

RULES OF PRACTICE
OF THE
CIRCUIT COURT
SIXTH JUDICIAL CIRCUIT



COUNTIES OF
CHAMPAIGN, DEWITT, DOUGLAS
MACON, MOULTRIE and PIATT

AS ADOPTED BY THE
JUDGES OF THE SIXTH JUDICIAL COURT

EFFECTIVE: NOVEMBER 1, 1992

RODNEY A. SCOTT
CHIEF JUDGE

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UNIFORM RULES OF PRACTICE

SIXTH JUDICIAL CIRCUIT

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

(c) Vacancy in the office of Chief Judge. Whenever a vacancy in the office of Chief Judge occurs, any two circuit judges shall call a meeting of the circuit judges for the purpose of electing a Chief Judge to fill the unexpired term of office. The election shall be within three (3) weeks of the vacancy and at least seven (7) days notice shall be given to all circuit judges.

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

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

1.3 PRESIDING JUDGE

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

(b) Duties of the Presiding Judge. The Presiding Judge or his designate shall call and impanel Grand and Petit Juries, submit budgets, administer the Judicial Department of the county in which he is presiding and perform such other duties as may be required for the proper administration of justice. He may promulgate Administrative Orders within his county not inconsistent with these rules or the Administrative Orders of the Chief Judge. All Administrative Orders issued by the Presiding Judge shall be tendered to the Chief Judge fourteen (14) days prior to their effective date during which time the Chief Judge may approve, or withhold approval, of the proposed Administrative Order.

1.4 JUDICIAL ASSIGNMENTS

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

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

1.5 COURT PERSONNEL

(a) Court complement. A full court complement consists of the judge, courtroom clerk, and sheriff or bailiff when court is in session. A full complement shall be maintained at all times unless waived by the court for good cause.

(b) Courtroom clerk. The courtroom clerk shall be the Circuit Clerk or a Deputy Circuit Clerk authorized to swear witnesses. The clerk shall attend court when court is in session unless excused on a case-by-case basis by the judge presiding in the particular courtroom. The clerk shall obtain all necessary files and record sheets for cases to be heard that day, swear witnesses, maintain custody of all exhibits which have been marked for identification until further order of court, and perform such other duties as may be directed by the court.

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

1.6 JUDICIAL MEETINGS

(a) Quarterly meetings. The circuit judges shall meet at least quarterly each year to discuss and take such action as may be required in connection with the business of the Court of the Sixth Judicial Circuit. Such meeting may include the associate judges and circuit clerks of the Sixth Judicial Circuit. The associate judges of the circuit shall meet as a group, and with the circuit judges at least once annually. Such quarterly meetings of the circuit judges shall be on the first Thursday of February, May, August and November of each year. The Chief Judge shall give, in writing, at least twenty-eight (28) days notice of the time and location of such quarterly meetings.

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

1.7 JUDICIAL REPORTS

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

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

(b) Clerk's Semi-Annual Report of Pending Cases. By the Clerk of the Court, semi-annually, for the periods ending June 30 and December 31, to the Presiding Judge, Chief Judge and Administrative Office of the Illinois Courts, on or before July 15th and January 15th of each year.

(c) Judge's Monthly Report of Daily Judicial Service. By all judges of the

circuit to the Presiding Judge, Chief Judge and Administrative Office of the Illinois Courts by the 5th day of the following month.

(d) Circuit Court Summary Attendance Report. By all court reporters and the Chief Judge's administrative assistant by the 6th day of the following month.

(e) Judge's Semi-Annual Report of Pending Cases. By all judges of the circuit, semi-annually, for the periods ending June 30 and December 31, of all felony cases pending over 180 days and all law jury cases (over \$15,000) pending more than two years, to the Presiding Judge and Chief Judge, on or before July 30th and January 31st of each year.

(f) Judge's Monthly Report of Cases under Advisement. A judge who takes a motion or hearing on the final issues under advisement for 60 days or more shall report, in writing, to the Chief Judge and the Presiding Judge of such action on or before the 8th day of the following month. The report shall contain the case name, number, county, the matter under advisement, the date taken under advisement, and the date of next hearing pursuant to Rule 1.8 of these Rules.

(g) Annual Jail Report. The Presiding Judge of each county shall insure that either the grand jury, a committee of not less than three of its members, or a citizens committee of not less than five persons appointed by the Chief Judge shall, on or before September 1st of each year, examine the county jail and examine its condition and treatment of the prisoners and file a report with the Presiding Judge. A copy of the report shall be transmitted by the Clerk of the Court to the County Clerk, who shall submit the report to the County Board at its next meeting.

(h) State's attorney's report of fees, etc.

(1) Unless otherwise ordered by the Chief Judge, the state's attorneys for the counties comprising the Sixth Judicial Circuit shall report to the Presiding Judge of their respective counties the payment and collection of all fees, fines, forfeitures and penalties on the second Monday of January in each year.

(2) Each State's Attorney shall satisfy the Court by voucher or otherwise that all fees, fines, forfeitures and penalties by them collected have been duly paid over to the County Treasurer, as required by Section 4-2005, Chapter 34, Illinois Revised Statutes, 1989, and said State's Attorneys shall have no further interest in conviction fees, fines, forfeitures and penalties or monies collected by virtue of such office.

(3) The court shall note the filing of the report and fix a day certain not less than 30 days thereafter when objections in writing may be filed to such report by any one or more tax payers of the county. Notice of such hearing shall be given once at least twenty-one (21) days before such hearing by publication in a newspaper of general circulation in such county.

(4) In the event objections are filed to such report, a hearing shall be had upon such report and objections, at such time and in such manner as the Court shall direct and after such hearing the Court may approve

or disapprove of such report as justice may require and make all proper orders in reference thereto.

(5) If no objections have been filed, the Court shall inspect such report and require the State's Attorney to produce evidence in proof of his having paid over as required by law all fines and forfeitures collected by him, and if it appears to the Court that any State's Attorney has failed or refused to turn over the fines and forfeitures collected by him as required by law, the Court shall at once suspend him and appoint a State's Attorney *pro tempore* to perform the duties of the office until such State's Attorney shall have complied with the provisions of the statutes, or the orders of the court in regard thereto.

(6) The reports for the counties of Champaign and Macon shall be submitted to the County Auditor of their respective counties for approval or disapproval before being filed and presented to the court and the action of the Auditor shall be endorsed on the report.

1.8 CASES TAKEN UNDER ADVISEMENT

All matters taken under advisement for interim ruling or final judgment shall be allotted on the court's calendar for ruling on a date certain within 60 days from the date the case was taken under advisement. The court may, by order entered of record, extend the time for ruling to a date certain on the court's calendar not more than 120 days from the date the case was taken under advisement.

1.9 DOCUMENTS AND COURT FILES

(a) **Filing and Clerk's file mark.** All documents shall be filed with the Clerk of the Court pursuant to Supreme Court Rule 10 prior to their presentment to the court with the exception of proposed orders. Upon presentment to the Clerk, the clerk shall place a file mark on the first page of each document in the upper right hand corner in the space so provided. All pleadings shall include a cause entitlement and number, contain a space at least 2 by 2 inches at the upper right portion of the first page for the Clerk's file mark, shall not contain a backing sheet and, if such pleading contains more than one (1) page, the pages shall be numbered and shall be stapled at the upper left corner. With the exception of forms and exhibits, only one side of each page shall be used. The case number shall not be placed in such a position that it will be obliterated by the Clerk's file mark. The Clerk shall not accept a pleading for filing unless accompanied by the proper filing fee, if any.

(b) **Signature on pleadings.** Every pleading, notice or other paper filed with the court shall be legibly signed by at least one attorney of record in his or her individual name or by the *pro se* party filing the same.

(c) **Acknowledgment of pleading by an attorney.** No pleading or entry of appearance shall be acknowledged by any attorney or member or employee of his or her firm, for an opposing party.

(d) **Removal of files from courthouse.** Original files, documents or exhibits

shall not be removed from the courthouse except by leave of court or the Clerk of the Court. A receipt shall be filed with the Clerk by the party removing the files, documents or exhibits. Such files, documents or exhibits shall not be retained by the party removing same for more than two (2) days without further leave of court or the Clerk of the Court.

(e) Filing of documents received by facsimile transmission. The Clerk of the Court shall not file documents received by facsimile transmission unless otherwise authorized by Supreme Court Rule or by court order entered of record.

1.10 COUNTY LAW LIBRARY

(a) Law Library Committee. Each county within the Sixth Judicial Circuit shall have a Law Library Committee of which the Presiding Judge of that county or his designate shall serve as chairman. The members of the committee shall be named by the Presiding Judge. The committee shall oversee the operation of the County Law Library and promulgate written rules for the operation thereof, which shall be posted in a conspicuous place within the the library.

(b) Law Library fund. Disbursements of the county law library fund shall be on order of the Presiding judge or his designate.

(c) Law Library budget. The annual budget for the County Law Library shall be included in the budget of the Judicial Department of that county.

1.11 INSPECTION AND CERTIFICATION OF COURT FACILITIES

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

(b) Committee on court facilities. There shall be in the Sixth Judicial Circuit a committee on court facilities. The Chief Circuit Judge shall appoint from the circuit and associate judges of the circuit those who shall serve on the committee, and shall designate one of its members as chairman. The Chief Circuit Judge may not serve as a member of the committee.

(1) When directed by the Chief Circuit Judge, the committee shall inspect each courtroom, jury quarters, chambers, ancillary court spaces, and offices of the clerk of the court within any county of the Circuit.

(2) The committee shall file a preliminary report of the inspection, together with the committee's recommendations, with the Chief Circuit Judge. The Chief Circuit Judge shall transmit a copy of the report and proposals for corrective action to bring such facilities within applicable standards to the chairman of the county board in which the facility in question is located. If corrective action is not commenced and completed within the time period established by the committee, then it shall promptly file a supplemental report with the Chief Circuit Judge, and include therein any additional recommendations. The Chief Circuit Judge shall transmit a copy of the supplemental report to the chairman

of the county board. Within 90 days of such transmittal, or such other period as may be designated by the chairman of the committee, the county board must either: (1) correct the condition of the facility in question pursuant to the committee's report and recommendations, or (2) bind the county contractually and irrevocably to have the facility so corrected within six months or such other time as may be designated by the committee.

(c) Information hearing. In the event the county board fails to comply with Rule 1.11(b)(2), the chairman of the committee shall file a petition styled, "In re the Court Facilities of _____ County", with the clerk of the court of the county in which the facility in question is located. The petition shall specify the deficiencies of each such facility, the remedial action proposed, any action taken by the county board, and a prayer for appropriate relief. Upon such filing, the Chief Circuit Judge shall forthwith designate a time, date and place for a hearing thereon.

(1) The chairman of the committee shall cause summons, together with a copy of the petition, to issue and to be served on the chairman and each member of the county board not less than 21 days prior to the hearing. The chairman of the committee may direct the circuit clerk to give notice of the hearing to such other persons as he or she deems appropriate by placing such notice and a copy of the petition in an envelope having prepaid first class postage thereon and depositing it in the United States Mail not less than 21 days prior to the hearing. The clerk's certificate of mailing notice shall be made of record.

(2) An informal and public hearing on the petition shall be held in the county in which the court facility in question is located. The Chief Circuit Judge shall preside over the hearing, which shall be transcribed by a court reporter. The Chief Circuit Judge may direct that a subpoena issue to any witness deemed appropriate and may take judicial notice of reports filed by the committee.

(3) Following the informational hearing, the Chief Circuit Judge shall file with the circuit clerk his or her findings and order regarding the facility in question, together with a certification that the facility:

- (i) meets applicable standards; or
- (ii) does not meet applicable standards, but may be temporarily certified until a period ending on a date certain; or
- (iii) does not meet applicable standards, but may be conditionally certified upon the condition that specified action is taken and completed by a date certain; or
- (iv) does not meet applicable standards and will be discontinued for court use effective on a date certain.

(4) Before the Chief Circuit Judge may order that new or additional court facilities be constructed or remodeled, he or she must first determine that exigent circumstances exist requiring that such an order be entered. The Chief Circuit Judge may also order that such construction

or remodeling be completed by a specified date. Any such orders regarding construction or remodeling of new court facilities shall be entered against the county board of the county in which the facility in question is located, as well as personally against each member of that county board. A finding of exigent circumstances need not be made in an order concerning existing courtrooms and ancillary facilities.

(5) An informational hearing under this subsection need not be held if:

(i) The Chief Circuit Judge certifies that the facility in question meets applicable standards; or

(ii) Both the chairman of the county board and the Chief Circuit Judge waive such hearing in writing.

(d) Hearing Pursuant to Supreme Court Rule 21(c).

(1) If the county board does not comply with the order of the Chief Circuit Judge as set forth in Rule 1.11(c), then the Chief Circuit Judge shall file a "Petition to Compel Compliance" with the circuit clerk of the county in which the informational hearing was held.

(2) The Chief Circuit Judge shall thereafter request the Supreme Court to assign a judge from a circuit other than the circuit in which the petition is filed to preside at the hearing under this paragraph. The Attorney General or an attorney appointed by the Chief Circuit Judge shall represent the Chief Circuit Judge at the hearing.

(3) A showing by the Chief Circuit Judge of compliance with Rules 1.11(b) and 1.11(c) constitutes *prima facie* evidence of the validity and enforceability of any orders entered by the Chief Circuit Judge pursuant to those Rules.

(4) After hearing the judge shall file his written findings, order, and certification, and shall have available all appropriate remedies under the law of this State.

(e) Costs, fees and expenses. In proceedings held pursuant to this rule, costs, attorney fees and other expenses, including but not limited to expert witness fees incurred by or taxable to the Chief Circuit Judge shall be paid by the county in which the court facility in question is located.

1.12 COURTROOM DECORUM

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

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

1.13 COURT APPEARANCE

(a) Court hours. Unless otherwise directed by the Chief Judge, court hours shall be from 8:30 a.m. to 12:00 p.m., and from 1:30 p.m. to 4:30 p.m., Monday

through Friday of each week inclusively except when court is closed in observance of a legal holiday pursuant to an order of the Chief Judge. Dates upon which court will be closed shall be posted in the courthouse of the individual counties within the Sixth Judicial Circuit. A trial judge is authorized to increase these hours when required to conduct court business.

(b) Prompt attendance required. Judges shall begin court promptly at the designated time. All attorneys and parties shall appear promptly before the court. In the event that a party or attorney fails to appear promptly, the court may impose such sanction or take such remedial action as it deems appropriate. In the event that the failure of a party or attorney to appear promptly renders it impossible to proceed, the court may order the party or attorney failing to appear promptly to pay the reasonable costs and expenses, including attorney's fees, to the opposing party or attorney.

1.14 JURORS, TERMS OF SERVICE, SUMMONS AND EXCUSE

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

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

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

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

(e) Rules applicable. The Grand Jury and Petit Jury are subject to the rules of the County Jury Commission if such commission has been established within the county.

PART 2. MOTIONS

2.1 MOTION PRACTICE

(a) Filing. All motions shall be filed with the Clerk of the Court prior to their presentment to the court. In any cause of action, the court may designate a date by which all motions are to be filed. A motion may not be filed subsequent to that date except by leave of court. The title to each motion shall indicate the relief sought.

(b) Allotment for hearing. With the exception of emergency matters or by

leave of court, no motion shall be heard unless previously allotted for hearing on the court's calendar.

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

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

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

(f) Time of notice. Unless otherwise ordered by the court, notice by personal service or by U.S. Mail shall be made not less than fourteen (14) days prior to the hearing. Proof of personal service or mailing shall be made of record.

(g) Summary judgment. Unless by leave of court for good cause shown, a motion for summary judgment shall not be heard until fourteen (14) days after service of notice of motion under Supreme Court Rule 11.

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

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

If a motion is heard without prior notice under this rule, written notice of the hearing shall be served personally or by U.S. Mail upon all parties not theretofore found by the court to be in default for failure to plead, and proof of service thereof shall be filed with the Clerk of the Court within two (2) days of the hearing thereon. The notice shall state the title and number of the cause of action, name of the judge who heard the motion, date of hearing, and the order of the court.

(i) Motion to continue. No motion to continue shall be allowed for other than good cause shown. Agreements of counsel as to a motion to continue shall not be binding on the court. The court may require affidavits of the parties and counsel or the presence of the parties themselves together with testimony in support of or opposition to the motion. If the motion to continue is not accompanied by the written stipulation of counsel or parties agreeing to allowance of the same or if the moving party does not forthwith cause said motion to be set for hearing prior to the scheduled hearing date for which continuance is sought, the

court may summarily deny said motion to continue.

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

(k) Failure to call motions for hearing. The burden of obtaining an allotment for hearing or briefing schedule in a civil case is on the party making the motion. If an allotment for hearing is not obtained by the moving party within ninety (90) days from the date it is filed, the court may deem the motion withdrawn and deny the relief requested with, or without, leave to refile.

PART 3. PROCEEDINGS BEFORE TRIAL

3.1 PLEADINGS TO BE READILY COMPREHENSIBLE

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

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

3.2 WRITTEN INTERROGATORIES

(a) Standard form and procedure. The party serving written Interrogatories shall provide one copy to each party required to answer the interrogatories. The interrogatories shall be reasonably spaced so as to permit the answering party to make his answer on the interrogatories. The answering party may attach an addendum to the copy if the space provided is insufficient. If an addendum is attached, it must clearly refer to the question being answered.

(b) Limitation on Interrogatories. No party shall serve on any other party more than 30 written interrogatories in the aggregate, including subsections, without leave of court or agreement of the parties. Leave of court is not required for Supreme Court Rule 213(e) pretrial interrogatories for supplemental disclosure of persons having knowledge of relevant facts.

3.3 DISCOVERY DOCUMENTS

(a) Restrictive filing. Depositions, interrogatories, requests, answers or responses thereto and other discovery documents shall not be filed with the Clerk of the Court except as necessary to resolve disputed issues of procedure, fact, or substantive law. Depositions offered for the foregoing purposes shall be filed pursuant to Supreme Court Rule 207(b)(1).

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

3.4 FELONY ARRAIGNMENTS

At the arraignment of defendants charged with criminal offenses and upon a plea of not guilty, the court may enter discovery orders on the State and defense counsel with a time designated for compliance, shall direct that all motions be on file within a time specified by the court, and shall place the cause on a judge's trial calendar.

3.5 PRETRIAL CONFERENCES

(a) Requirement of pretrial conference. At least one pretrial conference shall be held in all civil actions and the attorneys who expect to try the case shall attend said conference. The court shall set the time, date and place of the pretrial conference and direct that notice be given to all interested parties. Upon motion of any party, or on its own motion, the court may order additional pretrial conferences or docket calls.

(b) Summary statement of points and authorities. Unless waived by the court, at least seven (7) days prior to a contested trial, the parties shall submit to the court and opposing counsel a summary statement of points and authorities citing all cases and statutes which they expect to argue. The statement may be in summary form similar to that provided in Supreme Court Rule 341(e)(1). Unless otherwise directed by the court, this rule shall not apply to misdemeanor, traffic, ordinance and small claims cases.

(c) Settlement prior to trial. In the event of settlement prior to a scheduled pretrial conference or prior to trial, the attorneys shall forthwith notify the judge that the cause has been settled.

(d) Criminal and traffic docket call. In all criminal and traffic cases where there has been a demand for trial by jury, the court may schedule a docket call and direct that notice be given to the State and defendant's attorney of record, or, if the defendant is unrepresented, to the defendant at his or her last known address. The notice shall be given by the Clerk of the Court by regular U.S. Mail at least fourteen (14) days prior to the docket call. Attorneys of record who will try the case and *pro se* defendants are required to be present at the docket call.

3.6 MARKING OF EXHIBITS — Pretrial marking of exhibits

At the pretrial conference or at any other time as may be designated by the court, the court may direct that the parties produce all of the exhibits they expect to offer into evidence. Each of the exhibits shall thereupon be marked for

identification either by the court reporter, clerk, or attorneys, as the court may direct. The parties shall then stipulate as to the exhibits to which there are no objections, and such exhibits shall be admitted into evidence without the necessity of further foundation. Any exhibit identified before or during the course of a trial shall thereafter be kept in the custody of the Clerk of the Court unless otherwise directed by the court.

3.7 DISMISSAL FOR WANT OF PROSECUTION

(a) Procedure. In all cases where no appeal is pending and there has been no action of record for a period of eighteen (18) months, the court may summarily dismiss the cause of action and it shall not thereafter be redocketed without both good cause shown and leave of court.

(b) Notice of dismissal. Upon dismissal of any cause for want of prosecution, the Clerk of the Court shall give all *pro se* parties and all attorneys of record notice of the dismissal by regular U.S. Mail within fourteen (14) days of the dismissal. A copy of the notice with the Clerk's certificate of mailing shall be made of record. Such cases shall not be redocketed if a motion to reinstate is not filed within thirty-five (35) days from the date of dismissal.

PART 4. TRIALS

4.1 JURY TRIALS

(a) Statement of the nature of the case — preparation and use. In all jury cases, the State's Attorney in criminal cases, and the plaintiff's attorney in civil cases, shall prepare and submit to the court and opposing parties a Statement of the Nature of the Case to be read by the court to the *venire* prior to *voir dire* examination. The statement shall include the time, date, and place of the alleged occurrence or offense and a brief description thereof, the name of the parties involved and their counsel, and, when requested by the court, a list of witnesses whom the parties expect to call. Opposing counsel may suggest amendments to the statement prior to it being read to the *venire*.

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

PART 5. DRAFT ORDERS AND POST-JUDGMENT NOTICES

5.1 WRITTEN DRAFT ORDERS

When the court enters a final judgment in any cause of action it may direct

that a written order be submitted, and counsel shall submit said order to the court within thirty (30) days. Unless excused by the court, all orders shall be tendered to opposing counsel or a *pro se* party for approval as to form before being signed by the court. In the event of a dispute as to form, the court shall decide the controversy after hearing from all parties. Approval in form shall not be construed as approval in substance, and the court may sign the order even though approval is withheld. If counsel desires a conformed copy of the order, counsel shall provide a copy of the order with a self-addressed stamped envelope.

5.2 POST-JUDGMENT NOTICES — when warnings required

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

PART 6. SMALL CLAIMS ACTION

6.1 PROCEDURE IN SMALL CLAIMS ACTIONS.

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

(1) notify the Clerk of the Court, in writing, at least seven (7) days prior to the appearance date on the summons, stating that he wishes to contest the claim and set forth the title and number of the case, his or her name, address, telephone number, and name and address of the plaintiff and his attorney, if any, or

(2) file a written motion or answer, or

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

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

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

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

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

(c) Summons appearance date not considered the trial date. Unless otherwise ordered by the court, the appearance date as noted on the summons shall not be the date of trial.

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

(e) Notice of small claims rule. The Clerk of the Court shall transmit with each summons a copy of this rule and any other information deemed appropriate by the court. Subsection (c) and the last sentence in subsection (a) of this rule shall be in bold type in such notice.

PART 7. DOMESTIC RELATIONS

7.1 SPECIAL RULES PERTAINING TO MATRIMONIAL CASES

(a) Matrimonial cases defined. For purposes of this rule, matrimonial cases are defined as any proceeding for an order or judgment relating to dissolution, legal separation or invalidation of marriage including all ancillary proceedings.

(b) Notice of dispute as to child custody. If the custody of the children of the parties is in dispute, the plaintiff will so inform the court upon filing of the petition for dissolution, or as soon thereafter that a dispute is known to exist. In such a case, the court may order mediation, a background investigation, appoint a court consultant and/or Guardian *ad Litem*, or a combination thereof, and may order that one or both parties deposit with the Clerk of the Court all or a reasonable portion of the costs thereof.

(c) Financial Affidavit. In all proceedings in which there is a dispute involving property, temporary or permanent maintenance, or temporary or permanent child support, the moving party shall file a financial affidavit, similar to that found in Appendix A of these rules, contemporaneously with the request for setting for hearing, or when otherwise ordered by the court. Proof of service pursuant to Supreme Court Rule 11 shall be filed not less than seven (7) days prior to the hearing. The party responding to the petition shall file a financial affidavit with the court not less than seven (7) days prior to the hearing date and a copy shall be provided to opposing counsel. Submission of a pre-judgment pre-trial memorandum shall be in lieu of the financial affidavit and shall be in a form as prescribed by the court. If such affidavit or pre-judgment pre-trial memorandum has been filed for purposes of a hearing on temporary relief, an additional affidavit or pre-judgment pre-trial memorandum need not be filed prior to hearing for permanent relief unless there has been a substantial change.

(d) Statement of Proposed Property Apportionment. If the issue of property apportionment is in dispute, in addition to the financial affidavit or pre-judgment pre-trial memorandum, as the case may be, the court may require the parties to submit a statement of proposed property apportionment which shall include an itemization of all property which is claimed as marital and non-marital, together with a proposed fair cash market value of each item, at least seven (7) days prior to the hearing. If the issue of apportionment of marital indebtedness is in dispute, the statement shall also include a proposed apportionment of marital indebtedness and shall include a listing of any non-marital indebtedness for which either party is currently liable. Submission of a pre-judgment pre-trial memorandum shall be deemed to be in compliance with local court rules.

(e) Waiver of child support prohibited. The court shall not waive child sup-

port. The court shall enter a finding on the record in each case involving minor children that the children are, or are not, receiving public assistance.

(f) Written judgment order. If the court requires a written judgment order, the prevailing party shall prepare and submit a written judgment order to the court pursuant to Rule 5.1 of these rules within thirty (30) days of the final hearing.

(g) Post-trial affidavit. In all post-judgment petitions involving financial matters, other than petitions for enforcement of a judgment order, the moving party shall prepare a financial affidavit similar to that found in Appendix A of these rules which shall include facts about the party's present financial circumstances. The affidavit shall be filed prior to, or contemporaneously with, the request for setting. Notice shall be served pursuant to Supreme Court Rule 11 not less than seven (7) days prior to the hearing. In the event the moving party does not have an affidavit on file which represents his or her financial condition at the time of the dissolution, such party shall file such an affidavit at the time of filing their post-trial affidavit. The responding party shall file a post-trial affidavit setting forth their present financial circumstances at least seven (7) days prior to the scheduled hearing and at the same time shall file an additional affidavit setting forth his or her financial circumstances at the time of the dissolution, unless such an affidavit has been previously filed.

PART 8. CONTEMPT OF COURT

8.1 PROCEEDINGS IN CONTEMPT

(a) Contemptuous conduct defined. Contemptuous conduct consists of verbal or non-verbal acts which:

- (1) Embarrass or obstruct the court in its administration of justice or derogate from its authority or dignity;
- (2) Bring the administration of justice into disrepute; or
- (3) Constitute disobedience of court order or judgment.

(b) Direct contempt defined. Contemptuous conduct constitutes direct contempt if it is committed in such a manner that no evidentiary hearing is necessary for the court to determine that facts surrounding such conduct and is committed in an integral part of the court when the court is performing its judicial functions.

(1) Summary hearing. A summary hearing with a finding and adjudication of direct contempt may be made by the court if immediate punishment of the contemnor is essential to prevent demoralization of the court's authority before the public. In such an event, the contemnor is not entitled to notice, a written charge, plea, to cross-examine or subpoena witnesses, present evidence or to counsel. There is no right to trial by jury, unless the court states, prior to hearing, that it will impose a sentence of more than six (6) months, a fine of more than \$500.00, or both, upon adjudication of contempt.

(2) Contemptuous conduct specified/statement in mitigation. Prior to an adjudication of direct contempt, the court shall inform the contemnor of the specific conduct forming the basis of contempt and, prior to imposition of sanctions, the court shall permit the contemnor an opportunity to present a statement in mitigation.

(3) Finding of contempt/imposition of sanctions. Upon the commission of an act constituting direct contempt, the court may find the contemnor in direct civil contempt, direct criminal contempt, or both, and may:

(i) impose sanctions instanter, or

(ii) impose sanctions within a reasonable time thereafter.

Upon a finding of direct criminal contempt, the court may impose a fine not to exceed \$500.00, incarceration for a term not to exceed six (6) months, or both, unless the contemnor is afforded a right to trial by jury, in which case, if the jury finds the contemnor guilty of contempt, the court is not limited in fine or incarceration and may impose reasonable sanctions. In addition to, or in lieu of fine and incarceration, the court may impose such other sanctions it deems reasonable and appropriate.

(4) Written order required. Upon the imposition of sanctions, the court shall enter a written judgment order setting forth the factual basis of the finding and sanctions imposed.

(5) When referral to another judge required. Where a controversy between the judge and contemnor is integrated with the contemptuous conduct and embroils the judge to the degree that his objectivity can reasonably be questioned, the judge shall recuse himself on the issue of contempt and refer the matter to the Chief Judge for reassignment. In this event, the judge before whom the alleged contempt transpired shall specify in writing the nature of the alleged acts of contempt, shall direct that a record of the proceedings surrounding the said acts be prepared, and shall transmit such record to the judge hearing the matter. The judge hearing the contempt matter shall base his findings and adjudication of direct contempt solely on the charge and record of proceedings.

(6) Appeal. An appeal from an adjudication of direct contempt may be taken as in any criminal case if the finding is one of direct criminal contempt, and as in any civil case, if the finding was one of direct civil contempt. Upon filing of a notice of appeal, the court may fix bond and stay sanctions pending disposition of the appeal.

(c) Indirect criminal contempt defined. A contemptuous act constitutes indirect criminal contempt when it occurs outside the presence of the court or in an area that is not an integral or constitute part of the court, or the elements of the contemptuous act are not otherwise within the personal knowledge of the court. An action for indirect criminal contempt is a separate action and not a part of the underlying cause out of which the contempt arose. A contemptuous

act committed in the presence of the court, but not summarily treated as a direct criminal contempt as provided in 8.1(b) of this rule, shall be prosecuted as an indirect criminal contempt.

(1) Petition for Adjudication of Indirect Criminal Contempt. A proceeding in indirect criminal contempt shall be commenced by the filing of a Petition for Adjudication of Indirect Criminal Contempt. The petition shall be verified and set forth with specificity the nature of the alleged contemptuous conduct.

(2) Prosecution of indirect criminal contempt. Indirect criminal contempt may be prosecuted by the State's Attorney, counsel for a litigant, or by an *amicus curiae* appointed by the court.

(3) Notice of hearing. If the court finds that the verified petition sets forth allegations which support the charge, it shall set the matter for hearing and order notice be given to respondent. Service of notice, together with a copy of the petition, shall be made in a manner as provided by Supreme Court Rule 105(b)(1) or (2) as the court may direct. The notice shall provide therein that should the respondent fail to appear, a body attachment may issue. If the respondent fails to appear after service of notice, or the court has good reason to believe the respondent will not appear in response to notice, the court may direct that an immediate body attachment issue against the respondent. When a body attachment issues, the court shall set bond thereon.

(4) Respondent's due process rights. Upon respondent's first appearance before the court, it shall determine if respondent has received a copy of the petition and advise respondent of his right to:

(i) a public hearing, including the right to cross-examine and subpoena witnesses, present evidence, and make a written or oral response to the charge;

(ii) counsel, and the appointment thereof if indigent;

(iii) freedom from self-incrimination;

(iv) the presumption of innocence;

(v) to be proven guilty only by proof of guilty beyond a reasonable doubt; and

(vi) a trial by jury if the court, prior to hearing, declares that a sentence of more than 6 months incarceration, a fine of more than \$500.00, or both, will be imposed upon an adjudication of guilt.

(5) Motion for substitution of judge. A motion for substitution of judge made pursuant to Section 114-5(a) of the Code of Criminal Procedure shall be granted if made within ten (10) days of the matter being placed on the trial call of the judge, or at any time pursuant to Section 114-5(d) of the Code of Criminal Procedure when for cause and supported by affidavit; however, such motion must be made before the judge has ruled on a substantive issue of the action and cannot be made to avoid or delay hearing on the issue of criminal contempt.

(6) The hearing. In a proceeding for indirect criminal contempt, the hearing shall be held as in any other criminal case pursuant to the respondent's due process rights as enumerated in Section 8.1(c)(4) of this rule.

(7) Statement in mitigation. Upon an adjudication of indirect criminal contempt, the judge shall afford the contemnor an opportunity to make a statement in mitigation prior to imposition of sanctions.

(8) Sanctions. If the contemnor has not been afforded the right of trial by jury, the court may sentence the contemnor to jail for a term of not to exceed 6 months, impose a fine of not to exceed \$500.00, or both; if the contemnor has been afforded the right of trial by jury, the court may impose a reasonable fine or sentence of incarceration. In addition to, or lieu of, fine or incarceration, the court may impose such other reasonable sanctions it deems appropriate, including attorney fees and costs.

(9) Written order required. Upon an adjudication of indirect criminal contempt, the court shall enter a written order setting forth the factual basis for the finding of contempt and sanctions imposed.

(10) Appeal. An appeal may be taken from an adjudication of criminal contempt as in any other criminal matter. Upon the filing of a notice of appeal, the court may fix bond and stay sanctions pending disposition of the case on appeal.

(d) Indirect civil contempt defined. Indirect civil contempt is a continuation of the underlying cause of action out of which the contempt arose, where the elements of the contempt are not within the personal knowledge of the judge; and

(i) the act consists of the failure to obey a court order or judgment; and

(ii) coercive, rather than punitive, sanctions are sought to compel compliance with the order or judgment.

(1) Petition for Adjudication of Indirect Civil Contempt. An indirect civil contempt proceeding shall be commenced by the filing of a Petition for Adjudication of Indirect Civil Contempt. The petition shall be verified and shall set forth with specificity the portion of the court order or judgment alleged to have been violated, together with the date or dates, and nature of the violation. If the court finds that the petition provides sufficient facts to show *prima facie* evidence of civil contempt it may, at its discretion, enter a rule to show cause on the respondent or, instead, not enter a rule and set the petition itself for hearing. In any event, the court shall set the matter for hearing and order that respondent be given notice of the time, date and place of hearing.

(2) Notice. Notice of the hearing and copy of the petition shall be served by regular U.S. Mail, postage prepaid, to respondent's last known address or in any manner as provided in Supreme Court Rule 105(b)(1) or (2) as the court may direct. Notice by personal service shall be served not less than seven (7) days prior to hearing, and notice

by U.S. Mail shall be mailed not less than fourteen (14) days prior to hearing. The notice shall contain therein that should respondent fail to appear, a body attachment may issue.

If the respondent fails to appear after due notice or if the court has reason to believe the respondent will not appear in response to notice, the court may direct that a body attachment or warrant of arrest be issued against respondent and in such event, the court shall set bond which shall be noted on the body attachment or warrant of arrest.

(3) Response to the petition. The respondent may submit an oral or a written response denying with specificity any of the allegations of the petition together with affirmative defenses. Those allegations of the petition not specifically denied are deemed admitted. If the basis of the petition is the failure of the respondent to make court ordered payments to the clerk of the court, the records of the clerk shall be *prima facie* evidence of the amount received by the clerk.

(4) Substitution of judge. A respondent may file a petition for substitution of judge pursuant to Section 2-1001 of the Code of Civil Procedure if such petition is filed prior to the judge making a substantive ruling in the underlying action or on the petition for adjudication of indirect civil contempt, and is not filed to avoid or delay hearing on the petition.

(5) Respondent's due process rights. The respondent has a right to notice, to be provided with a copy of the petition, to answer orally or in writing, to be heard and to present evidence, to cross-examine witnesses, to call witnesses, and to have an attorney of choice.

(6) Conduct of the hearing. Civil contempt proceedings shall be heard before the court without jury. The petitioner may call the respondent as an adverse witness pursuant to Section 2-1102 of the Code of Civil Procedure. Upon petitioner's showing *prima facie* evidence of the respondent's failure to comply with a court order, the burden of production shifts to the respondent who must prove any affirmative defenses, including lack of means to comply with the court's order, by a preponderance of the evidence.

(7) Finding of contempt/sanctions. If the court finds the respondent in civil contempt, it shall impose sanctions *instanter* or at a later date. Prior to imposition of sanctions, the contemnor shall have a right to make a statement in mitigation. Sanctions may include a continuing fine and/or incarceration or other reasonable sanction the court deems appropriate and such sanctions shall remain in full force and effect until the contemnor purges himself of contempt or is otherwise discharged by due process of law. The court may assess reasonable attorney's fees against the contemnor.

(8) Written order required. Upon an adjudication of civil contempt, a written order shall be signed by the judge specifying the contemptuous conduct, the sanctions imposed and the means by which the contemnor may purge himself of contempt. A copy of the order shall be given

to the contemnor.

(9) Appeal. An appeal from a judgment of civil contempt may be taken as in any civil case. Upon the filing of a notice of appeal, the court may fix bond and stay the sanctions pending the disposition of the appeal.

PART 9. PROBATE PROCEEDINGS

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

(a) **Holograph will.** When a will is handwritten, the petitioner shall file a typewritten copy of the will along with the petition to probate and an affidavit of the petitioner or his attorney that the typewritten copy is true and correct to the best of his knowledge.

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

9.2 EXPENDITURES FROM WARD'S ESTATE

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

9.3 WITHDRAWAL OF WARD'S MONEY

(a) **Petition to Withdraw.** A petition to withdraw funds deposited or invested, as provided in Section 24-21 of the Probate Act or pursuant to this rule, shall be presented in person by the parent, spouse, person standing in *loco parentis*, or person having the responsibility of custody of the ward, unless personal presentation is waived by the court. The petitioner may be required to furnish evidence that the sums to be withdrawn or proceeds of sale or redemption are necessary for the ward's support, comfort, education, or other benefit to the ward or his dependents. Unless otherwise excused by the court, within 30 days after entry of the order for withdrawal, the petitioner shall file receipts for all sums expended. All unexpended funds shall be redeposited in accordance with Section 24-21 of the Probate Act.

(b) **When minor beneficiary of decedent's estate.** If a minor is entitled to a distributive share of a decedent's estate and:

(1) the share consists entirely of money, and

(2) No guardian has been appointed for his estate, the court, upon a showing under oath that it is in the best interests of the minor, may direct the distributive share to be deposited and paid out in accordance with Section 24-21 of the Probate Act. A receipt of the bank or other financial institution is a voucher for accounting purposes.

(c) When value of ward's estate less than small estate. If the value of the ward's estate being administered is or becomes less than the small estate amount specified in Section 25-2 of the Probate Act and no part of the estate consists of real estate or a pending cause of action for personal injuries, a petition may be filed requesting the distribution of the estate without further administration. In the case of a disabled adult, application shall be made by his guardian or by his spouse, or if he has no spouse, by a relative having responsibility for his support. In the case of a minor, application shall be made by his guardian or by a parent or a person standing in *loco parentis*. If it appears that there is no unpaid creditor and that it is for the best interest of the estate and the ward, the judge may order the guardian to file his final account and make distribution as the judge directs.

9.4 DISPOSITION OF CLAIMS—PROCEDURE

(a) Setting Claim for Hearing. When a claim is filed, the court, or if the court so designates, the clerk shall automatically set the claim for a first hearing not less than 35 days after the filing of the claim. It is the duty of the claimant to give notice of hearing on the claim and to cause proof of said notice to be filed with the Clerk of the Court.

(b) Procedure on Hearing of Claim. On the return date set for hearing of the claim, the claim may be allowed, set for trial, continued, or dismissed. If any objection to the claim has been filed, on the return date set under 9.4(a), the claim will be allotted for hearing and the court shall require at least fourteen (14) days notice to be given by regular mail to the claimant by the representative, the attorney for the estate, or the Clerk of the Court.

9.5 DISMISSAL FOR WANT OF ACTION.

Whenever the court determines that there has been no activity in an estate for a period of not less than (1) year (other than one for independent administration), the court may set the estate for status call and direct the Clerk to give notice of the time, date and place to the attorney of record, personal representative, or both, at their last known address. At the status call, if the court finds that the estate is dormant and cannot be conveniently terminated, it may dismiss the estate for want of action or direct a citation issue to the attorney of record, personal representative, or both, pursuant to these rules.

9.6 PERIODIC ACCOUNTING

(a) When required — executor/administrator. Every executor and administrator shall present the account and evidence of disbursements required by

Section 24-1 of the Probate Act:

- (1) Within 60 days after the expiration of 12 months after the issuance of letters;
- (2) Annually after the date of the first account; and
- (3) At such other times as the court may order.

(b) When required — guardian. Every guardian shall present the account and evidence required by Section 24-11 of the Probate Act:

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

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

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

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

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

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

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

(d) Periodic accounting not filed — notice and citation. In any case in which an account has not been filed within the time specified in paragraphs (a) and (b) above or on the date certain set by court order, the following procedure is prescribed:

- (1) The clerk shall mail to the attorneys of record in the estate a notice that the account is due.
- (2) If the account is not presented within 60 days after the date such notice was mailed, the Clerk shall issue a citation directing the personal representative to account as required or to appear on a date fixed by the court to show cause why he should not do so, or be removed as personal representative.
- (3) If the personal representative fails to account or to appear as directed, or if, having appeared, he fails or refuses to account as

required or to show cause why he should not do so, his letters shall be revoked and he may be subject to contempt of court. Lack of sufficient time on the part of the personal representative or his attorney will not constitute good cause for failure to account as required by this rule.

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

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

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

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

(i) Notice, accompanied by a copy of the account, shall be given in person or sent by mail to the last known address not less than 14 days before the hearing, except if the post office address of the person is outside the United States or Canada, the notice shall be sent not less than 21 days prior to the hearing.

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

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

9.7 INDEPENDENT ADMINISTRATION—STATUS REPORT.

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

9.8 INACTIVE DOCKET—GUARDIANS OF PERSON

(a) Guardian of person of minor. Upon appointment of a guardian of the person of a minor, the court may allot the cause for status review for the date upon which the minor attains majority or shortly thereafter and transfer said cause to an inactive probate docket.

(b) Guardian of person of adult. Upon appointment of a guardian of the person of a disabled adult, the court may allot the cause for status review for a date not to exceed five (5) years after the appointment of such guardian and transfer said cause to an inactive probate docket. The Clerk of the Court shall mail notice of such status review to the last known attorney of record or personal representative, or both, of the time and place of the call of said estate. Such notice shall be given not less than fourteen (14) days nor more than twenty-eight (28) days prior to such status review date.

(c) Reports by guardian of person. Upon transfer of a cause as hereinabove provided to an inactive probate docket, such guardian shall not be required to file status reports with the court except upon order of court.

9.9 SETTLEMENT OF PERSONAL INJURY OR DEATH ACTION

(a) Petition for leave to settle. If a petition for leave to settle a cause of action for personal injuries sustained by a ward or decedent or a cause of action for the wrongful death of a person whose estate is in the course of administration is presented by a representative, his attorney shall certify in writing, as a part of the petition, that in his opinion, based upon the facts and law, the proposed settlement is just and proper.

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

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

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

(d) Statement of attending physician required. No settlement on behalf of a minor or disabled adult will be authorized unless a statement of the attending physician or surgeon is filed with the petition stating the nature and extent of the injury and the current medical condition of the ward. Unless waived, the minor shall appear in open court.

(e) Court's approval of fee required. If an attorney enters into a contingent fee contract with a representative for prosecuting a cause of action for personal injuries (other than a claim under the Workmen's Compensation Act or the Workmen's Occupational Disease Act) or for death, such fee is subject to the approval of the court.

(f) Reimbursement of expenses. If an attorney asks for any expense beyond his fee, he shall furnish the court with his affidavit certifying to the reasonableness, necessity, and propriety of the expense. Reimbursement for expense of an independent investigator will be allowed only if his employment was necessary to prepare the action and if payment is solely for services rendered by the investigator in investigating the action after the attorney was retained. The court may order a hearing to determine the propriety and reasonableness of the expense.

(g) Disbursement of proceeds. If, as a result of judgment or settlement, proceeds become distributable to a minor or disabled adult, the court hearing or settling the case shall determine the expenses, proper disbursements, and reasonable compensation to be paid for attorney services, and the judge may direct that the proceeds be deposited or invested in accordance with the provisions of Section 24-21 of the Probate Act without the appointment of a personal representative in a probate proceeding. If a personal representative is necessary to execute settlement papers, or if the court determines that a personal representative is necessary to administer the proceeds, then the proceeds shall be distributed only to a personal representative appointed in a probate proceedings.

9.10 ASSIGNMENT OF INTEREST

(a) Petition for approval. Each assignment of interest or power of attorney with respect to a distributee's interest in an estate of a decedent may be presented to the court for filing and approval. The petition for approval shall be verified and state:

- (1) The names and addresses of the assignor and assignees;
- (2) The nature and value of the interest involved;
- (3) In the case of an assignment, the consideration, if any, paid or to be paid the assignor, and the fees and expenses charged or to be charged in connection therewith; and
- (4) In the case of a power of attorney, the fees and expenses charged or to be charged by the attorney in fact and his agents and representatives.

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

9.11 ATTORNEYS-IN-FACT AND REPRESENTATIVES OF FOREIGN COUNTRIES

(a) Payment of distributive share to citizen and resident of foreign country. The distributive share of a citizen and resident of a foreign country may be paid to the official representative of the foreign country (referred to as "foreign representative"), attorney-in-fact, or assignee of the distributee if the foreign representative, attorney-in-fact, or assignee is a bona fide resident of Illinois, in the following manner:

(1) The foreign representative, attorney-in-fact, or assignee shall present satisfactory evidence that his principal is the person entitled to receive the distributive share. Each power of attorney or assignment shall be signed by the distributee and properly authenticated and acknowledged before an American Consul, unless the judge is satisfied with other evidence of the authenticity of the power of attorney or assignment.

(2) The foreign representative or attorney-in-fact shall present his petition for leave to receive the share in the form prescribed by the court.

(3) Unless waived by the court, the foreign representative or attorney-in-fact shall furnish bond with surety in an amount set and in a form prescribed by the court, and conditioned upon the payment and delivery of the distributive share to the distributee.

(4) The foreign representative or attorney-in-fact shall acknowledge receipt in writing of the distributive share received from the representative and shall certify in the receipt that his authority to receive the distributive share has not been revoked. The representative shall file the receipt and certificate with his vouchers.

(5) Within 90 days after entry of the order or within such further time as the court allows, the foreign representative or attorney-in-fact shall present to the court his report of compliance, with the receipt of the distributee evidencing payment and delivery of the distributive share.

(6) In the event of the failure, refusal or inability of the foreign representative or attorney-in-fact to pay and deliver the distributive share to the distributee within a 90-day period or within such further time as the court allows, the distributive share shall be deposited with the County Treasurer subject to further order. Upon presentation of receipt of the County Treasurer evidencing the deposit of the distributive share, the foreign representative or attorney-in-fact will be discharged from further duty.

(7) If the attorney representing the attorney-in-fact is not the attorney for the estate, he shall file an affidavit stating that he will properly supervise the distribution of funds held by the attorney-in-fact.

**CIRCUIT COURT OF ILLINOIS
SIXTH JUDICIAL CIRCUIT**

_____ COUNTY, ILLINOIS

IN RE: THE MARRIAGE OF _____)

Plaintiff
v.

Defendant

Case Number _____

FINANCIAL AFFIDAVIT

Pre-Judgment Post-Judgment

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

1. (a) (PRE-JUDGMENT ONLY): The parties have been married for _____ years, were separated on _____, 19____, and since that time the obligor has paid \$_____ in child support and \$_____ in maintenance to his spouse;

(b) (POST-JUDGMENT ONLY): The marriage of the parties was dissolved on _____, 19____. The obligor was ordered to pay \$_____ child support and \$_____ in maintenance to his spouse. The said order was amended _____ times and the obligor is now paying \$_____ in child support and \$_____ in maintenance. The obligor (is not) (is) presently in arrears in the sum of \$_____.

2. There are _____ children of the marriage, aged _____, and presently in the custody of _____.

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

Name: _____ Relationship: _____

4. My MONTHLY living expenses are as follows:

Rent or House Payment.....	\$ _____	Medical/Hospital Insurance.....	\$ _____
Electricity.....	\$ _____	Life Insurance.....	\$ _____
Property Taxes.....	\$ _____	Real Estate Insurance.....	\$ _____
Heating.....	\$ _____	Personal Items.....	\$ _____
Water.....	\$ _____	Doctors.....	\$ _____
Telephone.....	\$ _____	Dentists.....	\$ _____
Trash Collection Charge.....	\$ _____	Hospital.....	\$ _____
Sewer Charges.....	\$ _____	School Expenses (Meals Supplies) ..	\$ _____
Groceries/Household Supplies.....	\$ _____	Cleaning & Laundry.....	\$ _____
Restaurant Meals.....	\$ _____	Entertainment.....	\$ _____
Charitable Contributions.....	\$ _____	Gifts, Toys, Books for Children.....	\$ _____
Haircuts/Beauty Shop.....	\$ _____	BabySitting.....	\$ _____
Home Repair/Maintenance.....	\$ _____	Other.....	\$ _____
Car Insurance.....	\$ _____	Other.....	\$ _____
Gas, Oil & Repairs.....	\$ _____		

5. Debts: (payments to creditors other than noted at #4 above)

To Whom Owed:	Purpose:	Payment per MONTH:	Balance Owed:
(a) _____	Car Payment	\$ _____	\$ _____
(b) _____	Furniture/Appliances	\$ _____	\$ _____
(c) _____	Credit Card (_____)	\$ _____	\$ _____
(d) _____	Credit Card (_____)	\$ _____	\$ _____
(e) _____	_____	\$ _____	\$ _____
(f) _____	_____	\$ _____	\$ _____
(g) _____	_____	\$ _____	\$ _____
(h) _____	_____	\$ _____	\$ _____
(i) _____	_____	\$ _____	\$ _____
(j) _____	_____	\$ _____	\$ _____
(k) _____	_____	\$ _____	\$ _____

EMPLOYMENT INCOME

6. Present Employment _____ Address: _____

Number of Dependents Claimed... _____

Pay Period: () weekly () bi-weekly
() semi-monthly () monthly

Hours of Employment _____
Hourly Wage _____ \$ _____
Gross Income _____ \$ _____
Total Deductions _____ \$ _____
Take-Home Pay _____ \$ _____

Payroll Deductions:

(a) Taxes _____ \$ _____
(b) Social Security _____ \$ _____
(c) Medical Insurance (for children) _____ \$ _____
(d) Union Dues _____ \$ _____
(e) Retirement/Disability Contributions _____ \$ _____
(f) Other: _____ \$ _____
Total Deductions _____ \$ _____

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

Description:	Location:	Fair Cash Market Value:	Name of Co-Owners, Joint Tenants or Partners, if any:
(a) _____	_____	\$ _____	_____
(b) _____	_____	\$ _____	_____
(c) _____	_____	\$ _____	_____
(d) _____	_____	\$ _____	_____
(e) _____	_____	\$ _____	_____
(f) _____	_____	\$ _____	_____
(g) _____	_____	\$ _____	_____
(h) _____	_____	\$ _____	_____

RETIREMENT FUND

	Type:	Company:	Contributory Non-Contributory	Present Value:
(a)	_____	_____	_____	\$ _____
(b)	_____	_____	_____	\$ _____

LIFE INSURANCE

	Type	Company:	Amount of Coverage:	Beneficiary:	Present Value:
(a)	_____	_____	\$ _____	_____	\$ _____
(a)	_____	_____	\$ _____	_____	\$ _____

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

Signature

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

Notary Public Clerk

This form prepared by _____,
Attorney for _____

**CIRCUIT COURT OF ILLINOIS
SIXTH JUDICIAL CIRCUIT**

THE UNDERSIGNED judges of the Circuit Court of Illinois, Sixth Judicial Circuit, pursuant to the authority vested in them by Rule 21(a) of the Rules of the Supreme Court, State of Illinois, do hereby adopt the rules herein as the Rules of Practice of the Sixth Judicial Circuit, to become effective on November 1, 1992.

**Rodney A. Scott
Chief Judge**

**John L. Davis
Circuit Judge**

**George S. Miller
Circuit Judge**

**Dan L. Flannell
Circuit Judge**

**Jerry L. Patton
Circuit Judge**

**John K. Greanias
Circuit Judge**

**Stephen H. Peters
Circuit Judge**

**Harold L. Jensen
Circuit Judge**

**John P. Shonkwiler
Circuit Judge**

**Frank W. Lincoln
Circuit Judge**

**Robert J. Steigmann
Circuit Judge**

**Adopted: August 20, 1992
Effective: November 1, 1992**

**John G. Townsend
Circuit Judge**