

**Rules of the Circuit Court of the 10<sup>th</sup> Judicial Circuit  
State of Illinois**

**For the Counties of Peoria, Tazewell, Marshall, Putnam, and Stark**

In 2011 an update of the “local rules” of the 10th Judicial Circuit was initiated. The local rules have long been titled “General Administrative Orders and Rules of General Practice for the Circuit Court of the Tenth Judicial Circuit of Illinois.” The last update was in 2003. Since 2003 there have been profound changes in the Rules of the Illinois Supreme Court resulting in a number of 10<sup>th</sup> Circuit Administrative Orders that affect the practice of law especially in the area of domestic relations. The title of the new rules, “Rules of the Circuit Court for the 10<sup>th</sup> Judicial Circuit of Illinois,” is in line with the titling of other circuit courts in Illinois.

Illinois Supreme Court Rule 21 distinguishes between rules of the circuit court and administrative orders of the chief circuit judge, the former requiring a majority of the circuit judges to implement while the latter only the chief circuit judge. That line may be a bit grey for the practitioner. For example the administrative order providing for mandatory residential mortgage foreclosure mediation (10<sup>th</sup> Cir. Adm. Order 2011-04-currently applicable to Peoria County) is just as important to an attorney filing a foreclosure action as the notice of hearing requirements in the local rules (10<sup>th</sup> Cir. R. 22). Also, the Supreme Court has promulgated rules directing implementation of court procedures via a rule or order (i.e. Ill. Sup. Ct. R. 903 relating to child custody proceedings).

The revised rules incorporate some prior administrative orders; for example, 10<sup>th</sup> Cir. R. 43 on case management for domestic relations court. The Rules of the Circuit Court as well as prior Administrative Orders of the 10<sup>th</sup> Judicial Circuit that are still in effect and that relate to the practice of law are available online. Future additions and revisions to the rules and administrative orders may be immediately reflected electronically.

Forms are no longer attached as an appendix to the rules. Nevertheless, the 10<sup>th</sup> Judicial Circuit rules still provide for mandatory forms (i.e. 10<sup>th</sup> Cir. R. 42-Affidavits of Income...) and suggested forms (i.e. 10<sup>th</sup> Cir. R. 60-probate forms.) Many forms are already mandated by, and included in, state statutes and Illinois Supreme Court Rules. The Access to Justice Commission of the Illinois Supreme Court is discussing the drafting of uniform statewide forms. Generally, a selection of legal forms is available at the 10<sup>th</sup> Judicial Circuit Legal Self-Help Centers located in the various county law libraries.

Online access to the rules, selected administrative orders, and forms may be found at [www.peoriacounty.org](http://www.peoriacounty.org)

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**REPEAL OF PRIOR RULES**

These rules are promulgated pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/1-104(b) and Illinois Supreme Court Rule 21 (a). The rules are effective April 8, 2013 and supersede all prior rules.

**FORMS**

The clerks of the 10th Judicial Circuit, the 10th Circuit Court law libraries, and self-help centers shall maintain substantially uniform forms. Forms mandated, directed or suggested by these rules and 10<sup>th</sup> Judicial Circuit administrative orders shall be available at [www.peoriacounty.org](http://www.peoriacounty.org)

## **GENERAL RULES**

### **Rule 1 Chief circuit judge, selection, removal**

(a) Chief circuit judge term. After the first Monday in December of each even-numbered year, the chief circuit judge shall call a meeting of all the circuit judges for the purpose of electing a chief circuit judge in accordance with paragraph (b) herein. The term of the chief circuit judge shall be for a period of two years and shall commence on the first Monday of January next following the election.

(b) Election of chief circuit judge, ballot. Whenever a chief circuit judge is to be selected, a ballot containing the names of all of the circuit judges shall be given to each circuit judge who shall indicate thereon his selection for chief circuit judge. An election committee appointed by the chief circuit judge, or acting chief circuit judge, as the case may be, shall canvass the votes and shall announce the votes cast on each ballot for each judge. If on any ballot a judge receives the votes of a majority of the circuit judges, that judge shall be declared elected as chief circuit judge.

(c) Removal of chief circuit judge. At any time a majority of the circuit judges may, by written order, call a meeting of the circuit judges at a time and place stated therein. A copy of such order shall be delivered, or mailed postage prepaid, to each circuit judge not joining therein at least five days before the time fixed for the meeting. At such meeting, the judges shall vote by ballot whether the chief circuit judge shall be removed from such office. If a majority of such judges vote for removal, the chief circuit judge is thereby removed from office and the judges shall thereupon proceed to select a new chief circuit judge to take office at once.

(d) Resignation of chief circuit judge. If the chief circuit judge shall at any time desire to resign from such office, he shall call a meeting of the circuit judges and present his resignation. If the resignation is accepted, the judges shall thereupon proceed to select a new chief circuit judge to take office at once.

(e) Vacancy in the office of the chief circuit judge. Should the office of the chief circuit judge at any time become vacant due to any cause not provided for in this rule, the acting chief circuit judge shall call a meeting of the circuit judges for the purpose of selecting a new chief circuit judge to take office at once.

(f) Acting chief circuit judge. In the absence or incapacity of the chief circuit judge, the circuit judge having the highest seniority of judicial service shall be the acting chief circuit judge.

(g) Tie vote. During the selection process for chief circuit judge, if no judge receives a majority vote of the circuit judges due to a tie between two judges having one vote less than a majority, a coin flip will determine the judge who shall be declared as elected as chief circuit judge.



(h) Regular meetings of circuit judges. Other than meetings provided for above, meetings of the circuit judges shall be quarterly and regularly scheduled at 4:00 o'clock p.m. on the second Tuesday of the months of January, April, July, and October and held at the Peoria County Courthouse unless otherwise directed by the chief circuit judge.

**Rule 2 Administrative authority of chief circuit judge**

Nothing in these rules shall limit the general administrative authority of the chief circuit judge.

**Rule 3 Filing and identification of proceedings**

(a) When an action or proceeding is commenced, the circuit clerk shall give the filing a general number which shall be endorsed on all pleadings, notices, orders, and other documents filed therein. Such numbering shall indicate the year in which such action or proceeding was commenced, the case identification prescribed by the Administrative Office of the Illinois Courts, and its consecutive general number. Pending actions or proceedings shall continue under the numbers heretofore assigned.

(b) The files in the circuit clerk's office in all cases or proceedings shall be kept under the system known as "flat filing" and all documents of every kind and character presented to the clerk for filing shall be 8-1/2 X 11" in size flat, unfolded and without color backs.

**Rule 4 Withdrawal of files from the circuit clerks**

Except as otherwise ordered or provided by law, circuit clerks shall permit inspection of all files and records of cases in their respective offices. The clerk shall not permit an original file to be withdrawn from his office or offices other than upon the direction or order of a judge of this court, except that any court reporter of this court may, without order, withdraw files and an attorney of this court may withdraw files upon giving the clerk a receipt therefore signed by the person removing the files, the date received, and the time within which same shall be returned to the clerk. Any such files so withdrawn shall not be removed from the confines of the courthouse except upon prior order of the court.

**Rule 5 Office hours of the circuit clerks**

The office of each of the five Clerks of the 10th Judicial Circuit Court of Peoria shall be open for business on each weekday when court is in session so as to reasonably accommodate the business of the court in conjunction with legal holidays designated by the Illinois Supreme Court and the local County Boards. Notwithstanding, each of said clerks may keep his or her office open at any time as may be necessary or convenient to operate said office or as otherwise directed by the chief circuit judge or presiding judge.

**Rule 6 Reports by the circuit clerks**

The respective circuit clerks shall promptly comply with all requests made by the Illinois Supreme Court, the Administrative Office of Illinois Courts and the chief circuit judge for information, statistical data, reports, and other matters prescribed by law.

**Rule 7            Civil trial calendars in jury demand cases**

(a)     The preparation of trial calendars. Trial calendars will be prepared and the trial of cases will be had as may be directed by the chief circuit judge sitting in Peoria County, the presiding judge in Tazewell County, and the presiding judge in Marshall, Putnam, and Stark Counties.

(b)     Case management conferences. An initial case management conference will be assigned by the circuit clerk upon the filing of a new case. Subsequent case management conferences of cases will be scheduled as directed by the trial court judge.

**Rule 8            Peremptory calendars**

Peremptory and regular calendars of civil cases, jury and non-jury, may be prepared upon the order of the chief circuit judge, presiding judge, or trial court judge of a court when deemed necessary or expedient. At the convening of court of any peremptory calendar, all of the cases will be called and any case may be dismissed for want of prosecution, unless good cause is shown. For any calendar call the clerk of the court shall give notice in the manner authorized by Illinois Supreme Court Rule 11.

**Rule 9            Bonds of clerks**

Pursuant to 705 ILCS 105/4, before entering upon their duties the Clerks of the Circuit Court of Marshall, Stark and Putnam Counties shall provide a bond in the amount of Fifty Thousand Dollars (\$50,000.00), and the Clerks of Peoria and Tazewell Counties shall provide a bond in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00).

**Rule 10          Sales in chancery matters**

It is ordered that in chancery matters a judge designated by the chief circuit judge, the presiding judge of Tazewell County, or the presiding judge of Marshall, Putnam and Stark Counties shall hold sales, issue certificates of sales, and execute deeds, as provided by statute. All proceeds of such sales shall be paid directly to and deposited with the clerk of the court that directed such sale, unless otherwise ordered, and shall be distributed by the clerk in accordance with the order of the court. Sales in conjunction with mortgage foreclosure proceedings shall be conducted at the courthouse by the sheriff of the county unless otherwise directed by the court.

**Rule 11          Organization and divisions of courts**

Provisions for the divisions of the courts, general or specialized, and for the time for holding court and the assignment of the judges to preside in the courts, may be made from time to time by the chief circuit judge. All court schedules shall be available at the offices of the Circuit

Clerk of the Court. As of the date of these rules, the following specialized courts are held in session in the 10th Judicial Circuit:

10th Judicial Circuit Veterans' Treatment Court-Adm. Order 2012-10  
Peoria County Mandatory Residential Foreclosure Mediation-Adm. Order 2011-04  
Peoria County Adult Mental Health Court-Adm. Order 2010-02  
Peoria and Tazewell County Adult Drug Courts-Adm. Order 2012-11

**Rule 12 Grand jurors**

It is ordered that the grand jury shall be called in the various counties of the circuit and sit at such time and for such periods as ordered by the court on its own motion or on the motion of the state's attorney of the particular county.

**Rule 13 Petit jurors**

Petit jurors shall be summoned to appear on such days and in such numbers as may be designated by the chief circuit judge or presiding judge, in consultation with the trial court judge and the county jury commissioner. Petit jurors shall sit at such time as the court may order and may be recessed from time to time to a day certain or subject to recall until discharged by the trial court judge.

**Rule 14 Digital electronic recording**

Court proceedings in Peoria and Tazewell counties are recorded verbatim by a certified court reporter or by digital recording equipment as provided by Illinois Supreme Court Rule 46, Supreme Court administrative regulations and 10th Circuit Administrative Order 2006-4. Court proceedings in Marshall, Putnam, and Stark counties are recorded only by a certified court reporter in cases mandated by the Illinois Supreme Court or as directed by the trial court judge.

**Rule 15-19 Omitted**

**GENERAL PRACTICE**

**PART 1 APPEARANCES AND DEFAULT**

**Rule 20 Omitted**

**Rule 21 Appearance of parties**

(a) Written appearances. A written appearance shall be filed in every case by a party or an attorney provided that the appearance may be incorporated in the document being filed. The appearance shall contain the name of the attorney, firm name, if any, address, phone number, email address, facsimile number, ARDC number of the attorney filing the appearance, and shall identify the party(s) for whom the appearance is being filed. A party representing himself shall file a written appearance and include name, address, phone number, and email address. All subsequent filings shall comply with this rule. Copies of the appearance shall be served in the manner required for the service of copies of pleadings.

(b) Time to plead. A party who appears without having been served with summons is required to plead within the same time as if served with summons on the day he appears or at such other time as the court may order.

(c) The parties shall cooperate in exchanging pleadings in electronic format.

## **PART 2 HEARING OF MOTIONS**

### **Rule 22 Notice of hearing of motions**

(a) Notice required. Except in actions appearing on the daily trial call or during the course of trial, or as provided by statute, written notice of the hearing of all motions giving time, date and place of hearing, shall be given to all parties who have appeared and who have not been found by the court to be in default for failure to plead, and to all parties whose time to appear has not expired on the date of notice.

(b) Content of notice. The notice of hearing shall include: (1) the title and number of the action, (2) the court in which the motion shall be heard, (3) the complete title of the motion, (4) the date of filing of the motion, (5) the date when the motion was previously served or that the motion is being served with the notice, and, (6) if applicable, the amount of court time reserved for hearing on the motion(s). Copies of all documents presented to the court with the motion shall be served with the notice or the notice shall state that copies have been served. The notice shall be made on a document separate from any motions presented.

(c) Manner of service. Notice shall be given in the manner and to the persons described in Illinois Supreme Court Rules. Provided however, if a motion for change/substitution of judge is filed, a copy of the motion shall be served on the judge sought to be removed.

(d) Time of notice. The following provisions shall apply unless inconsistent with statute or Illinois Supreme Court Rule. If notice of hearing is given by personal service, or facsimile transmission, the notice shall be delivered or sent at least two full business days or 48 hours before the time of the hearing, whichever is greater. If notice is given by mail, the notice shall be deposited in the United States Post Office or Post Office Box on or before the third court day preceding the hearing of the motion (e.g., a notice of a hearing on Thursday must be mailed on or before the preceding Monday).

(e) Summary judgment. Except by agreement or prior order of court, a motion for summary judgment will not be heard until 10 days after service of the notice of motion.

(f) Successor judge. An attorney presenting to a judge a matter, any phase of which another judge has considered and acted upon, or refused to act upon, which fact shall not readily appear, shall inform the judge newly considering the matter of such involvement of the former judge.

### **Rule 23 Emergency and ex parte motions where notice is not required**

(a) Notice after hearing. Other than proceedings for an ex parte order of protection under the Illinois Domestic Violence Act, if an emergency motion or a motion which by law may be made ex parte is heard or an order is entered without prior notice under this rule, written notice of such hearing of the motion, showing: (1) the title and number of the action, (2) the name of the judge who heard the motion, (3) the date of the hearing, and (4) the ruling of the court thereon, shall be served by the attorney obtaining the order upon all parties who have appeared and have not theretofore been found by the court to be in default for the failure to plead, and upon all parties whose time to appear had not expired on the date of the hearing, and proof of service thereof shall be filed with the clerk within 48 hours after the hearing. Notice shall be given in the manner and to the persons described in Illinois Supreme Court Rule 11.

(b) Order upon denial. If a motion heard without prior notice is denied, an order of the denial shall entered of record and notice shall be given in accordance with paragraph (a) of this rule.

### **PART 3 PROCEEDINGS BEFORE TRIAL**

#### **Rule 24 Form of written discovery requests**

The party serving written discovery documents shall provide one copy to each party required to answer the same. The original shall be retained by the serving party. No discovery requests shall be filed with the clerk. This rule does not apply to criminal or juvenile delinquency proceedings.

The parties shall cooperate on the use of electronic format discovery requests.

#### **Rule 25 Form of responses to written discovery requests**

All answers to written discovery requests shall be prepared so that the documents being responded to immediately precede the answer. No discovery responses or documents shall be filed with the clerk.

The parties shall cooperate on the use of electronic format discovery responses.

#### **Rule 26 Days for taking depositions**

Unless otherwise agreed by the parties or ordered by the court, depositions shall be taken during normal business hours and shall not be taken on Saturdays or Sundays or court holidays.

#### **Rule 27 Subpoenas for production of documents**

No subpoena shall be issued for the production of documents, or tangible things, to any place except before a judge of this court or at a properly noticed deposition unless all counsel of record are given reasonable notice prior to the date of compliance with the subpoena. Any party shall have the right to object to the production by motion.

**Rule 28      Signing of notice of hearing or notice of deposition**

It is the responsibility of the party preparing the notice of hearing or notice of deposition to make a good faith effort to coordinate with the court and all opposing counsel and pro se litigants to set the hearing or deposition at a time that is mutually convenient. The signing of a notice of hearing or notice of deposition shall constitute the party’s certification of compliance with this rule.

**PART 4      CASE MANAGEMENT CONFERENCE**

**Rule 29      Case management conference-requirement**

In civil actions a case management conference shall be held except as provided below. However, the trial court may direct that a case management conference be held in any case. Case management conferences in domestic relations court are governed in accordance with 10<sup>th</sup> Cir. R. 43.

**Rule 30      Case management conference-notice and exceptions**

The following cases are excepted from the “initial case management conference” requirement of Illinois Supreme Court Rule 218(a):

- Tax
- Small Claims (Illinois Supreme Court Rule 281)
- Probate (755 ILCS 5/1 et seq.)
- Forcible Entry and Detainer (735 ILCS 5/9-101 et seq.)
- Mental Health (405 ILCS 5/1-100 et seq.)
- Replevin (735 ILCS 5/19-101 et seq.)

In all of the above categories of cases the court shall conduct a peremptory court call at intervals not to exceed six months as provided by 10<sup>th</sup> Cir. R. 8. In all other civil cases (excepting domestic relations court cases where a notice form is provided for in 10<sup>th</sup> Cir. R. 44), the circuit clerk shall affix the following information:

THIS CASE IS SET FOR A CASE MANAGEMENT CONFERENCE ON \_\_\_\_\_, 20\_\_\_, AT \_\_\_ A.M./P.M. IN COURTROOM \_\_\_ OF THE COUNTY COURTHOUSE. IF A DEFENDANT ANSWERS MORE THAN 35 DAYS BEFORE THIS DATE, THEN THE PARTIES SHALL SCHEDULE A CASE MANAGEMENT CONFERENCE WITHIN 35 DAYS OF THE DATE THE ANSWER IS FILED.

**PART 5      SATISFACTION OF JUDGMENT-CREDITOR CANNOT BE FOUND**

**Rule 31      Satisfaction of money judgment where judgment creditor cannot be found**

- (a) Motion to satisfy. A money judgment may be satisfied by the court upon written motion stating:

- (1) The amount, stating the judgment balance, the accrued interest, and costs;
- (2) That after the exercise of due diligence that judgment creditor and his attorney cannot be found or that the judgment creditor or his attorney fails or refuses to deliver a satisfaction of judgment upon being tendered the amount due; and
- (3) The notice of the motion has been sent by mail to the judgment creditor and his attorney at their last known address.

(b) Order of satisfaction. Upon granting the motion, the court shall enter an order directing the clerk to receive the amount of the judgment with accrued interest and costs for the judgment creditor. After payment, the court shall enter an order satisfying the judgment and showing the amount deposited with the clerk.

## **PART 6 RECEIVERS**

### **Rule 32 Qualifications of receivers**

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

- (1) Is related by blood or marriage to a party or attorney in the action;
- (2) Is an attorney for, or of counsel for any party in the action;
- (3) Is an officer, director, stockholder or employee of a corporation the assets of which are in question; or
- (4) Stands in any relation to the subject of the controversy that would tend to interfere with the impartial discharge of his duties as an officer of the court.

(b) Exception. If the court is satisfied that the best interests of the estate would be served, an individual or corporation otherwise disqualified under Section (a) of this rule may be appointed as receiver by an order specifically setting forth the reasons for departing from the general rule.

### **Rule 33 Attorneys for receivers**

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

### **Rule 34 Inventories of receivers**

Not later than 30 days after his appointment, the receiver shall file with the court a detailed report and inventory of all property, real or personal, of the estate, designating the property within his possession or control.

### **Rule 35 Appraisal for Receivers**

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

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

### **Rule 36 Reports for receivers**

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

(b) Forms. The court may prescribe forms to be used for reports of a receiver.

## **PART 7 BONDS**

### **Rule 37 Surety companies**

Bonds with corporation or association licensed to transact surety business in the State of Illinois as surety will be approved only if the surety has filed with the clerk of the court a certified copy of the license issued to the surety by the Director of Insurance.

### **Rule 38 Justification of sureties**

Any person assured by a bond executed in this court may by motion request the sureties to justify. The motion shall be accompanied by an affidavit showing grounds for believing the sureties to be insufficient, the manner of inquiry, and the facts ascertained. If the court finds the affiant's belief is well-founded, it may order that either the sureties shall justify within a time specified or a new bond be furnished with sufficient sureties.

### **Rule 39 Omitted**

## **DOMESTIC RELATIONS COURT**

### **PART I GENERAL**

### **Rule 40 Definitions and scope**

“Domestic Relations Court” is a court that adjudicates cases arising under the following statutes:

750 ILCS 5/1 et. seq. Illinois Marriage and Dissolution of Marriage Act

750 ILCS 45/1 et. seq. Illinois Parentage Act of 1984

755 ILCS 5/11 – 1 through 18 et. seq. Illinois Probate Act, Art. XI. Minors

705 ILCS 405/2-1 et. seq. Juvenile Court Act

750 ILCS 60/101 et. seq. Illinois Domestic Violence Act



750 ILCS 36/110 et. seq. Uniform Child-Custody Jurisdiction and Enforcement Act  
750 ILCS 75-1 et. seq. Illinois Religious Freedom and Civil Union Act

“Child” refers to a person who has not attained the age of 18 and is not emancipated.

“Child custody proceeding” refers to any proceeding brought under the statutes listed above involving the custody and/or visitation of a child.

“Mediation” refers to mediation as defined by Illinois Supreme Court Rule 905.

“Approved parent education program” refers to a parent education program adopted by the 10<sup>th</sup> Judicial Circuit per Illinois Supreme Court Rule 924. Each party is required to complete an approved parent education program in a child custody proceeding.

“Approved parent education notice” is the mandatory form containing information relative to the 10th Judicial Circuit approved parent education program.

“Initial filing” refers to the pleading which commences a child custody proceeding either the opening of a new case or post judgment.

“Mediator” refers to a person who meets the requirements of these rules and who is appointed to the list of approved mediators for the 10th Judicial Circuit.

“List” refers to the list of approved mediators or list of Illinois Supreme Court Rule 907 attorneys.

“Rule 907 attorney” refers to an attorney who meets the requirements of Illinois Supreme Court Rule 907 and these rules.

“Domestic Relations Court Judicial Coordinator” refers to a judge designated by the chief circuit judge to assist in the administration of domestic relations courts.

#### **Rule 41 Administration of domestic relations courts**

The chief circuit judge may designate a judge to implement domestic relations court rules and to ensure proper application. That judge is to report to the chief circuit judge and be referred to as the Domestic Relations Court Judicial Coordinator. The address to be used for all reporting to the chief circuit judge and the Domestic Relations Court Judicial Coordinator is: Office of the Chief Circuit Judge, Peoria County Courthouse, 324 Main Street, Room 215, Peoria, Illinois 61602-2334.

#### **Rule 42 Financial affidavits and affidavits of amount due**

(a) In any case filed pursuant to the Marriage and Dissolution of Marriage Act, Civil Union Act, Parentage Act or (Guardianship of) Minors Act wherein economic issues arise, a mandatory form financial affidavit shall be filed by all parties. If a party is seeking support for a non-minor child, that party shall also file a financial affidavit on behalf of the non-minor child. The financial affidavit(s) shall be filed not less than seven (7) days before the date of the hearing and shall be served on all parties.

(b) In a proceeding for a petition for rule to show cause for failure to pay under the Marriage and Dissolution of Marriage Act, Civil Union Act, Parentage Act or (Guardianship of) Minors Act, the petitioner shall file a mandatory form entitled Affidavit of Amount Due on Order to Show Cause and serve it with the petition. Personal service of process shall be utilized.

(c) All affidavits filed herein shall be timely supplemented.

**PART 2 CASE MANAGEMENT**

**Rule 43 Case management conference in domestic relations court**

(a) An initial domestic relations court filing, whether opening a new case or post judgment, that involves a child custody proceeding except for those exempt cases below, shall be set for mandatory case management conference per Illinois Supreme Court Rules 904 and 923.

- (b) The following cases are exempt from the case management conference requirement:
1. Paternity cases filed by the State of Illinois to determine paternity for the sole purpose of establishing child support.
  2. Juvenile neglect, abuse, and dependency cases filed by the State.
  3. Petitions filed under the Domestic Violence Act.
  4. Proceeding filed under Article 112A of the Code of Criminal Procedure-Domestic Violence Order of Protection.

(c) Proceedings under Illinois Supreme Court Rule 942 (court family conference) remain within the discretion of the trial court judge in juvenile court.

**Rule 44 Pleading designation and duties of circuit clerk**

(a) A pleading involving a child custody proceeding must indicate in capital letters, under the title of the pleading, the following language: CHILD CUSTODY PROCEEDING.

The circuit clerk is to attach the following notice to the petition and all copies of the petition:

THE CASE MANAGEMENT CONFERENCE IS SET FOR  
\_\_\_\_\_, 20\_\_\_\_ AT \_\_\_\_\_ A.M. / P.M. IN COURTROOM  
\_\_\_\_ OF THE \_\_\_\_\_ COUNTY COURTHOUSE.

FAILURE TO ATTEND MAY RESULT IN A DEFAULT JUDGMENT AGAINST YOU FOR THE RELIEF SOUGHT.

ALL PARTIES MUST COMPLETE OR ENROLL IN AN APPROVED PARENT EDUCATION PROGRAM BY THE CASE MANAGEMENT DATE.

The circuit clerk shall attach the Approved Parent Education Notice to each case management conference notice.

(b) The case management conference shall be set no later than 90 days after the initial filing on dates and times determined by the trial court judge.

**Rule 45 Assignment and coordination-child custody proceedings**

Per administrative order as of the date of these circuit court rules, Peoria and Tazewell Counties' courtroom assignments in child custody proceedings are as follows:

Peoria County

Dissolution of Marriage, Civil Union & Paternity:	Courtroom 322, 323
Guardianship of Minors:	Courtroom 423
Domestic Violence Civil:	Courtroom 210
Juvenile Abuse and Neglect:	Courtroom 423, 424

Tazewell County

Dissolution of Marriage & Civil Union:	Courtroom 302
Paternity:	Courtroom 202
Guardianship of Minors:	Courtroom 202
Juvenile Abuse and Neglect:	Courtroom 104

(a) In all counties of the 10<sup>th</sup> Judicial Circuit, whenever a child is the subject of more than one child custody proceeding, the following factors shall be considered by a trial court judge for coordination and assignment to an appropriate domestic relations court in order to comply with the Rule 900 series' directives:

1. Cases filed under the Juvenile Court Act-abuse, neglect and dependency, shall preempt other child custody proceedings where the child is a party to the juvenile proceeding. Judges in other domestic relations courts shall defer to the juvenile court all child custody proceedings on that child. If a child custody proceeding remains pending at the conclusion of the abuse and neglect proceeding, it will be directed to the appropriate domestic relations court.

2. Other than as directed in the preceding paragraph, if more than one child custody proceeding is pending relative to a child, other than petitions for orders of protection as discussed in paragraph 5 below, the court having the first filing (pending) shall consider the following for purposes of coordination, scheduling, and possible consolidation:

- i. The administrative difficulties presented by the litigation to its courtroom and the effect of delay, if any, of a decision for that child.
- ii. Any potential conflict of interest a judge may have as to any pending proceeding.
- iii. Whether a court has had the parties and issues pending previously before it, or currently before it, so that the court with such experience may expedite the proceedings.
- iv. The suggestion of all parties to the proceedings
- v. Any other factor deemed appropriate by the court.

3. If any action is transferred to the court having the first filing (pending), that court shall determine the order and manner of proceeding, including any consolidation.

4. If any action is not transferred to the court having the first filing (pending), the judges presiding over the pending proceedings shall discuss the order and manner of proceeding and may transfer the action(s) to a court other than the court having the first filing (pending) weighing the factors in paragraph (a) 2 above.

5. Whenever there is an existing dissolution of marriage or civil union case involving a child custody proceeding, an order of protection proceeding shall be heard by the judge assigned to the dissolution of marriage or civil union case.

(b) If multiple child custody proceedings are pending in one or more of the counties of the 10<sup>th</sup> Judicial Circuit, then the trial court judge(s) shall consider coordination, scheduling and possible consolidation utilizing the factors set forth in this rule.

(c) An order transferring a proceeding(s) under this rule is not an order of consolidation unless the order specifically provides for consolidation.

**Rule 46 Order of protection in domestic relations courts**

(a) Subject to 10<sup>th</sup> Cir. R. 45, all hearings under the Illinois Domestic Violence Act involving the same parties in any dissolution of marriage or civil union proceeding, or any paternity proceeding shall be heard in the courtroom where the other proceeding originated or is pending.

(b) Following a court hearing for an emergency order of protection the court, if applicable, shall transfer the case to the dissolution of marriage or civil union court, or paternity court as the case may be.

**PART 3 MEDIATION**

**Rule 47 Mediator-qualifications**

The chief circuit judge or the Domestic Relations Court Judicial Coordinator may approve a person to be a mediator for domestic relations courts. To be approved as a mediator a person must meet the following requirements:

1. Possess a juris doctorate or an advanced degree in a field that includes the study of psychology, social work or other behavioral science substantially related to children and family interpersonal relationships.
2. If a mediator is engaged in a licensed discipline, the mediator must maintain said license in full force and effect.
3. All mediators are required to complete a specialized training course in family mediation approved by the chief circuit judge. The training is to consist of at least 40 hours addressing conflict resolution, psychology issues in separation and family dynamics, issues and needs of children, mediation process, skills and techniques and screening for and addressing domestic violence, child abuse, substance abuse and mental illness.
4. Mediators must secure and maintain professional liability insurance which covers the mediation process and provide proof thereof to the chief circuit judge or judicial coordinator.

**Rule 48 Mediator-continuing education**

Mediators are required to complete five (5) hours of approved continuing education every two (2) years from appointment of which two (2) hours must cover domestic violence issues. The Office of the Chief Circuit Judge and the Domestic Relations Court Judicial Coordinator shall maintain a list of approved education programs. A mediator/applicant may request approval of a non-listed educational program from the chief circuit judge or from the judicial coordinator. A mediator shall provide proof of completion to the chief circuit judge or judicial coordinator.

**Rule 49 Mediator-list, pro bono and statistical obligations**

- (a) Upon approval or renewal of a mediator application, the mediator will be placed upon a list of approved mediators for the 10<sup>th</sup> Judicial Circuit. Only mediators on this list are approved and can be court appointed to mediate cases pursuant to Illinois Supreme Court Rule 905.
- (b) All mediators must be available to mediate two pro bono cases annually.
- (c) Mediators must comply with requests for statistical information from the chief circuit judge or the judicial coordinator.

**Rule 50 Mediator-removal**

(a) A mediator may be removed from the list of approved mediators by the chief circuit judge for good cause.

(b) A complaint to the chief circuit judge made against a mediator is to be adjudicated before a panel of three mediators approved by the 11<sup>th</sup> Judicial Circuit Court, State of Illinois chosen at random by the chief circuit judge of the 10<sup>th</sup> Judicial Circuit Court. The hearing is to take place within 160 days of filing the complaint with the chief circuit judge at times and places designated by the panel. The recommendation of the panel is to be mailed to the chief circuit judge within 45 days of the hearing.

**Rule 51 Initial mediation procedure**

(a) At the case management conference the trial judge will assign a mediator who is either agreed by the parties or who is appointed in a random selection procedure. The judge will also assign the cost of mediation and/or determine pro bono eligibility.

(b) At the commencement of mediation, the mediator shall:

1. Determine the issues to be mediated.
2. Explain that the mediator will not provide legal advice, therapy, or counseling.
3. Disclose the nature and extent of any existing relationships with the parties or their attorneys and any personal, financial, or other interests that could result in bias or conflict of interest on the part of the mediator.
4. Inform each party of his/her right to obtain independent legal counsel.
5. Inform parties that:
  - a. mediation can be suspended or terminated at the request of either party after three (3) hours of mediation, or in the discretion of the mediator as set forth below.
  - b. the mediator can suspend or terminate the mediation if an impediment exists, if either party is acting in bad faith or appears not to understand the negotiation, the prospects of achieving a responsible agreement appear unlikely, or if the needs and interests of the minor children are not being considered.
6. Explain the mediation process is confidential as outlined herein.
7. Confirm the parties' understanding regarding the fee for mediation services and any reduced fee arrangements for parties with financial hardship.
8. Reach an understanding with the parties as to whether the mediator may communicate with either party or their legal counsel or with other persons to discuss the issues in mediation in the absence of the parties. Any separate communication which does occur shall be disclosed to the parties at the first opportunity.
9. Advise each party that legal counsel, advocates, or other persons may be present only if both parties and the mediator agree in advance. Such individuals may be available for consultation for each participant while mediation is in progress.

10. Advise each party that children may be allowed to participate in mediation so long as all parties and the mediator consent to said participation in writing. If a guardian ad litem, child representative, or attorney for the child has been appointed, that person must agree in writing.

**Rule 52 Confidentiality of mediation process**

(a) Except as otherwise provided by law, all written and verbal communications made in a mediation session conducted pursuant to these rules are confidential and may not be disclosed by the mediator or any other participant or observer of the mediation, except that the parties may report these communications to their attorneys or counselors.

(b) Admissions, representations, statements and other communications made, or disclosed in confidence by any participant in the course of mediation session shall not be admissible as evidence in any court proceeding. Unless an exception exists under Rule 53 below or otherwise provided by law, a mediator may not be called as a witness in any proceeding by any party or by the court to testify regarding matters disclosed in a mediation session, nor may a party be compelled to testify regarding matters disclosed during a mediation session as to privileged communications. These restrictions shall not prohibit any person from obtaining the same information independent of the mediation, or from discovery conducted pursuant to law or court rule.

(c) Prior to the commencement of mediation, all participants in the mediation shall sign a confidentiality agreement prescribed by these rules.

**Rule 53 Exceptions to confidentiality in mediation**

Admissions, representations, statements and other communications are not confidential if:

1. All parties consent in writing to the disclosure; or
2. The communication reveals either an act of violence committed against another during mediation, or an intent to commit an act that may result in bodily harm to another; or
3. The communication reveals evidence of abuse or neglect of a child; or
4. Non-identifying information is made available for research or evaluation purposes approved by the court; or
5. The communication is probative evidence in a pending action alleging negligence or willful misconduct of the mediator.
6. The mediator may report any information revealed in the mediation process to a law enforcement agency in order to prevent an individual from committing an act that is likely to result in bodily harm to another. When the identity of an endangered person is known to the mediator, the mediator may warn that person

and his/her attorney of the threat of harm. Such notification shall not be considered a breach of confidentiality.

**Rule 54 Ongoing mediation procedure, agreement, and final report**

(a) The mediator shall continuously assess whether the parties have impediments affecting their ability to mediate safely, competently and in good faith. Also, the mediator shall determine if there is a temporary impediment and whether to resume mediation once the temporary impediment is removed.

The mediator shall terminate mediation when circumstances indicate that protective measures are inadequate to maintain safety.

(b) When an agreement or partial agreement is reached by the parties during mediation, the mediator shall provide a written account of the agreements to the parties and their attorneys (if any), but the mediator shall not provide this written account to the court. The mediator shall advise each party to obtain legal assistance in drafting or reviewing any final agreement. The mediator shall advise the parties that an agreement reached during mediation will not be legally binding until it is reviewed by the court and signed by the judge. The mediator is acting as a mediator and is not a lawyer and shall execute a document only as a memorandum of agreement.

(c) Within 10 (ten) days of completion or termination of mediation, the mediator shall file a report with the clerk of the court, using the mandatory form, and send a copy to each attorney of record or pro se litigant and to the judicial coordinator.

**PART 4 ATTORNEYAS GUARDIAN AD LITEM, ATTORNEY FOR A CHILD, OR CHILD REPRESENTATIVE**

**Rule 55 Attorney-qualifications**

(a) Per Illinois Supreme Court Rule 906 any attorney who is appointed by the court to participate in a child custody/visitation matter in the capacity as a guardian ad litem, attorney for the child, or child representative, must meet the following requirements:

1. Within two (2) years prior to the appointment, the attorney shall have ten (10) hours in approved continuing legal education courses in the following areas: child development; roles of guardian ad litem, attorney for a child, and child representative; ethics in child custody cases; relevant substantive state, federal, and law in custody and visitation matters; family dynamics, including substance abuse, domestic abuse and mental health issues.
2. The attorney must be an attorney licensed to practice law in the State of Illinois.
3. The attorney must have legal malpractice insurance in effect.



Attorneys who meet the above requirements will be placed on an approved list for the 10th Judicial Circuit.

(b) The procedure of placement and removal from the list are the same as for a mediator.

**Rule 56 Attorney-continuing education requirements**

(a) Periodic continuing education is required in the following approved child-related courses: child development; roles of guardian ad litem, attorney for a child, and child representative; ethics in child custody cases; relevant substantive state, federal, and law in custody and visitation matters; family dynamics, including substance abuse, domestic abuse and mental health issues. The attorney shall complete 5 (five) hours of the aforesaid continuing education within two (2) years from initial placement upon the approved 10th Judicial Circuit list and submit certification of the courses to the chief circuit judge or judicial coordinator.

(b) The Office of the Chief Circuit Judge and the Domestic Relations Court Judicial Coordinator shall maintain a list of approved education programs. An attorney may request approval of a non-listed educational program from the chief circuit judge or the judicial coordinator.

**Rule 57 Attorney-pro bono, statistical cooperation, and discharge**

Each attorney must be willing to accept at least two (2) pro bono cases per year.

A guardian ad litem, attorney for a child, and a child representative must cooperate with statistical reporting that may be required.

Unless previously discharged, the final order disposing of the issues which initiated the appointment of a guardian ad litem, attorney for a child, or child representative shall act as a discharge for such person.

Rule 58-59 Omitted

**PROBATE COURT**

**PART 1 GENERAL**

**Rule 60 Uniform forms**

The forms for all probate courts of the 10<sup>th</sup> Judicial Circuit, to the extent possible, shall be uniform.

**Rule 61 Waiver of rule**

The procedural probate rules herein may be waived or modified for good cause shown by order of the trial judge.

**Rule 62      Filing of address by executor, administrator or guardian**

Each executor, administrator or guardian shall file his address with the clerk at the time of subscribing his oath and shall record with the clerk any changes in his address taking place during the period of administration.

**PART 2      OPENING DECEDENT'S ESTATES**

**Rule 63      Petition for admission of will to probate or for letters of administration**

(a) Each petition for admission of a will to probate or for letters of administration shall be filed substantially in the form prescribed by the court and furnished by the clerk.

(b) After admission of a will to probate, the clerk shall cause a copy to become part of the court file. The original will shall be kept separate from the court file for a period of six (6) months following its admission to probate and the clerk shall not surrender possession thereof to anyone except by order of the court.

**Rule 64      Deposition of witness to a will**

A person desiring to take the deposition of a witness to a will as provided by Section 6-5 of the Probate Act shall give such notice of the hearing on the petition to take such deposition as the court may direct to be given to each heir, legatee and devisee whose name and post office address are stated in the petition for admission of the will to probate. Proposed written interrogatories shall be filed prior to the hearing. Any persons interested may propose cross-interrogatories at the time of the hearing or within such further time as the court shall allow and shall give such notice of the hearing thereon as the court may direct.

**Rule 65      Proof of heirship**

(a) When a petition for admission of a will to probate or for letters of administration has been filed, ascertainment of heirship may be made: (1) by testimony of witnesses examined in open court; (2) by affidavit as provided in Section 5-3 of the Probate Act; (3) by deposition; or (4) by a verified petition for admission of a will to probate or for letters of administration.

(b) When no petition has been filed for admission of a will to probate or for letters of administration, a person desiring to obtain an ascertainment and declaration of heirship or dependency shall file a petition stating: (1) the name and address of petitioner and his attorney; (2) the name and place of residence of the decedent at the time of his death; (3) the time and place of death; (4) the names and post office addresses of his heirs and the fact as to whether any of them is a minor or incompetent. Notice of the petition and of the time and place of hearing shall be given in such manner as the court directs to all heirs named in the petition.

**Rule 66      Inventory**

(a) The inventory shall include the legal description of each parcel of real estate, and the street and number, if any.

(b) Descriptions of certificates of stock shall include the number of shares and class of shares and the exact corporate title. Descriptions of bonds shall include the total face value, the name of the obligor, the kind of bond, the rate of interest, the date of maturity, the coupons attached or the date to which interest is paid and the endorsements, if any. Descriptions of notes shall include the face amount and unpaid balance, the date of note, the date of maturity, the name of the maker, the rate of interest, the date to which interest is paid, the endorsements, if any and if secured, a description of the security.

(c) The description of each cause of action shall include the name of the person against whom the cause of action exists or is asserted, the nature of the cause of action and, if suit has been instituted, the title of the suit, the name of the court in which it is pending, and the general number.

#### **Rule 67        Claims against the estate**

Each claim that is founded upon a written instrument shall be accompanied by a copy of the written instrument. Unless the original is lost or destroyed, it shall be exhibited to the court at the hearing. If the claim is allowed, a notation of the allowance shall be made on the original instrument. The proceeding on any claim shall conform to the provisions of the Code of Civil Procedure, including the right for discovery.

#### **Rule 68        Guardian ad litem**

(a) Unless the court waives the appointment, a guardian ad litem shall be appointed to appear on behalf of a minor, or a disabled adult in the following cases; (1) when a petition has been filed for formal proof of will, and it appears that not all of the names and post office addresses of the heirs of the decedent are known; (2) on the hearing on the final account of an executor or administrator; and (3) on the hearing of a final account of a guardian, if at the time of the hearing the ward has not been adjudged competent or restored to reason, or the ward has not attained majority.

(b) A guardian ad litem may be appointed on the hearing of a final account, or of a current account in which a partial or complete distribution of the estate is made, where all or any part of the estate is received from, or is to be distributed to, the same person, corporation or corporations in a fiduciary capacity (such as trustee or guardian) which has served as legal representative of the estate.

(c) Reports filed by the guardian ad litem shall be served upon the parties of record but shall be sealed in the common law record. No party may disclose the contents of the guardian ad litem's report other than to a party without leave of the court.

(d) Unless previously discharged, the final order disposing of the issues resulting in the appointment of a guardian ad litem in any action shall act as a discharge of the guardian ad litem.

**Rule 69 Attorneys-in-fact and representatives of foreign countries**

The distributive share of a citizen and resident of a foreign country may be paid to the official representative of such foreign country (hereinafter referred to as “representative”), attorney-in-fact, or assignee of such distributee (provided said official representative, attorney-in-fact, or assignee is a bona fide resident of the State of Illinois), in the following manner:

- (1) Such representative or attorney-in-fact or assignee shall present satisfactory evidence to the court that his principal is, in fact, the person entitled to receive such distributive share and that such representative or attorney-in-fact or assignee has been duly authorized, by treaty or power of attorney or assignment, to receive said distributive share. Each power of attorney or assignment shall be signed by the distributee and properly authenticated and acknowledged before the American Counsel of the jurisdiction in which the foreign distributee resides, unless the court shall be satisfied with the other evidence of the genuineness or validity of the power of attorney or assignment.
- (2) Such representative or attorney-in-fact shall present his petition for leave to receive in the form prescribed by the court and furnished by the clerk. When such petition is allowed by the court, an order in conformity therewith shall be entered.
- (3) Unless excused by the court, such representative or attorney-in-fact shall furnish suitable bond with sureties, in an amount to be fixed by the court, which bond shall be in form prescribed by the court and furnished by the clerk and shall be conditioned upon the payment and delivery of the distributive share to the distributee.
- (4) Such representative or attorney-in-fact shall acknowledge receipt in writing of the distributive share received from the legal representative, and he shall certify on said receipt that his authority to receive the distributive share has not been revoked. The legal representative shall file said receipt and certificate with his vouchers.
- (5) Such representative or attorney-in-fact within ninety days (or any extension thereof allowed by the court during the said ninety day period) shall present to the court his report of compliance, together with the receipt or voucher of the distribution evidencing payment and delivery of the distributive share to the distributee lawfully entitled thereto.
- (6) In the event of the failure, refusal or inability of the representative or attorney-in-fact to pay and deliver the distributive share to the distributee lawfully entitled thereto within said ninety days (or any extension thereof granted by the court during the said ninety day period), the distributive share shall be deposited with the county treasurer subject to the further order of the court and presentation of voucher or receipt of the county treasurer evidencing the deposit of said distributive share shall be produced and filed in the court by the representative or attorney-in-fact, whereupon he shall be discharged from further duty.

**Rule 70          Demand on executor, administrator, or guardian to pay money or deliver property**

Demand under the terms of Section 24-16(c) of the Probate Act on an executor, administrator, or guardian to pay money or deliver property to any person in pursuance of the lawful order of the court shall be made in writing by serving written demand on the executor, administrator, or guardian in the manner provided for services of motions.

**Rule 71          Objections**

Objections to accounts, reports, awards, etc., shall be in writing and shall specify all grounds of objection.

**PART 3          ACCOUNTS AND DISTRIBUTION**

**Rule 72          Change in identity of the parties**

Each administrator's or executor's account shall state any change in the identity of the parties entitled to a distributive share of the estate which change has occurred and has not theretofore been reported to the court.

**Rule 73          Distribution before the expiration of six months after issuance of letters**

Authority under Section 24-4(a) of the Probate Act to an executor or administrator to pay all or part of the distributive share to a distributee before the expiration of six months after the issuance of letters will be granted only after the filing of the inventory, the approval and filing of a current account, and the payment of all accrued costs. Evidence shall be presented to the court that all allowed claims have been paid or that there is sufficient money on hand to pay all claims against the estate and to warrant distribution. The refunding bond shall be in the form prescribed by the court and furnished by the clerk.

**Rule 74          Accounts-procedure**

(a) Notice of the hearing on a final account of an executor or an administrator or on a current account that is intended to be binding pursuant to Section 24-2 of the Probate Act shall be given to all persons described in Section 24-2 of the Probate Act as follows:

(1) Such notice shall be in writing accompanied by a copy of the account except where notice is to be given by publication.

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

(3) The notice shall be given at least 10 days prior to the hearing in the manner provided by Supreme Court Rule 105 except when notice is by publication as herein provided, and except

that whenever the person resides outside the continental limits of the United States, the notice shall be by air mail at least 20 days prior to the date of the hearing.

(4) Whenever the name or place of residence of any such person is unknown and upon due diligence cannot be ascertained, and an affidavit to that effect shall be filed with the clerk of this court by said executor or administrator, then notice shall be given to such person by publication thereof at least once in some newspaper of general circulation published in this county at least 20 days prior to the date of the hearing.

(5) Proof of such notice shall be filed with the clerk of this court on or before the date of the hearing.

(b) Notice of the hearing on a current or final account of a guardian pursuant to paragraph 24-11(b) of the Probate Act shall be given to: (1) each claimant whose claim has been filed and remains undetermined or unpaid, (2) to the ward, if living, (3) to the legal representative and the heirs at law and legatees of a deceased ward, and (4) where entitled, to the representative of the Social Security Administration, Veterans' Administration or other governmental entity.

**Rule 75          Distribution-minor or disabled adult**

(a) If an heir at law of an intestate or legatee of a testate estate shall be a minor or shall die or be adjudicated a disabled adult, such fact shall be set forth in any petition requesting authority to make distribution.

(b) Except where the distributive share of a minor or a disabled adult qualifies for distribution under paragraph 25-2 of the Probate Act, distribution will be authorized only to the legal representative of such persons.

**Rule 76          Final account – costs, claims and taxes**

No final account of any estate shall be approved unless it shall be verified and shall include:

(1) A statement that all court costs have been paid.

(2) A statement that all claims filed have been allowed or dismissed, together with a list of claims allowed and not yet shown paid of record.

(3) Receipts of claimants showing paid claims which have been allowed.

(4) A statement that Illinois Estate Tax which has been assessed has been paid or adequate provision has been made for its payment.

(5) A statement that Federal Estate Tax which has been assessed has been paid or adequate provision has been made for its payment.

**Rule 77          Final settlement of guardian with ward**

On the final settlement of a ward's estate when the person entitled to the estate is the ward, the guardian will not be discharged unless the guardian exhibits to the court a receipt in full and entry of appearance waiving notice of hearing executed by the ward.

**Rule 78          Settlement of personal injury and wrongful death cases**

(a) Each petition for leave to settle a cause of action for personal injuries sustained by a ward or a cause of action for the wrongful death of a person whose estate is in the course of administration shall be executed by the legal representative or any other interested person. The attorney for the representative shall certify in writing as a part of the petition that in his opinion, based upon the facts and law applicable thereto, the proposed settlement is just and proper.

(b) In the event there is no independent attorney employed by the representative of the estate, the court will suggest that the representative employ an independent attorney to investigate and make recommendations; but if the representative does not employ an independent attorney, then the court may on its own motion appoint an attorney as guardian ad litem to investigate the merits of the proposed settlement, and to report in writing his findings and recommendations and to otherwise comply with 10th Cir. R. 68 before final action is taken. In the event said guardian ad litem does not recommend the approval of the proposed settlement of said claim, he shall not represent as a private attorney, any of the parties or personal representatives having an interest in said claim, but he may continue as such guardian ad litem with reference to any revised offer of settlement so long as the representative is not represented by an attorney, and shall report in writing his recommendations regarding said revised offer. The court shall fix an appropriate fee for the guardian ad litem to be taxed as costs in the case.

(c) Notice of the filing of a petition for determination of dependency under the Wrongful Death Act or the Dram Shop Act and of the hearing thereon, shall be served by the legal representative or his attorney upon the person or persons named in sub-paragraphs (a), (b) and (c) of 740 ILCS 180/2 including persons furnishing health care or funeral services for the deceased person, unless payment for such services is shown.

(d) No settlement on behalf of a minor or incompetent will be authorized unless a report of the attending physician or surgeon is filed with the petition stating the nature and extent of the injury, and in case of minors, the minor appears in open court unless excused by the court for good cause shown.

**Rule 79          Proof to establish dependency**

(a) When compensation is claimed or is to be paid under the Workers' Compensation Act, Workers' Occupational Diseases Act, Federal Employers' Liability Act, Dram Shop Act, or any similar statute for injuries or disease resulting in the death of a person whose estate is pending in this court and it is desired to offer proof of dependency for the purpose of determining the respective proportionate distributive shares of the persons entitled to receive the compensation, proof of dependency may be made in the manner provided by Section 5-3 of the Probate Act for ascertainment of heirship.

(b) A guardian ad litem may be appointed to represent all interested minors and disabled adults.

**Rule 80      Guardian's petition for expenses for ward**

(a) Each guardian's petition to apply any substantial part of the ward's estate for the comfort, support or education of the ward or other persons entitled to support from the ward, shall state the value of the estate at the time the petition is being filed, the annual income available to the ward and the amount of the last authorization for the expenditure on behalf of said ward for the same purpose, if any.

(b) The petition shall state whether or not the petitioner or any other person is receiving any relief or assistance from the Social Security Administration, Veterans' Administration, or any other governmental entity as well as from any charitable organization or entity, and any income from any source.

**Rule 81      Withdrawal of money on deposit with the county treasurer (recovery of escheated property)**

Before any person presents his petition requesting the entry of an order directing the county treasurer to pay money theretofore deposited by order of court, he shall serve notice on:

- (1) The state's attorney of the county,
- (2) The former legal representative and his attorney, and
- (3) All other persons entitled to notice under any order of court entered in the proceeding.

If the petition is sufficient, the court may direct the state's attorney and the former legal representative to answer the petition within a time fixed by the court. In case of failure, refusal, or inability of the state's attorney or the former legal representative to answer the petition, the court may appoint a special administrator or guardian ad litem to appear and defend against the petition.

**OTHER PROCEEDINGS**

**Rule 82      Accounting actions**

(a) In an accounting action if the court finds a party is entitled to an accounting, it shall order all parties obligated to account to file written accounts.

(b) A written accounting shall identify receipts and disbursements by naming the date and payor or payee of each transaction, a sufficient statement of the purpose or facts surrounding each transaction to constitute justification, the assets on hand at the beginning and at the end of the period of accounting, and shall contain such other and further information as the court requires.

(c) A written accounting shall be verified on oath unless excused by the court.



(d) Within a time fixed by the court, any party to an accounting action may file specific written objections to the form or substance of the accounting filed, requesting specific relief, such as, for example, a money judgment, an injunction, removal from office, or a more detailed statement of accounts. Any objections not reduced to writing and timely filed are waived.

(e) If objections to a written accounting are filed, within a time fixed by the court all other parties shall file answers or otherwise plead to the objections filed, thereby placing the cause at issue for a trial on the merits of the objections.

(f) In an accounting action any or all of the requirements of this rule maybe modified or waived by order of the court.

**Rule 83            Actions seeking review from an administrative agency’s decision**

(a) Applications seeking review from an administrative agency’s decision, including administrative review under 735 ILCS 5/3-101 and under the Illinois Workers' Compensation Act, shall be made by filing a complaint with the clerk of the court and service of process as provided by law.

(b) Once the pleadings have been finalized, the parties shall agree on, or the court will order, a briefing schedule, and the scheduling of oral argument, if requested.

(c) Each party shall prepare and file a brief in compliance with Ill. Sup. Court R. 341 including a brief statement by plaintiff of the circuit court's jurisdiction. However, a party shall not bind the brief on the left side or include a cover. In addition, the number of copies and service need only be in conformity with Ill. Sup. Ct. R. 11 and 10th Cir. R. 22, and a brief need not include an appendix. No filing may be in electronic format until the circuit court adopts such a procedure.

**Rule 84            Criminal procedure-notice of hearing to accompany motion**

In any case where the Illinois Rules of Criminal Procedure are applicable, any motion filed must include a notice of hearing. The notice of hearing must provide for either an actual hearing date for the motion being filed or a hearing where the motion will be scheduled to be heard.

STATE OF ILLINOIS

TENTH JUDICIAL CIRCUIT COURT

CERTIFICATE

IT IS ORDERED by the judges of the 10th Judicial Court of Illinois that the foregoing Rules of the Circuit Court of the 10th Judicial Circuit State of Illinois shall become effective on the 8th day of April 2013.

Michael E. Brandt, Chief Circuit Judge -Resident Peoria County

Kevin R. Galley, Circuit Judge -Resident Marshall County

Paul P. Gilfillan, Circuit Judge -Resident Tazewell County

Katherine S. Gorman, Circuit Judge -At-Large

Thomas A. Keith, Circuit Judge -Resident Stark County-by appointment

Stephen A. Kouri, Circuit Judge -At-Large

Kevin W. Lyons, Circuit Judge -Resident Peoria County

Michael D. Risinger, Circuit Judge -At-Large

Scott A. Shore, Circuit Judge -Resident Putnam County

John P. Vespa, Circuit Judge -At-Large

