

RULE CHANGES – 7/16/08
(These replace existing Article 15 and Article 21)

ARTICLE 15: DOMESTIC RELATIONS

15.01 DEFINITIONS

For purposes of these rules, a domestic relations case is defined as any proceeding arising under the provisions of Chapter 750 of the Illinois Compiled Statutes, which seeks an order or judgment relating to a new action or modification of an action for dissolution of marriage, declaration of invalidity of marriage or legal separation, an Order of Protection, or relief pursuant to the Illinois Parentage Act of 1984. These rules are promulgated in accordance with the authority conferred in Section 802 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/802) and the Illinois Code of Civil Procedure.

15.02 APPLICABILITY AND CASE DESIGNATION

These rules, to the extent not inconsistent with the Rules of the Illinois Supreme Court and the Illinois Compiled Statutes, shall apply to all cases for declaration of invalidity of marriage, dissolution of marriage, legal separation or (MR) and parentage (F) cases assigned to the domestic relations division. In all pre-decree dissolution cases, if there are one or more minor children of the marriage at the time of filing, the complaint shall be designated “Petition for Dissolution of Marriage, Minor Children” and the Clerk of the Circuit Court shall maintain such designation.

15.03 MARRIAGE

(a) A petition for an order directing the County Clerk of DuPage County to issue a marriage license as provided in 750 ILCS 5/201 et seq. shall be presented to the Presiding Judge of the Domestic Relations Division.

(b) The issuance of a marriage license by the County Clerk of DuPage shall be prima facie evidence of compliance with the statute and may be relied upon by any Judge assigned to perform a marriage ceremony.

15.04 TIME LIMITATIONS IN CHILD CUSTODY CASES

Illinois Supreme Court Rule 922 governing “Time Limitations” is incorporated herein. Except as provided in Illinois Supreme Court Rule 922, all custody cases as defined in Illinois Supreme Court Rule 900(b)(1) shall be resolved within 18 months from service of the petition or complaint to final order.

15.05 DISCOVERY

The provisions pertaining to discovery contained in Local Rules 7.01 and 7.02 are also applicable to all cases for declaration of invalidity of marriage, dissolution of marriage, legal separation or miscellaneous remedies (MR) and parentage (F) cases assigned to Domestic Relations.

(a) Mandatory Good-Faith Disclosure – Comprehensive Financial Statement

1. Pre-Decree Actions:

- a) Within thirty (30) days of the filing of the defendant's general appearance or the first responsive pleading in any proceeding for dissolution of marriage or legal separation, each party shall serve upon all parties entitled to notice, the completed *Comprehensive Financial Statement* with corroborating documents in the form established by these rules.

- b) Each party shall file with the Clerk of the Circuit Court within seven (7) days thereafter a certificate of compliance and service, certifying the *Comprehensive Financial Statement* has been completed and setting forth the date on which the completed *Comprehensive Financial Statement* and corroborating documents were served upon those parties entitled to notice. If known at the time of service, the party serving the *Comprehensive Financial Statement* shall identify any claim for dissipation of marital assets. The *Comprehensive Financial Statement* shall not be filed with the Clerk of the Circuit Court.
- c) If any request for temporary relief is made prior to the expiration of thirty (30) days from the filing of Respondent's appearance or first responsive pleading, a preliminary *Comprehensive Financial Statement*, with corroborating documents, shall be served contemporaneously with the Notice and the Petition seeking temporary relief, and the responding party shall provide a preliminary *Comprehensive Financial Statement* to the all parties entitled to notice and the court not less than two (2) court days prior to the hearing. Income, expenses, assets and liabilities as requested in Sections I, II, III and V of the *Comprehensive Financial Statement* shall be provided, with sufficient particularity to permit a meaningful hearing on the temporary relief sought.

2. Post-Decree Actions:

- a) In any post-judgment domestic relations case or post-judgment parentage case where both parties are represented by private (non-government) counsel, when any party is seeking to establish or modify the issues of temporary or permanent support, maintenance or contribution to daycare, extracurricular, medical insurance, or college expenses, the pleading and response shall incorporate an affidavit containing the information specified in Items I through VI of the *Comprehensive Financial Statement* established by these rules. The affidavit shall not be filed with the Clerk of the Circuit Court, but shall be provided with corroborating documents to all parties entitled to notice simultaneously with the pleading.

3. If a party is unable to complete any portion of the *Comprehensive Financial Statement*, he or she shall indicate his or her inability to do so by answering "unknown" to each such specific item, and shall so certify on the last page of the *Comprehensive Financial Statement* pursuant to 735 ILCS 5/11-109.

(b) Corroborating Documents:

1. Within the same time provided for service of the *Comprehensive Financial Statement*, every party shall produce all corroborating documents in support of the allegations of the Pleadings and the *Comprehensive Financial Statement* or required affidavit. The corroborating documents shall be produced whenever a party has such documentation, or whenever a party can obtain such documentation upon reasonable effort from other sources.
2. The income-corroborating documents shall include (but not be limited to) copies of the prior three (3) years 1040 personal and business (partnership, corporate, etc.) federal and state tax returns (including all schedules and supporting documents). If the tax return for the prior year has not been filed, then copies of prior year's W-2s, 1099s and other proof of income shall be tendered, as well as the most recent pay-stub and the prior year's year-end pay-stub.
3. All corroborating documents shall be labeled and indexed to correspond to the paragraph of the *Comprehensive Financial Statement* to which the document relates. No formal discovery requests for this information shall be a prerequisite to enforcement for non-compliance with this Rule. The documents shall not be filed with the Clerk of the Circuit Court, but shall be served upon each person entitled to notice under the Illinois Supreme Court Rules, with proof of service filed with the Clerk.

(c) Duty to Update. Each party, through counsel if represented, shall update and amend the *Comprehensive Financial Statement* or required affidavit, and all corroborating documents every 90 days, with the last update due at least seven (7) days before trial. Such updates or amendments shall not be filed with the Clerk of the Circuit Court, but shall be served upon each person entitled to

notice under the Illinois Supreme Court Rules, with proof of service filed with the Clerk of the Circuit Court.

(d) Sanctions for Non-Compliance. Upon motion by any party, the Court may impose such sanctions for violation of these DISCOVERY RULES IN FAMILY LAW CASES as are provided in Illinois Supreme Court Rule 219.

1. Failure to maintain corroborating documents after filing or receipt of a pleading covered by these rules shall be prima facie evidence of non-compliance.
2. The Court shall consider a party's compliance or non-compliance with these rules in the allocation of attorney's fees and costs pursuant to 750 ILCS 5/508. Attorney's fees may be awarded for time attributable to delay in complying with these Local and Illinois Supreme Court Rules regarding discovery.

(e) Additional Discovery. A party may not make additional non-duplicative discovery requests, in accordance with the requirements set forth in the Illinois Supreme Court Rules and Illinois Code of Civil Procedure, until the party has served a completed Comprehensive Financial Statement in compliance with this rule.

15.06 EDUCATION PROGRAM

(a) The Circuit Court of DuPage County has established two separate Education Programs for divorcing and never-married parents conducted through the DuPage County Family Center. The education programs cover the subjects of parenting time, custody, co-parenting, communication and the impact of these issues on children. These programs are The Caring, Coping and Children (CCC) Program and the Parents and Kids (PAK) Program.

(b) In all pre-judgment (F) cases in which the parties have a minor child, the parties must complete the Parents and Kids (PAK) Program as soon as possible after the establishment of paternity but in no event later than sixty (60) days after the initial status conference.

(c) In all pre-judgment (D) cases in which the parties have a minor child, the parties must complete the Caring, Coping, and Children (CCC) Program as soon as possible, but no later than 60 days after the initial status conference.

(d) Except when excused by the Court for good cause shown, each party's attendance and completion of the Education Program is mandatory. The Court shall not excuse a party's attendance and completion of the Education Program unless the reason is documented in the record and a finding is made that excusing one or both parents from attendance is in the best interests of the children.

(e) Willful failure to comply with the Education Program requirement may result in sanctions by the Court.

15.07 STATUS CONFERENCE

(a) The purpose of a status conference is to prevent delay in the disposition of the case and to monitor compliance with court rules.

(b) An initial status shall be assigned by the Clerk of the Court upon a case being filed under the Illinois Marriage and Dissolution of Marriage Act or the Illinois Parentage Act of 1984. At the initial status, if not earlier, the parties or attorneys of record whom are knowledgeable as to the issues in the case, shall report the progress of the case to the Court, including:

1. Compliance with the parenting education program requirement of Illinois Supreme Court Rule 924 and Local Rule 15.06;

2. Agreed custody arrangements and parenting plans, if any;
3. The scheduling of mediation in compliance with Illinois Supreme Court Rule 905(b), if require; and
4. Whether Comprehensive Financial Statements have been exchanged.

(c) A status shall be scheduled every thirty (30) to sixty (60) days thereafter unless otherwise directed by the Court. In addition to other matters the Court chooses to address, the Court shall consider whether to appoint attorney for the child, a guardian *ad litem*, or a child representative in accordance with 750 ILCS 5/506.

15.08 TITLES ON ALL PETITIONS, MOTIONS AND ORDERS

(a) All petitions and motions submitted to the Court in domestic relations cases shall be substantially in the approved form provided by law and shall begin with a title which accurately describes the contents of the petition or motion. They shall include a recitation of the statutory or case law basis for said relief.

(b) If any order submitted to the Court is agreed, the adjective "agreed" should precede the word "order" in the title.

15.09 MOTIONS AND HEARINGS

(a) Except for the automatic status date, all court dates and times, including pre-trial and trial dates, shall be obtained from the trial judge or one of the court schedulers at the direction of the trial judge.

(b) Notice. Except for emergency matters, the moving party shall serve proper notice for all motions or petitions for relief in accordance with Local Court Rule 6.04(d). The notice provided shall state that the motion will be presented on the date specified in the notice.

(c) Presentment Call. Except for emergency matters, all motions and petitions shall be placed on the presentment call, by contacting the court scheduler, prior to being set for hearing. The presentment call commences at 9:15 a.m. No contested matters shall be heard during the presentment call. If the motion or petition is not resolved by agreement, an Order shall be entered setting forth a briefing schedule granting the defending party reasonable time to respond or otherwise plead and setting a future status or hearing date on the underlying motion or petition.

(d) Hearings. Dates for hearings which can be conducted within twenty (20) minutes or less shall be obtained from the Court scheduler. All other hearing dates will be assigned by the Court in its discretion. Courtesy copies shall be delivered to the Court by the moving party prior to the hearing pursuant to Rule 6.05(c). Failure to provide courtesy copies in compliance with these Rules may result in a continuance of the hearing by the Court.

(e) Changes in Court Dates Initiated by the Court:

(1) Whenever the assigned judge determines it necessary to reschedule a court date, the court scheduler, at the direction of the assigned judge, shall prepare an order for signature by the assigned judge.

(2) A copy of the order shall be sent by the court scheduler to all attorneys of record in the case.

(3) Whenever possible, attorneys of record shall be contacted by the court scheduler beforehand to obtain a mutually acceptable date.

(f) Other Changes in Court Dates:

(1) All agreed motions for a change in court date must be presented in writing with required notice. If the agreed motion is to change the date of a prove-up or a hearing on a motion, the matter will be reset to an available date. If the agreed motion is to change the date of a pre-trial or trial date, the motion will be placed on the judge's motion call by the court scheduler.

(2) Any request for a change in court date which is not by agreement shall be placed on the judge's motion call by the court scheduler.

(3) No pre-trials or trials shall be continued except upon written motion and written order after hearing.

(4) An appropriate order must be presented to the court scheduler at the time a change in court date is scheduled. The order shall include a paragraph striking the existing date from the call. If the date appearing on an order resetting a prove-up or a hearing of a motion is not available on the appropriate call of the assigned judge, the court scheduler shall place the case on the motion call or prove-up call of the assigned judge on the next available date to which the attorneys can agree.

(g) All pending and inactive cases coming before the Court on any given day must be given a future court date.

(h) For purposes of this Article 15, the following definitions shall apply:

(1) Pending Case - any case that has not been closed or placed on inactive status.

(2) Closed Case - any case once a Judgment of Dissolution of the marriage relationship is entered.

(3) Inactive Case - any case where a hearing on the dissolution of the marriage is being stayed by the Court because both parties have executed an Inactive Status Order.

(i) Domestic Violence Cases. This Rule is not applicable to any proceeding under the Domestic Violence Act of 1986 and service of process, notice and hearings under such cases shall be as provided by statute.

15.10 EMERGENCY MATTERS

(a) Designation of a matter as an "emergency" is determined to be an extraordinary measure and shall be heard at the discretion of the Court.

(b) Emergency motions will be heard by the Judge assigned to the case. If the assigned Judge is unavailable, then the emergency motions shall be heard by the Presiding Judge or his or her designee.

(c) The proponent of an alleged "emergency" matter shall have the initial burden of proving the emergency which burden shall include, at a minimum:

(1) Notice to the opposing party pursuant to Local Rule 6.08;

(2) Inability to obtain an assignment on the regularly scheduled call within a reasonable time given the circumstances for which or from which relief is sought; and

(3) That immediate and irreparable injury, loss or damage will result if the relief is not granted.

(d) Upon a determination by the Court that a matter does not meet the criteria for “emergency” matters, an order so finding shall be entered and the matter may be set on a regular call. Upon oral motion by a party or their attorney who responds to an alleged “emergency”, the party or their attorney may be entitled to reimbursement from the movant for actual expenses, fees and costs incurred in responding to the motion.

15.11 MOTIONS FOR TEMPORARY RELIEF

(a) Except as otherwise provided by law, in all proceedings involving petitions for temporary relief, the moving party shall serve proper notice in accordance with Local Court Rule 6.04 and provide, to opposing counsel, the necessary discovery documents in accordance with Local Court Rule 15.05.

(b) In any proceeding to set Temporary Relief, the moving party may set the petition on the 9:15 a.m. presentment call, pursuant to Local Court Rule 15.09(c). The moving party shall serve notice, accompanied by a copy of a verified petition intended to be filed in the cause, and present said Temporary Relief Petition in accordance with Local Court Rules 6.04(d) and 15.05. The Responding party shall subsequently have fourteen (14) days to respond to said petition and comply with Local Court Rule 15.05. The moving party's Petition for Temporary Relief shall then be set for hearing within twenty-one (21) days of presentment, unless for good cause shown, the Court directs otherwise.

(c) Only in proceedings requesting initial or temporary child support and maintenance awards, once the motion or petition has been presented in accordance with subsection (b) above, the responding party shall have fourteen (14) days thereafter to respond to said motion or petition and comply with Local Court Rule 15.05 and therefore exchange the applicable Comprehensive Financial Statement and corroborating documents. The moving party's petition or motion shall then be set for hearing within twenty-one (21) days of presentment, unless for good cause shown, the Court directs otherwise.

(d) In any proceeding under the Domestic Violence Act of 1986, seeking an Order of Protection, or to modify or vacate an Order of Protection, service of process shall be as provided by 750 ILCS 60/210, 210.1, and 211.

15.12 RULE TO SHOW CAUSE

(a) In any proceeding seeking a Rule To Show Cause, the moving party may set the petition on the 9:15 a.m. presentment call, pursuant to Local Court Rule 15.09(c). The moving party shall serve notice, accompanied by a copy of the verified petition intended to be filed in the cause. No Rule to Show Cause shall issue except upon proper Notice and Motion, and except for good cause shown by verified pleading.

(b) Upon presentment, the Court shall set the Petition for Rule to Show Cause for hearing not less than fourteen (14) days nor more than thirty (30) days from the date of presentment. Further, the Court may order the Rule returnable on the same day, if the Rule issues.

(c) The Order setting the Petition for Rule to Show Cause for hearing shall be served in accordance with Illinois Supreme Court Rules as in service of summons.

15.13 CONSOLIDATION OF GUARDIANSHIP CASES

When any divorce, paternity, or petition for custody involving custody of a child or children is pending, any action for creation or termination of the guardianship of the same minor child or children shall be transferred to the domestic relations division, to be heard by the same judge assigned the domestic relations or paternity case.

15.14 GUARDIANS AD LITEM, CHILD REPRESENTATIVES, AND ATTORNEYS FOR CHILDREN

A. QUALIFICATIONS

The 18th Judicial Circuit shall promulgate a list of attorneys who have been approved by this Court to act as Guardians ad Litem, Child Representatives, or Attorneys for Children. These Guardians ad Litem, Child Representatives, or Attorneys for Children, approved by the Chief Judge, the Presiding Judge and the Acting Presiding Judge of the Domestic Relations Division of the 18th Judicial Circuit, must file the required application, supply supporting documentation and meet the following criteria:

(a) Shall satisfactorily complete a Guardians ad Litem/Child Representatives/Attorneys for Children training program approved by the Court. In addition, the applicant must complete additional training as required by the Court from time to time, in accordance with Illinois Supreme Court Rule 906(c). Said training program shall consist of ten (10) hours in the two (2) years prior to the date the attorney qualifies for appointment in approved continuing legal education courses in the following areas: child development; roles of guardian ad litem and child representative; ethics in child custody cases; relevant substantive state, federal, and case law in custody and visitation matters; family dynamics, including substance abuse, domestic abuse, and mental health issues.

(b) Hold a valid license to practice law in the State of Illinois and be in good standing.

(c) Maintain an office in DuPage County.

(d) Shall serve at the discretion of the Presiding Judge.

(e) Shall provide evidence of malpractice insurance in an amount as set by the Presiding Judge.

(f) Shall agree to appointment as a Guardian ad Litem/Child Representative/Attorney for Child(ren) in at least one(1) reduced fee or pro bono cases per year as identified by the Court.

B. APPOINTMENT PROCEDURE

(1) Upon the Court order appointing a Guardian ad Litem/Child Representative/Attorney for Child(ren), a Guardian ad Litem/Child Representative/Attorney for Child(ren) shall be selected by agreement of the parties from the list of qualified Guardians ad Litem/Child Representatives/Attorneys for Children prepared by the Presiding Judge of the Domestic Relations Division. Absent an agreement, the Court shall assign the Guardian ad Litem/Child Representative/Attorney for Child(ren).

(2) The Court shall designate in its order what percentage of the retainer and hourly rates for the Guardian ad Litem/Child Representative/Attorney for Child(ren) should be paid by each party or whether the case should be considered a reduced fee or pro bono case.

(3) The parties shall contact the Guardian ad Litem/Child Representative/Attorney for Child(ren) within two (2) days after the appointment order is signed for the purpose of adequate representation of any minor children to provide the Guardian ad Litem/Child Representative/Attorney for Child(ren) with all notices, pleadings, orders, and reports in the proceeding.

(4) The Guardian Ad Litem/Child Representative/Attorney for the Child appointed in this cause shall file his or her appearance on behalf of the minor child(ren) within seven (7) days of the entry of the appointment order and file any appropriate pleadings within twenty-eight (28) days of the entry of the appointment order, and may file subsequent pleadings as deemed appropriate.

(5) During the proceeding, the Court may appoint an additional attorney to serve in another of the enumerated capacities on its own motion or on the motion of a party for good cause shown.

(6) The Chief Judge and the Presiding Judge of the Domestic Relations division shall be responsible for administering the training program and insuring compliance with Illinois Supreme Court Rule 906.

(7) An attorney approved to be appointed by the Court as a Guardian Ad Litem/Child Representative/Attorney for the Child under a training program approved in a different county or judicial circuit shall have reciprocity to participate in child custody and visitation matters in all other counties and judicial circuits in the State of Illinois.

C. POWERS, DUTIES, AND RESPONSIBILITIES

(1) The Guardian Ad Litem/Child Representative/Attorney for the Child shall have all the duties, powers, and authority defined for his/her role by Section 506 of the Illinois Marriage & Dissolution of Marriage Act, 750 ILCS 5/506.

(2) The rights afforded to the Guardian Ad Litem/Child Representative/Attorney for the Child shall be as set forth by Illinois Supreme Court Rule.

(3) The Guardian Ad Litem/Child Representative/Attorney for the Child is authorized to conduct such discovery as necessary and proper to fulfill his or her appointed role.

(4) If appointed as such, the Attorney for the Child shall participate in the litigation as would the attorneys for the parties and shall be bound by the Illinois Rules of Professional Conduct.

(5) If appointed as such, the Child Representative shall have the following rights and obligations:

- a. To participate in the litigation as would the attorneys for the parties.
- b. To investigate the facts of the case and interview necessary parties.
- c. To advocate the best interests of the child.
- d. To promote settlement and the use of alternative dispute resolution.
- e. To disclose the Child Representative position in a pretrial memorandum.
- f. No party may cross-examine the Child Representative.
- g. The Child Representative shall be bound by the Illinois Rules of Professional Conduct.

(6) If appointed as such, the Guardian ad Litem shall tender a written report to the Court, if so ordered. Further, the Guardian ad Litem shall make recommendations to the Court, if so ordered. As required by Illinois Supreme Court Rule 906, a Guardian ad Litem shall be bound by the Illinois Rules of Professional Conduct.

D. FEES

Unless otherwise ordered by the Court at the time fees and costs are approved, all fees and costs payable to a Guardian Ad Litem/Child Representative/Attorney for the Child under Section 506 of the Illinois Marriage & Dissolution of Marriage Act are by implication deemed to be in the nature of support of the child and are within the exceptions to discharge in bankruptcy under 11 U.S.C.A. 523. The provisions of Sections 501 and 508 of the Illinois Marriage & Dissolution of Marriage Act shall apply to fees and costs for attorneys appointed under Section 506 of the Illinois Marriage & Dissolution of Marriage Act.

15.15 MEDIATION REFERRAL PROGRAM

Mediation under these rules involves a court ordered confidential process whereby a qualified and neutral mediator, selected by the parties or appointed by the Court, assists the litigants in reaching mutually acceptable agreements. It is an informal and non-adversarial process. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem-solving exploring settlement alternatives and reaching agreements. Parties and their representative are required to mediate in good faith. This rule is subject to the provisions of Illinois Supreme Court Rule 905.

A. SUBJECT MATTER AND COMMENCEMENT OF MEDIATION

(1) Matters Subject to Mediation: As authorized by Illinois law, the Court may order mediation of any pre or post-judgment contested issue of parental responsibility, custody, visitation, removal, access to child(ren) or other non-economic issues arising in any action not otherwise determined to be ineligible. Without leave of Court, the parties may not proceed to a judicial hearing on contested issues including temporary relief arising in that case until the mediation process has been concluded and the mediation report has been submitted to the Court. Mediation may be waived if the parties have participated in mediation pursuant to a joint parenting agreement or by the Court on good cause shown.

(2) Commencement of Mediation: The mediation process shall, as soon after an action is filed as practicable, but if the process has not already commenced, the Court may order mediation at the first court date after which the Court obtains jurisdiction over both parties if the Court determines it is in the best interest of the child(ren).

(3) Mediation shall not be required if the Court determines an impediment to mediation exists. An impediment to mediation may include, but is not limited to, domestic violence, mental illness, cognitive impairment, drug use, alcohol use, prescription medication use, physical impairment, fraud, duress or undue influence. All cases that are ordered to mediation shall be screened for such impediments. The Court shall make inquiries of counsel or the parties concerning the issue of impediments to mediation.

(4) The mediator shall also screen for issues of impediments to mediation. If the mediator determines that there is such an impediment, mediation shall be suspended and the matter referred back to the Court for a determination regarding continued mediation.

(5) The parties shall complete the appropriate parent education course, Caring, Coping and Children (CCC) or Parents and Kids (PAK) prior to the commencement of mediation, unless said classes have already been previously completed, as in post-judgment cases.

B. QUALIFICATIONS OF MEDIATORS

(1) The 18th Judicial Circuit shall promulgate a list of mediators who have been approved by this Court to act as mediators for the Court Ordered Family Mediation Program. These mediators, approved by the Chief Judge, the Presiding Judge and the Acting Presiding Judge of the Domestic Relations Division of the 18th Judicial Circuit, must file the required application, supply supporting documentation and meet the following criteria:

(a) Shall satisfactorily complete a Divorce Mediation training program approved by the Court. In addition, the applicant must complete additional training as required by the Court from time to time.

(b) Hold a graduate degree in a field that includes the study of law, psychiatry, psychology, social work, human development, family counseling or other behavioral science substantially related to marriage and family interpersonal relationships, or a related field or other degree program otherwise approved by the Presiding Judge.

(c) If engaged in a licensed discipline, maintain said license in full force and effect.

(d) Maintain an office in DuPage County.

(e) Shall serve at the discretion of the Presiding Judge.

(f) Shall provide evidence of malpractice insurance in an amount as set by the Presiding Judge.

(g) Shall agree to mediate at least four (4) reduced fee or pro bono cases per year as identified by the Court.

(2) The mediation shall occur in DuPage County unless the parties agree otherwise.

C. REFERRAL ASSIGNMENT PROCEDURE

(1) In Divorce cases, upon the Court's order for the parties to participate in mediation, a mediator shall be selected by agreement of the parties from the list of qualified mediators prepared by the Presiding Judge of the Domestic Relations Division. Absent an agreement, the trial judge shall assign the mediator. In Paternity cases, upon the Court's order for the parties to participate in mediation, the parties shall mediate through the DuPage County Family Center unless the parties agree otherwise. A forty-five (45) day status date on the issue of progress of the mediation shall be set. All status dates regarding mediation shall be at 9:21 a.m.

(2) The Court shall designate in its order what percentage of the mediation fee should be paid by each party or whether the case should be considered a reduced fee or pro bono case. In cases in which the Court has determined the parties indigent, the DuPage County Family Center may be assigned to mediate.

(3) The attorneys shall encourage the parties to mediate in good faith. The parties shall participate in mediation in good faith.

(4) On or before the status date, the mediator shall submit a report to the Court and the parties' legal counsel, which shall include information listed in this rule under the section entitled "Mediation Report."

(5) The parties shall contact the mediator within two (2) days after the referral order is signed for the purpose of setting an appointment.

D. CONFLICT OF INTEREST

(1) If the mediator has or has had any possible conflict of interest, including but not limited to, a current or previous therapeutic, personal or economic relationship with either party, any child, step-parent, other relative, counsel or anyone else involved in the case, he or she shall decline the appointment or disclose that relationship to the attorneys and may be removed for that reason. If there is a conflict, the parties may select or the Court shall appoint another mediator.

(2) A mediator who is a mental health professional shall not provide counseling or therapy to the parties or their children during or after the mediation. An attorney-mediator may not represent either party in any matter during the mediation process or in a dispute between the parties after the mediation process.

(3) Imputed Disqualification: No one will be eligible to serve as a mediator if listed as an evaluator under these rules, or a member of a practice, agency or business entity whose members are on the Court list of approved evaluators.

E. REPORTING RISK OF BODILY HARM AND ABUSE

(1) A mediator shall promptly reveal information to the appropriate law enforcement agency to the extent it appears necessary to prevent a party from committing an act that would result in death or serious bodily harm.

(2) Attorneys, when acting as mediators, shall reveal information required by Rule 1.6 "Confidentiality of Information" under the Illinois Rules of Professional Conduct.

(3) The mandated reporting requirement of the Abuse and Neglected Child Reporting Act, 325 ILCS 5/1 et seq., as applied to mental health professionals shall also apply to all mediators.

F. DISCLOSURE OF INFORMATION

(1) Except as provided herein, the mediator and the parties shall be barred from testifying as to any statement made at the mediation sessions. Neither mediation records nor work product of the mediator shall be subpoenaed in any proceeding except by leave of the Court.

(2) The mediator shall require the parties to execute a confidentiality agreement and complete a screening to determine if an impediment to mediation exists.

G. ATTENDANCE AND TERMINATION OF MEDIATION

(1) The parties shall attend the mediation session(s) which shall be up to an aggregate three (3) hours in length unless extended by agreement of the parties and the mediator. Attendance at mediation shall be limited to the parties to the dispute unless otherwise ordered by Court.

(2) Mediation may be extended by order of Court or agreement of the parties.

(3) The mediator shall immediately advise the Court in writing if he or she suspends or terminates mediation or in the event that either or both parties fail to comply with the terms of this paragraph.

(4) The mediation may be terminated or suspended at the option of the mediator or the Court.

H. MEDIATION REPORT

(1) The mediator shall, on a Court approved form, report to the Court on the progress of mediation within ten (10) days of the termination of the last mediation session, but in no event after the assigned status date.

(2) Only written discovery on issues not being mediated shall be allowed until mediation is terminated, except by order of the Court or agreement of the parties.

(3) No investigation or examination pertaining to issues pending in mediation shall be ordered by the Court, except when the Court finds good cause.

(4) In the event the party fails to attend mediation without good cause shown, the Court upon motion may impose sanctions, including but not limited to costs and attorneys fees.

I. PAYMENT OF FEES

The mediation fee and the amount of the advance deposit shall be set from time to time by the Chief Judge, the Presiding Judge and the Acting Presiding Judge of the Domestic Relations Division. Mediation fees shall consist of a maximum of three (3) hours plus one (1) hour for administrative charges which may include but are not limited to time spent in mediation sessions with the parties, telephone conference, correspondence, consultations with attorneys or expert consultants, preparation of the mediator's report and any other work performed by the mediator on behalf of the parties. The parties shall be required to pay for individual sessions at the time of each mediation session. In the event payments are not made as agreed by the mediator, the mediation process may not be suspended by the mediator, but failure to pay shall be promptly reported to the Court.

J. STATISTICS

The Presiding Judge of the Domestic Relations Division shall maintain data on the mediation program and consult on a regular basis with the other judges in the Domestic Relations Division about the operation of the program.

K. MEDIATOR IMMUNITY

A mediator, approved and certified by this Circuit and acting pursuant to these rules, shall have judicial immunity in the same manner and to the same extent as a judge, under the authority conferred by Illinois Supreme Court Rule 99(b)(1) as amended, effective October 10, 2001.

15.16 CUSTODY EVALUATION PROGRAM

A. SUBJECT MATTER OF EVALUATION

The DuPage County Custody Evaluation Program is a discretionary program of the Circuit Court of the 18th Judicial Circuit. If the Court determines that a custody evaluation, pursuant to 750 ILCS 5/604(b), is needed or would assist the court in making its determination, the Court may so order an evaluation.

Court-ordered Evaluation may include any pre or post-judgment contested issue of parental responsibility, custody, visitation, removal, access to the children or other non-economic issues in relation to child(ren).

Unless otherwise provided in these rules, the Court may order the parties to participate in evaluation at the mediation status date, upon motion of a party or upon the Court's own motion. The evaluator appointed by the Court shall make a recommendation to the Court with respect to those issues in dispute.

B. PRE-REQUISITE TO EVALUATION

(1) The parties ordered to evaluation by the Court shall have completed mediation prior to the commencement of an evaluation.

(2) The Court may appoint an attorney for the child/guardian ad litem/child representative prior to considering a Court-ordered evaluation, in light of Illinois Supreme Court Rule 907(e).

C. QUALIFICATIONS OF EVALUATORS

(1) The 18th Judicial Circuit shall promulgate a list of evaluators who have been approved by the Chief Judge, the Presiding Judge and the Acting Presiding Judge of the Domestic Relations Division to act as evaluators for the Court Ordered Evaluation Program, each of whom shall serve at the discretion of the Presiding Judge. Applicants for the program must file the required application with supporting documentation and meet the following criteria:

(a) Shall satisfactorily complete a training program approved by the Court. In addition, the applicant must complete additional training as required by the Court from time to time;

(b) Shall be a Ph.D. in psychology, Psy.D., Licensed Clinical Psychologist or Psychiatrist;

(c) Shall maintain Illinois Licensure in full force and good standing; and carry current malpractice insurance in an amount as approved by the Presiding Judge;

(d) Maintain an office in DuPage County and be available to conduct evaluations in DuPage County;

(e) Shall have at least five (5) years of experience in practice post-licensure; education, training and experience with children and families; plus training and/or experience specifically relevant to the evaluation process.

(2) Periodically the Presiding Judge shall prepare a list of Court-approved evaluators.

(3) An evaluator shall agree to handle three (3) reduced fee or pro bono cases per year as identified by the Court. All requests for pro bono or reduced fee evaluations shall be made to and approved by the Presiding Judge of the Domestic Relations Division.

D. REFERRAL ASSIGNMENT PROCEDURE

(1) Upon the Court's order for the parties to participate in evaluation, an evaluator shall be selected by agreement of the parties from the list of qualified evaluators. Absent an agreement, the trial judge shall assign the evaluator and a one hundred twenty (120) day status date shall be set for the final evaluation report.

(2) The Court shall designate in its order of evaluation:

(a) The percentage of the evaluation fee that shall be paid by each party and/or whether the case should be considered a reduced fee or pro bono case;

(b) Who shall receive a copy of the evaluation report; and

(c) What specific issues are to be evaluated.

(3) On or before the status date, the evaluator shall submit a report to those parties, or counsel of record for same, listed in order of evaluation.

(4) The time for evaluation shall be tolled during any periods in which a motion to disqualify is pending.

(5) The Petitioner shall provide the order appointing the evaluator to the evaluator, via facsimile or personal delivery, within 48 hours of the entry of said order.

(6) The parties shall contact the evaluator within seventy-two (72) hours after the assignment for the purpose of scheduling an initial session.

E. CONFLICT OF INTEREST

(1) If the evaluator appointed has or has had any possible conflict of interest, including but not limited to a current or previous therapeutic, personal or economic relationship with either party, any child, step-parent, other relative, counsel or anyone else involved in the case, he or she shall decline the appointment or disclose that relationship to the attorneys and may be removed for that reason. If there is a conflict, the parties may select or the Court shall appoint another evaluator.

(2) The evaluator may not function as a therapist to the parties, the children or step-parents before, during or after the evaluation.

(3) Imputed Disqualification: No one will be eligible to serve as an evaluator if listed as a court appointed mediator under these rules or a member of a practice, agency or business entity whose members are on the Court's list of appointed mediators.

F. REPORTING RISK OF BODILY HARM AND ABUSE

All evaluators will conduct themselves in accord with the Abuse and Neglected Child Reporting Act standards (325 ILCS 5/1 et seq.).

G. DISCLOSURE OF INFORMATION

The information exchanged during the evaluation process does not constitute "mental health services" or "services" within the meaning of the Mental Health and Developmental Disabilities Confidentiality Act and is, therefore, not confidential. The records of an evaluator are not subject to discovery without leave of court after proper notice to the other parties and the evaluator.

H. EVALUATION PROCESS

(1) The parties shall attend the evaluation sessions which shall consist of up to thirty (30) hours in length including testing, unless extended by agreement of the parties and the evaluator or order of Court. Attendance at evaluation shall be limited to the parties, the children and those specifically requested by the evaluator.

(2) Attorneys for the parties shall not contact the evaluator either during or after the evaluation, without leave of Court, except concerning those matters in the Referral form or in regard to scheduling.

(3) The evaluation may be terminated or suspended at the option of the Court, the evaluator or upon settlement of the issues which caused the case to be referred to evaluation.

(4) The evaluator shall immediately advise the Court and counsel for the parties in writing if the report will not be completed by the status date and state the reason for the delay and the expected date of completion.

(5) In the event a party fails to promptly attend and participate in the evaluation without good cause shown, the Court upon motion may impose sanctions.

(6) The evaluation must take place in DuPage County unless the parties agree otherwise.

(7) The evaluation report shall be provided to the Court, and any other designated parties, no later than one hundred twenty (120) days from the entry of the order appointing the evaluator.

I. PAYMENT OF FEES

(1) The evaluator's hourly fee and the amount of the advance deposit shall be set from time to time by the Chief Judge, the Presiding Judge and the Acting Presiding Judge of the Domestic Relations Division. The hourly rate shall be \$225 per hour, with a maximum charge, excluding testifying at deposition and/or trial, of \$7,875. The evaluation fee shall include up to thirty (30) hours for sessions and costs of testing and analysis, plus five (5) hours for preparation of the report. The limitation on charges contained in these rules shall not include time expended for preparation or attendance at a court proceeding or deposition. Those charges shall be paid by the party calling the evaluator as a witness.

(2) The parties shall be required to pay a retainer, as ordered by the court, to be applied toward the cost of evaluation. When the retainer is exhausted, the parties shall pay for remaining individual

sessions and the cost of the report as those costs are incurred. In the event payments are not made as ordered by the Court, the evaluator may not suspend the process but shall promptly report failure to pay to the attorneys and the Court.

(3) The evaluator's report shall include reference to the fee charged and itemize the charges, whether that fee has been paid in full, and if not, the outstanding amount owed. The Court may direct the parties to pay any sum that remains due and owing to the evaluator and may enter judgment accordingly.

J. STATISTICS

The Presiding Judge shall maintain data on the evaluation program and consult on a regular basis with the other judges in the Domestic Relations Division about the operation of the program.

III. OVERSIGHT COMMITTEE

(a) The Presiding Judge of the Domestic Relations Division shall appoint a committee which shall be known as the "Oversight Committee." That committee shall be comprised of attorneys practicing in the area of family law, psychologists and/or psychiatrists, and members of the general public. All members of the Oversight Committee shall serve three (3) year terms on a rotating basis. In addition, the current chairperson of the DuPage County Bar Association Family Law Committee shall serve as an additional member of the committee on an annual basis. The purpose of that committee shall be as follows:

(1) To review and make recommendations to the Presiding Judge regarding any complaint against a court appointed mediator or evaluator;

(2) To make recommendations for modification to the mediation and/or evaluation rules or procedures established pursuant thereto;

(3) To make recommendations for procedures and practices to implement the rules;

(4) To assist in the review of statistical data relative to the efficacy of the program;

(5) To review any complaints or concerns about the mediation and evaluation programs; and

(6) To perform any other tasks assigned by the Presiding Judge.

(b) In screening and making recommendations regarding a complaint against an evaluator, the committee shall consider the ethical standards and laws which apply to the profession(s) of that evaluator.

15.17 RECORD IN CERTAIN PROCEEDINGS

Every contested hearing which will result in a final custody or removal order shall be reported.

15.18 PRE-TRIAL CONFERENCE AND TRIAL DATES

(a) A case may be set for a pre-trial conference at the discretion of the trial judge. If a case set for pre-trial is settled or disposed of prior to its scheduled pre-trial conference date, the attorneys are directed to advise the judge in advance so that said appointed time may be used to accommodate the hearing of other cases. Failure of attorneys to comply may result in the imposition of sanctions.

(b) Litigants must be advised of any pre-trial conference date by their attorneys. Litigants need not appear, but must be available for consultation with their attorneys by phone during the pre-trial

conference. If the attorneys fail to appear for an appointed pre-trial conference, the pre-trial will be stricken and the case may be subject to dismissal and the attorney may be subject to sanctions. The Court may preclude any further pre-trial conferences.

(c) Whenever practical, both counsel shall prepare a written Joint Pre-Trial Memorandum. Absent such a joint memorandum, each counsel shall prepare a Pre-trial Memorandum which must include the following:

- Attorneys names, addresses and phone numbers;
- Parties names, ages, education levels, employment, health;
- Children's names, ages, school information, special needs;
- Assets, debts and liabilities; including values and characterization of marital vs. non-marital;
- Notice of Claim of Dissipation of Marital Assets, if any;
- Statement of areas of agreement;
- Statement of areas of disagreement; and
- Suggestions for settlement.

Copies of the Pre-trial Memorandum shall be sent to the judge and to opposing counsel at least three (3) days prior to the Conference.

A future status date shall be set following the pre-trial conference to determine if the case will settle or proceed to trial. If the case is resolved, a prove-up date shall be selected. If the case has not been resolved as of the next status date, the trial judge may set the case for trial.

(d) At the time a case is set for trial, a trial status date shall be set. At the trial status date, counsel for each party shall tender a Trial Memorandum to the trial judge and opposing counsel. The Trial Memorandum shall contain a statement of contested issues, uncontested issues, list of income, assets and liabilities, stipulations on agreed matters, a list of witnesses intended to be called, and probable length of trial. Each party shall submit a list of numbered exhibits with copies of all exhibits having been exchanged among all attorneys at least three (3) days prior to trial.

(e) Cases set for trial shall only be continued for statutory cause shown with proper notice, or by order of the trial judge. It is the responsibility of each attorney to contact the court scheduler in advance of the trial date to find out if the Court is otherwise engaged and unable to hear a case on the scheduled trial date.

15.19 JOINT SIMPLIFIED DISSOLUTION PROCEDURE

Pursuant to 750 ILCS 5/451 et seq., all persons who meet the requirements of 750 ILCS 5/452 shall be entitled to obtain a dissolution of marriage using forms provided by the Clerk of the Circuit Court. Upon filing of the Joint Petition, the parties may proceed to hearing before the assigned judge, who shall expeditiously consider the cause. In the absence of the assigned judge, the hearing shall proceed before any judge designated by the Presiding Judge. Brochures, approved by the Chief Judge, explaining the Joint Simplified Dissolution procedures shall be provided by the Clerk of the Circuit Court. The parties may not rely exclusively on the brochure as it is only to be used as a guide.

15.20 ENTRY OF JUDGMENT

(a) The Court shall designate who will prepare the Judgment and when the Judgment shall be tendered for entry. Non-payment of attorney's fees will not be recognized as good cause for the Judgment entry to be withheld.

(b) No judgment shall be signed subsequent to the forty-fifth (45th) day after the Court's decision, except upon further hearing in open court.

(c) Proper notice of such hearing as provided in Rule 15.03(b) shall be served upon all parties, including the movant's client. At such hearing, cause must be shown as to why said judgment had not been presented in apt time.

(d) When a Judgment resolving a domestic relations matter requires the payment of an amount of money for reasons other than child support or maintenance, the Judgment order shall be entitled Judgment for Dissolution and Money Judgment.

(e) At the prove-up of a dissolution of marriage/legal separation/declaration of invalidity of marriage case, if Judgment is not entered that day, the case shall be continued to a date certain not to exceed six (6) weeks from the close of proofs at 10:55 a.m., for the entry of the judgment order.

(f) If the judgment resolving a domestic relations matter is not presented for entry on or before that date, then before entry of the judgment, the Court may require an affidavit from counsel as to the reason for failure to comply with Rule 15.07(a). Non-payment of attorney fees will not be recognized as good cause.

15.21 MAINTENANCE OR SUPPORT PAYMENTS

(a) Maintenance or support payments shall be made by an order of withholding upon a separate order of court providing therefore, using the approved form furnished by the Clerk's office. If payments are through the Clerk of the Circuit Court, said withholding order shall be accompanied by the Clerk's form child support order.

(b) Orders for maintenance or support payments shall be presented to the Court in duplicate.

(c) Upon failure of a party to comply with an order of this Court pursuant to paragraph (a) above, a petition for a Rule to Show Cause shall be filed with the Court. Such petition shall be filed by the obligee, or where appropriate, by the State's Attorney on behalf of the obligee.

15.22 EXPEDITED MATRIMONIAL FEE ARBITRATION PROGRAM

The Expedited Matrimonial Fee Arbitration Program in the Circuit Court for the 18th Judicial Circuit, DuPage County, Illinois is governed by 750 ILCS 5/508(c) for the conduct of Expedited Matrimonial Fee Arbitration proceedings. Pursuant to 750 ILCS 5/508(c), the Circuit Judges of the 18th Judicial Circuit adopt the following Local Rules effective June 1, 1997. Arbitration proceedings shall be governed by Section 508(c) and this Article 15.19.

15.22.01 ELIGIBLE ACTIONS

Actions Subject to Arbitration. All actions brought pursuant to 750 ILCS 5/508(c) shall be submitted to mandatory arbitration in accordance with these rules only if neither the client nor the counsel affirmatively opts out of such procedures in the initial pleading requesting an award. An attorney may not enter into an agreement which purports to restrict the right of a client or the client's assignee to commence fee arbitration or which purports to relieve the attorney of the obligation to submit to arbitration under these rules. Any such agreement is void as against public policy.

15.22.02 POWERS AND DUTIES

(a) The Presiding Judge of the Domestic Relations Division of the 18th Judicial Circuit shall have the following powers and duties related to the Fee Arbitration Program:

(1) To appoint any lawyer licensed in Illinois who has either a residence or office in DuPage County and non-lawyers to serve as arbitrators, and to provide an educational program for arbitrators;

(2) To make rules for Expedited Matrimonial Fee Arbitration proceedings which are not inconsistent with the Expedited Matrimonial Fee Arbitration Rules of this Court and Section 508(c) of the Illinois Marriage and Dissolution of Marriage Act;

(3) To educate the public and the practicing bar about the Expedited Matrimonial Fee Arbitration Program; and

(4) To perform all acts necessary for the effective operation of the program.

(b) The Chief Judge of the 18th Judicial Circuit Court shall have the power and responsibility to establish filing fees for Expedited Matrimonial Fee Arbitration and payment for arbitrators' services.

15.22.03 APPLICABILITY OF CODE OF CIVIL PROCEDURE

Notwithstanding that any action, upon filing, is initially submitted to an arbitration or is thereafter so designated for hearing, the provisions of the Code of Civil Procedure shall be applicable to its proceedings except insofar as these rules otherwise provide.

15.22.04 COMMENCEMENT OF ARBITRATION AND HEARING

(a) After due notice has been given, unless either party opts out of arbitration in writing on the Court date when the Petition for Setting Final Fees and Costs is initially presented to the Court, the dispute will be assigned to arbitration. If neither party opts out of arbitration, the arbitration shall be binding on the parties.

(b) Fee proceedings shall be stayed until the conclusion of the arbitration and a party shall refrain from any collection activities related to disputed sums pending the outcome of the arbitration.

(c) Once the arbitration process has commenced, neither party may withdraw from arbitration.

(d) All parties to the arbitration hearing must participate in the hearing in good faith and in a meaningful manner.

15.22.05 REPLY AND NOTICE

Any reply to the Petition for Setting Final Fees and Costs or other response and proof of service shall be filed with the Clerk of Court and delivered to the other party by mail or by hand delivery within fifteen (15) days after entry of the arbitration order.

15.22.06 ABSENCE OF PARTY AT HEARING

Failure to be Present at Hearing. The arbitration hearing shall proceed in the absence of any party who, after due notice, fails to be present. The panel shall require the other party or parties to submit such evidence as the panel may require for the making of an award. The failure of a party to be present, either in person or by counsel, at an arbitration hearing shall constitute a consent to the entry by the Court of a judgment on the award. In the event the party who fails to be present thereafter moves or files a petition

to the Court to vacate the judgment as provided therefore under the provisions of the Code of Civil Procedure for the vacation of judgments by default, Sections 2-1301 and 2-1401, the Court, in its discretion, in addition to vacating the judgment, may order the matter for rehearing in arbitration, and may also impose the sanction of costs and fees as a condition for granting such relief.

15.22.07 AWARD AND JUDGMENT ON AWARD

(a) Definition of Award. An award is a determination in favor of a party.

(b) Determining an Award. The panel shall make an award the same day as the hearing. The award shall dispose of all claims for relief. The award shall be signed by the arbitrators or the majority of them.

(c) Form of Decision. The panel shall issue its decision in writing. The decision shall include a clear statement of the amount in dispute, whether and to whom monies are due, and in what amount, and shall be sent to the parties within a reasonable time after the hearing.

(d) Correction of Award. Where the award discloses an obvious and unambiguous error in mathematics or language, the panel, on application of a party within the thirty (30) day period of the entry of the award, may correct the same. The filing of such an application shall stay all proceedings.

15.22.08 BINDING ARBITRATION AND JUDGMENT ON AWARD

The arbitration award shall be final and any party thereafter may file a motion with the Court seeking entry of judgment on the award.

15.22.09 ARBITRATOR MAY NOT TESTIFY

An arbitrator may not be called to testify as to what transpired before the arbitrators and no reference to the fact of the conduct of the arbitration hearing may be made at trial.

15.22.10 IMMUNITY

Witnesses. Witnesses shall have such immunity as is applicable in a civil action.

15.22.11 DISCLOSURE OF ATTORNEY-CLIENT COMMUNICATION AND WORK PRODUCT

Nothing herein contained shall prohibit the disclosure of any relevant work product of the attorney in connection with:

- (a) An arbitration hearing pursuant to these rules;
- (b) A trial after arbitration; and
- (c) Judicial confirmation correction or vacation of an arbitration award.

In no event shall such disclosures be deemed a waiver of the confidential character of such matters for any other purpose.

15.22.12 DISPUTES NOT SUBJECT TO ARBITRATION

A dispute is not subject to arbitration if any of the following factors exist:

- (a) If one or both parties affirmatively opts out of arbitration as previously set forth in these rules;
- (b) If the underlying cause of action was filed in a county other than DuPage County; or
- (c) The dispute has been determined by court order or decision.

15.22.13 DOCKETING OF ARBITRATION

Upon receipt of the arbitration order, together with the appropriate filing fee, if any, the court scheduler shall set the matter for arbitration.

15.22.14 REVIEW OF PETITION FOR ARBITRATION

The Chairperson shall review the request for arbitration and any response thereto to determine if it is properly the subject of arbitration under these rules. If a petition or response is not properly completed, the Chairperson will return and specify what clarification or additional information is required. If the dispute is not subject to arbitration, the Chairperson shall be so advised.

15.22.15 ASSIGNMENT TO ARBITRATION PANEL

(a) Upon entry of the arbitration order, the court scheduler shall assign the parties to an arbitration panel and shall set a date for hearing on the petition within thirty (30) days after the due date for the response or as soon as practicable, and shall set a status date within sixty (60) days after the due date for the response. In the event one party is not present at the initial court date and an arbitration order is entered, the appearing party must within three (3) business days deliver a copy of the order to the non-appearing party by mail or by hand delivery. The panel of arbitrators shall consist of three (3) members appointed by the Court. The Chairperson shall be a member of the bar who has engaged in matrimonial law for at least five (5) years or a retired judge. At least one of the remaining members shall be a non-lawyer.

(b) All disputes of \$500 or less shall be arbitrated based upon the Petition and reply or other response and any other written documentation and no hearing shall be held.

(c) The Chairperson shall preside at the hearing. Ruling on objections to evidence or on other issues which arise during the hearing shall be made by the Chairperson of the panel.

(d) Continuances are not favored. Once the hearing date has been set, continuances may be granted by the Chairperson for statutory purposes only. If a continuance is granted, the Chairperson shall give notice to all parties to the arbitration.

15.22.16 DUTIES OF ARBITRATION PANEL; ARBITRATOR DISQUALIFICATION; COMPENSATION

(a) The panel shall have the following powers and duties:

- (1) To take and hear evidence pertaining to the proceedings;
- (2) To administer oaths and affirmations;
- (3) To perform all acts necessary to conduct an effective arbitration hearing.

(b) Disqualification:

(1) Upon appointment to a case, an arbitrator shall notify the Court and withdraw from the case if any grounds appear to exist for disqualification pursuant to the Code of Judicial Conduct.

(2) If any panel member who has been duly notified of his/her appointment for any reason fails to attend the arbitration, the remaining arbitrators may, at their option, without stipulation by either party, proceed with the arbitration.

15.22.17 HEARING

The arbitration panel shall preside over a hearing on all disputes over \$500. A party may be represented by counsel in the arbitration proceeding at the party's own expense. The panel shall accept such evidence as is relevant and material to the dispute and may request additional evidence as necessary to understand and resolve the dispute. The hearing shall be informal in nature. The rules of evidence need not be followed. The parties shall be entitled to be heard, to present evidence and to question parties and witnesses. The proceeding shall not be recorded or reported in any manner. Cases to be heard by an arbitration panel will require no more than sixty (60) minutes for presentation and decision.

15.22.18 FEES AND COSTS

Neither party to the arbitration may recover costs or attorney's fees incurred in preparation for or in the course of the fee arbitration proceedings. However, a Court confirming, correcting or vacating an award under this article may award to the prevailing party reasonable fees and costs incurred in obtaining confirmation, correction or vacation of the award.

15.23 REFILED CASES

Except in cases of petitions for Orders of Protection, any domestic relations case between the same parties which is refiled after a dismissal will be assigned to the same docket to which the dismissed case was assigned.

15.24 DOMESTIC VIOLENCE

Actions arising under the Illinois Domestic Violence Act of 1986 (750 ILCS 60/101 et seq.) should, to the extent practicable, utilize the approved forms provided for such actions.

15.25 PRO SE NIGHT COURT

(a) **Post** judgment motions set by pro se litigants in Domestic Relations or Parentage cases (except those brought under section *IV-D*) shall be scheduled for "Pro Se Court" if the motions seek the following relief:

- i) Child support or maintenance enforcement of a **prior** order;
- ii) Property related enforcement of a **prior** order;
- iii) Enforcement of the payment of medical expenses, childcare, or extracurricular or school expenses set by **prior** order;
- iv) Increase or decrease of child support or maintenance; or
- v) Contribution to post-high school or other expenses.

(b) At the time of scheduling, the pro se litigant shall be assigned a hearing date not less than fourteen (14) days from the date of filing. Notice shall be sent by the litigant pursuant to rules, and shall provide that the matter is set for "hearing *instanter*."

(c) If an attorney appears before the hearing or at the time of hearing the matter, at the option of the parties, the case may be returned to the regularly assigned courtroom.

(d) The days, times, and hours of Pro Se Court shall be set by the Chief Judge. The court will not provide a verbatim record for cases heard in Pro Se Court.

15.26 PERIODIC MEETINGS

The Chief Judge, the Presiding Judge of the Domestic Relations Division, the Chairperson of the Family Law Committee of the DuPage County Bar Association, the Chairperson of the Child Advocacy Committee of the DuPage County Bar Association, or their designees, shall meet periodically as necessary to address practice and procedural changes required.

ARTICLE 21: ADOPTIONS

21.01 FILING OF PETITION

(a) The petitioner's attorney shall have the duty of notifying the Department of Probate and Court Services within five (5) days after the petition is filed, if consents are to be taken.

(b) The petition shall contain all allegations required by the Illinois Adoption Act.

21.02 DOCKET CALL TIMES

(a) The adoption docket call shall be at 10:00 a.m. on Mondays and Thursdays. The matters heard on this call shall be uncontested or shall be non-evidentiary matters. The matters that are set on the 10:00 a.m. call, either upon motion of any party, or on the Court's own motion, include:

- Initial presentment of the Petition for Adoption or related matters
- Appointment of a Guardian ad Litem
- Motion for Entry of Interim Orders
- Motion for Entry of Default
- Case Management Conferences
- Routine and Regular Motions
- Guardian ad Litem Fee Hearings (set by Court)
- Entry of Judgment (set by Court)

(b) Contested Matters, including, but not limited to, motions requiring evidentiary hearings, trials, termination of parental rights hearings, and best interests hearings shall be heard by the Court at 1:30 p.m. The Court shall set the date for said matters on its own motion.

21.03 MOTIONS

(a) The following motions are considered regular motions and should be set on the 10:00 a.m. call:

- Motion for Leave To File Amended Petition
- Motion for Entry of Default
- Motion to Allow Examination of Court File by Petitioner's Attorney
- Motion to Amend Judgment (correct typographical error)
- Petition to Proceed as a Special Needs Adoption
- Motion to Delete Identifying Information
- Petition for Appointment of a Confidential Intermediary
- Issuance of Passport, Permission to Travel Out of the State of Illinois and Authorize Medical Care (prior to entry of final judgment)

(b) The following motions are considered routine and may be resolved without a court appearance:

- Certified Copy of Judgment for Adoption
- Appointment of Special Process Server
- Permission to Sue or Defend as an Indigent Person
- Continuing Date Set for Entry of Judgment
- Motion by Adoptee for Access to Adoption File

(c) Notice must be served on the Guardian *ad Litem* if the Motion seeks relief affecting any named or unnamed party, changing a court date set by prior order or the status of the adoptee as established by the Interim Order entered in the matter.

(d) Routine Motions not requiring notice to any other person or party can be dropped off with the Court any day during regular business hours. Every effort will be made to enter the appropriate order by 12:00 p.m. for orders received in the morning and 9:00 a.m. on the succeeding court day for motions delivered after 12:00 p.m.

(e) To facilitate the Court's business, every Routine Motion should be accompanied by a Notice of Motion, regardless of whether notice is required, stating that the matter is to be heard on the Routine Motion Call and containing the date that counsel wishes to have the order entered.

21.04 COURTESY COPIES

Courtesy copies of all Petitions for Adoptions without exhibits or attachments and motions which are intended to be filed or presented on the 10:00 a.m. call shall be delivered to the Court no later than 3:00 p.m. on the court date prior to the intended date of presentment. Failure to comply with this directive may result in a delay or postponement of the initial hearing on the Petition and/or request for an Interim Order (750 ILCS 50/13) relating to the child's custody and care during the adoption proceeding.

21.05 CONSENTS

(a) Consents to adoptions, acknowledgments of information exchange authorizations and denial of exchange authorizations shall be taken before a person authorized by administrative order to take such consents.

(b) If the Department of Court Services is to take the consent for adoption from the biological parents, petitioner's attorney will contact the Department of Court Services providing therewith the following information:

- (1) The child's full name and gender;
- (2) The child's date of birth or due date;
- (3) The child's place of birth;
- (4) Names, addresses, telephone numbers and ages of biological parents;
- (5) Names and addresses of petitioners; and
- (6) Case number.

(c) All consents not governed by 750 ILCS 50/10(O) (Consent to Adoption in a proceeding under the Juvenile Court Act of 1987), shall be general in nature and be in a form substantially similar to that as provided by statute. In addition, where the consent is executed by the biological mother, she shall also contemporaneously execute an Affidavit of Identification and an Affidavit of Non-Support. Such Affidavit of Identification and Affidavit of Non-Support shall be filed with the Court prior to the entry of Judgment and shall become a part of the Court record. Provided nevertheless, upon a showing that the jurisdiction where the consent was taken allows specific consents to adoption, the Court will accept such consents as required by 750 ILCS 50/10 (L). A Guardian *ad Litem* or attorney for minor birth parents will only be appointed after the initiation of adoption proceedings.

(d) If counsel believes an interpreter is necessary for the effective acknowledgment of a consent or surrender, counsel shall be responsible for providing an interpreter (one who is not related to any party, parent or child in the adoption matter). Request shall be made by motion to the Court.

21.06 INVESTIGATIVE REPORTS

All investigative reports prepared by licensed child welfare agencies and the Department of Court Services shall comply with the format for such reports as established by Administrative Order of the Illinois Department of Children and Family Services and be dated not later than twelve months prior to the date of the filing of the Petition for Adoption.

21.07 INTERIM ORDERS

In order to comply with the requirements of 750 ILCS 50/13, such orders will be entered in the following situations:

(a) In cases where all parental rights have been surrendered, otherwise terminated and provided no other placement orders are in effect, or their identity is unknown because the child was found abandoned and turned over to a licensed child welfare agency, the Court will enter an Interim Order placing the child(ren) in the Petitioner or Petitioners' care, custody and control pursuant to an interim custody order upon a showing, in adoptions other than that of a related child or through an agency, that such person or person will provide suitable temporary custodial care for such child or children. (750 ILCS 50/13 A);

(b) In cases where one biological parent has consented to adoption or surrendered their parental rights and the child or children have been placed by the biological parent or an agency with the Petitioner or Petitioners, upon a showing that the whereabouts or identity of the other biological parent is unknown, an interim custody order will be entered. In order to make such a showing, the Court will require, at a minimum, an Affidavit of Identification and/or an Affidavit showing factually what steps have been taken to locate and notify the absent biological parent;

(c) In all other cases, no order relating to custody will be entered unless the Court has obtained jurisdiction over the absent biological parent by service of summons or publication and such person has been served with notice of the hearing requesting such relief in accordance with the Rules. Provided, nevertheless, that any party may seek such relief in all cases without notice in accordance with 750 ILCS 50/18 (f).

21.08 GUARDIANS AD LITEM

(a) *Appointment.* In all cases for adoption, with the exception of adult adoptions, a Guardian ad Litem (GAL) shall be appointed to represent the best interests of the minor child(ren) to be adopted.

The appointment shall be made at the time of initial presentment or the entry of any Interim Order providing for the care, custody or control of the person sought to be adopted. It shall be the duty of counsel for the Petitioner(s) to furnish the appointed GAL with a copy of the Petition for Adoption, Interim Order, consents and surrenders, and any other material normally provided to the GALs in similar cases.

In adoptions where the GAL is appointed as investigator, counsel for the Petitioner(s) shall deliver a completed affidavit from each Petitioner concerning their background, including medical history, religious background, general demographic information, together with any exhibits required.

(b) *Duties.* In all cases, the Guardian shall file an appearance as Guardian *ad Litem* for the adoptee within 14 days of appointment. From the date of appointment, the GAL shall receive notice of all requests for relief made to the Court by any party as required by either the Rules of the Illinois Supreme Court or the Circuit Court of for the Eighteenth Judicial Circuit.

The GAL may file any response deemed necessary to advance the best interest of the adoptee.

If the GAL chooses, an answer may be filed on behalf of the adoptee. This pleading must comply with 735 ILCS 5/2-610. No default will be entered against a child for the failure to file an answer absent an

order compelling the filing of such pleading.

The GAL shall, in addition to the above, do the following:

- Review the Court file in each case to make certain that pleadings are proper, service is effected on all necessary parties, and that all parental rights have been finally and properly terminated.
- Verify that the search of the Illinois Putative Father Registry has been completed.
- In all cases where the Petitioner(s) are related to the child-adoptee as defined by 750 ILCS 50/1 B, and where investigative report has been prepared by a licensed agency or the Department of Supportive Services, the GAL shall have the discretion to meet with the child-adoptee in an appropriate setting to determine the child's position concerning the proposed adoption. In such cases where one of the Petitioners is the step-parent of the child, the GAL shall obtain and review all documents necessary to determine whether the child is available for adoption and the Petitioners' legal relationship to each other and the child(ren).
- The GAL is appointed to represent the child's best interest and not the expressed preference of the child. In those cases where an irreconcilable conflict arises in those positions, the GAL shall request the Court to appoint separate representation for the child.
- Remain apprised of all situations that affect the child-adoptee's status quo as it existed at the time of the entry of the Interim Order.
- Attend and participate in all contested and/or settlement hearings or conferences in the case.
- Conduct all necessary discovery in connection therewith.
- In cases where an agency has conducted a home study of the petitioners' home, the GAL is not required, but is permitted, to conduct a home visit. If no home study has been completed, the GAL should conduct a home visit.
- In cases where the parental rights of the adoptee's biological parents have been terminated in a Juvenile Court proceeding which remains pending, contact the child's GAL in those proceedings to determine if anything has arisen in the child's life that remains to be brought to the attention of the Juvenile Court Judge which that person believes would be relevant to the decision to be made by this Court. In such instances, the GAL may desire to contact the Assistant State's Attorney and the Case Worker to determine if such information is material to a determination of whether the adoption is in the child's best interest. The accounts received should be analyzed by the GAL to determine whether such information should be brought to the attention of the Court. If so, the GAL should file the appropriate motion for leave to obtain any and all supporting material which the GAL deems relevant to the child's best interest. In exercising discretion in this area, the GAL should consider that this Court is not sitting in review of decisions made by the Judges of the Juvenile Division of this Court.
- Review the investigative reports prepared in connection with the adoption and investigate any issues that arise in the report which adversely impact what the GAL believes is in the adoptee's best interest. Absent the known existence of contrary facts or an inherent inconsistency in the investigative report, the GAL is presumed to be acting in a reasonable manner by relying on the facts set out in the investigative report without undertaking any independent investigation.
- If no investigative report by a licensed agency has been required by the court or the separate social history investigation has been waived and it comes to the attention of the GAL that a petitioner who is not the biological parent of the adoptee has committed any offense involving sexual abuse of any person, physical abuse or abandonment of a child, or been convicted of any felony offense as defined by the laws of the jurisdiction in which it occurred, the GAL shall petition the Court to order an investigative report prior to the entry of a judgment of adoption. Nothing herein shall preclude the GAL from requesting the Court to order a new or additional investigative report in any case where the GAL believes that such information will be relevant and necessary to the Court's resolution of the matter.
- In all cases, in lieu of an answer, file with the Court a recommendation as to what is in the best interest of the child based upon a review of all available data.
- If the GAL wishes to support or oppose any relief sought by the movant, a proper pleading

must be filed which advances the GAL's position. Copies of such pleadings must be served on all parties as required by the applicable rules.

(c) *Fees for Guardians ad Litem*. Prior to the entry of Judgment for Adoption, the GAL shall prepare and submit to the Court a Petition for Award of Fees and Costs, with supporting billing records or invoices. The Court will address the reasonableness of the fees at the entry of Judgment for Adoption or set a hearing on said fees, if contested.

(d) There shall be no appearance fee charged by the Clerk of the Circuit Court for the GAL's appearance in an adoption proceeding.

21.09 TERMINATION OF PARENTAL RIGHTS BY DEFAULT

(a) Petitioners seeking to default any necessary party to an adoption proceeding based upon service by publication must file a supporting affidavit establishing factually the action taken that demonstrates honest and well directed efforts to ascertain the whereabouts of the person sought to be defaulted by such service. Said affidavit shall detail search efforts, including, but not limited to, searches of military records, the Illinois Department of Corrections, administrative agencies (i.e., the State Disbursement Unit), and all other search efforts.

(b) The factual showing of the inability to serve or locate the person sought to be defaulted has also been defined as a showing of due diligence or more succinctly a showing that would lead a reasonable person to conclude "that kind of search or investigation which a diligent person intent on ascertaining a fact, would usually and ordinarily make." An affidavit as to military service status of any named person sought to be defaulted must also be filed in all cases where the identity of a putative father has been made known to the Petitioner or any other party to the proceeding.

(c) Counsel seeking an Order of Default terminating the parental rights of any person should make certain that at the time of service, either personal, substitute or by publication that the complaint on file is legally sufficient to support a termination of parental rights.

21.10 VERIFICATION OF FINALITY OF PARALLEL PROCEEDINGS

(a) In adoption cases where the parental rights of a biological or legal parent have been terminated in a Juvenile Court proceeding, this Court is unable to enter a Judgment of Adoption until the appeal rights of each such parent have been exhausted. This must be established by counsel for the petitioner(s).

(b) If the termination proceedings were conducted in the Circuit Court for the Eighteenth Judicial Circuit, upon motion, the Court will direct the Clerk of Court to certify the status of any appeal from an order terminating parental rights. Counsel is responsible for preparing an appropriate motion, order and verification statement.

(c) If such proceedings occurred in any other circuit court of this State or another State, counsel for the petitioner must file an affidavit stating with particularity the status of any such appeal. Such affidavit may reflect the hearsay statement of an identified court official who has advised counsel of the information. Counsel would be well advised, however, to obtain a certified copy of the docket or mandate issued in such cases.

21.11 APPOINTMENT OF COUNSEL/EXPERTS

(a) A biological or legal parent who appears in an Adoption proceeding is entitled to have legal counsel. If that person is indigent, the Court is required to appoint counsel. If an individual seeks appointment of counsel, an Affidavit of Assets and Liabilities must be completed and presented to the Court for review on the 10:00 a.m. call.

(b) Said counsel will be appointed from a list of attorneys maintained by the Presiding Judge of the Chancery Division or in accordance with the policies and procedures of the DuPage County Legal Assistance Foundation.

(c) Fees in such cases cannot exceed the hourly rate for appointed counsel set by Supreme Court Rule. Requests for fees must be made by Petition either verified or supported by an affidavit detailing the time expended and work performed which was necessary in representing the client's interest. To facilitate payment, the petition should also include a copy of the Affidavit of Assets and Liabilities signed by the client and the order of appointment.

21.12 SETTING MATTER FOR JUDGMENT

(a) As part of any Interim Order entered by the Court, the Court shall select a proposed date for entry of Judgment of Adoption on the 10:00 a.m. call.

(b) The Court may, in its discretion, waive the six-month waiting period for entry of the Judgment of Adoption.

(c) Counsel for the Petitioner shall, two (2) business days prior to the date for entry of Judgment, submit to the Court and the GAL a proposed Judgment of Adoption. The matter will be heard on the date set for judgment by Court order.

(d) No later than two (2) business days before the date scheduled for entry of Judgment, the GAL shall cause to be delivered to the Court and counsel and/or all parties, either a completed Report of the Guardian *ad Litem* consenting to the entry of judgment or a pleading stating why judgment should not be entered. Copies of either document shall be served on all parties of record as required by the Rules. If the GAL raises issues that may be informally resolved, the parties are directed to exercise their best efforts to reach a resolution prior to the date set for judgment.

(e) In the event no order is submitted to the Court for entry on the date set for judgment, the Court, on its own motion, will continue the matter for 21 days on the 10:00 a.m. call and notify counsel to appear. Failure of counsel to appear on the continued date will result in a vacation of all existing orders and a dismissal of the matter for want of prosecution.

21.13 STANDBY ADOPTIONS

(a) Petitions seeking a judgment of adoption in accordance with 750 ILCS 50/1S shall file a Petition which alleges the required elements for a judgment of adoption.

(b) The petition shall be filed by the person(s) seeking to adopt the child. This petition should also allege that a judgment will not be requested until the death or request of the person's biological and or legal parent(s).

(c) Consents to such adoptions by the living parent(s) shall be taken as required by the Adoption Act and local Rule, provided nevertheless, that a party may petition the Court for the taking of a consent at a hospital or other medical facility where the consenting party's physical condition will be compromised by such travel and a treating physician certifies that such person is mentally capable of giving such consent.

(d) Upon entry of an Interim Order, the matter will be set for status three (3) months from the date of the Interim Order at 10:00 a.m.

(e) In the event all of the minors who are sought to be adopted in such proceeding attain their majority, the matter will be dismissed as moot unless the petitioner timely moves to amend the matter to seek adoption of an adult person.

21.14 ADULT ADOPTIONS

In accordance with the provisions of the Adoption Act, the Court need not conduct a hearing for entry of an Interim Order, nor appoint a Guardian ad Litem, in adult adoptions. Upon proper service on or consent of the adult to be adopted, the Court may proceed to Judgment, upon receipt of satisfactory evidence of the basis for the adult adoption, in compliance with the Adoption Act.

21.15 CO-PARENT AND SECOND PARENT ADOPTIONS

(a) In all matters where two unmarried persons seek to adopt a child who is not related to either person (a co-parent adoption), the petitioners shall comply with the provisions of the Adoption Act and this Rule 21 of the Circuit Court for the Eighteenth Judicial Circuit. In addition, the petitioners, in the petition for adoption, shall provide the court with information about the length, nature, and character of the petitioners' relationship.

(b) In matters where a person seeks to adopt the child of another person, and said persons are not married to one another (a second parent adoption), the petitioners shall comply with the provisions of the Adoption Act and this Rule 21 of the Circuit Court for the Eighteenth Judicial Circuit. In addition, the petitioners, in the petition for adoption, shall provide the court with information about the length, nature, and character of the petitioners' relationship.

21.16 ACCESS TO COURT FILES

(a) At the time of initial presentment, Counsel may obtain an Order granting future access to the Court file for the instant adoption, but in no event shall access be granted for more than 30 days after the date of entry of Judgment of Adoption.

(b) The Clerk will furnish the petitioners' counsel of record with unlimited certified copies of the judgment within 30 days of the date of entry of Judgment of Adoption.

(c) Any other party to the proceedings may petition the Court for access to the court file. This request must be made on the 10:00 a.m. call. Notice of the motion must be served on all parties who have a privacy interest in maintaining the confidentiality of the court record. Access to confidential adoption information can also be obtained under the confidential intermediary program established by the Adoption Act (750 ILCS 50/ 18.3a).

21.17 APPOINTMENT OF CONFIDENTIAL INTERMEDIARIES

(a) Proceedings to obtain the appointment of a Confidential Intermediary (750 ILCS 50/18.3a) are to be scheduled on the 10:00 a.m. call.

(b) A petition for the appointment of a Confidential Intermediary may be filed by the following persons:

- an adopted person 21 years of age or over;
- a surrendered person 21 years of age or over;
- the adoptive parent or legal guardian of an adopted or surrendered person under the age of 21;
- a birth parent of an adopted or surrendered person 21 years of age or over;
- an adult child, adoptive parent, legal guardian, or surviving spouse of a deceased adopted or surrendered person;
- an adult birth sibling of an adopted or surrendered person whose common birth parent is deceased and whose adopted or surrendered person is 21 years of age or over; or
- an adult sibling of a deceased birth parent whose surrendered child is 21 years of age or over.

(c) Any person seeking the appointment of a Confidential Intermediary must accompany the Petition filed with the Court with proof of registration with the Illinois Adoption Registry and Medical Information Exchange (750 ILCS 50/18.04).

(d) The Confidential Intermediary, if appointed by the Court, will have the authority to conduct an investigation in order to locate and contact the person being sought. This may include access to certain court and other confidential records that would not normally be available for review. However, no investigation can be undertaken if there has been a Denial of Information Exchange filed with the Illinois Adoption Registry by the individual who is the subject of the inquiry. The Confidential Intermediary will not have access to medical information protected by federal law unless the person whose information is being sought grants permission for access to this information in writing.

(e) At the hearing, the Court will review the Petition and consider any additional information supplied by the Petitioner in open court. If the Petitioner has established the right to the appointment of a Confidential Intermediary, the Court will enter the order that day. The statute requires the Court to appoint as Confidential Intermediaries persons certified by the Illinois Department of Children and Family Services. The Confidential Intermediary Service of Illinois is administered by the Midwest Adoption Center. The Court will select a Confidential Intermediary randomly from the list provided by the service agency.

(f) If a Confidential Intermediary is appointed, the Court will continue the matter for one year to allow the completion of the investigation. The Court will forward a copy of the Order of Appointment to the Petitioner and the appointed Intermediary. Midwest Adoption Center will normally contact the Petitioner within three weeks of the appointment at which time the fees will be due.

(g) These matters are formal court proceedings, and as such, procedural rules must be followed. After the appointment of a Confidential Intermediary, the Petitioner should communicate directly with the designated Intermediary and/or with the service agency, Midwest Adoption Center. Any communication to the Court by either the Petitioner or Intermediary should also be sent to the other person and should be styled as a Motion or Petition requesting the Court's official action. The correspondence should be sent to the Court and other party no later than 5 business days prior to the requested court date.