

ARTICLE V

CIVIL PROCEEDINGS

5.0 CASE MANAGEMENT AND SETTLEMENT CONFERENCES

A. Case Management Conference

1. In all cases except for MC, OV, OP and P cases, the Clerk of the Court shall, on the date of filing, assign an automatic case management conference date on the call of the Judge assigned to the case within ninety (90) days from the date of filing. The Clerk shall affix notice of said date to the original pleading and to copies of said pleading to be served on the opposing party.
2. In the event an automatic case management conference falls on a date when the Court is not in session, the case will be set for the next court date.
3. Failure of the parties or their counsel to appear on an automatic case management conference date may result in dismissal for want of prosecution, default and/or other sanctions.
4. In all cases subject to Supreme Court Rule 218, the attorneys for the parties with the responsibility for trial of the case, shall, prior to the automatic case management conference and each conference thereafter, confer regarding matters set forth in Supreme Court Rule 218.

5. Failure to comply with Supreme Court Rule 218, local rules, or court orders pertaining to case management may result in sanctions being imposed against a party and/or attorney.
6. In all Probate proceedings the Clerk of the Court shall, on the date of filing, assign an automatic case management conference date on the call of the Judge assigned to the case approximately nine (9) months from the date of filing. The Clerk shall affix notice of said date to the original pleading and to copies of said pleading to be served on the opposing party (if any).
7. In the event that a court date is set by court order, which date is after the automatic case management conference date set by the Clerk of the Court, the Clerk of the Court shall strike the previously set automatic case management date. The filing of a notice of motion, issuance of an Alias Summons, or similar method by counsel with a court date after the automatic case management conference date which is set by the Clerk of the Court shall not cause the automatic case management conference date to be stricken.

(Rule 5.0 A. amended by General Order 19-1; *effective February 11, 2019.*)

B. Settlement Conference

1. In the event a settlement conference is held, the attorney for the plaintiff and the attorney for the defendant shall prepare a settlement conference memorandum and shall deliver a copy to the judge and to

counsel of record seven (7) days in advance of the settlement conference. At the settlement conference the attorneys present shall:

- a. Be familiar with the case; and
- b. Be authorized to act in furtherance of the settlement conference; and
- c. Ascertain in advance the extent of authority given by their client to act in furtherance of settlement. If the attorney does not have authority to settle the matter, he shall ensure that the client, or some other representative of the client with authority to settle the case, shall be available in person or by telephone during the settlement conference to provide feedback and attempt to resolve the case.
- d. The Court may order a litigation conference in any case deemed appropriate
- e. Failure to abide by this Rule may result in sanctions

5.05 CLERK'S NOTICE: DISMISSAL FOR WANT OF PROSECUTION

Within ten (10) days of the entry of an order of dismissal for want of prosecution the Clerk of the Court shall send notice of the dismissal to all attorneys of record, and all self represented parties at their last known address indicated in the file by regular mail and place of record a certificate of mailing to all self represented parties and attorneys of record at their last known addresses of record.

5.10 DISMISSAL FOR LACK OF ACTIVITY

If a civil case has no order entered for a period of nine (9) months and has no future date, the Clerk of the Court shall notify the attorneys of record together with any person who has filed an appearance and given an address that the case will be called on a date certain at which time it will be dismissed except for good cause shown.

5.15 PLEADINGS TO BE READILY COMPREHENSIBLE

- A. If a pleading contains multiple counts or affirmative defenses, each count or defense shall bear a concise title stating the theory of liability or defense. If the pleading is filed on behalf of or against multiple parties and all such parties are not asserting the same claims or defenses as to all opposing parties, the title of each count or defense shall also concisely designate the subgroup of parties to which it pertains.
- B. If incorporation of facts by reference to another pleading or to another part of the same pleading permitted by Supreme Court Rule 134 will render a pleading not readily comprehensible, the facts shall be re-alleged verbatim.
- C. Where necessary, the Judge assigned the case may order consolidation of the pleadings into one finished comprehensible set.
- D. Nothing in Rule 5.15 shall be applied in such a manner as to abridge or conflict with the Code of Civil Procedure.

5.20 MOTIONS GENERALLY

- A. Every motion shall identify in its title or introductory paragraph the particular relief sought together with the section of the Code of Civil Procedure pursuant to which the motion is brought.
- B. Pleading motions shall not be combined with fact motions except as permitted by 735 ILCS 5/2-619.1 of the Code of Civil Procedure. Improperly combined motions may be stricken by the court without hearing.
- C. The court may decline to hear any contested Motion that has not been set for hearing by court order. This Rule does not apply to genuine emergency motions.
- D. The notice of hearing shall state the title and case number of the action, and set forth the date and time the motion will be presented and the courtroom in which it will be presented. A copy of the motion, any papers to be presented with the motion, and proof of service shall be served with the notice.
- E. All notices shall comply with Supreme Court Ruling 11 and 12 and the following times for notice shall be observed:
 - 1. Notice by personal service shall be made by 4:00 p.m. at least two (2) court days before the scheduled hearing.
 - 2. Notice by mail shall be deposited in a U.S. Post Office at least five (5) court days before the scheduled hearing.
 - 3. Notice by fax shall be completed by 4:00 p.m. at least three (3) court days before the scheduled hearing.

- F. The burden of calling for hearing/setting any motion previously filed is on the party making the motion.
- G. Any motion not called for hearing/setting within sixty (60) days from the date it was filed may be stricken without notice. Any motion not presented or supported by the moving party when called for hearing upon notice may be denied.

5.25 PARTICULAR MOTIONS

- A. All case or claim dispositive motions, other than those arising during trial, shall be filed and noticed for setting no later than 120 days before the designated trial date except by leave of court upon good cause shown.
- B. All motions for leave to file counterclaims, actions over, contribution actions and third party complaints shall be filed no later than sixty (60) days before the designated trial date. No such filing will be construed to compel the court to continue the trial date or impair the Court's authority to sever such actions.

5.30 CONTESTED MOTIONS

- A. Any motion which is opposed may be heard at the end of the Court's call or at such other time designated by the Court.
- B. Any writing in support of or in opposition to a motion will be filed and served upon the opposing party.
- C. No writing in support of or in opposition to a motion will exceed ten (10) pages in length except by prior leave of court.

5.35 MOTIONS FOR SUBSTITUTION OF JUDGE

- A. Motions for substitution of a judge as a matter of right in civil cases (735 ILCS 5/2- 1001(a)(2)) will be filed with and heard by the judge to whom the case is assigned.
- B. Motions for substitution of a judge as a matter of right must be filed not later than sixty (60) days before the designated trial date except where the judge to whom the case was originally assigned is succeeded by another judge within sixty (60) days of trial.
- C. Motions for substitution of a judge for cause in civil cases (735 ILCS 5/2- 1001(a)(3)) will be filed with the judge to whom the case is assigned, but transferred to the Presiding Judge of the County for assignment to another judge for the sole purpose of hearing the motion to substitute for cause.

5.40 MOTIONS FOR CONSOLIDATION OF CASES

- A. Motions for consolidation of cases shall be brought on notice to all parties of record in all cases involved in the proposed consolidation.
- B. Motions for the consolidation of cases shall be brought before the judge hearing the earliest filed case.
- C. Unless good cause is shown, cases will be consolidated into the earliest filed case, and all subsequent pleadings shall use the number of that case.

5.45 EMERGENCY MOTIONS AND EMERGENCY RELIEF

- A. Designation of a matter as an “emergency” is determined to be an extraordinary measure and shall be heard at the discretion of the judge.

- B. Emergency motions will be heard by the judge assigned to the case. If the assigned judge is unavailable, then the emergency motions shall be heard by the Presiding Judge or his or her designee.
- C. The proponent of an alleged “emergency” matter shall have the initial burden of proving the emergency which burden shall include, at a minimum, the following:
 - 1. Inability to obtain an assignment on the regularly scheduled call within a reasonable time given the circumstances for which or from which relief is sought;
 - 2. Notice to the opposing party pursuant to statute; and
 - 3. That immediate and irreparable injury, loss or damage will result if the relief is not granted and that there exists no adequate remedy at law.
- D. Upon a determination by the judge that a matter does not meet the criteria for “emergency” matters, an order so finding shall be entered and the matter may be set on a regular call. A party or their attorney who responds to a motion propounded as, but found not to be, an “emergency” may be entitled to reimbursement from the movant for actual expenses, fees and costs incurred in responding to the motion.

5.50 DISCOVERY GENERAL PROVISIONS

- A. The sequence of discovery will comply with Supreme Court Rule 201. The obligation to comply with and complete discovery is not dependant on opponent’s compliance unless otherwise ordered by the Court.

- B. All discovery will be completed no later than sixty (60) days before the trial date unless otherwise authorized by the Court.

5.55 MOTIONS RELATING TO DISCOVERY

- A. Motions to Compel compliance with discovery rules or orders shall be scheduled to assure hearing prior to any date that may be affected by said motion.
- B. Motions requesting relief from discovery rules or orders shall be scheduled to assure hearing prior to any date that may be affected by said request.
- C. Failure to bring timely motions may preclude relief.

5.60 JURY TRIALS

- A. In all civil jury cases, the plaintiff's attorney will prepare and submit to the Court and to each opposing party a Statement of the Nature of the Case for use at voir dire. The statement will include the time, date and location of the alleged transaction or occurrence giving rise to the lawsuit; a brief description of the alleged transaction or occurrence; the name and city of residence (or business) of each of the parties involved and of their attorneys; and a list of the names and residence communities of witnesses whom the parties expect to call. Opposing counsel may suggest amendments to the statement.
- B. Proposed stipulations for use at trial will be in writing, signed by the parties or their attorneys and filed in the cause unless the Court directs otherwise.

5.65 SETTLEMENTS/JUDGMENTS: MINORS, WARDS AND DISABLED PERSONS

- A. Attorney's fees will not be awarded or approved unless the attorney representing the claim of the minor, ward or disabled person sets forth in a separate sworn statement the following:
1. An itemization of hours expended, the work performed and the hourly rates charged; or
 2. If the fees sought are based upon a contingent fee agreement, an account of the work performed, the result realized (together with a copy of the fee agreement) and a statement justifying any amount in excess of 25% of the gross settlement amount.
- B. Any proceeds due a minor from a settlement approved hereunder shall be deposited in a restricted account in an institution approved by the Court and the voucher secured by the personal representative must contain the express language: "No withdrawals, expenditures or transfers shall be made of these monies at any time prior to (assert the date that the minor attains majority) unless same has been authorized by order of Court" or similar words.
- C. If the portion of the settlement funds due a minor, ward or disabled person is \$15,000 or less, the Court may in its discretion order the amount to be distributed by the guardian of the estate directly to the parent or guardian with whom the minor, ward or disabled person resides to be used solely for the benefit of the minor, ward or disabled person.
- D. In the event a waiver of surety on the bond of the guardian of the estate appointed hereunder is sought and granted, it shall become the personal

responsibility of the attorney seeking entry of a settlement order to deposit and disburse the funds in accordance with the order and to present proof of the same. The order approving the settlement shall set out this responsibility.

5.70 MOTIONS, PETITIONS AND ORDERS

- A. All motions and petitions must be fully titled to include the relief sought. Non-form orders must be similarly titled. Orders which are agreed must so state. Any order in a pre-judgment case shall contain a future court date and time.
- B. All orders, including pre-printed form orders, shall be fully completed and must clearly state the specific relief granted. The presence or absence of the plaintiff or defendant and/or counsel appearing on their behalf must be indicated on any order presented. The name of the person preparing the order shall also appear.
- C. Neither a plaintiff nor plaintiff's counsel may represent the defendant(s). Orders presented by the plaintiff or plaintiff's counsel in absence of the defendant or defendant's counsel must be either on motion of the plaintiff or titled as agreed.
- D. Where the cases are cited to the Court in a written motion or pleading, or in oral argument, a complete and correct copy of the case shall be presented to the Court.
- E. Motions for turnover of garnished sums or withheld wages must be presented to the Court on notice to the judgment debtor and the garnishee or employer.
- F. All matters which are set or continued for hearing shall be individually listed in the Order setting the matter for hearing. Orders which provide for hearing

on “all pending matters” or similar language may be stricken by the judge without hearing.

5.75 SMALL CLAIMS: DISCOVERY; FILING OF COUNTERCLAIMS, CROSS CLAIMS, INTERVENOR SUITS AND THIRD PARTY COMPLAINTS

- A. Where discovery is a matter or right or where a party has been granted leave to engage in discovery pursuant to Supreme Court Rule 287, such discovery shall be completed at least fifteen (15) days prior to trial.
- B. No counterclaim, crossclaims, intervenor suits or third party complaints may be filed less than thirty (30) days prior to trial, except upon order of court and for good cause shown.

5.80 CONTINUANCES

- A. There shall be no telephone continuances.
- B. No motion shall be continued for a period greater than ninety (90) days except for good cause shown.
- C. Trials will not be continued except upon motion brought in advance of the trial date and then only for good cause shown.
- D. Cases settled in advance of the time set for trial may be continued by agreement for thirty (30) days for the entry of judgment or dismissal. One or both parties or counsel representing them must appear before the Court to obtain such continuance. All matters so continued shall be scheduled for a date approved by the judge. Orders granting such a continuance must include language striking the case from the call on the date set for trial. The failure to present an order of judgment or dismissal on the continuance date will result in dismissal.

5.85 SERVICE OF SUMMONS, CITATIONS

On the return of an initial summons or citation to discover assets, if service of process has not been had on the named defendant(s) or citation respondent(s), the plaintiff or plaintiff's counsel must appear and submit an order continuing the matter for a date certain and thereupon an alias summons or citation may issue. If the plaintiff or plaintiff's counsel fails to appear, the matter may be dismissed.

5.90 CITATIONS TO DISCOVER ASSETS

A. In addition to the requirements set forth in 735 ILCS 5/2-1402 of the Code of Civil Procedure and Illinois Supreme Court Rule 277, the following Rules of Court are hereby established concerning citation proceedings:

1. If the citation respondent appears on the return date, he shall be sworn and examined subject to the discretion of the Court. Upon completion of the examination, an order shall be entered dismissing the citation, unless the Court determines that it is necessary to continue the citation. Orders continuing a citation must set forth specifically the reason for the continuance and what is required to complete the citation. Continuances merely to permit a judgment debtor to complete an installment payment schedule or otherwise satisfy the judgment will not be allowed.
2. If the citation respondent, having been duly served, fails to appear on the return date, a rule to show cause shall issue. No continuances in lieu of a rule will be granted, except where the court determines it

necessary to do so to protect the rights and interests of all parties to the proceedings.

3. Orders compelling respondent to make installment payments to be applied to the judgment must provide that the underlying citation is dismissed. Rules to show cause for the failure to comply with the terms of such a payment order shall issue only upon petition.

5.95 RULES TO SHOW CAUSE, ORDERS FOR BODY ATTACHMENT

- A. Orders of Body Attachment and Rules to Show Cause must be continued to a date certain within six (6) months.
- B. A Rule to Show Cause shall issue upon the filing of a verified Petition for Rule to Show Cause with proper notice to the opposing party. Petitions for Rule to Show Cause shall be handled as uncontested matters, and there shall be no evidentiary hearing at the time of issuance. Accordingly, the burden of proof shall not shift to the respondent upon the issuance of the Rule to Show Cause.
- C. Any Order of Body Attachment shall include, at a minimum, the respondent's full name, race, gender and date of birth, as well as any known physical description.
- D. No order of body attachment or other civil order for the incarceration or detention of a natural person respondent to answer for a charge of indirect civil contempt shall issue unless the respondent has first had an opportunity, after personal or abode service of notice as provided in Supreme Court Rule

105, to appear in court to show cause why the respondent should not be held in contempt.

E. Where a rule or body attachment is returned unserved:

1. The first alias shall be returnable no less than fourteen (14) and no more than thirty (30) days from the date of issuance. The second alias shall be returnable no more than sixty (60) days from the date of issuance. The third alias shall be returnable no more than ninety (90) days from the date of issuance.
2. If the third alias is returned unserved, the supplementary proceeding will be dismissed with leave to reinstate upon showing that service can likely be obtained.

F. The provisions of this Section 5.95 shall apply to all civil, domestic relations, and child support cases.

(Rule 5.95 amended by General Order 19-1; *effective February 11, 2019.*)