program.

(1) Information Obtained. All information, questionnaires, notes, memoranda, electronic and computer data, and any other data

obtained and used in the course of any judicial performance evaluation shall be privileged and strictly confidential. For the purpose of self-improvement, only the individual judge evaluated and the agents assigned to present the data to the judge will be permitted to know to which judge particular information applies. The information, in summary form only and without disclosing the names of individual judges, may also be used by the Supreme Court and its designated agents for the purposes of improvement of the judiciary, and for use in administering the courts and for the development of judicial education programs. The identity of any person who provides information shall be privileged and held confidential and shall not be made available to any person. Notwithstanding the foregoing, information disclosing a criminal act may be provided to law enforcement authorities at the direction of the Supreme Court. Requests for such information shall be made by written petition setting forth in particularity the need for such information. All information and data provided to law enforcement authorities pursuant to this paragraph shall no longer be deemed privileged and confidential. As to all information and data obtained in the operation of the program for judicial performance evaluation, the members of the Oversight Committee are hereby exempted from the requirements of the following rules of this court: Article I, Rule 63B(3) (Code of Judicial Conduct), and Article VIII, Rule 8.3 (Illinois Rules of Professional Conduct), except as herein provided.

(2) Admissibility as Evidence. Except as disclosed pursuant to paragraph (d)(1) hereof, all information, questionnaires, notes, memoranda or other data declared to be privileged and confidential hereby shall not be admissible as evidence, nor discoverable in any action of any kind in any court or before any tribunal, board, agency or person.

Adopted September 30, 1988, effective October 1, 1988; amended April 1, 1992, effective August 1, 1992; amended March 1, 2011, effective immediately.

Rules 59-60. Reserved

CODE OF JUDICIAL CONDUCT

Committee Commentary

Preface

Prior to 1964, Illinois left the matter of judicial ethics to the individual conscience of the judge, subject to the impeachment power of the General Assembly and the requirement that each judge run for reelection at the expiration of his term of office. On January 1, 1964, the effective date of the amendment to the judicial article of the 1870 Constitution, the Courts Commission was established to investigate, prosecute and adjudicate complaints of judicial misconduct against judicial officers. Concomitantly, the Illinois Judicial Conference adopted advisory Canons of Judicial Ethics.

In January 1970, the Illinois Supreme Court adopted the first rules of judicial conduct, effective March 15 of that year. With the adoption of the 1970 Constitution of Illinois, the present system for the enforcement of judicial ethics through the Judicial Inquiry Board and the Courts Commission was established. This first judicial code was based on the efforts of the Supreme Court Committee on Judicial Ethics. The report recommended that the matter be kept under constant surveillance, particularly "in view of the current work of the American Bar Association in this area and the approaching Constitutional Convention in the state."

With the adoption of a new code of judicial ethics by the American Bar Association in 1972, a joint Illinois State Bar Association and Chicago Bar Association committee submitted a report recommending that the new ABA Code be made the basis of a new Illinois code of judicial ethics. This report was studied by a committee of the Illinois Judicial Conference, whose report in 1975 led to several amendments to the Illinois code in 1976.

The initial determination of the present committee was to propose the adoption of a new code based on the ABA canons. There was general agreement that revisions of the existing code would be sufficient to keep Illinois in the forefront of the modern movement toward full but fair regulation of judicial ethics. Indeed, the comprehensiveness and wisdom of that code is reflected in the fact that it was the committee's conclusion that the adoption of the ABA canons would work no significant substantive changes in the

existing law. The unanimous decision of the committee to recommend that the ABA canons be adopted as the foundation of the Illinois rules was primarily predicated on two interrelated factors: the desire for uniformity with rules governing judicial officers in other States and the need for a body of interpretative decisions to guide judicial officers when the application of a rule in a particular factual situation is not clear. With regard to the latter problem, an additional benefit lies in the fact that the ABA has established a Standing Committee on Ethics and Professional Responsibility which renders opinions on matters of proper professional or judicial conduct.

It was, of course, not feasible to recommend that the ABA canons be adopted verbatim. Specific provisions of the Illinois Constitution and statutes as well as circumstances unique to Illinois required that the canons be modified in accord with any superseding legal requirements and extraordinary circumstances. The committee commentary is primarily concerned with these modifications; however, wherever appropriate, the ABA commentary has been incorporated into the committee commentary. For an excellent background commentary on the ABA canons themselves see Thode, *Reporter's Notes to Code of Judicial Conduct* (ABA 1973).

Preamble

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all provisions of this code are precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is intended to establish standards for ethical conduct of judges. It consists of broad statements called canons, specific rules set forth in lettered subsections under each canon, and Committee Commentary. The text of the canons and the rules is authoritative. The Committee Commentary, by explanation, and example, provides guidance with respect to the purpose and meaning of the canons and rules. The Commentary is not intended as a statement of additional rules.

The canons and rules are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and candidates for judicial office and to provide a structure for regulating conduct through disciplinary agencies. It is not designed or intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

The canons are not standards of discipline in themselves, but express the policy consideration underlying the rules contained within the canons. The text of the rules is intended to govern conduct of judges and to be binding upon them. It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text of the rules and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

Adopted August 6, 1993, effective immediately.

Terminology

"Candidate." A candidate is a person seeking public election for or public retention in judicial office. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the election authority, or authorizes solicitation or acceptance of contributions or support.

"Court personnel" does not include the lawyers in a proceeding before a judge.

"*De minimis*" denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality.

"Economic interest" denotes ownership of a more than *de minimis* legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that:

(i) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or

impending before the judge could substantially affect the value of the interest;

(ii) service by a judge as an officer, director, advisor or other active participant in an educational, religious, charitable, fraternal or civic organization, or service by a judge's spouse, parent or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;

(iii) a deposit in a financial institution, the proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest;

(iv) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.

"Fiduciary" includes such relationships as executor, administrator, trustee, and guardian.

"He." Whenever this pronoun is used it includes the feminine as well as the masculine form.

"Judge" includes circuit and associate judges and judges of the appellate and supreme court.

"Knowingly," "knowledge," "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

"Law" denotes court rules as well as statutes, constitutional provisions and decisional law.

"Member of a candidate's/judge's family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the candidate maintains a close familial relationship.

"Member of the judge's family residing in the judge's household" denotes any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household.

"Political organization" denotes a political party or other group, the principal purpose of which is to further the election or appointment of candidates to political office.

"Public election." This term includes primary and general elections; it includes partisan elections, nonpartisan elections and retention elections.

"Require." The rules prescribing that a judge "require" certain conduct of others are, like all of the rules in this Code, rules of reason. The use of the term "require" in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control.

"Third degree of relationship." The following persons are relatives within the third degree ~~or~~of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece.

Adopted August 6, 1993, effective immediately.

Rule 61

CANON 1

A Judge Should Uphold the Integrity and
Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Adopted December 2, 1986, effective January 1, 1987; amended August 6, 1993, effective immediately; amended October 15, 1993, effective immediately.

Committee Commentary

This canon is substantially identical to the 1972 version of the ABA canon.

Rule 62

CANON 2

A Judge Should Avoid Impropriety and the Appearance
of Impropriety in All of the Judge's Activities

A. A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge should not allow the judge's family, social, or other relationships to influence the judge's judicial conduct or judgment. A judge should not lend the prestige of judicial office to advance the private interests of others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.

Adopted December 2, 1986, effective January 1, 1987; amended October 15, 1993, effective immediately.

Committee Commentary

This canon is substantially identical to ABA Canon 2. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on his or her conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The testimony of a judge as a character witness injects the prestige of judicial office into the proceeding in which the judge testifies and may be misunderstood to be an official testimonial. This canon, however, does not afford a judge a privilege against testifying in response to an official summons.

Rule 63

CANON 3
A Judge Should Perform the Duties of Judicial
Office Impartially and Diligently

The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities.

(1) A judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should maintain order and decorum in proceedings before the judge.

(3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control.

(4) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the ability of self-represented litigants to be fairly heard.

(5) A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) Where circumstances require, *ex parte* communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the *ex parte* communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the *ex parte* communication and allows an opportunity to respond.

(b) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(c) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(d) A judge may initiate or consider any *ex parte* communications when expressly authorized by law to do so.

(e) A judge may consult with members of a Problem Solving Court Team when serving as a Judge in a certified Problem Solving Court as defined in the Supreme Court "Problem Solving Court Standards."

(6) A judge shall devote full time to his or her judicial duties, and should dispose promptly of the business of the court.

(7) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to the judge's direction and control. This paragraph does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

(8) Proceedings in court should be conducted with fitting dignity, decorum, and without distraction. The taking of photographs in the courtroom during sessions of the court or recesses between proceedings, and the broadcasting or televising of court proceedings is permitted only to the extent authorized by order of the ~~s~~Supreme ~~c~~Court. This rule is not intended to prohibit local circuit courts from using security cameras to monitor their facilities. ~~courtrooms, provided that cameras are controlled by designated court personnel.~~ For the purposes of this rule, the use of the terms "photographs," "broadcasting," and "televising" include the audio or video transmissions or recordings made by telephones, personal data assistants, laptop computers, and other wired or wireless data transmission and recording devices.

(9) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

(10) Proceedings before a judge shall be conducted without any manifestation, by words or conduct, of prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, by parties, jurors, witnesses, counsel, or others. This section does not preclude legitimate advocacy when these or similar factors are issues in the proceedings.

B. Administrative Responsibilities.

(1) A judge should diligently discharge the judge's administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) A judge should require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

(3) (a) A judge having knowledge of a violation of these canons on the part of a judge or a violation of Rule 8.4 of the Rules of Professional Conduct on the part of a lawyer shall take or initiate appropriate disciplinary measures.

(b) Acts of a judge in mentoring a new judge pursuant to M.R. 14618 (Administrative Order of February 6, 1998, as amended June 5, 2000) and in the discharge of disciplinary responsibilities required or permitted by canon 3 or article VIII of the Rules of Professional Conduct are part of a judge's judicial duties and shall be absolutely privileged.

(c) Except as otherwise required by the ~~s~~Supreme ~~c~~Court ~~r~~Rules, information pertaining to the new judge's performance which is obtained by the mentor in the course of the formal mentoring relationship shall be held in confidence by the mentor.

(4) A judge should not make unnecessary appointments. A judge should exercise the power of appointment on the basis of merit, avoiding nepotism and favoritism. A judge should not approve compensation of appointees beyond the fair value of services rendered.

(5) A judge should refrain from casting a vote for the appointment or reappointment to the office of associate judge, of the judge's spouse or of any person known by the judge to be within the third degree of relationship to the judge or the judge's spouse (or the spouse of such a person).

C. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;

(c) the judge was, within the preceding three years, associated in the private practice of law with any law firm or lawyer currently representing any party in the controversy (provided that referral of cases when no monetary interest was retained shall not be deemed an association within the meaning of this subparagraph) or, for a period of seven years following the last date on which the judge represented any party to the controversy while the judge was an attorney engaged in the private practice of law;

(d) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding, or has any other more than *de minimis* interest that could be substantially affected by the proceeding; or

(e) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known by the judge to have a more than *de minimis* interest that could be substantially affected by the proceeding; or,

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(2) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

D. Remittal of Disqualification.

A judge disqualified by the terms of Section 3C may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. This agreement shall be incorporated in the record of the proceeding.

Adopted December 2, 1986, effective January 1, 1987; amended June 12, 1987, effective August 1, 1987; amended November 25, 1987, effective November 25, 1987; amended August 6, 1993, effective immediately; amended October 15, 1993, effective immediately; amended March 26, 2001, effective immediately; amended April 1, 2003, effective immediately; amended December 5, 2003, effective immediately; amended April 16, 2007, effective immediately; amended June 18, 2013, eff. July 1, 2013; amended Dec. 8, 2015, eff. Jan. 1, 2016; amended Feb. 2, 2017, eff. immediately.

Committee Commentary

(April 1, 2003)

New subpart (B)(3)(b) is a modified version of the ABA Model Code of Judicial Conduct, Canon 3D(3) (1990).

New subpart (B)(3)(c) is the identical language currently contained in M.R. 14618 (Administrative Order of February 6, 1998, as amended June 5, 2000) subparagraph (b)(4) on confidentiality.

Committee Commentary

The provisions of this canon relate to judicial performance of adjudicative responsibilities, judicial performance of administrative responsibilities and the circumstances and procedure for judicial disqualification.

Paragraph A(4) and subsections C and D were amended, effective August 6, 1993, to incorporate the provisions of the Model Code of Judicial Conduct adopted by the ABA in 1990.

Paragraphs A(1) through A(3). The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and business-like while being patient and deliberate.

Paragraph A(5). This paragraph was amended, effective August 6, 1993, to adopt the provisions of Canon 3B(7) of the 1990 ABA Model Code of Judicial Conduct relating to *ex parte* communications. Paragraph A(5) differs in that it modifies ABA Canon 3B(7) by deleting the sentence which provides: "A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond." The committee believed that such a procedure would be too close to the former practice of using masters in chancery which was abolished by the 1962 amendment of the judicial article. Furthermore both bar association committees were concerned with the possibility of a judge seeking advice from a law professor. The committee does not believe that the deletion of this provision affects the obligation of a judge to disclose any extrajudicial communication concerning a case pending before the judge to the parties or their attorneys. The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding.

To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

Whenever presence of a party or notice to a party is required by paragraph A(5), it is the party's lawyer, or if the party is unrepresented the party, who is to be present or to whom notice is to be given.

Certain *ex parte* communication is approved by paragraph A(5) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage *ex parte* communication and allow it only if all the criteria stated in paragraph A(5) are clearly met. A judge must disclose to all parties all *ex parte* communications described in subparagraph A(5)(a) regarding a proceeding pending or impending before the judge.

A judge must not independently investigate facts in a case and must consider only the evidence presented.

A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions.

A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that paragraph A(5) is not

violated through law clerks or other personnel on the judge's staff.

Paragraph A(6). The ABA 1972 canon provides that "[a] judge should dispose promptly of the business of the court." The committee agreed with the ISBA/CBA joint committee recommendation that the language of the Illinois Constitution (art. VI, §13(b)) which requires that a judge should devote full time to his or her judicial duties should be incorporated into this paragraph. Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with the judge to that end.

Paragraph A(7). ABA Canon 3A(6) is adopted without substantive change. It was the view of the committee that, with regard to matters pending before the judge, a judicial officer should discuss only matters of public record, such as the filing of documents, and should not comment on a controversy not pending before the judge but which could come before the judge. "Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers is governed by Rule 3.6 of the Illinois Rules of Professional Conduct.

Paragraph A(8). The Illinois Supreme Court allows extended media coverage of proceedings in the supreme and appellate courts subject to certain specified conditions. Except to the extent so authorized, however, the existing prohibition of the taking of photographs in the courtroom during sessions of the court or recesses between proceedings, and the broadcasting or televising of court proceedings, other than those of a ceremonial nature, is retained. While this prohibition does not extend to areas immediately adjacent to the courtroom, it does not preclude orders regulating or restricting the use of those areas by the media where the circumstances so warrant.

Paragraph A(9). A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and must require the same standard of conduct of others subject to the judge's direction and control.

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. A judge must be alert to avoid behavior that may be perceived as prejudicial.

Paragraph B(3). A modified version of the ABA canon was recommended even though Illinois Supreme Court Rule 61(c)(10) only referred to an obligation to refer an attorney's unprofessional conduct in matters before the judge to the proper authorities. Thus the rule here is broader, in that it is not limited to matters before the judge, and in that it extends the obligation to unprofessional conduct of other judges. In the case of misconduct by lawyers, the Rules of Professional Conduct, Rule 8.4, contains the circumstances of misconduct that are covered by paragraph B(3). This canon requires a judge to take or initiate appropriate disciplinary measures where he or she has knowledge of a violation of Rule 8.4. Where misconduct by an attorney is involved, a finding of contempt may, in appropriate circumstances, constitute the initiation of appropriate disciplinary measures. Furthermore, in both cases, the rule does not preclude a judge from taking or initiating more than a single appropriate disciplinary measure. Additionally, a judge may have a statutory obligation to report unprofessional conduct which is also criminal to an appropriate law enforcement official.

Paragraph B(4). It is the position of the committee that this ABA canon implicitly includes the provision of Illinois Supreme Court Rule 61(c)(11) that a judge "should not offend against the spirit of this standard by interchanging appointments with other judges, or by any other device." Appointees of the judge include officials such as receivers and guardians, and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by this paragraph.

Paragraphs C(1)(a) through C(l)(c). When originally adopted on December 2, 1986, the existing ABA canon was modified in two ways. The words "or his lawyer" were added to paragraph C(l)(a) to expressly mandate disqualification in the case of personal bias or prejudice toward an attorney rather than a party. This modification was later incorporated by the ABA into its 1990 revision. More significantly a new subparagraph, C(1)(c), was added in 1986 regulating disqualifications when one of the parties is represented by an attorney with whom the judge was formerly associated and when one of the parties was a client of the judge. These modifications were in substantial accord with the joint committee recommendations. Hence ABA subparagraphs (c) and (d) were renumbered and are now subparagraphs (d) and (e) respectively.

Paragraphs C(1)(d) and (1)(e). The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Canon 3C(1), or that the relative is known by the judge to have an interest, or its equivalent, in the law firm that could be "substantially affected by the outcome of the proceeding" under Canon 3C(l)(e)(iii) may require the judge's disqualification.

Paragraph D. A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently of the judge, a judge must not solicit, seek or hear comment on possible remittal or waiver of the disqualification unless the lawyers jointly propose remittal after consultation as provided in the rule. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may wish to have all parties and their lawyers sign the remittal agreement.

APPENDIX

M.R. No. 2634.

Order entered April 16, 2007; amended February 2, 2017.

Any security cameras installed in the courtrooms in the various circuits shall be in accordance with the following standards; (1) security cameras are to be placed in areas of the courtroom such that there is no video recording of the jury or witnesses; (2) audio recordings of the proceedings are prohibited in connection with security cameras; (3) use of such cameras is limited to security purposes and any video tape produced therefrom shall remain the property of the court and may not be used for evidentiary purposes by the parties or included in the record on appeal; (4) security cameras shall be monitored by designated court personnel only; and (5) signs shall be posted in and outside of the courtroom notifying those present of the existence of the court surveillance.

All recordings from security cameras monitoring court facilities are the property of the local circuit courts and are deemed to be in the possession of the local circuit courts notwithstanding actual possession by another party.

Rule 64

CANON 4

A Judge May Engage in Activities to Improve the Law,
the Legal System, and the Administration of Justice

A judge, subject to the proper performance of his or her judicial duties, may engage in the following law-related activities, if in doing so the judge does not cast doubt on his or her capacity to decide impartially any issue that may come before him or her.
A. A judge may speak, write, lecture, teach (with the approval of the judge's supervising, presiding, or chief judge), and participate in other activities concerning the law, the legal system, and the administration of justice.
B. A judge may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and he or she may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.
C. A judge may serve as a member, officer, or director of a bar association, governmental agency, or other organization devoted to the improvement of the law, the legal system, or the administration of justice. He or she may assist such an organization in planning fund-raising activities; may participate in the management and investment of the organization's funds; and may appear at, participate in, and allow his or her title to be used in connection with a fund-raising event for the organization. Under no circumstances, however, shall a judge engage in direct, personal solicitation of funds on the organization's behalf. Inclusion of a judge's name on written materials used by the organization for fund-raising purposes is permissible under this rule so long as the materials do not purport to be from the judge and list only the judge's name, office or other position in the organization and, if comparable designations are listed for other persons holding a similar position, the judge's judicial title.
D. A judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Adopted December 2, 1986, effective January 1, 1987; amended June 4, 1991, effective August 1, 1991; Committee Commentary amended October 15, 1993, effective immediately; amended September 30, 2002, effective immediately; amended May 24, 2006, effective immediately; Committee Commentary amended Dec. 19, 2014, eff. immediately.

Committee Commentary

A judge may serve on a committee that includes other judges, attorneys and members of the community for the purpose of developing programs or initiatives aimed at improving the outcomes for juveniles involved in the juvenile court system, or adults in the criminal court system. Such programs may include diversion, restorative justice and problem-solving court programs, among others.

This canon regulates the permissible scope of a judicial officer's law-related activities. As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To

the extent that the judge's time permits, he or she is encouraged to do so through appropriate channels.

Extrajudicial activities are governed by Canon 5.

For the distinction between those organizations devoted to the improvement of the law, the legal system, and the administration of justice referred to in paragraph C and other civic or charitable organizations, see Thode at page 76.

Rule 65

CANON 5
A Judge Should Regulate His or Her Extrajudicial Activities
to Minimize the Risk of Conflict With the Judge's
Judicial Duties

A. Avocational Activities. A judge may write, lecture, teach, and speak on nonlegal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of the judge's office or interfere with the performance of the judge's judicial duties.

B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

(2) A judge should not solicit or permit his or her name to be used in any manner to solicit funds or other assistance for any such organization. A judge should not allow his or her name to appear on the letterhead of any such organization where the stationery is used to solicit funds and should not permit the judge's staff, court officials or others subject to the judge's direction or control to solicit on the judge's behalf for any purpose, charitable or otherwise. . ~~A~~ However, a judge may be a speaker or the guest of honor at an organization's fund-raising events and may allow event-related promotional materials, invitations, and other communications to mention such participation by the judge.

C. Financial Activities.

(1) A judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of the judge's judicial duties, exploit the judge's judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves.

(2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in the activities usually incident to the ownership of such investments, but a judge should not assume an active role in the management or serve as an officer, director, or employee of any business.

(3) A judge should manage his or her investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge should divest himself or herself of investments and other financial interests that might require frequent disqualification.

(4) Neither a judge nor a member of the judge's family residing in the judge's household should accept a gift, bequest, favor, or loan from anyone except as follows:

(a) a judge may accept a gift incident to a public testimonial to the judge; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and the judge's spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;

(b) a judge or a member of the judge's family residing in the judge's household may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

(c) a judge or a member of the judge's family residing in the judge's household may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge, including lawyers who practice or have practiced before the judge.

(5) Information acquired by a judge in the judge's judicial capacity should not be used or disclosed by the judge in financial dealings or for any other purpose not related to the judge's judicial duties.

D. Fiduciary Activities. A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of the judge's judicial duties. As a family fiduciary a judge is subject to the following restrictions:

(1) The judge should not serve if it is likely that as a fiduciary the judge will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.

(2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to the judge in his or her personal capacity.

E. Arbitration. A judge should not act as an arbitrator or mediator.

F. Practice of Law. A judge should not practice law.

G. Extrajudicial Appointments. A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent his or her country, State, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

Adopted December 2, 1986, effective January 1, 1987; amended October 15, 1993, effective immediately; amended May 24, 2006, effective immediately; amended December 7, 2011, effective immediately.

Committee Commentary

This canon governs the permissible scope of a judicial officer's extrajudicial activities. Avocational, civic and charitable, financial, and fiduciary activities are regulated as well as practice as an arbitrator or lawyer and the propriety of accepting extrajudicial appointments. ABA Canon 5(C)(6), which provides that "[a] judge is not required by this Code to disclose his income, debts, or investments except as provided in this Canon and Canons 3 and 6," was deleted as inconsistent with the present Illinois disclosure requirements which are retained in this code. The remaining subparagraphs were renumbered. In adapting the ABA canons to Illinois, certain adjustments were required in this canon because of the impact of article VI, section 13(b), of the Illinois Constitution, which prohibits a judicial officer from holding "a position of profit."

Paragraph (A). Complete separation of a judge from extrajudicial activities is neither possible nor wise; he should not become isolated from the society in which he lives.

Paragraph (B)(1). The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the judge's relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

Paragraph (B)(2). This subparagraph is largely based on Illinois Supreme Court Rule 64. The major difference is that the ABA canon would allow a judicial officer to be listed on the letterhead of such an association as an officer, director or trustee. This canon will not allow that where the letterhead is used to solicit funds. The provision prohibiting a judge from allowing judicial staff to solicit on the judge's behalf for any purpose, charitable or otherwise, is a replacement for the provision of the ABA canon that provides that the judge should not use or permit the use of "the prestige of his office for that purpose."

Paragraph (C)(2). This subparagraph retains the language of Illinois Supreme Court Rule 63. See also 705 ILCS 60/1.

Paragraph (C)(3). This is ABA Canon 5(C)(3). The committee noted that this canon requires divestment of an investment

only when it would cause frequent disqualification, and, even in that case, the divestment need not be made until the asset can be disposed of without serious financial detriment.

Paragraph (C)(4). This subparagraph combines ABA Canon 5(C)(4)(c) and the requirements of present Illinois Supreme Court Rule 61(c)(22). The ABA provisions regarding reporting are deleted since that is covered by Canon 6 of this code and by the Illinois Governmental Ethics Act (5 ILCS 420/1–101 *et seq*.).

Paragraph (D)(2). A judge's obligation under this canon and his or her obligation as a fiduciary may come into conflict. For example, a judge should resign as trustee if it would result in detriment to the trust to divest it of holdings whose retention would place the judge in violation of Canon 5(C)(3).

Paragraphs (E), (F) and (G). Valuable services have been rendered in the past to the States and the nation by judges appointed by the executive to undertake important extrajudicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on judicial manpower created by today's crowded dockets and the need to protect the courts from involvement in extrajudicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the judiciary.

Rule 66

CANON 6

Nonjudicial Compensation and Annual
Statement of Economic Interests

A judge may ~~not~~ receive compensation for the law-related and extrajudicial activities permitted by this Code~~; however, he or she may receive an honorarium and reimbursement of expenses~~ if the source of such payments does not give the appearance of influencing the judge in his or her judicial duties or otherwise give the appearance of impropriety~~.~~ subject to the following restrictions: ~~For purposes of this canon, "compensation" is a sum of money or other thing of value paid by a person or entity to a judge for services provided or performed. Compensation shall not be construed to include investment or interest income or other income that is unrelated to the work or services provided or performed by the judge; nor shall compensation be construed to include a sum of money or other thing of value paid for writings.~~

~~A. Honorarium. An honorarium should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity. The total honoraria received by a judge within a six-month period shall not exceed $5,000.~~

A. Compensation. Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

B. Expense Reimbursement. Expense reimbursement shall be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse. Any payment in excess of such an amount is compensation.

C. Annual Declarations of Economic Interests. A judge shall file a statement of economic interests as required by Rule 68, as amended effective August 1, 1986, and thereafter.

Adopted December 2, 1986, effective January 1, 1987; amended June 4, 1991, effective August 1, 1991; amended April 1, 1992, effective August 1, 1992; amended October 15, 1993, effective immediately; amended December 13, 1996, effective immediately; amended September 30, 2002, effective immediately.

Rule 67

CANON 7

A Judge or Judicial Candidate Shall Refrain

From Inappropriate Political Activity

A. All Judges and Candidates.

(1) Except as authorized in subsections B(1)(b) and B(3), a judge or a candidate for election to judicial office shall not:

(a) act as a leader or hold an office in a political organization;

(b) publicly endorse or publicly oppose another candidate for public office;

(c) make speeches on behalf of a political organization;

(d) solicit funds for, or pay an assessment to a political organization or candidate.

(2) A judge shall resign from judicial office upon becoming a candidate for a non-judicial office either in a primary or in a general election.

(3) A candidate for a judicial office:

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

(b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control from doing on the candidate's behalf what the candidate is prohibited from doing under the provisions of this Canon;

(c) except to the extent permitted by subsection B(2), shall not authorize or knowingly permit any other person to do for the candidate what the candidate is prohibited from doing under the provisions of this Canon;

(d) shall not:

(i) make statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to come before the court; or

(ii) knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent; and

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate subsection A(3)(d).

B. Authorized Activities for Judges and Candidates.

(1) A judge or candidate may, except as prohibited by law:

(a) at any time,

(i) purchase tickets for and attend political gatherings;

(ii) identify himself or herself as a member of a political party; and

(iii) contribute to a political organization;

(b) when a candidate for public election

(i) speak to gatherings on his or her own behalf;

(ii) appear in newspaper, television and other media advertisements supporting his or her candidacy;

(iii) distribute pamphlets and other promotional campaign literature supporting his or her candidacy; and

(iv) publicly endorse or publicly oppose other candidates in a public election in which the judge or judicial candidate is running.

(2) A candidate shall not personally solicit or accept campaign contributions. A candidate may establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not

prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate's committees may solicit contributions and public support for the candidate's campaign no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

(3) Except as prohibited by law, a candidate for judicial office in a public election may permit the candidate's name: (a) to be listed on election materials along with the names of other candidates for elective public office, and (b) to appear in promotions of the ticket.

C. Incumbent Judges. A judge shall not engage in any political activity except (i) as authorized under any other provision of this Code, (ii) on behalf of measures to improve the law, the legal system or the administration of justice, or (iii) as expressly authorized by law.

D. Applicability. Canon 7 generally applies to all incumbent judges and judicial candidates. A successful candidate, whether or not an incumbent, is subject to judicial discipline for his or her campaign conduct; an unsuccessful candidate who is a lawyer is subject to lawyer discipline for his or her campaign conduct. A lawyer who is a candidate for judicial office is subject to Rule 8.2(b) of the Rules of Professional Conduct.

JUSTICE HEIPLE, concurring:

First and foremost, Rule 67 and these canons of judicial ethics are intended as a working guide of conduct for judges and judicial candidates. They indicate areas of activity that are deemed to be within and without proper limits of judicial conduct. In between, of course, are uncertain areas which lack definition. What the canons seek is judicial conduct that is in keeping with the high calling of judicial office. They are not intended to facilitate the filing of casual or vindictive charges against judges or judicial candidates.

The application of these canons require a high measure of common sense and good judgment. Matters that are either minor in nature or susceptible to differing interpretations ought not result in charges being filed. Charges of misconduct should be limited to matters that are both clearly defined and commonly accepted as serious.

The canons have attempted to recognize that Illinois has an elective judiciary. As a practical matter, the Illinois judge must involve himself in matters political. That is to say, the judge or candidate must be a participant in the system. A corollary of this activity is the public's right to know whom they are voting for. Realistically speaking, it is not enough for the judge or candidate to merely give name, rank and serial number as though he were a prisoner of war. Rather, the public has a right to know the candidate's core beliefs on matters of deep conviction and principle. While the candidate is not required to disclose these beliefs, he should neither be deterred nor penalized for doing so. In so doing, however, the judge or judicial candidate ought to refrain from stultifying himself as to his evenhanded participation in future cases. Rule 67 attempts to make that clear.

What fair-minded people seek in a judge is a person who will be fair and impartial and who will follow the law. Those considerations overshadow matters of nonjudicial ideology such as socialism, antivivisection, membership in the Flat Earth Society, an obsession with gender neutral language, or whatever. The matter of nonjudicial ideology is of direct and primary concern, of course, when judges begin to act as legislators rather than jurists. Judges who adhere to the rule that their conscience is their guide and that the law must accommodate their conscience are especially deserving of close scrutiny and concern. Under our Illinois constitutional scheme, however, it is the voters who are to make that call, not a governmental prosecutorial body or an association of lawyers.

JUSTICE McMORROW, dissenting:

I dissent from the adoption of certain portions of new Rule 67 of the Code.

At the time of this writing, Illinois elects its judges. Irrespective of the merits or demerits of the elective process, it is essential to the justice system that judges be "independent, fair, and competent" so as to honor the public trust placed in them by virtue of their position. The purposes of the Code of Judicial Conduct are set forth in the Preamble to the Code. That Preamble, as amended, *inter alia*, provides:

"Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all provisions of this code are precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system."

In this Code of Judicial Conduct, the Supreme Court of Illinois has set the standard by which judges are to be guided in their professional conduct. In my opinion, these standards should be high, and should be in keeping with the principles espoused in the Preamble. They are the guidelines which tell judges in this State in what activities they may or may not participate. The primary

goal of the Code should be the attainment of a fair and impartial judiciary.

Today, in adopting certain amendments to Rule 67, the majority apparently wishes to accommodate the elective process to which judges are presently subjected. In so doing, the majority has substantially broadened the political activity in which judges may participate. For example, by deleting certain prohibitions which appeared in Rule 67 prior to the amendments, a judge may now *at any time* attend political gatherings, may make unlimited contributions to a political organization, may identify himself or herself as a member of a political party, or may purchase tickets for political dinners or other functions. Rules 67(B)(1)(a)(i), (B)(1)(a)(ii), (B)(1)(a)(iii).

However, our prior Rule 67 was not unduly restrictive. Indeed, no hardship to judges under the former rule has been demonstrated, nor has there been any hue or cry for the changes which have been adopted. I am unaware of any need for judges to make unlimited contributions to a political party, to attend political gatherings, or to identify their political party allegiance. On the contrary, upon election to judicial office, judges are to be impartial; they are to be unbiased with respect to race, gender, and political party affiliation. Upon election, judges should no longer be Democrats or Republicans. Rather, judges are elected to apply the rule of law without respect to political organization affiliation. Although I recognize the need to solicit political organizational support at the time a candidate is seeking election to the judiciary, or at such time as a judge is seeking retention, I am particularly disturbed by the amendments' allowance of a judge to engage in the political activities permitted by these amendments *at any time*.

I submit that the new rule "abandon[s] several important ethical standards that uphold the independence and dignity of judicial office" and will surely cause severe problems in the public perception of judicial candidates. (Report of the Committee on Judicial Performance and Conduct of the Lawyers' Conference of the Judicial Administration Division of the American Bar Association on the Final Draft of the Model Code of Judicial Conduct 28 (1990) (hereinafter Report of the Committee on Judicial Performance).) In my view, the new standards of the rule are too permissive with respect to the political activities of judicial candidates. The increased permissiveness in judicial candidates' political activities fosters a misguided over-politicization of the judicial election process in this State. In my judgment the time and efforts of the Illinois Supreme Court might be better expended by addressing the myriad of problems confronting the justice system, rather than considering and adopting amendments which allow judges to participate in additional political activity. I dissent from the adoption of these amendments because they are imprudent, unnecessary, and lend themselves to abuse.

In addition, I cannot agree with the majority's new view of the appropriate scope of a judicial candidate's public comment on matters that may or are likely to come before the court, provided the candidate does not "make statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to come before the court." (Rule 67(A)(3)(d)(i).) Ultimately, the new Rule is short-sighted because it places candidates for judicial office in an unseemly position where they may feel compelled to "pander" for votes by publicly adopting views which appear popular to the electorate. See Report of the Committee on Judicial Performance at 31.

The Commentary indicates that this amendment was adopted in response to the decision of the Federal court in *Buckley v. Illinois Judicial Inquiry Board* (7th Cir. 1993), 997 F.2d 224. In that case, the Seventh Circuit Court of Appeals held unconstitutional the portion of our rule that forbids a judicial candidate from "announc[ing] his views on disputed legal or political issues." (134 Ill. 2d R. 67(B)(l)(c).) The Federal court concluded that this "announcement" prohibition invaded a candidate's constitutional rights, because it "reache[d] far beyond speech that could reasonably be interpreted as committing the candidate in a way that would compromise his impartiality should he be successful in the election." *Buckley*, 997 F.2d at 228.

It is indisputable that the constitutional guarantee of freedom of speech must be balanced against the right of the public to a judiciary which will decide the issues presented to it in the courtroom setting, on the basis of the facts and applicable law. A judicial candidate's right to free speech may be restricted where a compelling State interest is present which counterbalances the candidate's ability to speak freely. The integrity and impartiality and independence of the judiciary is, in my opinion, such a compelling State interest to which deference should be paid.

The key words in the amendment which now appear in Rule 67(A)(3)(d)(i) are "commit or appear to commit." These words are subject to varying interpretations and, I submit, are unnecessarily too broad to cure the fault found by the Federal court in the *Buckley* case. I question whether the amendment permitting a judge to speak on issues which may come before the court, provided the judge uses the magic words that the judge "is not committing" will be more problematic than the rule was prior to this amendment.

I also find disturbing the Commentary to the amendments to the effect that a judge or judicial candidate may respond to "false information concerning a judicial candidate [that] is made public." (Rule 67, Committee Commentary.) The Report of the Committee on Judicial Performance stated the following with regard to this provision:

"This new expansion of free speech for judges who might be tempted to come to the aid of another judge or judicial candidate who has been the subject of criticism in a political campaign is totally without merit. There is no reason for a judge to become involved as a spokesperson or in any other capacity for another judge who has been publicly maligned. Publicly 'correcting' what the judge

regards as a misstatement of fact in a judicial campaign is one of the acts presently prohibited by the existing Code, and it should continue to be prohibited.

Most issues of 'fact' in the context of judicial elections are, at best, mixed issues of fact and opinion and at worst are pure issues of opinion. Thus, the 'narrow' exception anticipated by the draftspersons would, in reality, become a large loophole.

The new provision would put enormous pressure on judges to become actively involved in campaigns of other judges or candidates." Report of the Committee on Judicial Performance at 5-6.

I agree with these comments from the Report of the Committee on Judicial Performance regarding this new amendment to Rule 67.

In my opinion, public perception of a fair and impartial judiciary is diminished by adoption of the amendments to which I have made reference. Because the majority permits potential further politicization of the Illinois judiciary by adoption of the above-referenced amendments, I respectfully dissent.

Adopted December 2, 1986, effective January 1, 1987; amended April 20, 1987, effective August 1, 1987; amended August 6, 1993, effective immediately; amended March 24, 1994, effective immediately.

Committee Commentary

This canon regulates the extent to which a judicial officer may engage in political activity. Canon 7 adopts as its foundation the provisions of Canon 5 of the ABA Model Code of Judicial Conduct, which was adopted by the ABA in 1990.

Paragraph 7A(1). A judge or candidate for judicial office retains the right to participate in the political process as a voter.

Where false information concerning a judicial candidate is made public, a judge or another judicial candidate having knowledge of the facts is not prohibited by paragraph 7A(1) from making the facts public.

Subparagraph 7A(1)(a) does not prohibit a candidate for elective judicial office from retaining during candidacy a public office such as State's Attorney, which is not "an office in a political organization."

Subparagraph 7A(1)(b) does not prohibit a judge or judicial candidate from privately expressing his or her views on judicial candidates or other candidates for public office.

A candidate does not publicly endorse another candidate for public office by having that candidate's name on the same ticket.

Subparagraph 7A(1)(d). The ABA provisions that prohibit the following activities were deleted: attending political gatherings (5A(1)(d) of ABA), making contributions to political organizations or candidates (5A(1)(e)), and purchasing tickets for political party dinners or other functions (5A(1)(e)). These provisions were deleted because the ABA provisions adopted in subparagraph 7B(1)(a) were modified to authorize all judges and candidates to engage in such activities at any time. However, the prohibition on the solicitation of funds for, or paying an assessment to, a political organization or candidate, is adopted and renumbered as subparagraph (d).

Subparagraph 7A(3)(a). Although a judicial candidate must encourage members of his or her family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate, family members are free to participate in other political activity.

Subparagraph 7A(3)(d). The ABA clause prohibiting "pledges and promises of conduct in office," found in Canon 5A(3)(d) of the Model Code (which was similar to the language of Canon 7B(1)(c) of our previous rules on political conduct) was deleted. This change was made to clarify the limitations of the rule (see *In re Buckley* (Ill. Cts. Comm'n Oct. 25, 1991), No. 91--CC--1), which gave a broader construction to the rule. Subparagraph 7A(3)(d) prohibits a candidate for judicial office from making statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to come before the court. However, as a corollary, a candidate should emphasize in any public statement the candidate's duty to uphold the law regardless of his or her personal views. See also paragraph 3A(6), the general rule on public comment by judges. Subparagraph 7A(3)(d) does not prohibit a candidate from making pledges or promises respecting improvements in court administration. Nor does this provision prohibit an incumbent judge from making private statements to other judges or court personnel in the performance of judicial duties. This subparagraph applies to any statement made in the process of securing judicial office. See also Rule 8.2 of the Rules of Professional Conduct.

The ABA Model Code of 1990 was modified to remove the provisions pertaining to candidates seeking appointment to judicial or other governmental office that are found in subsection B of Canon 5. Hence ABA subsections C, D and E were renumbered and are now subsections B, C and D of our Canon 7.

Paragraph 7B(1). This paragraph permits judges at any time to be involved in limited political activity. Subsection 7C, applicable solely to judges, would otherwise bar this activity.

Paragraph 7B(2). This paragraph is substantially identical to the Section 5C(2) of the 1990 ABA Model Code. The one difference is that the language prohibiting the candidates from personally soliciting publicly stated support is omitted to allow judicial candidates to appear before editorial boards of newspapers and other organizations. Paragraph 7B(2) permits a candidate to solicit publicly stated support, and to establish campaign committees to solicit and accept public support and reasonable financial contributions. At the start of the campaign, the candidate must instruct his or her campaign committees to solicit or accept only contributions that are reasonable under the circumstances. Though not prohibited, campaign contributions of which a judge has knowledge, made by lawyers or others who appear before the judge, may be relevant to disqualification under subsection C of Canon 3.

Campaign committees established under Section 7B(2) should manage campaign finances responsibly; avoiding deficits that might necessitate post-election fund-raising, to the extent possible.

Paragraph 7B(3). This paragraph provides a limited exception to the restrictions imposed by paragraph 7A(1).

Subsection 7C. Neither subsection 7C nor any other section of the Code prohibits a judge in the exercise of administrative functions from engaging in planning and other official activities with members of the executive and legislative branches of government.

Rule 68

A judge shall file annually with the Clerk of the Illinois Supreme Court (the Clerk) a verified written statement of economic interests and relationships of the judge and members of the judge's immediate family (the statement).

As statements are filed in the Clerk's office, the Clerk shall cause the fact of that filing to be indicated on an alphabetical listing of judges who are required to file such statements. Blank statement forms shall be furnished to the Clerk by the Director of the Administrative Office of the Illinois Courts (the Director).

Any person who files or has filed a statement under this rule shall receive from the Clerk a receipt indicating that the person has filed such a statement and the date of such filing.

All statements filed under this rule shall be available for examination by the public during business hours in the Clerk's office in Springfield or in the satellite office of the Clerk in Chicago. Original copies will be maintained only in Springfield, but requests for examination submitted in Chicago will be satisfied promptly. Each person requesting examination of a statement or portion thereof must first fill out a form prepared by the Director specifying the statement requested, identifying the examiner by name, occupation, address and telephone number, and listing the date of the request and the reason for such request. The Director shall supply such forms to the Clerk and replenish such forms upon request. Copies of statements or portions of statements will be supplied to persons ordering them upon payment of such reasonable fee per page as is required by the Clerk. Payment may be by check or money order in the exact amount due.

The Clerk shall promptly notify each judge required to file a statement under this rule of each instance of an examination of the statement by sending the judge a copy of the identification form filled out by the person examining the statement.

The contents of the statement required by this rule shall be as specified by administrative order of this court.

Effective March 15, 1970; amended April 1, 1986, effective August 1, 1986.

ADMINISTRATIVE ORDER

The verified statements of economic interests and relationships referred to in our Rule 68, as amended effective August 1, 1986, shall be filed by all judges on or before April 30, 1987, and on or before April 30, annually thereafter. Such statements shall also be filed by every person who becomes a judge, within 45 days after assuming office. However, judges who assume office on or after December 1 and who file the statement before the following April 30 shall not be required to file the statement due on April 30. The form of such statements shall be as provided by the Administrative Director of the Illinois Courts, and they shall include all information required by Rule 68 and this order, including:

1. Current economic interests of the judge and members of the judge's immediate family (spouse and minor children residing with the judge) whether in the form of stock, bond, dividend, interest, trust, realty, rent, certificate of deposit, deposit in any financial institution, pension plan, Keogh plan, Individual Retirement Account, equity or creditor interest in any corporation, proprietorship, partnership, instrument of indebtedness or otherwise. Every source of noninvestment income in the form of a fee, commission, compensation, compensation for personal service, royalty, pension, honorarium or otherwise must also be listed. No reimbursement of expenses by any unit of government and no interest in deferred compensation under a plan administered by the

State of Illinois need be listed. No amounts or account numbers need be listed in response to this paragraph 1. **In listing his or her personal residence(s) in response to this paragraph 1, the judge shall not state the address(es).** Current economic interests shall be as of a date within 30 days preceding the date of filing the statement.

2. Former economic interests of the type required to be disclosed in response to numbered paragraph 1 which were held by the judge or any member of the judge's immediate family (spouse and minor children residing with the judge) during the year preceding the date of verification. Current economic interests listed in response to numbered paragraph 1 need not be listed. No amounts or account numbers need be listed in response to this paragraph 2. **In listing his or her personal residence(s) in response to this paragraph 2, the judge shall not state the address(es).**

3. The names of all creditors to whom amounts in excess of $500 are owed by the judge or members of the judge's immediate family (spouse and minor children residing with the judge) or were owed during the year preceding the date of verification. For each such obligation there is to be listed the category for the amount owed as of the date of verification and the maximum category for the amount of each such obligation during the year preceding the date of verification of the statement. The categories for reporting the amount of each such obligation are as follows:

(a) not more than $5,000;

(b) greater than $5,000 but not more than $15,000;

(c) greater than $15,000 but not more than $50,000;

(d) greater than $50,000 but not more than $100,000;

(e) greater than $100,000 but not more than $250,000; and

(f) greater than $250,000.

Excluded from this requirement are obligations consisting of revolving charge accounts, with an outstanding liability equal to or less than $5,000.

4. The name of any individual personally known by the judge to be licensed to practice law in Illinois who is a co-owner with the judge or members of the judge's immediate family (spouse and minor children residing with the judge) of any of the economic interests disclosed in paragraphs 1 and 2, and the name of any person who has acted as a surety or guarantor of any of the obligations required to be disclosed in paragraph 3.

5. A list of every office, directorship and salaried employment of the judge and members of the judge's immediate family (spouse and minor children residing with the judge). Exclude unsalaried positions in religious, social or fraternal organizations, and honorary positions.

6. Pending cases in which the judge or members of the judge's immediate family (spouse and minor children residing with the judge) are parties in interest and, to the extent personally known to the judge, pending cases in which a party is an economic entity in which the judge or any member of the judge's immediate family has an interest. Cases in which a judge has been sued in the judge's official capacity shall not be included.

7. Any fiduciary position, including executorships and trusteeships of the judge or members of the judge's immediate family (spouse and minor children residing with the judge).

8. The name of the donor and a brief description of any gifts received by the judge or members of the judge's immediate family (spouse and minor children residing with the judge). Gifts of transportation, food, lodging or entertainment having a value in excess of $250 must be reported. All other gifts having a value in excess of $100 must be reported. Gifts between the judge and the judge's spouse, children, or parents shall not be reported.

9. Any other economic interest or relationship of the judge or of members of the judge's immediate family (spouse and minor children residing with the judge) which could create a conflict of interest for the judge in the judge's judicial capacity, other than those listed in numbered paragraphs 1 to 8 hereof.

Prior to the first Monday in March of each year the Director shall inform each judge by letter of the requirements of this amended rule. The Director shall similarly inform by letter each person who becomes a judge of the requirements of the rule within 10 days of such person assuming office. The Director shall include with such letter instructions concerning the required statements, two sets of the statement forms, and one mailing envelope preaddressed to the Clerk. **The Clerk shall redact personal residence addresses contained in any statement filed pursuant to Supreme Court Rule 68.** The letter, instructions, and statements shall be in substantially the form provided in the Article I Forms Appendix ~~set forth below:~~

~~[Letterhead of Administrative Office of the Illinois Courts]~~

~~_____,20__~~

~~TO: MEMBERS OF THE JUDICIARY OF THE STATE OF ILLINOIS~~

~~RE: Compliance with Supreme Court Rule 68~~

~~As a member of the judiciary, you are required to file an annual statement of economic interests pursuant to Supreme Court Rule 68. Enclosed are the necessary forms and envelopes to be used in complying with Rule 68 on or before~~

_____,20__.

In this packet are:

(A) One copy of "Instructions Concerning Required Statement for Members of the Judiciary of the State of Illinois."

(B) Two copies of the form entitled "Statement Required of Members of the Judiciary of the State of Illinois." [One copy to be filed with the Clerk of the Supreme Court; one copy to be retained for your records.]

(C) One 9 x 12 mailing envelope preaddressed to the Clerk of the Supreme Court.

The Supreme Court requests you follow these instructions carefully and asks that you be certain to return the original of your statement in the mailing envelope furnished herewith preaddressed to the Clerk of the Supreme Court.

Forms for compliance with Public Act 77-1806, "Illinois Governmental Ethics Act," will be mailed to you under separate cover and must be filed separately with the Secretary of State.

Very truly yours,

Director

INSTRUCTIONS CONCERNING REQUIRED
STATEMENT FOR MEMBERS OF THE JUDICIARY
OF THE STATE OF ILLINOIS

On or before April 30, 1987, and on or before April 30, annually thereafter, every judge of the Supreme Court, the Appellate Court, and every judge and associate judge of the Circuit Court shall file a verified written statement (the statement) of economic interests and relationships which may create conflicts of interest, with the Clerk of the Illinois Supreme Court. Such statements shall be filed by every person who becomes a judge or associate judge within 45 days after assuming office and on or before each April 30 thereafter. However, judges who assume office on or after December 1 and who file the statement before the following April 30 shall not be required to file the statement due on April 30.

The statements required shall include the following information which, except where noted, shall include information as of the date of verification of the statement.

1. Current economic interests of the judge and members of the judge's immediate family (spouse and minor children residing with the judge) whether in the form of stock, bond, dividend, interest, trust, realty, rent, certificate of deposit, deposit in any financial institution, pension plan, Keogh plan, Individual Retirement Account, equity or creditor interest in any corporation, proprietorship, partnership, instrument of indebtedness or otherwise. Every source of noninvestment income in the form of a fee, commission, compensation, compensation for personal service, royalty, pension, honorarium or otherwise must also be listed. No reimbursement of expenses by any unit of government and no interest in deferred compensation under a plan administered by the State of Illinois need be listed. No amounts or account numbers need be listed in response to this paragraph 1. In listing his or her personal residence(s) in response to this paragraph 1, the judge shall not state the address(es). Current economic interests shall be as of a date within 30 days preceding the date of filing the statement.

2. Former economic interests of the type required to be disclosed in response to numbered paragraph 1 which were held by the judge or any member of the judge's immediate family (spouse and minor children residing with the judge) during the year preceding the date of verification. Current economic interests listed in response to numbered paragraph 1 need not be listed. No amounts or account numbers need be listed in response to this paragraph 2. In listing his or her personal residence(s) in response to this paragraph 2, the judge shall not state the address(es).

3. The names of all creditors to whom amounts in excess of $500 are owed by the judge or members of the judge's immediate family (spouse and minor children residing with the judge) or were owed during the year preceding the date of verification. For each such obligation there is to be listed the category for the amount owed as of the date of verification and the maximum category for the amount of each such obligation during the year preceding the date of verification of the statement. The categories for reporting the amount of each such obligation are as follows:

(a) not more than $5,000;

(b) greater than $5,000 but not more than $15,000;

(c) greater than $15,000 but not more than $50,000;

(d) greater than $50,000 but not more than $100,000;

(e) greater than $100,000 but not more than $250,000; and

(f) greater than $250,000.

Excluded from this requirement are obligations consisting of revolving charge accounts, with an outstanding liability equal to or less than $5,000.

4. The name of any individual personally known by the judge to be licensed to practice law in Illinois who is a co-owner with the judge or members of the judge's immediate family (spouse and minor children residing with the judge) of any of the economic interests disclosed in paragraphs 1 and 2, and the name of any person who has acted as a surety or guarantor of any of the obligations required to be disclosed in paragraph 3.

5. A list of every office, directorship and salaried employment of the judge and members of the judge's immediate

family (spouse and minor children residing with the judge). Exclude unsalaried positions in religious, social or fraternal organizations, and honorary positions.

6. Pending cases in which the judge or members of the judge's immediate family (spouse and minor children residing with the judge) are parties in interest, and, to the extent personally known to the judge, pending cases in which a party is an economic entity in which the judge or any member of the judge's immediate family has an interest. Cases in which a judge has been sued in the judge's official capacity shall not be included.

7. Any fiduciary position, including executorships and trusteeships of the judge and members of the judge's immediate family (spouse and any minor child residing with the judge).

8. The name of the donor and a brief description of any gifts received by the judge or members of the judge's immediate family (spouse and minor children residing with the judge). Gifts of transportation, food, lodging or entertainment having a value in excess of $250 must be reported. All other gifts having a value in excess of $100 must be reported. Gifts between the judge and the judge's spouse, children or parents shall not be reported.

9. Any other economic interest or relationship of the judge or of members of the judge's immediate family (spouse and minor children residing with the judge) which could create a conflict of interest for the judge in the judge's judicial capacity other than those listed in numbered paragraphs 1 to 8 hereof.

The Statement required herein shall be in substantially the form titled "STATEMENT REQUIRED OF MEMBERS OF THE JUDICIARY OF THE STATE OF ILLINOIS," which is attached hereto as Exhibit A.

(SAMPLE)

EXHIBIT A

STATEMENT REQUIRED OF MEMBERS OF THE
JUDICIARY OF THE STATE OF ILLINOIS

1. My current economic interests and the current economic interests of my immediate family (spouse and minor children residing with me) are as follows:

(Here list current economic interests specified in numbered paragraph 1 of the instructions setting forth the date (within 30 days of the date of filing) as of which said interests are being reported.)

2. My former economic interests and the former economic interests of my immediate family (spouse and minor children residing with me) held during the year preceding the date of verification:

(Here list former economic interests specified in numbered paragraph 2 of the instructions.)

3. Creditors to whom amounts in excess of $500 are owed as of the date of verification or were owed during the year preceding the date of verification by me or members of my immediate family (spouse and minor children residing with me), exclusive of revolving charge accounts with an outstanding liability equal to or less than $5,000, the amount of each such obligation outstanding as of the date of verification and the maximum amount of each such obligation during such preceding year within the categories set forth in numbered paragraph 3 of the instructions:

(Here list in accordance with numbered paragraph 3 of the instructions.)

4. The name of any individual personally known by me to be licensed to practice law in Illinois who is a co-owner with me or members of my immediate family (spouse and minor children residing with me) of any of the economic interests disclosed in paragraphs 1 and 2, and the name of any person who has acted as a surety or guarantor of any of the obligations required to be disclosed in paragraph 3.

(Here list in accordance with numbered paragraph 4 of the instructions.)

5. My offices, directorships, and salaried employments and the offices, directorships and salaried employments of my immediate family (spouse and minor children residing with me) are as follows:

(Here list in accordance with numbered paragraph 5 of the instructions.)

6. Pending cases in which I or members of my immediate family (spouse and minor children residing with me) have an interest are as follows:

(Here list pending cases in which you or members of your immediate family are parties in interest, or an economic entity in which you or they have an interest is a party, in accordance with numbered paragraph 6 of the instructions.)

~~7. My fiduciary positions, including executorships and directorships, and the fiduciary positions of the members of my immediate family (my spouse and minor children residing with me) are as follows:~~

~~(Here list fiduciary positions in accordance with numbered paragraph 7 of the instructions.)~~

~~8. The name of the donor of gifts received by me or members of my immediate family (spouse and minor children residing with me) during the year preceding the date of verification, are as follows:~~

~~(Here list gifts in accordance with numbered paragraph 8 of the instructions.)~~

~~9. My economic interests and relationships and those of my immediate family (spouse and minor children residing with me), other than those listed in numbered paragraphs 1 to 8 hereof, which could create conflicts of interest for me in my judicial capacity are as follows:~~

~~(Here insert any economic interest or relationship which might or could create a substantial conflict of interest.)~~

~~**VERIFICATION**~~

~~Pursuant to Supreme Court Rule 68, I declare that this statement of economic interest, including any accompanying schedules and statements, as it relates to me and members of my immediate family, has been examined by me and to the best of my knowledge and belief is true, correct and complete.~~

_____

~~Judge's Signature~~

_____

~~Date~~

Adopted by Order Entered April 1, 1986; order amended April 20, 1987, effective August 1, 1987; order amended December 30, 1993, effective January 1, 1994; order amended December 1, 1995, effective immediately; order amended September 23, 2005, effective immediately; order amended June 22, 2017, eff. July 1, 2017.

Rules 69-70. Reserved.

Rule 71. Violation of Rules

A judge who violates Rules 61 through 68 may be subject to discipline by the Illinois Courts Commission.

Effective March 15, 1970; amended effective October 1, 1971; amended June 24, 1976, effective July 15, 1976; amended December 2, 1986, effective January 1, 1987.

Rules 72-75. Reserved

Rule 76. Military Service of Judges

(a) Military Service During War. A judge or associate judge may serve for a period of no more than 12 months in the state militia or the armed forces of the United States when called into active military service during war between the United States and a foreign government. The judge or associate judge's military pay may be supplemented for the first 30 days with full pay and, thereafter, in an amount necessary to bring his or her total salary, inclusive of base military pay, to the level earned at the time he or she was called to service. After the 12-month period, a judge or associate judge who remains on active duty may request from the Supreme Court of Illinois an extension of the 12-month period.

(b) Reserve or Guard Training. A judge or associate judge who is a commissioned reserve officer or a reserve enlisted in the United States military or naval service or a member of the National Guard may serve on all days during which they are engaged in training ordered under the provisions of the United States military or naval training regulations for such personnel when assigned to active or inactive duty. Training shall be with full pay, not to exceed 30 days in each year.

(c) Benefits During Military Service. During periods of active military service, a judge or associate judge may be entitled to continued health insurance and other existing benefits, including retirement privileges. For purposes of computing whether a judge or associate judge may be entitled to retirement, a period of active military service shall be deemed continuous service in the office of said judge or associate judge.

(d) Resumption of Judicial Duties. A judge or associate judge terminating active military service shall immediately enter upon his or her judicial duties for the unexpired portion of the term for which he or she was elected or appointed.

(e) Term of Office. In the event that the term of office of a judge or associate judge shall expire during such period of active military service, the office shall be filled by election or appointment as may be required by law; provided, however, that a supreme, appellate or circuit judge in active military service shall have the right to file a declaration of candidacy and run for retention of his or her judicial seat, and an associate judge in active military service shall have the right to file a request for reappointment to his or her judicial seat.

(f) Definitions.

(1) The term "active military service" as used in this rule shall signify active duty in the Illinois defense force or federal service in training or on active duty with any branch of the Army of the United States, the United States Navy, the United States Air Force, the Marine Corps of the United States, the Coast Guard of the United States, and service of all officers of the United States Public Health Service detailed by proper authority for duty either with the army or the navy, and shall include the period during which a judge or associate judge in military service is absent from duty on account of sickness, wounds, leave, or other lawful causes.

(2) The term "period of active military service" as used in this rule shall begin with the date of entering upon active military service and shall terminate with death or the date immediately next succeeding the date of release or discharge from active military service or upon return from active military service, whichever shall occur first.

Effective July 1, 1971; amended May 28, 2003, effective immediately, amended June 6, 2003, effective immediately.

Committee Comments

(July 1,1971)

This rule was adopted pursuant to the authority granted in section 13(b) of article VI of the new Illinois Constitution to prescribe the periods of time that a judge or associate judge may serve in the State militia or armed forces of the United States without becoming disqualified from serving as a judge or associate judge.

Rules 77-85. Reserved

MANDATORY ARBITRATION

Introductory Comments

Objectives

The Committee, from its inception, was duly aware of the formidability of its undertaking in the light of the novelty to the Illinois bar of the concept as well as the procedure for the conduct of nonbinding court-annexed arbitration as a method for dispute resolution. It finds, even at this date, approximately one year after the effective date of the enabling legislation, after the publication of numerous articles, the consideration of proposed rules by three major bar associations and public hearings, that the vast majority of the Illinois bar is unaware of the existence of this act and the imminence of this procedure as an integral part of the State judicial system.

The clarity, the reasonableness and the fairness of the rules to be recommended were a foremost consideration by the Committee to address both the fact of the foregoing novelty as well as the apprehension usually attendant to the introduction of a new procedure to be learned and put into practice. Equally if not more so, was the Committee dedicated to achieving a product worthy of acceptance and promulgation by this court.

At the time of our appointment, there were in effect in approximately 16 jurisdictions rules for the conduct of mandatory arbitration programs, any set of which conceivably could have served as a viable model for adoption and use in Illinois. However, the focus of our effort in relation to a set of specific rules was to recommend that which would induce support from all affected sectors of the bar and the public, and which would manifest itself as a feasible vehicle for an early economical and fair resolution of monetary disputes.

Toward these ends, it was our intention in the conduct and course of deliberations to obtain a product refined from the use and experience of the full panoply of models in existence and that of Pennsylvania in particular.

Background and Sources

When the Committee began its deliberations, there were among its members four judges who had previously served on a Judicial Conference Study Committee, whose recommendations served as the basis for the present mandatory Arbitration Act. These four judges, as a result of the prior study had available to them for use in the work of this Committee a considerable bank of knowledge of existing arbitration systems. A national conference on mandatory arbitration sponsored by the National Institute for Dispute Resolution held in Washington, D.C., May 29-31, 1985, provided the chair of this Committee with a further opportunity to discuss the development of these programs with representatives of other jurisdictions.

To enable those members of this Committee who had not served on the Study Committee to become equally informed, a visit was arranged for them to attend and observe the operation of the mandatory arbitration program at Philadelphia, Pennsylvania, and to meet with judicial and administrative personnel so engaged. For two days--December 9 and 10, 1985--several members of the Committee, State Senator Arthur Berman and four members of the Chicago bar, knowledgeable in the field of voluntary arbitration, attended actual hearings being conducted at the Arbitration Center and meetings with supervisory judges and administrators. On December 10 a round-table discussion was arranged for our contingent with 14 practitioners of Philadelphia, representing plaintiff and defense bars, insurance carriers and the metropolitan transit system. Without exception those members of the Committee who had not previously been knowledgeable of this process, as well as the other attendees from Illinois, were imbued with enthusiasm for the prospect of a similar program available to Illinois and immensely impressed with the apparent effectiveness as well as the wide-scale acceptance of this procedure in Philadelphia.

In addition to the Philadelphia on-site study by members of this Committee, its chair and member Judge Harris Agnew, accompanied by staff attorney James Woodward, on a later occasion visited four other less populous counties of Pennsylvania to study the use and operation of their mandatory arbitration programs. These visits provided models of local rules and the opportunity to interview judges and practitioners involved as well as to learn their evaluations of the effectiveness of rules in place.

The Committee's chair met with the supervising judge, the administrator and attorney practitioners in the arbitration program at Passaic County, New Jersey, and then repeated this scenario at Pittsburgh. On a later occasion the chair visited with the administrator of the King County (Seattle), Washington, arbitration program and one of its leading practitioners to discuss the effectiveness of their local and statewide rules.

It was uniformly reported to this Committee, from those thoroughly experienced with this procedure, that a full hearing necessary to arrive at award could be achieved in less than three hours. Reports from several jurisdictions were that a full hearing usually required even less than two hours to completion. It was feasible to expect completion of a three-day, 12-person jury trial within that

time via the arbitration procedure under similar rules.

The fairness of the rules governing these hearings is evidenced by the high rate of acceptance by litigants, the steady increase in the number of jurisdictions initiating these programs, and their proliferation among judicial districts within a jurisdiction once it has been initiated. The reliability and durability of existing programs are further evidenced by the relatively few amendments to the rules that have been adopted since their inception. When there has been amendment, it usually consisted of an increase in the monetary limit for arbitrability, which in itself attests to the acknowledgment of the effectiveness of their rules and this mechanism for dispute resolution.

By late summer of 1986, the Committee had reached a consensus for proposed rules for consideration by the general bar and interested members of the private and public sectors. A draft of these proposed rules was widely distributed and responses invited. The Illinois State Bar Association, the Chicago Bar Association and the Chicago Council of Lawyers were specially requested to invite appropriate committees of those associations to consider these rules and formulate responses. The Committee arranged and conducted two hearings, one in Chicago and the other in Springfield. At those hearings, representatives of these bar groups, of the judiciary, and of major insurance carrier trade associations representing the membership of several hundred companies appeared to present their views relative to the draft.

Review of this draft by respected authorities among the judiciary in Philadelphia who served in supervisory positions relative to their arbitrary programs was supportive and complimentary.

Altogether, the review of the proposed draft and the responses received were highly supportive for its acceptance in that form. Nevertheless, the Committee saw fit to consider incorporating, in the rules, recommendations that appeared to have merit and to seek to clarify those provisions that seemed to elicit misunderstanding or confusion.

The last major inquiry by the Committee consisted of a meeting on December 12 sponsored by the National Institute for Dispute Resolution, with eight distinguished attorneys selected by the Committee, from out of State, and well informed in the conduct of mandatory arbitration proceedings in their jurisdictions. The inquiry at the meeting centered on the conduct of the hearing itself in an effort to refine the rules to the extent and in such form as would provide the broadest acceptance by all affected thereby.

Not the least of the Committee's efforts were the many meetings attended and the hundreds of hours of discussion and deliberation devoted to this undertaking.

As knowledgeable on this subject, if not more so, than any member of the Committee, Supreme Court Justice Howard C. Ryan, Liaison to the Committee, shared his knowledge and wisdom with us throughout the course of our deliberations. Constantly etched in our minds were his astute recommendations that we pay particular heed to the effectiveness of the Pennsylvania rules in the use of general guideline principles, leaving to the circuits the development of more detailed guidelines for local needs.

In aid of the objectives stated and from the foregoing sources, the following recommendations evolved.

Rule 86. Actions Subject to Mandatory Arbitration

(a) Applicability to Circuits. Mandatory arbitration proceedings shall be undertaken and conducted in those judicial circuits which, with the approval of the Supreme Court, elect to utilize this procedure and in such other circuits as may be directed by the Supreme Court.

(b) Eligible Actions. A civil action shall be subject to mandatory arbitration if each claim therein is exclusively for money in an amount or of a value not in excess of the monetary limit authorized by the Supreme Court for that circuit or county within that circuit, exclusive of interest and costs.

(c) Local Rules. Each judicial circuit court may adopt rules for the conduct of arbitration proceedings which are consistent with these rules and may determine which matters within the general classification of eligible actions shall be heard in arbitration.

(d) Assignment from Pretrials. Cases not assigned to an arbitration calendar may be ordered to arbitration 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 the monetary limit authorized by the Supreme Court for that circuit or county within that circuit, irrespective of defenses.

(e) Applicability of Code of Civil Procedure and Rules of the Supreme Court. Notwithstanding that any action, upon filing, is initially placed in an arbitration track or is thereafter so designated for hearing, the provisions of the Code of Civil Procedure and the rules of the Supreme Court shall be applicable to its proceedings except insofar as these rules otherwise provide.

Adopted May 20, 1987, effective June 1, 1987; amended December 30, 1993, effective January 1, 1994.

Committee Comments

Paragraph (a)

It is implicit from the authority granted to it by the enabling legislation and appropriate to its responsibility for the effective operation of the courts that the Supreme Court shall decide which, if any, circuit should undertake a mandatory arbitration program. Where available resources permit, and the benefits anticipated are determined, any other circuit, with the approval of the Supreme Court and by virtue of the authority of this rule, can elect to institute such program.

Paragraphs (b) and (c)

Examination of existing statutes and rules in jurisdictions with mandatory arbitration reveals that claims for a specific sum of money or money damages are the cornerstone for this form of disposition. Pennsylvania, by statute, limits this remedy to such civil matters or issues where the amount in controversy, exclusive of interest and costs, does not exceed a certain value and which do not involve title to real property. Within that broad spectrum, further limitation is authorized by rule of court. Most jurisdictions expressly exclude actions involving title to real property or equitable issues.

It was the consensus of the Committee that arbitrable actions should be limited by rule only to those matters involving a claim exclusively for money. Eligibility for arbitration, by the terms of the Act, could be more broadly interpreted. The less complex the issues, the less concern there need be for the level of experience or specialized practice of the arbitrators.

The present volume of cases in litigation potentially arbitrable under this rule, in many of the circuits, could quickly exhaust the resources that would be available to administer the program for all. For this reason, each circuit should be authorized, as is herein permitted, to further limit and define that class of cases, within the general class of arbitrability, that it may wish to submit to this program.

It could prove to be appropriate, in some circuits, until its requirements and resources dictate otherwise, to limit its program solely to actions within the monetary limit, in which jury demands have been filed. Obviously, considerable cost savings could be achieved if such matters could be resolved at a two or three hour hearing as compared to a two- or three-day trial to a jury.

The initial draft of the Committee excluded from eligible actions small claims as defined by Rule 281. The exclusion of such actions of insubstantial amounts is not unusual in arbitration jurisdictions. Although their inclusion in the conduct of hearings would appear to be an indiscriminate use of manpower and funding resources, the Committee considers that such discretion best be left to the circuit. That court may determine that those small claims cases with jury demands should be arbitrable and thus susceptible to quick and early resolution.

If the amount of claimed interest and costs is determinable by the time of filing and constitutes an integral part of the claim, the amount of the demand, including such items, would determine eligibility for arbitration. If, however, interest and costs are determined by the arbitrators to be includable, and due and owing as of the date of the award, then the amount thereof may be added to the award even though by such addition the arbitrable limit is exceeded.

Paragraph (d)

This paragraph of the rule enables the court to order the matter to hearing in arbitration when it reasonably appears to the court that the claim has a value not in excess of the arbitrable limit although the prayer is for an amount or of a claimed value in excess thereof. Early skepticism on the part of the bar relative to the merits of this form of dispute resolution could serve to cause demands in an amount that would avoid assignment of the claim to an arbitration hearing. Some jurisdictions provide for an early conference call on all civil matters at which time arbitrability would be determined.

Philadelphia County enables the claim to be placed in the arbitration track at time of filing, at which time the date and time of hearing is assigned. The hearing date given is eight months from date of filing. Although the court in Philadelphia County may divert a case from the major case trial track to arbitration, that event is altogether infrequent. The Philadelphia bar has long recognized the benefits and advantages available in its arbitration program and do not see fit to avoid its process.

An undervaluation of the claim at the time of filing or by the court in diverting the claim to arbitration as a result of its undervaluation does not preclude the claimant from the opportunity to eventually realize its potential value. No party need accept as final the award of the arbitrators and any may reject the award and proceed on to trial in which no monetary limit would apply.

A claimant who believes he has a reasonable basis for having the matter removed from an arbitration track may move the court for such relief prior to hearing. Where there are multiple claims in the action, the court may exercise its discretion to determine whether all meet the requirements of eligibility for arbitration and if not whether a severance could be made of any or several without prejudice to the parties.

Paragraph (e)

The concern expressed by some reviewers in response to the initial draft as to whether or not the Code of Civil Procedure and the rules of the Supreme Court would apply to matters that are to be arbitrated caused the Committee to realize that some perceived this procedure as essentially *sui generis*. What we thought apparently went without saying, did not. To avoid any misconception in that regard, the Committee has adopted this part to the rule.

Rule 87. Appointment, Qualification and Compensation of Arbitrators

(a) List of Arbitrators. A list of arbitrators shall be prepared in the manner prescribed by a circuit rule. The list shall consist of a sufficient number of members of the bar engaged in the practice of law and retired judges within the circuit in which the court is situated.

(b) Panel. The panel of arbitrators shall consist of three members of the bar, or such lesser number as may be agreed upon by the parties, appointed from the list of available arbitrators, as prescribed by circuit rule, and shall be chaired by a member of the bar who has engaged in trial practice for at least three years or by a retired judge. Not more than one member or associate of a firm or office association of attorneys shall be appointed to the same panel.

(c) Disqualification. Upon appointment to a case, an arbitrator shall notify the court and withdraw from the case if any grounds appear to exist for disqualification pursuant to the Code of Judicial Conduct.

(d) Oath of Office**.** Each arbitrator shall take an oath of office in each county or circuit in which the arbitrator intends to serve on an arbitration panel. The oath shall be in conformity with the form provided in Rule 94 herein and shall be executed by the arbitrator when such arbitrator's name is placed on the list of arbitrators. Arbitrators previously listed as arbitrators shall be relisted on taking the oath provided in Rule 94.

(e) Compensation. Each arbitrator shall be compensated in the amount of ~~$75~~ $100 per hearing.

Adopted May 20, 1987, effective June 1, 1987; amended December 3, 1997, effective January 1, 1998; amended March 1, 2001, effective immediately; amended January 25, 2007, corrected January 26, 2007, effective ~~immediately~~ February 1, 2007.

Committee Comments

Paragraph (a)

Paragraph (a) is substantially modeled after Pennsylvania Rule 1302. The Committee, in its investigation of several programs in that jurisdiction, found that there were some, particularly at Pittsburgh and Philadelphia, where the arbitration lists were adequately filled by volunteers. In other counties, either by reason of the lack of enough volunteers or the view that this was an essential public service, all members of the bar were listed for such service. It is the Committee's recommendation that each circuit engaged in an arbitration program can best determine its method of utilizing its attorney resources. Retired judges are often interested and available for such service and should be considered eligible even though not then engaged in the practice of law.

Paragraph (b)

The Committee has learned of several methods extant for the appointment of arbitrators to hearing panels. Most frequently recommended is the method of random selection. Other methods include: appointment from the list in alphabetical order or in the order of arrival on signing-in on the hearing date. One jurisdiction selects three members with a combined experience of 10 years. The Committee believes that each circuit should determine its own method of appointment.

There also exist variations for the appointment of chairpersons for each panel. In some jurisdictions and districts, the member with the longest number of years in practice becomes the chairperson. In Allegheny County (Pittsburgh) a special list is maintained as the roster for appointment of the chairperson of the panel. This list consists of those who are determined by the arbitration administrator to have the longest and most pertinent experience in the practice. Here again, rather than by specific rule, the Committee recommends that this subject be determined by the circuit.

The qualification for members of the panel other than the chairperson consists of their then being engaged in the practice of law or if the retired judge does not see fit to act as chairperson, he is otherwise eligible to serve as another member of the panel.

In our initial draft of proposed rules, we adopted the phrase "actively engaged in the practice of law." At the hearings held by the Committee, representatives of the Illinois bar raised questions as to the intended meaning of the words "actively engaged." Although Pennsylvania uses those terms as a condition of eligibility and for service, its rules and reports offer no interpretation of what would constitute active engagement in the practice and leaves the interpretation to each judicial district.

The meetings held with out-of-State attorney practitioners has produced the universal recommendation from them that we avoid wherever possible imprecise terms. They called to our attention that there will always be members of the bar whom they refer to as "technocrats," inclined to demand a precise as opposed to a reasonable interpretation. Accordingly and to avoid difficulty in the interpretation of what constitutes "actively engaged" we have omitted the word "actively" in the firm belief it adds nothing substantive to the purpose intended. Leading members of the Philadelphia and Pittsburgh bars fully endorse minimal requirements for qualification to serve on the panel other than that for the chairperson.

The Pennsylvania statewide rule requires that the chairperson be admitted to practice for a minimum of three years. We have determined to add the additional requirement of trial experience. Trial experience brings with it an understanding of the role of the arbiter in a trial setting as well as knowledge of the rules of evidence. Interviews conducted, and hearings held, disclose a prevalent and seemingly valid concern on the part of the practicing bar that arbitrators, particularly the chairperson, be fully conversant with established rules of evidence. This knowledge is more likely to facilitate an expedited hearing and acceptable results. By reason of their experience in this regard, retired judges would seemingly fit this requirement.

Presiding Judge Michael J. O'Malley, at Pittsburgh responding to an inquiry, expressed the following view.

"Experienced trial attorneys serving as arbitrators are extremely valuable. Indeed, we attempt in Pittsburgh to have the chair of each three-member panel be an experienced lawyer. It would be even better if all three had extensive trial experience but it is not an absolute necessity." Letter to Judge Lerner dated April 22, 1986.

The majority of jurisdictions utilizing a single arbitrator require, as a minimum, five years' admission to the bar.

The following minimal qualifications for years of admission to practice for chairpersons were adopted in the counties, other than Philadelphia, visited by the Committee: Allegheny 5, Bucks 4, Northampton 5, Lancaster 5 and Chester 10.

Although there were members of the Committee who preferred a five-year trial experience qualification for the chairperson, the concern expressed by some that certain circuits might be hard pressed to obtain sufficient volunteers brought about the three-year minimum stated in the rule.

The qualifications stated in this rule are intended to be minimal. Each circuit may opt to enlarge upon those stated herein both as to chairpersons and other members of the panel.

Paragraph (c)

No provision is made in these rules for a substitution of arbitrators or change of venue from the panel or any of its members. The remedy of rejection of an award and the right to proceed to trial is determined to be the appropriate response to perceived bias or prejudice on the part of any member of the panel or error by the panel in the determination of its award. Subdivision (c) requires an attorney who has been appointed to serve as arbitrator to disqualify himself or herself on a particular case if circumstances relating to the parties, their counsel, or the matter in controversy would appear to be grounds for such recusal under the Code of Judicial Conduct. A motion on that basis could be presented to the court to determine the existence of any basis for disqualification and for reassignment to another panel or the substitution of another panelist. Where one of the counsel has raised the question of bias or prejudice of a member of the panel, if that panelist is not replaced or a new panel made available, an award adverse to that counsel will likely be rejected.

Paragraph (d)

As is the case with Pennsylvania, we recommend an official form for this purpose, similar to that of the Pennsylvania rules.

Paragraph (e)

The fee recommended in this rule to be paid to arbitrators is consistent with the amounts now being paid as arbitrators' fees in other jurisdictions. It was the view of the Committee that the fee be standard throughout the circuits utilizing these services; the same level of competency and performance should be expected.

Rule 88. Scheduling of Hearings

The procedure for fixing the date, time and place of a hearing before a panel of arbitrators shall be prescribed by circuit rule provided that not less than 60 days' notice in writing shall be given to the parties or their attorneys of record. The hearing shall be held on the scheduled date and within one year of the date of filing of the action, unless continued by the court upon good cause shown. The hearing shall be held at a location provided or authorized by the court.

Adopted May 20, 1987, effective June 1, 1987.

Committee Comments

Each circuit engaged in a mandatory arbitration program is best suited to determine the scheduling of hearings to accommodate its case-flow needs and the availability of arbitrator personnel.

The Philadelphia program is eminently successful in achieving an efficient program--at the time it is filed, a case in the arbitration track is assigned a hearing date eight months from the date of filing. Philadelphia has a central facility styled "Arbitration Center," in an office building in the city center, a short distance from most other court facilities. The eight-month period has proved to be sufficient to enable the parties to complete their discovery and preparation for hearing. Most matters scheduled for arbitration are settled prior to hearing.

The time within which matters in arbitration should be heard is not intended to be a period of limitations but rather a reasonable expectation. Every jurisdiction studied, many with higher monetary limits for arbitrability, have reported that these cases can be heard within the period of one year without prejudice to the parties.

Experience dictates that the use of courthouse facilities provides a desirable quasi-judicial atmosphere and a ready access to the court for timely rulings. A centralized operation of the program provides greater efficiency in the use of arbitrator's and attorney's time. A central facility also results in better monitoring of the progress of a case diverted to arbitration.

Rule 89. Discovery

Discovery may be conducted in accordance with established rules and shall be completed prior to the hearing in arbitration. However, such discovery shall be conducted in accordance with Rule 222, except that the timelines may be shortened by local rule. No discovery shall be permitted after the hearing, except upon leave of court and good cause shown.

Adopted May 20, 1987, effective June 1, 1987; amended March 26, 1996, effective immediately.

Committee Comments

The rules for discovery are intended to provide the means to obtain fair and full disclosure of the facts; they are not intended to provide a weapon for abusive tactics. The Committee anticipates a good faith effort on the part of the bar to utilize discovery to an extent and in a manner consistent with the value and complexity of arbitrable claims.

If the amount of the claim is stated to have a value not in excess of $50,000, Supreme Court Rule 222 would apply. Note that the timelines provided in Supreme Court Rule 222(c) for full compliance may be amended by a local arbitration rule. Relief from any undue restrictions under the rule should readily be forthcoming from the court; preferably counsel will cooperate to meet their recognized requirements in that regard.

Our study has disclosed relatively little use of depositions for discovery and preparation for the mandatory arbitration hearing. Rather, there has been a more extensive use of interrogatories. We are not aware of the requirement of disclosure statements in the other jurisdictions as are required under our Rule 222. It may be that the content of the disclosure statements, if fully and fairly revealed, may make sufficient the limited number of interrogatories permitted. If the allowance of more interrogatories would obviate the need for taking one or more depositions, the cost savings alone would justify such alternative.

An early and timely disposition of arbitrable matters must be doomed by courts that are tolerant of late attention to discovery. Firmness of the courts in the implementation of this rule will help to insure the successful results that are available from this procedure.

Prohibiting discovery after award places a premium on as early, and as thorough, a degree of preparation as is necessary to achieve a full hearing on the merits of the controversy. Neither side should be encouraged to use this proceeding, *i.e.*, the hearing itself, merely as an opportunity to discover the adversary's case en route to an eventual trial.

If the lapse of time between an award and a requested trial is substantial or if in that period there has been a change in the circumstances at issue, additional discovery would appear to be appropriate and should be granted.

Rule 90. Conduct of the Hearings

(a) Powers of Arbitrators. The arbitrators shall have the power to administer oaths and affirmations to witnesses, to determine the admissibility of evidence and to decide the law and the facts of the case. Rulings on objections to evidence or on other issues which arise during the hearing shall be made by the chairperson of the panel.

(b) Established Rules of Evidence Apply. Except as prescribed by this rule, the established rules of evidence shall be followed in all hearings before arbitrators.

(c) Documents Presumptively Admissible. All documents referred to under this provision shall be accompanied by a summary cover sheet listing each item that is included detailing the money damages incurred by the categories as set forth in this rule and specifying whether each bill is paid or unpaid. If at least 30 days' written notice of the intention to offer the following documents in evidence is given to every other party, accompanied by a copy of the document, a party may offer in evidence, without foundation or other proof:

(1) bills (specified as paid or unpaid), records and reports of hospitals, doctors, dentists, registered nurses, licensed practical nurses and physical therapists, or other health-care providers;

(2) bills for drugs, medical appliances and prostheses (specified as paid or unpaid);

(3) property repair bills or estimates, when identified and itemized setting forth the charges for labor and material used or proposed for use in the repair of the property;

(4) a report of the rate of earnings and time lost from work or lost compensation prepared by an employer;

(5) the written statement of any expert witness, the deposition of a witness, the statement of a witness which the witness would be allowed to express if testifying in person, if the statement is made by affidavit or by certification as provided in section 1-109 of the Code of Civil Procedure;

(6) any other document not specifically covered by any of the foregoing provisions, and which is otherwise admissible under the rules of evidence.

The pages of any Rule 90(c) package submitted to the arbitrators should be numbered consecutively from the first page to the last page of the package in addition to any separate numbering of the pages of individual documents comprising such package. A template Notice of Intent Pursuant to Supreme Court Rule 90(c) is provided in the Article I Forms Appendix.

(d) Opinions of Expert Witnesses. A party who proposes to use a written opinion of any expert witness or the testimony of any expert witness at the hearing may do so provided a written notice of such intention is given to every other party not less than 30 days prior to the date of hearing, accompanied by a statement containing the identity of the expert witness, the expert's qualifications, the subject matter, the basis of the expert's conclusions, and the expert's opinion as well as any other information required by Rule 222(d)(6).

(e) Right to Subpoena Maker of the Document. Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross-examination. The provisions of the Code of Civil Procedure relative to subpoenas, section 2-1101, shall be applicable to arbitration hearings and it shall be the duty of a party requesting the subpoena to modify the form to show that the appearance is set before an arbitration panel and to give the time and place set for the hearing.

(f) Adverse Examination of Parties or Agents. The provisions of the Code of Civil Procedure relative to the adverse examination of parties or agents, section 2-1102, shall be applicable to arbitration hearings as upon the trial of a case.

(g) Compelling Appearance of Witness at Hearing. The provisions of Rule 237, herein, shall be equally applicable to arbitration hearings as they are to trials. The presence of a party may be waived by stipulation or excused by court order for good cause shown not less than seven days prior to the hearing. Remedies upon a party's failure to comply with notice pursuant to Rule 237(b) may include an order debarring that party from rejecting the award.

(h) Prohibited Communication. Until the arbitration award is issued and has become final by either acceptance or rejection, an arbitrator may not be contacted ex parte, nor may an arbitrator publicly comment or respond to questions regarding a particular arbitration case heard by that arbitrator. Discussions between an arbitrator and judge regarding an infraction or impropriety during the arbitration process are not prohibited by this rule. Nothing in this rule shall be construed to limit or expand judicial review of an arbitration award or limit or expand the testimony of an arbitrator at judicial hearing to clarify a mistake or error appearing on the face of an award.

~~[Rule 90(c) Cover Sheet]~~

~~**IN THE CIRCUIT COURT OF _____ COUNTY, ILLINOIS**~~

Plaintiff	)	
	)	
v.	)	No._____
Defendant	)	
	)	
	)	
	)	

NOTICE OF INTENT
PURSUANT TO SUPREME COURT RULE 90(C)

Pursuant to Supreme Court Rule 90(c), the plaintiff(s) intend(s) to offer the following documents that are attached into evidence at the arbitration proceeding:

I.	Healthcare Provider Bills	Amount Paid	Amount Unpaid
	1.		
	2.		
	3.		
	4.		
	5.		
	6.		
	7.		
	8.		
	9.		
	10.		
II.	Other Items of Compensable Damages		
	1.		
	2.		
	3.		
	4.		
	5.		

_____
Attorney for Plaintiff

Adopted May 20, 1987, effective June 1, 1987; amended April 7, 1993, effective June 1, 1993; amended March 26, 1996, effective immediately; amended March 28, 2002, effective July 1, 2002; amended December 5, 2003, effective January 1, 2004; amended October 14, 2005, effective January 1, 2006; amended June 4, 2008, effective July 1, 2008; amended June 22, 2017, eff. July 1, 2017.

Committee Comments
(January 1, 2006)

Paragraph (h) is directed toward eliminating the problem of party or attorney use of information/feedback obtained during posthearing *ex parte* communication. Such communication could hinder the program goal of parties participating in good faith and could possibly influence the decision of the parties to accept or reject an award. This rule is not intended to restrict the ability of a party to communicate *ex parte* with a nonneutral party-arbitrator when used outside of court-annexed mandatory arbitration.

Administrative Order

In re Discovery Rules

The order entered March 28, 2002, amending various rules and effective July 1, 2002, shall apply to all cases filed after such effective date as well as all cases pending on such effective date, provided that any discovery order entered in any such case prior to July 1, 2002, shall remain in effect unless and until amended by the trial court.

Order entered November 27, 2002, effective immediately.

Committee Comment
(March 28, 2002)

This rule is amended to conform to the changes in terminology made in Supreme Court Rule 213.

Committee Comments

The conduct of the hearings, the outcome included, will substantially determine the regard and acceptance to be held by the legal community for this procedure as an effective method of dispute resolution for achieving a fair, early, economical and final result. For this reason, more perhaps than for any other of these rules, has the Committee devoted its attention to this rule. Meetings and interviews with out-of-State practitioners, judges and administrators were conducted with the greatest emphasis on the evidentiary aspect of the hearings.

Paragraph (a)

The authority and power of the arbitrators exist only in relation to the conduct of the hearing at the time it is held. Issues that may arise in the proceedings of the case prior, ancillary or subsequent to the hearing must be resolved by the court.

In some jurisdictions, including Pennsylvania, rulings on the evidence are to be made by a majority of the panel. Ohio has recently amended its rule to permit the chairperson to make such rulings. Practitioners, familiar with the practice in multiple-person panels, recommend that the ultimate authority reside with the chairperson. In practice one could reasonably expect the chairperson to consult with other members of the panel on difficult questions of admissibility.

Paragraph (b)

Several jurisdictions do not require hearings to be conducted according to the established rules of evidence.

New Jersey provides: "The arbitrator shall admit all relevant evidence and shall not be bound by the rules of evidence."

Ohio's statewide rules make no reference to the nature of the evidence admissible in mandatory arbitration hearings. Cuyahoga County (Cleveland), Hamilton County (Cincinnati) and Stark County (Canton) by local rules provide that the arbitrators shall be the judges of the relevancy and materiality of the evidence and "conformity to legal rules of evidence shall not be necessary."

The State of Washington rules leave to the discretion of the arbitrator the extent to which the rules of evidence will apply.

The States of Arizona, California, Minnesota, New York and Pennsylvania provide, as does this rule, for the application of the established rules of evidence with exceptions similar to those stated under paragraph (c).

It is the view of the Committee that the Illinois practitioner will enjoy a sense of security in that the established rules of evidence will apply to these hearings.

Paragraph (c)

All jurisdictions utilizing court-annexed arbitration have adopted rules substantially and conceptually similar to the provisions at paragraph (c) of this rule. The purpose for allowing presumptive admissibility of documents is to enable the parties to achieve the economy of time and expense available for the conduct of the hearing. The emphasis should be placed on substance and not form; the integrity of the evidence should be more meaningful than its formal method of introduction. The documents described in (c) are generally considered reliable and trustworthy for the purpose of admission. The documents that could be admitted under the general classification in (c)(6) could be photos, maps, drawings and blueprints, weather reports, business records and communications, and the like, so as to relieve the requirements of a foundational predicate for their admission.

The practice of the presumptive admission of documents of the type and nature described in the rule has stood the test of time and of experience in many thousands of hearings; one encounters no reported criticism or suggestion for change.

Regardless of the presumptive admissibility of the documents, the arbitrators will be required to apply the tests under established rules of evidence otherwise relating to admissibility and credibility and to determine, fairly, the weight to be given such evidence. Otherwise, the purpose of this procedure to achieve a fair, economical and early disposition of the controversy must ultimately fail by virtue of the lack of an essential integrity to the hearing itself.

Practitioners may not assume that practice will tolerate the blanket submission of voluminous records, charts or entire depositions with the expectation that the panel must pore over these documents and attempt to sort out that part which may be

relevant or material to the issues at hand. Nor should such burden be placed on opposing counsel when such documents have been provided by notice. It would not be inappropriate or unreasonable, on the part of the panel, if it were to reject such blanket submissions unless proffering counsel specifies the entries or statements therein having relevancy and materiality.

None of the documents eligible for admission without foundation may be so offered unless the intention to do so, and a copy thereof, has been provided to opposing counsel not less than 30 days prior to the hearing. That length of time should be sufficient to enable counsel to verify the authenticity of the document, if prior discovery has not already accomplished that purpose. The Committee is recommending a period of notice longer than any of the arbitration jurisdictions; many provide a 20-day notice and some as few as seven days. We recommend the longer period so that there is less reason for the parties to request a continuance.

If the period of notice given for the submission of documents for presumptive admission is the minimum provided by this rule, and opposing counsel, in the exercise of prudent practice finds need to submit a document in rebuttal, he should apply to the court for leave to do so, unless his adversary will stipulate to a submission in less time than is required by this rule. Under such circumstances the court, in its ruling, should be guided by the degree of diligence and preparation previously undertaken by both counsel.

Whenever possible, counsel should endeavor to avoid delay and needless expense by stipulating to the admission of documents where there is no reasonable basis for believing they will not and should not be admitted.

Paragraph (d)

It is intended under this paragraph to require disclosure of the identity of an opinion witness whose written opinion will be offered under the provisions of paragraph (c)(5) herein, or who will testify at the hearings; and to the extent required under Rule 222, his qualifications, the subject matter of his testimony, and the basis of conclusions and opinions as well as any other information required by Rule 222(d)(6). This information must be provided not less than 30 days prior to the scheduled date of hearing. The longer the period of notice provided to one's adversary, the less justification there would be to delay the hearing by reason of a late and unexpected disclosure.

Paragraph (e)

Although existing practice in other jurisdictions indicates that the option provided under (e) is rarely exercised, opposing counsel is given the right to subpoena the maker of the document as an adverse witness, and examine that witness as if under cross-examination. This provision is not intended to act as a substitute for the right, under Rule 237, to require the production of a party at the hearing. In the event the maker sought to be served is not amenable to service of a subpoena, and provided further that counsel has been diligent in attempting to obtain such service, it would be incumbent on counsel to seek to bar its admissibility. Such motion should be made well in advance of the hearing date.

The Explanatory Note to Pennsylvania Rule 1305 states that if a member or author of the document is not subject to the jurisdiction of the court and cannot be subpoenaed, that document would not be presumptively admissible. The use of subpoena under this provision of the rule is rare and this problem does not appear to be one that has been bothersome to the practitioners. The Committee does not believe that there should be a hard and fast rule if such issue should arise but rather that it be decided on a case-by-case basis. This seems to be the prevalent view among practitioners of other jurisdictions. The materiality of the document to the issues should be a significant matter. The courts should also be alert to prevent the attempted use of this process by opposing counsel as an abusive tactic for delay and harassment.

Paragraphs (f) and (g)

Although these provisions of the Code of Civil Procedure and Supreme Court Rule 237 apply to trials, they should be equally applicable to hearings in arbitration. The Committee is advised that in actual practice it has been customary for counsel to arrange for the appearance of such witnesses by agreement.

A party who fails to comply with a Rule 237(b) notice to appear at a trial is subject to sanctions pursuant to Rule 219(c). Those sanctions may include an order debarring that party from maintaining a claim, counterclaim, etc. The 1993 amendment to Rule 90(g) is to make clear that a Rule 237(b) notice to appear at an arbitration hearing carries equivalent importance, such that a court may, in an appropriate case, debar a party who fails to comply from rejecting the award. The amendments also allow a party who received a notice to appear an opportunity to be excused in advance from appearing for good cause or by stipulation. For example, in a case where the party is willing to stipulate to the issue of liability and the only question which remains is damages, the party served with a Rule 237 notice may be excused by stipulation of the parties.

Rule 91. Absence of Party at Hearing

(a) Failure to be Present at Hearing. The arbitration hearing shall proceed in the absence of any party who, after due notice, fails to be present. The panel shall require the other party or parties to submit such evidence as the panel may require for the making of an award. The failure of a party to be present, either in person or by counsel, at an arbitration hearing shall constitute a waiver of the right to reject the award and a consent to the entry by the court of a judgment on the award. In the event the party who fails to be present thereafter moves, or files a petition to the court, to vacate the judgment as provided therefor under the provisions of the Code of Civil Procedure for the vacation of judgments by default, sections 2--1301 and 2--1401, the court, in its discretion, in addition to vacating the judgment, may order the matter for rehearing in arbitration, and may also impose the sanction of costs and fees as a condition for granting such relief.

(b) Good-Faith Participation. All parties to the arbitration hearing must participate in the hearing in good faith and in a meaningful manner. If a panel of arbitrators unanimously finds that a party has failed to participate in the hearing in good faith and in a meaningful manner, the panel's finding and factual basis therefor shall be stated on the award. Such award shall be *prima facie* evidence that the party failed to participate in the arbitration hearing in good faith and in a meaningful manner and a court, when presented with a petition for sanctions or remedy therefor, may order sanctions as provided in Rule 219(c), including, but not limited to, an order debarring that party from rejecting the award, and costs and attorney fees incurred for the arbitration hearing and in the prosecution of the petition for sanctions, against that party.

Adopted May 20, 1987, effective June 1, 1987; amended April 7, 1993, effective June 1, 1993.

Committee Comments

Paragraph (a)

There is precedent for such a rule and its consequence in the rules of other jurisdictions. Cuyahoga County (Cleveland), Ohio, has long had a rule which provides that the failure of a party to appear at the hearing either in person or by counsel constitutes a waiver of his right to reject the award and demand trial and further operates as a consent to the entry of judgment on the award.

The Washington rules provide that a party who fails to participate at the hearing without good cause waives the right to a trial.

The court administrator of the Philadelphia Court of Common Pleas, Judge Harry A. Takiff, upon reviewing our initial draft, applauded the inclusion of this rule. Judge Takiff proposed to recommend the adoption of a like rule for the Pennsylvania arbitration programs.

The enactment, by the legislature, establishing the procedure of mandatory court-annexed arbitration as an integral part of the juridical process of dispute resolution and the promulgation of these rules to implement such legislation compels the conclusion that its process must be utilized in arbitrable matters either to finally resolve the dispute or as the obligatory step prior to resolution by trial. To permit any party or counsel to ignore the arbitration hearing or to exhibit an indifference to its conduct would permit a mockery of this deliberate effort on behalf of the public, the bar and judiciary to attempt to achieve an expeditious and less costly resolution of private controversies.

A party who knowingly fails to attend the scheduled hearing, either in person or by counsel, must be deemed to have done so with full knowledge of the consequences that inhere with this rule. Where the failure to attend was inadvertent, relief may be available to the party under the provisions of the Code of Civil Procedure, sections 2--1301 or 2--1401, upon such terms and conditions as shall be reasonable. See Ill. Ann. Stat., ch. 110, pars. 2--1301, 2--1401, Historical & Practice Notes (Smith-Hurd 1983); also *Braglia v. Cephus* (1986), 146 Ill. App. 3d 241, 496 N.E.2d 1171.

Paragraph (b)

Prior to the adoption of these sanctions, there were complaints by arbitrators that some parties and lawyers would merely attend but refuse to participate in arbitration. This paragraph was adopted to discourage such misconduct.

The arbitration process, and this rule in particular, was not intended to force parties to settle cases. Settlement, by definition, must be voluntary and not compelled. However, mandatory arbitration is a dispute resolution process under the auspices of the court. Parties and lawyers must not be allowed to abuse the arbitration process so as to make it meaningless.

Arbitration must not be perceived as just another hurdle to be crossed in getting the case to trial. Good-faith participation, as required by this rule, was therefore intended to assure the integrity of the arbitration process.

In drafting Rule 91(b), the committee surveyed the experience of other States, drawing particularly on similar requirements for good-faith participation in the mandatory arbitration rules of Arizona, California and South Carolina.

Rule 92. Award and Judgment on Award

(a) Definition of Award. An award is a determination in favor of a plaintiff or defendant.

(b) Determining an Award. The panel shall make an award promptly upon termination of the hearing. The award shall dispose of all claims for relief. The award may not exceed the monetary limit authorized by the Supreme Court for that circuit or county within that circuit, exclusive of interest and costs. The award shall be signed by the arbitrators or the majority of them. A dissenting vote without further comment may be noted. Thereafter, the award shall be filed immediately with the clerk of the court, who shall

serve notice of the award, and the entry of the same on the record, to other parties, including any in default.

(c) Judgment on the Award. In the event none of the parties files a notice of rejection of the award and requests to proceed to trial within the time required herein, any party thereafter may move the court to enter judgment on the award.

(d) Correction of Award. Where the record and the award disclose an obvious and unambiguous error in mathematics or language, the court, on application of a party within the 30-day period allowed for rejection of an award, may correct the same. The filing of such an application shall stay all proceedings, including the running of the 30-day period for rejection of the award, until disposition of the application by the court.

(e) Costs. Costs shall be determined by the arbitration panel pursuant to law. The failure of the arbitration panel to address costs shall not constitute a waiver of a party's right to recover costs upon entry of judgment.

Adopted May 20, 1987, effective June 1, 1987; amended December 30, 1993, effective January 1, 1994; amended Dec. 5, 2016, eff. Jan. 1, 2017.

Committee Comments

Paragraph (b)

The most efficient use of panels would require that a sufficient number of matters for hearing be assigned to them for the date of service. It has been the experience at Philadelphia, and other counties of Pennsylvania, that their panels will conduct two or more full hearings on the assigned date of service. The form of the award proposed in Rule 94 is modeled after the official form of Pennsylvania, in its Rule 1312. The Committee recommends that no findings of fact or conclusions of law be required of the panel to be stated in its award. This is the accepted practice in Pennsylvania.

Paragraph (c)

Only the court may enter the judgment in a pending action. Unless the parties stipulate to dismiss the cause after the hearing and award, it is incumbent on a party to move the court to enter judgment after the 30-day period allowed for rejection at Rule 93 herein.

Rule 93. Rejection of Award

(a) Rejection of Award and Request for Trial. Within 30 days after the filing of an award with the clerk of the court, and upon payment to the clerk of the court of the sum of $200 for awards of $30,000 or less or $500 for awards greater than $30,000, any party who was present at the arbitration hearing, either in person or by counsel, may file with the clerk a written notice of rejection of the award and request to proceed to trial, together with a certificate of service of such notice on all other parties. The filing of a single rejection shall be sufficient to enable all parties except a party who has been debarred from rejecting the award to proceed to trial on all issues of the case without the necessity of each party filing a separate rejection. The filing of a notice of rejection shall not be effective as to any party who is debarred from rejecting an award.

(b) Arbitrator May Not Testify. An arbitrator may not be called to testify as to what transpired before the arbitrators and no reference to the fact of the conduct of the arbitration hearing may be made at trial.

(c) Waiver of Costs. Upon application of a poor person, pursuant to Rule 298, herein, the sum required to be paid as costs upon rejection of the award may be waived by the court.

Adopted May 20, 1987, effective June 1, 1987; amended April 7, 1993, effective June 1, 1993; amended December 3, 1996, effective January 1, 1997.

Committee Comments

Paragraph (a)

Delaware and New Jersey rules relative to arbitration programs expressly provide that the sole remedy of a party unwilling to accept the arbitration award is to file a rejection and to proceed on to trial. It is the Committee's view that this should be the interpretation applied by the courts with regard to proceedings after award.

Even under the Illinois Uniform Arbitration Act, section 112, it has been interpreted by the Illinois Supreme Court that an

arbitration award may not be set aside, upon application to a court, for the arbitrator's errors in judgment or mistakes of law or fact. (*Garner v. Ferguson* (1979), 76 Ill. 2d 1, 389 N.E.2d 1181.) Under this section of the U.A.A., a party may apply to the court to vacate the award where the award was procured by corruption, fraud or other undue means; or that an arbitrator was guilty of misconduct prejudicing the rights of any party; or the arbitrators exceeded their powers. The Committee urges the interpretation that such alleged conduct should be addressed to the court for redress in a petition independent of the course of the proceedings in the action subsequent to the award; that the sole remedy in relation to the award, as an intermediate mechanism to resolve the dispute, should be to avail oneself of the right to a trial. The enabling act of Illinois expressly provides that the Illinois Uniform Arbitration Act shall not apply to these mandatory arbitration proceedings.

The 1981 official Explanatory Note to Pennsylvania Rule 1308 states:

"The Rules do not continue the practice of petitioning to set aside an award for corruption or misbehavior. Hearings or depositions on the petition proceedings could delay the proceedings. Rule 1311(b) creates quasi-judicial immunity for the arbitrators with respect to their official actions and they cannot be called to testify. As a practical matter, if the fraud or corruption were proved, remand and the appointment of a new panel could be the only relief. *Trial de novo is preferable since it expedites the proceedings. The court would of course have the power to punish the attorney-arbitrators involved for any professional misconduct that could be proved*." (Emphasis added.) (Our recommended Rule 93(b) incorporates the exact language of Pennsylvania Rule 1311(b).)

Only a party who has attended the hearing in person or by counsel shall have the right to reject the award without regard to the basis for such rejection. The filing of a rejection and request for trial will permit any other party, whose interest has not been otherwise adjudicated, to participate in the trial.

A party who fails to appear at the hearing, although thereby deemed to have waived the right to reject the award, may nevertheless participate in a trial of the cause upon rejection of the award by any other party, provided a judgment has not been entered against him on the award and the judgment has not been vacated.

The assessment of the fee of $200 on the party who files the rejection is an item of cost consistent with the authorization provided therefor by the enabling legislation and is consistent with similar costs imposed in other jurisdictions in relation to the right to proceed further to a trial. This sum amounts to a small measure of the concomitant cost to the public for the conduct of the trial itself and would appear appropriate as an imposition on a party who has already been provided with a full hearing forum to resolve the dispute.

The Committee is unable to reach a consensus on the question of recommending a specific rule on whether or not the $200 fee should be recoverable as a taxable cost. Pennsylvania, as does New York and Ohio, provides by rule that the costs assessed on the rejecting party shall apply to the cost of arbitrators fees and shall not be taxed as costs or be recoverable in any proceeding. The sum of $200 is the same amount imposed by Philadelphia County's rule on a party requesting trial after an award. Other jurisdictions, on the other hand, provide that such fee is recoverable and may be taxed as costs. If clarity in this regard requires a definitive rule, it is the Committee's preference that the rule be stated similarly to that of Pennsylvania; to wit, the sum so paid to the clerk shall not be taxed as costs or recoverable in any proceeding.

Many jurisdictions authorize fee and cost sanctions to be imposed on parties who fail to improve their positions at the trial after hearing. It is hoped that the quality of the arbitrators, the integrity of the hearings and the fairness of the awards will keep, to a minimum, the number of rejections. Both the Pittsburgh and Philadelphia programs, in Pennsylvania, are prime examples of effective arbitration systems without the use of cost and fee sanctions. Until such time as it becomes evident that there is an abusive use of the right of rejection, the Committee proposes to rely on the integrity of practitioners and their clients to abide a fair decision of the arbitrators. Abuse of this process may be dealt with under existing disciplinary and remedial measures.

In *Campbell v. Washington* (1991), 223 Ill. App. 3d 283, the court interpreted Rule 93 as providing that a party's right to reject an award is preserved when either the party or its attorney appears at the arbitration hearing. Therefore, the court held a trial court could not enter an order requiring forfeiture of the right of rejection as a sanction for failure of a party to appear pursuant to notice. The 1993 amendment to Rule 93 makes this rule consistent with other rules (for example, Rules 90(g) and 91(b)) that allow a court to enter an order debarring a party from rejecting the award. The filing of a rejection by a party who is or has been debarred from rejecting is ineffective even if the party was present at the arbitration hearing in person or by counsel.

Paragraph (b)

The majority of jurisdictions prohibit any reference in a subsequent trial to the fact that an arbitration proceeding was held or that an award was made; arbitrators are not permitted to testify regarding the conduct at the hearing. In addition, several of the jurisdictions, California and New Jersey in particular, prohibit recording of the arbitration proceedings or the use of any testimony taken at the hearing at a subsequent trial. However, where a recording of testimony at the hearing is not prohibited such testimony could be used at trial if otherwise admissible under the established rules of evidence of that jurisdiction.

Paragraph (c)

In some jurisdictions where costs such as herein imposed are waived, it is provided in their rules that such costs may be imposed thereafter as an offset in the event a sufficient sum is recovered by the indigent party upon the trial of the cause.

Rule 94. Form of Oath, Award and Notice of Award

The oath, award of arbitrators, and notice of award shall be in substantially the same form as the template provided in the Article I Forms Appendix. ~~following form:~~

~~In the Circuit Court of the _____ Judicial Circuit, _____ County, Illinois.~~

~~(Or, in the Circuit Court of Cook County, Illinois)~~

~~OATH~~

~~I do solemnly swear (or affirm) that I will support, obey, and defend the Constitution of the United States and the Constitution of the State of Illinois and that I will faithfully discharge the duties of my office.~~

_____

~~Name of Arbitrator Date~~

~~AWARD OF ARBITRATORS~~

~~In the Circuit Court of the _____Judicial Circuit, _____ County, Illinois.~~

~~(Or, in the Circuit Court of Cook County, Illinois)~~

~~A.B., C.D., *etc.* (naming all plaintiffs),~~	~~)~~	
~~Plaintiffs,~~	~~)~~	
~~v.~~	~~)~~	~~No._____~~
~~H.J., K.L., *etc.* (naming all defendants),~~	~~)~~	~~Amount Claimed_____~~
~~Defendants.~~	~~)~~	

☐ ~~All parties participated in good faith.~~

☐ ~~_____did NOT participate in good faith based upon the following findings.~~

~~Findings:~~ _____
_____
_____
_____
_____
_____
_____
_____
_____
_____

~~We, the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:~~

_____
_____
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_____
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_____

_____
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_____
_____

_____ Dissents as to the Award

Date of Award: _____

NOTICE OF AWARD

In the Circuit Court of the _____Judicial Circuit, _____ County, Illinois.

(Or, in the Circuit Court of Cook County, Illinois)

A.B., C.D., *etc.* (naming all plaintiffs),	)	
Plaintiffs,	)	
v.	)	No._____
H.J., K.L., *etc.* (naming all defendants),	)	Amount Claimed_____
Defendants.	)	

On the _____ day of _____, 20__, the award of the arbitrators dated _____ _____, 20__, a copy of which is attached hereto, was filed and entered of record in this Cause. A copy of this NOTICE has on this date been sent by regular mail, postage prepaid, addressed to each of the parties appearing herein, at their last known address, or to their attorney of record.

Dated this _____ day of _____, 20__.

_____
Clerk of the Circuit Court

Adopted May 20, 1987, effective June 1, 1987; amended March 1, 2001, effective immediately; amended October 20, 2003, effective December 1, 2003; amended June 22, 2017, eff. July 1, 2017.

Rule 95. Form of Notice of Rejection of Award

The notice of rejection of the award shall be in substantially the same form as the template provided in the Article I Forms Appendix. following form:

In the Circuit Court of the _____Judicial Circuit, _____ County, Illinois.

(Or, in the Circuit Court of Cook County, Illinois)

A.B., C.D., *etc.* (naming all plaintiffs),	)	
Plaintiffs,	)	
v.	)	No._____

~~H.J., K.L., *etc.* (naming all defendants),) Amount Claimed_____~~
~~Defendants.)~~

~~NOTICE OF REJECTION OF AWARD~~

~~To the Clerk of the Circuit Court:~~

~~Notice is given that _____ rejects the award of the arbitrators entered in this cause on _____, and hereby requests a trial of this action.~~

~~_____~~
~~By: _____~~
~~(Certificate of Notice of Attorney)~~

Adopted May 20, 1987, effective June 1, 1987; amended June 22, 2017, eff. July 1, 2017.

Rules 96-98 Reserved.

Rule 99. Mediation Programs.

(a) Applicability to Circuits. Mediation programs may be undertaken and conducted in those judicial circuits which, with the approval of the Supreme Court, elect to utilize this procedure and in such other circuits as directed by the Supreme Court.

(b) Local Rules.

(1) Each judicial circuit electing to establish a mediation program shall adopt rules for the conduct of the mediation proceedings. A person approved by the 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. Prior to the establishment of such a program, the Chief Judge of the circuit shall submit to the Supreme Court for its review and approval, through its Administrative Office, rules governing the operation of the circuit's program. A circuit operating a mediation program on the effective date of this Rule may continue the program for one year after the effective date of this Rule, but must, within 90 days of the effective date of this Rule, submit for the Supreme Court's review and approval the rules under which the mediation program is operating. Any amendments to approved local rules must be submitted to the Administrative Office for review and approval prior to implementation.

(2) At a minimum, the local circuit court rules shall address:

(i) Actions eligible for referral to mediation;

(ii) Appointment, qualifications and compensation of the mediators;

(iii) Scheduling of the mediation conferences;

(iv) Conduct of the conferences;

(v) Discovery;

(vi) Absence of party at the conference and sanctions;

(vii) Termination and report of mediation conference;

(viii) Finalization of agreement;

(ix) Confidentiality;

(x) ~~Mechanism for r~~ Reporting to the Supreme Court ~~on~~ for each approved ~~the~~ mediation program shall be conducted in a manner and method as prescribed by the Administrative Office of the Illinois Courts.

Adopted April 11, 2001, effective immediately; amended October 10, 2001, effective immediately; amended Oct. 15, 2015, eff.

immediately.

Rule 99.1. Mortgage Foreclosure Mediation Programs.

(a) Mortgage foreclosure specific mediation programs implemented by any judicial circuit must adhere to the requirements set forth in Rule 99 and this rule.

(b) Each judicial circuit that currently has approved local rules for a mediation program in place in accordance with Rule 99 may apply that program to mortgage foreclosure cases if applicable. Local rules amended or created to accommodate mortgage foreclosure cases consistent with this rule must be submitted to the Administrative Office of the Illinois Courts for review and approval prior to implementation.

(c) Each judicial circuit electing to establish a new mortgage foreclosure mediation program shall adopt rules for the conduct of the mortgage foreclosure mediation proceedings. If a judicial circuit elects to establish a new mortgage foreclosure mediation program, the judicial circuit shall establish a plan for starting a mortgage foreclosure mediation program that demonstrates the mediation program can be implemented for that particular county or counties at the time of submission of the local rules for approval by the Administrative Office.

(d) Based on the plan established pursuant to paragraph (c), the local circuit rules shall address:

(i) the requirements set forth in Rule 99;

(ii) resources to provide meaningful access to HUD-certified housing counseling services for eligible homeowners;

(iii) resources to provide meaningful access to *pro bono* legal representation for eligible homeowners;

(iv) resources to provide meaningful language access for program participants;

(v) any costs charged to any participant in the mortgage foreclosure case;

(vi) a sustainability plan that includes a long-term funding plan; and

(vii) training of judges, key court personnel and volunteers on mortgage foreclosure mediation.

Adopted Feb. 22, 2013, eff. Mar. 1, 2013.

COMMITTEE COMMENTS

(March 1, 2013)

The creation of Rule 99.1 resulted from the drastic increase in mortgage foreclosure cases and the resultant burden on judicial circuits throughout the state. Each judicial circuit faced a foreclosure crisis and began adapting its court procedures to most effectively administer the foreclosure proceedings. As a result, the judicial circuits began applying to the Illinois Supreme Court under Rule 99 for approval of mortgage foreclosure specific mediation programs. These programs varied widely in scope, capacity, and structure. To more fully understand the needs of mortgage foreclosure specific mediation, the Illinois Supreme Court appointed a committee to study and hold public hearings to address the need for uniformity among mediation programs. The Special Supreme Court Committee on Mortgage Foreclosures concluded that there was no one model that would work well for each judicial circuit but certain elements must be present to provide equal accessibility and assistance throughout the state. The intention of this rule is to incorporate more consistent elements in programs throughout the state while also allowing flexibility for changing conditions with mortgage foreclosure filings in the future.

The plan required in paragraph (c) recognizes the Supreme Court's need to understand the extent of the mortgage foreclosure problem in the county or counties in each judicial circuit applying for approval. The Supreme Court should be provided the history of the mortgage foreclosure filings in the judicial circuit, the available resources, and the staffing scope of the judicial circuit that shows that the mortgage foreclosure program is realistically attainable for the judicial circuit. The judicial circuit applying for approval should provide a plan that is comparable in scope, size and capacity to the mortgage foreclosure problem facing that circuit. Additionally, the plan should include information about available resources for qualified homeowners that will contribute to the successful implementation of such a program.

Paragraph (d) sets forth requirements specific to mortgage foreclosure mediation programs in addition to the requirements articulated in Rule 99. The Committee concluded that for residential mortgage foreclosures where a defendant was actively living in the home and facing foreclosure, access to a HUD-certified housing counselor and *pro bono* legal representation is beneficial.

However, the Committee also recognized that the availability of those resources may differ from circuit to circuit in the state. As a result, any program proposal submitted for approval shall detail the access the program will be able to provide to eligible homeowners to HUD-certified housing counseling services and *pro bono* legal representation. Lack of availability of particular resources due to financial or geographic constraints shall not preclude approval of a mediation program.

The Committee also recognized that the implementation of a mortgage foreclosure mediation program can drain a court's resources both financially and in staffing capacity. As a result, paragraphs (d)(v) and (vi) require any new mortgage foreclosure mediation program to set forth any costs charged to the parties in the litigation, as well as the sustainability funding plan. The fees charged may include, but are not limited to, mediator fees for mediation sessions and dedicated filing-fee add-ons. A sustainability plan may include those costs charged to litigants or another identifiable source of funding.

Rule 100 Reserved.

Rule 100.1. Implementation of Expedited Child Support System

(a) Applicability to Circuits. An Expedited Child Support System may be established in those judicial circuits which, with the approval of the Supreme Court, elect to implement the System and in such other judicial circuits as may be directed by the Supreme Court.

(b) Submission of a Plan. The chief judge of a judicial circuit which elects to create a System must submit a Plan of Implementation. The Plan may establish a circuit-wide system, a system in each county within the circuit or a system in any county in the circuit. The chief judges of two or more contiguous judicial circuits may submit a Plan for the creation of a single system encompassing those judicial circuits or encompassing contiguous counties within the judicial circuits.

(c) The Plan. Each Plan must:

(1) describe how the Plan will ensure that support orders will be expedited, setting forth the time frames and the mechanism for expediting matters eligible for a hearing before an administrative hearing officer;

(2) describe how the System will comply with the Federal time frames established for the IV-D program in regulations promulgated by the United States Department of Health and Human Services Office of Child Support Enforcement (codified at 45 C.F.R. 303), for the disposition of parentage and child support cases, and how compliance information shall be provided with respect to IV-D and non-IV-D cases;

(3) indicate whether the System is to be made available to nonparticipants in the IV-D program as specified in subsection (d) below;

(4) indicate which of the actions eligible for a hearing under Rule 100.3 will be subject to a hearing before an administrative hearing officer;

(5) designate the number of administrative hearing officers to be employed, and whether they will be employed full-time or part-time;

(6) indicate the compensation to be paid to each administrative hearing officer;

(7) describe the personnel policies applicable to employees of the System;

(8) describe the facilities and security arrangements to be used for hearings, including the days and hours of availability;

(9) describe the procedures for training administrative hearing officers;

(10) describe the documentation and forms required for an expedited child support hearing in addition to those required by the Supreme Court;

(11) describe the procedure for transmittal to a judge of contested prehearing motions, other matters that require a court order, recommended orders, and any other matters that require transfer or should be referred to a judge;

(12) describe the procedure for transfer of matters from a judge to an administrative hearing officer; and

(13) describe the procedure for action by a judge on an administrative hearing officer's recommendations.

(d) Availability of System to Non-IV-D Participants. A Plan may provide that the System is available in cases where both parties are non-IV-D participants and request access to the System. If the System is available to non-IV-D participants, administrative expenses must be appropriated by the county board and a plan for cost-sharing must be approved as provided in

subsection (g) below.

(e) Establishment of Demonstration Programs. The Illinois Department of Public Aid may notify the Supreme Court of its desire to establish a demonstration program in one or more circuits or counties. Any such program shall be available to IV-D participants. Upon receipt of such notification, the Supreme Court will notify the chief judge of each judicial circuit of the Department's desire to establish a demonstration program. Each chief judge may submit a demonstration Plan to the Supreme Court which, upon approval, will submit the Plan to the Department. The Department may select one or more circuits or counties to participate in the demonstration program after reviewing the submitted Plans. The Department shall notify the Supreme Court of its decision. The submitted demonstration Plan shall include each element listed in subsection (c) above. In addition, each demonstration Plan shall include a projected budget for operation of the System. The demonstration Plan shall specify whether it is available to non-IV-D participants, and if so, shall provide that the portion of the administrative costs attributable to use by non-IV-D participants has been appropriated by the demonstration county and meets the requirements of subsection (g) below.

(f) Supreme Court Review and Approval. The Supreme Court shall review and approve or request that the chief judge modify any submitted Plan or demonstration Plan for compliance with the Act, these rules and, to the extent Federal reimbursement is sought, the rules of the IV-D program. Upon Supreme Court approval of a Plan, any nondemonstration county, circuit, multicircuit area or multicounty area may establish a System. Approved demonstration Plans will be submitted to the Department of Public Aid for review based on Department standards.

(g) Funding. Before establishment of a System according to a Supreme Court approved Plan, each participating nondemonstration county board or boards must appropriate the administrative expenses incurred to establish and maintain the non-IV-D portion of the System and the IV-D portion that is not subject to Federal reimbursement. A Plan for cost-sharing must be submitted to the Department of Public Aid for approval. Each chief judge shall be responsible for documenting and recording the number of IV-D and non-IV-D cases pending and disposed of in the System each month, and the portion of administrative expenses eligible for Federal reimbursement under the IV-D program, in such a manner as to insure Federal reimbursement. Information necessary for Federal reimbursement shall be submitted to the Department of Public Aid 14 days after the end of each month. The chief judge shall also submit copies of such information to the Supreme Court. The Illinois Department of Public Aid shall forward all reimbursement to the county in which the Plan is approved. The Supreme Court shall remain a signatory to the contract and shall maintain general supervisory oversight.

(h) Administration. Pursuant to rule, the chief judge of each judicial circuit shall be responsible for administering the System on a day-to-day basis, shall employ and terminate administrative hearing officers and other necessary staff, and shall review and evaluate the performance of each administrative hearing officer. Reviews shall be conducted quarterly in the first year of employment, and annually thereafter.

(i) Reporting of Data. The chief judge shall file a report with the Supreme Court within 35 days of the end of each State fiscal year detailing the number of:

(1) matters initially assigned to an administrative hearing officer;

(2) matters transferred to an administrative hearing officer;

(3) matters returned to an administrative hearing officer from a judge;

(4) matters submitted to a judge from an administrative hearing officer with recommendation for a court order;

(5) recommended court orders entered by a judge;

(6) recommended court orders rejected by a judge;

(7) matters submitted by an administrative hearing officer to a judge for hearings;

(8) IV-D and non-IV-D matters pending and disposed of in the System; and

(9) matters which complied or failed to comply with Federal time frames. The above data shall be reported for each fiscal year with respect to each administrative hearing officer and for the System as a whole.

(j) Local Rules. Each judicial circuit may adopt rules for the conduct of expedited child support hearings which are consistent with these rules and may determine which matters within the general classification of eligible actions shall be heard by administrative hearing officers.

(k) Applicability of Other Acts, the Code of Civil Procedure and Rules of the Supreme Court. The provisions of the Illinois Marriage and Dissolution of Marriage Act, the Illinois Parentage Act of 1984, the Illinois Public Aid Code, the Revised Uniform Reciprocal Enforcement of Support Act, the Nonsupport of Spouse and Children Act, the State Mandates Act, the Code of Civil Procedure and the rules of the Supreme Court shall be applicable to expedited child support hearings except insofar as these rules otherwise provide.

Adopted April 1, 1992, effective immediately; amended March 19, 1997, effective April 15, 1997; amended June 22, 2017, eff. July 1, 2017.

Rule 100.2. Appointment, Qualification and Compensation of Administrative Hearing Officers

(a) Appointment. Administrative hearing officers shall be hired by the chief judge of each judicial circuit, after satisfying the qualifications set by the Supreme Court. Candidates for the position of administrative hearing officer must apply for appointment with the chief judge of each judicial circuit.

(b) Qualifications. Administrative hearing officers must be licensed to practice law in Illinois and must have been engaged in the active practice of law for a minimum of three years.

(c) Disqualification. A full-time administrative hearing officer shall not practice law before any court. A part-time administrative hearing officer shall not practice law in any domestic relations matter or other matter which would qualify for an expedited hearing before an administrative hearing officer without the written consent of both parties. Upon appointment to a case, an administrative hearing officer shall notify the judge and withdraw from the case if any grounds appear to exist for disqualification under Supreme Court Rules 61 through 67.

(d) Oath of Office. Each administrative hearing officer shall take an oath of office similar to a judicial oath.

(e) Compensation. Each administrative hearing officer shall be compensated as provided in the Plan.

(f) Communications with Attorneys. Disciplinary rules governing the conduct of attorneys before a court remain applicable in expedited child support hearings. Disciplinary rules governing communications between an attorney and a judge govern communications between attorneys and administrative hearing officers.

Adopted April 1, 1992, effective immediately.

Rule 100.3. Actions Subject to Expedited Child Support Hearings

(a) Eligible Actions. The following actions, if so provided for in the Plan, are eligible to be heard by an administrative hearing officer:

(1) actions pursuant to the Illinois Public Aid Code, as amended, to establish temporary and final child support and medical support, and to enforce or modify existing orders of child support and medical support;

(2) actions pursuant to the Illinois Parentage Act of 1984, as amended, to establish a parent and child relationship; to establish child support and medical support after parentage has been acknowledged or established, whether or not these issues were reserved at the time judgment was entered; and to enforce or modify existing child support and medical support orders;

(3) actions pursuant to the Illinois Marriage and Dissolution of Marriage Act, as amended, to establish temporary and final child support and medical support, whether or not these issues were reserved or could not be ordered at the time judgment was entered because the court lacked personal jurisdiction over the obligor; and to enforce or modify existing orders of child support and medical support;

(4) actions pursuant to the Nonsupport of Spouse and Children Act to establish temporary child support and to enforce and modify such orders;

(5) actions pursuant to the Revised Uniform Reciprocal Enforcement of Support Act to establish temporary and final child support and medical support, whether or not these issues were reserved or could not be ordered at the time judgment was entered because the court lacked personal jurisdiction over the obligor; and to enforce and modify existing child support and medical support orders; and

(6) any other child support or medical support matter.

(b) Other Eligible Prejudgment Proceedings. If provided for in the Plan, the System may be available in prejudgment proceedings for dissolution of marriage, declaration of invalidity of marriage and legal separation.

Adopted April 1, 1992, effective immediately.

Rule 100.4. Authority of Administrative Hearing Officers

(a) Powers of Administrative Hearing Officers. Administrative hearing officers shall have the authority to conduct child support hearings, to administer oaths and affirmations, to take testimony under oath or affirmation, to determine the admissibility of evidence, to propose findings of fact, and to recommend orders to the judge based on such evidence as prescribed by the Act.

(b) Accept Voluntary Agreements of Parties. Administrative hearing officers may accept stipulations of fact and voluntary agreements of the parties setting the amount of child support to be paid or medical support liability and to recommend to the judge the entry of orders incorporating such agreements.

(c) Accept Voluntary Acknowledgments of Parentage. Administrative hearing officers may accept voluntary orders of parentage and recommend to the judge the entry of orders based on such acknowledgments. Prior to accepting an acknowledgment of parentage, administrative hearing officers shall advise the putative father of his rights and obligations.

(d) Discovery. Administrative hearing officers shall manage all stages of discovery, including hearings on citations to discover assets and setting deadlines for the completion of discovery, and to direct the submission to tests pursuant to section 11 of the Illinois Parentage Act of 1984 and Rule 100.5 below. Administrative hearing officers may not enter orders with respect to disputed discovery matters though they may recommend the entry of such orders to a judge. Discovery shall be conducted in accordance with these rules and shall be completed prior to the expedited child support hearing. No discovery shall be permitted after the hearing, except upon leave of court and good cause shown.

(e) Compelling Appearance of the Obligor. The person designated in the Plan may recommend that the judge issue a notice requiring the obligor to appear before the administrative hearing officer or in court.

(f) Recommend Default Orders. Administrative hearing officers may recommend that the judge issue a default order to absent parties who fail to respond to a notice to appear before the administrative hearing officer or such other orders as are specified in Rule 100.11(d).

(g) Authority over Unemployed Obligor. Administrative hearing officers may recommend that an unemployed obligor who is not making child support payments or who is unable to provide support be ordered to seek employment and may recommend that the obligor be required to submit periodic reports as to such efforts. Administrative hearing officers may recommend that the obligor be ordered to report to the appropriate agency to participate in job search, training or work programs.

(h) Foreign Support Matters. Administrative hearing officers may recommend that foreign support judgments or orders be registered as Illinois judgments or orders.

(i) Non-IV-D Obligees. Administrative hearing officers shall inform non-IV-D obligees of the existence and services of the IV-D program and provide applications if requested. Administrative hearing officers shall also inform such obligees that payment may be requested through the clerk of the circuit court. Any such request that payment be made through the clerk shall be noted in the recommended order to the judge.

Adopted April 1, 1992, effective immediately.

Rule 100.5. Blood Tests

(a) Order to Submit to Tests. Administrative hearing officers may recommend, upon the request of a party, that the judge order the mother, child and alleged father to submit to appropriate tests to determine inherited characteristics including, but not limited to, blood types and genetic markers such as those found by Human Leucocyte Antigen (HLA) tests. The judge shall determine the appropriate tests to be conducted and appoint an expert to determine the testing procedures and conduct the tests.

Adopted April 1, 1992, effective immediately.

Rule 100.6. Scheduling of the Hearings

(a) Assignment of Hearing Date. If an action or a motion filed by a IV-D participant qualifies as an action over which an administrative hearing officer has authority, the person designated in the Plan shall assign a hearing date before an administrative hearing officer. Non-IV-D participants may request that the clerk assign eligible actions a hearing date before an administrative hearing officer. The procedure for fixing the date, time and place of a hearing before an administrative hearing officer shall be prescribed by circuit rule provided that not less than seven days' notice in writing shall be given to the parties or their attorneys of record. In cases in which the court has previously acquired jurisdiction over the responding party, the hearing shall be held on the scheduled date and not less than 21 days or more than 35 days of the date of filing of the action, unless continued by the administrative hearing officer or court upon good cause shown. In cases in which the court has not previously acquired jurisdiction over the responding party, the hearing shall be held on the scheduled date and not less than 21 days or more than 45 days of the date of filing of the action, unless continued by the administrative hearing officer or court upon good cause shown. The hearing shall be held at a location provided or authorized by the chief judge of the circuit.

(b) Providing Notice of Hearing Date. The person designated in the Plan shall serve notice of the action and the hearing date on respondent by regular mail to his or her last known address, unless the action is one over which no court has previously acquired personal jurisdiction, in which case service will be in the same manner as summonses are served in other civil proceedings. If service is made by mail, the person serving notice shall prepare a certificate of mailing to be included in the file.

(c) Subpoenas. The clerk of the circuit court may issue subpoenas upon, or prior to, the filing of a petition if the court has previously acquired jurisdiction over the subject matter of the underlying action.

(d) Affidavit of Income and Expenses. A form affidavit of income and expenses, in such form as the Supreme Court shall prescribe, may be served on the respondent with the petition initiating the proceedings before the administrative hearing officer. Each party should be requested to complete the form prior to the first appearance before the administrative hearing officer.

Adopted April 1, 1992, effective immediately.

Rule 100.7. Conduct of the Hearing

(a) Established Rules of Evidence Apply. Except as provided by this rule, the rules of evidence shall be liberally construed in all expedited child support hearings.

(b) Documents Presumptively Admissible. A party may offer in evidence, without foundation or other proof:

(1) the obligor's pay stubs or either employer-provided statement of gross income, deductions and net income or other records prepared by the employer in the usual course of business.

(2) documents provided by the obligor's insurance company which describe the dependent care coverage available to the obligor; and

(3) records kept by the clerk of the circuit court as to payment of child support.

If at least seven days written notice of the intention to offer the following documents in evidence is given to every other party, accompanied by a copy of the document, or if at the expedited child support hearing the other party does not object, a party may offer in evidence without foundation or other proof:

(1) the deposition of a witness, the statement of a witness which the witness would be allowed to express if testifying in person, if the statement is made by affidavit or by certification as provided in section 1--109 of the Code of Civil Procedure;

(2) computer-generated documents and records, unless objected to by a party; and

(3) any other document not specifically covered by any of the foregoing provisions, and which is otherwise admissible under the rules of evidence.

(c) Opinions of Expert Witnesses. Notwithstanding the provisions of Rule 220, a party who proposes to use a written opinion of an expert witness or the testimony of an expert witness at the hearing may do so provided a written notice of such intention is given to

every other party not less than seven days prior to the date of hearing, accompanied by a statement containing the identity of the expert, his qualifications, the subject matter, the basis of his conclusions, and his opinion.

(d) Right to Subpoena Maker of a Document. Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross-examination. The provisions of the Code of Civil Procedure relative to subpoenas, section 2--1101, shall be applicable to expedited child support hearings and it shall be the duty of the party requesting the subpoena to modify the form to show that the appearance is set before an administrative hearing officer and to give the time and place set for the hearing.

(e) Adverse Examination of Parties or Agents. The provisions of the Code of Civil Procedure relative to the adverse examination of parties or agents, section 2--1102, shall be applicable to expedited child support hearings as upon the trial of a case.

(f) Compelling Appearance of Witness at Hearing. The provisions of Supreme Court Rule 237 shall be equally applicable to expedited child support hearings as they are to trials.

Adopted April 1, 1992, effective immediately.

Rule 100.8. Absence of Party at Hearing

(a) Failure to be Present at Hearing. The expedited child support hearing may proceed in the absence of the responding party if service has been made and the petitioning party and/or his or her attorney is present. Based upon the testimony of the petitioning party and any other evidence that may have been presented, the administrative hearing officer shall recommend that the judge enter an appropriate order. If the petitioning party does not agree to the recommended order, the administrative hearing officer shall immediately schedule a judicial hearing, record the date, time and place of the hearing upon a notice and provide such notice to the petitioning party at the expedited hearing. Such notice shall be sent to the nonappearing party by regular mail. If the petitioning party agrees to and signs the order, a copy of the signed order and a notification of the right to object to the order shall be served upon the nonappearing party as directed in subsection (b) below. If the petitioning party is not present, either in person or through an attorney, the administrative hearing officer may continue the matter or may strike the matter with leave to reinstate. Notification of such action shall be served upon the petitioning party by regular mail.

(b) Service of Recommended Order and Notice. If service to commence the hearing before the administrative hearing officer was made by regular mail, the notice and recommended order shall be served in the same manner as summonses are served in other civil proceedings or by certified mail, return receipt requested, mailed to the nonappearing party's last known address. If service to commence the hearing was as provided in the Code of Civil Procedure, the notice and recommended order shall be served by regular mail to the nonappearing party's last known address.

(c) Objections. The nonappearing party may file with the judge a written objection to the entry of the recommended order within 14 days after the order was mailed. If no objection is filed within 14 days, the nonappearing party is deemed to have accepted the recommended order. The judge may then enter the order, refer the case back to the administrative hearing officer for further proceedings, or conduct a judicial hearing. If a timely objection is filed, the judge must hold a judicial hearing and shall enter an appropriate order.

Adopted April 1, 1992, effective immediately.

Rule 100.9. Transfers for Judicial Hearings

(a) Domestic Relations Matters Other than Child Support and Parentage. Any domestic relations matter other than child support and parentage, including but not limited to petitions for visitation, custody, distribution of property, petitions pursuant to section 513 of the Illinois Marriage and Dissolution of Marriage Act, and spousal maintenance shall be transferred according to the judicial circuit's Plan to a judge for a judicial hearing. The administrative hearing officer shall proceed as scheduled with matters relative to child support or parentage. In actions to establish parentage where the putative father voluntarily acknowledges paternity, the recommended order shall include provisions for custody of the child in the mother and reasonable visitation for the father if both parties agree. If either party wishes to contest custody or visitation, the recommended order will be silent on those issues, but the contest will not delay the entry of the order establishing parentage and child support.

(b) Prehearing Motions and Other Matters that Require a Court Order. All prehearing motions and other matters that require a court order or judicial hearing, as defined in the Act and in these rules, shall be transferred to a judge for resolution in an expeditious manner. However, if the parties are in agreement as to the prehearing motion or other such matters, the administrative hearing officer shall transmit a recommended order, signed by both parties to a judge.

(c) Matters Requiring Judicial Hearing. All other matters requiring a judicial hearing, as provided for in the Act and in these rules, shall be immediately transferred according to the judicial circuit's Plan to a judge for a judicial hearing.

(d) Service of Orders of Withholding Pending Judicial Hearing. Whenever the parties disagree with part of the administrative hearing officer's recommendations, but do agree as to the existing obligation and no order for withholding was previously served upon the obligor's employer, the order for withholding shall be served upon the obligor's employer as to the existing support obligation pending judicial hearing on the contested matter.

Adopted April 1, 1992, effective immediately.

Rule 100.10. Submission of Recommendations to the Court

(a) Notice to Parties. The administrative hearing officer shall present each party with a copy of the recommended order to be submitted to a judge. The administrative hearing officer shall also present each party with a written notice informing the parties of their right to request a judicial hearing and the procedures for so doing. The recommended order and notice shall be presented to each party at the conclusion of the hearing. If either party is not present at the conclusion of the hearing, either in person or through an attorney, the recommendation and order shall be mailed by regular mail to the party's last known address.

(b) Acceptance of Recommended Order. If both parties are present at the hearing and agree to the recommended order, they shall sign the recommended order. The administrative hearing officer shall transmit the signed recommended order to a judge as provided for in the Plan of Implementation.

(c) Rejection of Recommended Order. If either party does not agree to the recommended order or any part thereof, the administrative hearing officer shall immediately request a judicial hearing to resolve the contested matter. The administrative hearing officer shall record the date, time and place of such judicial hearing on a notice which shall be presented to the parties at the conclusion of the hearing. Notice shall be sent to nonappearing parties by regular mail. The administrative hearing officer shall transmit to a judge a written statement indicating those issues to which the parties agree and disagree, all documentary evidence and all schedules presented at the expedited child support hearing.

(d) Administrative Hearing Officer May Not Testify. An administrative hearing officer may not be called or compelled to testify as to what transpired before the administrative hearing officer with respect to contested matters.

Adopted April 1, 1992, effective immediately.

Rule 100.11. Authority Retained by the Court

(a) Review Recommendations of Administrative Hearing Officers. The judge shall review all recommended orders of an administrative hearing officer upon which parties agree and enter such orders as are appropriate as to all or part of the matters indicated on the recommended order.

(b) Conduct Judicial Hearings. The judge shall conduct judicial hearings on all prehearing motions the parties disagree with, the recommended order of the administrative hearing officer on any domestic relations matters other than uncontested child support and parentage matters, on objections to the entry of orders as provided for in Rule 100.6 and section 10 of the Act, and on any other matters properly before the court.

(c) Hear Contested Parentage Matters. Only the judge may conduct trials in contested parentage cases.

(d) Issue Special Orders. Only the judge may issue body attachment orders, rules to show cause, or conduct contempt proceedings. The judge shall impose sanctions or relief in such cases as are appropriate.

(e) Impose Sanctions. Only the judge may impose sanctions pursuant to Supreme Court Rule 137.

Adopted April 1, 1992, effective immediately.

Rule 100.12. Judicial Hearings

(a) Recommended Orders Agreed Upon by the Parties. The judge shall review the recommended orders of administrative hearing officers in a timely fashion. The judge (1) may enter an order consistent with the recommended order, (2) may reject all or part of the recommended order and refer the matter to the administrative hearing officer for further proceedings, or (3) may conduct judicial hearings as are necessary. The judge shall provide the administrative hearing officer with a copy of the entered order and may inform the administrative hearing officer if a recommended order was not accepted by the judge and the reasons for the changes or rejection. If the judge enters an order consistent with a recommended order, the effective date of the order shall be (1) the date on which the recommended order was signed by both parties, or (2) if the respondent party failed to appear and failed to file a timely objection to the recommended order pursuant to Rule 100.8(c), the date the recommended order was signed by the petitioning party. The order may specify the date payments of support are to begin, which may be different from the effective date of the order.

(b) Recommended Orders Rejected by the Parties. Upon receipt of a statement from the administrative hearing officer that the parties do not agree to all or part of a recommended order, the judge shall promptly conduct a judicial hearing to resolve any contested matters and shall enter an appropriate order.

(c) Presentation of Order to the Parties. The clerk of the circuit court shall mail a copy of all orders to the parties within five days of entry. If the parties are present in court at the time the order is entered, a copy shall be given to both parties in open court. If an order sets forth an amount for support, an immediate withholding order shall be specially certified and mailed to the obligee or his or her attorney for service.

Adopted April 1, 1992, effective immediately.

Rule 100.13. Definitions.

For purposes of these rules, the following terms shall have the following meanings:

(a) "Act" shall mean the Expedited Child Support Act of 1990.>

(b) "Administrative hearing officer" shall mean the person employed by the chief judge of the circuit court of each circuit, county, multicounty area or multicircuit area establishing an expedited child support system for the purpose of hearing child support and parentage matters and recommending orders.

(c) "Expedited child support hearing" shall mean a hearing before an administrative hearing officer pursuant to the Act and these rules.

(d) "Plan" shall mean the plan submitted by the chief judge of a judicial circuit to the Supreme Court for the creation of an expedited child support system in such circuit pursuant to the Act and these rules.

(e) "System" shall mean the procedures and personnel created by the Act and these rules for the expedited establishment, modification, and enforcement of child support orders, and for the expedited establishment of parentage.

(f) "IV-D program" shall mean the Child Support Enforcement Program established pursuant to Title IV, Part D, of the Social Security Act (42 U.S.C. §651 *et seq*.) as administered by the Illinois Department of Public Aid.

Adopted April 1, 1992, effective immediately.

Committee Comments

Rule 100.1 Implementation of Expedited Child Support System

Rule 100.1 provides for the creation of an Expedited Child Support System in judicial circuits. It specifies that each judicial circuit

which elects to create such a System must submit a Plan of Implementation to the Supreme Court for approval, identifies the matters which must be set forth in the Plan, and provides for Supreme Court review and approval. The rule addresses the availability of the System to various classes of participants, the use of demonstration programs, and funding of Systems. The rule makes judicial circuits responsible for administration of the System and reporting of data relative to the System. The rule also provides for the establishment of local rules to accompany these rules and specifies those other rules, acts and codes which apply to the conduct of the System.

Rule 100.2. Appointment, Qualification and Compensation of Administrative Hearing Officers

Rule 100.2 provides for the appointment, qualification, disqualification and compensation of administrative hearing officers. The rule specifies that administrative hearing officers take an oath of office and conduct hearings according to applicable disciplinary rules.

Rule 100.3. Actions Subject to Expedited Child Support Hearings

Rule 100.3 lists those actions which are eligible to be heard by an administrative hearing officer if so specified in the judicial circuit's Plan of Implementation.

Rule 100.4. Authority of Administrative Hearing Officers

Rule 100.4 specifies the powers of administrative hearing officers relative to the conduct of child support hearings, management of discovery, authority over parties, and resolution of matters.

Rule 100.5. Blood Tests

Rule 100.5 provides the administrative hearing officers with authority to recommend submission to blood tests. The rule provides for the admissibility of blood test results, a party's objections to matters involving blood tests, the evidentiary value of blood tests and the cost of blood tests in matters before an administrative hearing officer.

Rule 100.6. Scheduling of Hearings

Rule 100.6 sets forth the procedure for assignment of a hearing date before an administrative hearing officer, the time period in which a hearing must be held, and the procedure for providing notice to the responding party.

Rule 100.7. Conduct of the Hearings

Rule 100.7 governs the conduct of expedited child support hearings and specifies that the rules of evidence apply to such hearings. The rule prescribes the circumstances under which certain specified documents are presumptively admissible in evidence. The rule sets forth the procedure for offering expert testimony and a party's right to subpoena the maker of admissible documents and to cross-examine parties and their agents. The rule also provides for compelling the appearance of a witness at an expedited child support hearing.

Rule 100.8. Absence of Party at Hearing

Rule 100.8 governs the conduct of the expedited child support hearing in the absence of a party, the service of the recommended order and notice upon an absent party, and the filing of objections by an absent party.

Rule 100.9. Transfers for Judicial Hearings

Rule 100.9 lists those matters which must be transferred to a judge for a judicial hearing or court order.

Rule 100.10. Submission of Recommendations to the Court

Rule 100.10 sets forth the procedure for submission of recommendations to a judge upon acceptance of a recommended order by both parties, and the presentation of the recommended order and of a written notice of the right to a judicial hearing to each party. The rule sets forth the procedure for scheduling a judicial hearing upon rejection of the recommended order by either party, notice to the parties of such hearing, and transmittal to the judge of a written statement indicating the issues to which the parties agree and those to which they disagree and of all documentary evidence presented at the expedited child support hearing.

Rule 100.11. Authority Retained by the Court

Rule 100.11 sets forth the judge's authority to review recommendations of administrative hearing officers, to conduct judicial hearings, to hear contested parentage actions, to issue special orders and to impose sanctions.

Rule 100.12. Judicial Hearings

Rule 100.12 governs the procedure whereby a judge reviews recommended orders and enters judicial orders based thereon. The rule sets forth the conduct of further judicial hearings and the resolution of contested matters. The rule also provides for the presentation of orders to the parties.

Rule 100.13. Definitions

Rule 100.13 defines certain terms, in accordance with the Expedited Child Support Act, as used throughout the Expedited Child Support Rules.

VIEW ARTICLE I FORMS APPENDIX