

2.16 TRANSFERRED CASES *(Added eff. 7/15/03)*

Any case received by the Clerk of the Court as a result of a transfer from another county will be assigned a case number. The records of the Clerk of the Court shall reflect that file as a transferred case, reflect if a jury trial demand has been filed, and shall separately list all documents transferred within that file. In addition, the Clerk of the Court shall set a status date approximately sixty days from the date of receipt of the file in the courtroom to which the case is assigned. The Clerk shall send notice to all parties who have appeared of that status date.

III. PARTICULAR CIVIL PROCEEDINGS

ARTICLE 13: MANDATORY ARBITRATION

The mandatory arbitration program in the Circuit Court for the 18th Judicial Circuit, DuPage County, Illinois is governed by Supreme Court Rules 86-95 (not chaptered in ILCS) for the conduct of Mandatory Arbitration Proceedings. Pursuant to Supreme Court Rule 86(c), the Circuit Judges of the 18th Judicial Circuit adopt the following Local Rules effective January 23, 1989. Arbitration proceedings shall be governed by Supreme Court Rules and Article 13.

13.01 CIVIL ACTIONS SUBJECT TO MANDATORY ARBITRATION *(S.Ct. Rule 86)*

(a) Mandatory Arbitration proceedings are undertaken and conducted in the Circuit Court for the 18th Judicial Circuit, pursuant to Order of the Illinois Supreme Court of December 19, 1988 and written letter from the Illinois Supreme Court dated November 20, 1996.

(b) All civil actions will be subject to Mandatory Arbitration on all claims exclusive for money in an amount exceeding \$5,000 but not exceeding the monetary limit authorized by the Supreme Court for the 18th Judicial Circuit, exclusive of interest and costs. These civil actions shall be assigned to the Arbitration Calendar of the Circuit Court of the 18th Judicial Circuit at the time of initial case filing with the Clerk of the Circuit Court, DuPage County, Illinois.

(c) Cases not originally assigned to the Arbitration Calendar may be ordered to arbitration on the motion of either party, by agreement of the parties or by order of court at a status call or pretrial conference when it appears to the Court that no claim in the action has a value in excess of the monetary limit authorized by the Supreme Court for the 18th Judicial Circuit but is not within the monetary limits of Small Claims Court, irrespective of defenses. *(Amended eff. 7/15/03)*

(d) When a civil action not originally assigned to the Arbitration Calendar is subsequently assigned to the Arbitration Calendar, pursuant to Supreme Court Rule 86(d), the Supervising Judge ~~for Arbitration or the judge to whom the case is assigned~~ shall promptly assign an arbitration hearing date. The arbitration hearing date shall be not less than sixty (60) days nor more than one hundred eighty (180) days from the date of the assignment to the Arbitration Calendar. ~~In cases where the ad damnum is in excess of \$30,000 the arbitration hearing date shall not be less than sixty (60) days nor more than one hundred eighty (180) days from the date of the assignment to the Arbitration Calendar;~~ An extension may be granted upon good cause shown. *(Amended eff. 7/15/03)*

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13.02 APPOINTMENT, QUALIFICATION AND COMPENSATION OF ARBITRATORS AND PROHIBITION FROM POST-HEARING CONTACT WITH ARBITRATORS *(S.Ct. Rule 87)*

(a) Applicants shall be eligible for appointment as arbitrators by filing an application form with the Arbitration Administrator certifying that the applicant:

- (1) Has attended an approved mandatory arbitration training; and
- (2) Has read and is informed of the rules of the Supreme Court and the Act relating to mandatory arbitration; and
- (3) Is presently licensed to practice law in Illinois and is in good standing; and

(4) Has engaged in the practice of law in Illinois for a minimum of one year, or is a retired judge pursuant to Supreme Court Rule 87(b); and

(5) Resides in, practices in or maintain offices in the 18th Judicial Circuit, DuPage County, IL.

(b) Those attorneys who certify that they have engaged in trial practice in Illinois for a minimum of five years, who are retired judges pursuant to Supreme Court Rule 87(b), or have heard twenty arbitration cases may apply to serve as chairs. The Supervising Judge shall review applications.

(c) The Arbitration Administrator shall maintain a database of qualified arbitrators who shall be assigned to serve on a rotating basis. The Arbitration Administrator shall also maintain a list of those persons who have indicated on their applications a willingness to serve on an emergency basis. Emergency arbitrators shall also serve on a rotating basis.

(d) Each panel will consist of three arbitrators, one of which is chair-qualified. In cases where the ad damnum is in excess of \$15,000 but under \$30,000, ~~two of the three panelists shall be certified as chairs. In cases where the ad damnum is in excess of \$30,000, two of the three panelists shall be certified as chairs~~ the Arbitration Administrator shall endeavor to provide two chair-qualified panelists. Where the ad damnum is in excess of \$30,000, the Arbitration Administrator shall endeavor to provide two chair-qualified panelists, one of which ~~is shall be certified as~~ chair-qualified in the area of that case designation. In certain circumstances the parties may stipulate using the prescribed form to a two-arbitrator panel. In no instance shall a hearing proceed with only one arbitrator. *(Amended eff. 7/15/03)*

(e) Only one member or associate of a firm, office, or association of attorneys shall be appointed to the panel. Upon assignment to a case, an arbitrator shall notify the Arbitration Administrator of any conflict and withdraw from the case if any grounds for disqualification appear to exist pursuant to the Illinois Code of Judicial Conduct.

(f) The Arbitration Administrator shall notify the arbitrators of the day they are scheduled to serve as a panelist at least sixty (60) days prior to the hearing date. Those arbitrators who habitually cancel their dates may be deleted from the program.

(g) The Supervising Judge and the Arbitration Administrator may from time to time review the eligibility of each attorney to serve as arbitrators.

(h) Each arbitrator shall take an oath of office in conformity with the form provided in Supreme Court Rule 94 in advance of the hearing.

(i) Upon completion of each day's arbitration hearings, arbitrators shall file a voucher with the Arbitration Administrator for submission to the Administrative Office of the Illinois Courts for payment.

(j) An arbitrator may not be contacted, nor publicly comment, nor respond to questions regarding a particular arbitration case heard by that arbitrator during the pendency of that case.

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13.02.1 DILIGENCE DATE *(Added eff. 7/15/03)*

If service of process has not been had on a defendant, the court may set the case for a diligence date approximately six (6) months after the initial return date. The plaintiff must request the issuance of an

alias summons and otherwise establish the exercise of diligence during the diligence period or the case may be dismissed pursuant to Supreme Court Rule 103(b). Except for good cause shown, no more than one diligence date will be given. Summons shall not issue for a return date beyond the diligence date set by a court. Any summons issued beyond that date without leave of court shall be considered a nullity.

In the event plaintiff's counsel does not appear on a return date of a summons issued with a future diligence date, the court shall take the matter off call.

13.03 SCHEDULING OF HEARINGS (S.Ct. Rule 88)

(a) On the effective date of these Rules, and on or before the first day of each July thereafter, the Arbitration Administrator will provide the Clerk of the Circuit Court a schedule of available arbitration hearing dates for the next calendar.

(b) Upon the filing of a civil action subject to Article 13, the Clerk of the Circuit Court shall set a return date for the summons not less than twenty-one (21) days nor more than forty (40) days after filing, returnable before the Supervising Judge or the judge to whom the case is assigned for Arbitration. The summons shall require that the plaintiff or the plaintiff's attorney and all defendants or their attorneys shall appear at the time and place indicated. The complaint and all summonses shall state in upper case letters on the upper right-hand corner: **"THIS IS AN ARBITRATION CASE."** (Amended eff. 7/15/03)

~~(c) Upon the return date of the summons and the Court finding that all parties have appeared,~~ The Court shall assign an arbitration hearing date on the earliest available date ~~thereafter~~ after all parties have been required to appear or answer, ~~provided that not less than sixty (60) days written notice be given to the parties or their attorneys of record in accordance with Supreme Court Rule 88. If one or more defendants have not been served within eighty nine (89) days from the date of the filing, the Court may in its discretion dismiss the case as to unserved defendants for lack of diligence.~~ (Amended eff. 7/15/03)

(d) Any party to a case may request advancement or postponement of a scheduled arbitration hearing date by filing a written motion with the Clerk of the Circuit Court requesting the change. The notice of hearing and motion shall be served upon counsel for all other parties, upon *pro se* parties as provided by Supreme Court Rule and Rules of the Circuit Court of the 18th Judicial Circuit, and upon the Arbitration Administrator. Neither the Administrator, the Arbitration Staff, nor the arbitrators may grant a continuance even if by agreement. (Amended eff. 7/15/03)

The motion shall be set for hearing on the calendar of the Supervising Judge or the judge to whom the case is assigned for Arbitration or any other judge sitting in their place. The motion shall be verified, contain a concise statement of the reason for the change of hearing date, and be subject to Supreme Court Rule 137. The Supervising Judge or the judge to whom the case is assigned may grant such advancement or postponement upon good cause shown. If such advancement or postponement is granted, the party requesting the advancement or postponement shall immediately notify the Arbitration Administrator, by phone and fax, or personal service, or if time permits, mail of the new date and time. (Amended eff. 7/15/03)

(e) Consolidated cases shall be heard on the hearing date assigned to the latest case.

(f) Upon settlement of any case scheduled for an arbitration hearing, counsel for plaintiff shall immediately notify the Arbitration Administrator of such settlement by phone and fax, or personal service, or if time permits, mail.

(g) It is anticipated that the majority of cases to be heard by an arbitration panel will require a maximum of two hours for presentation and decision. It shall be the responsibility of counsel for the plaintiff to confer with counsel for all other parties, obtain an approximation of the length of time required for presentation of the case and advise the Arbitration Administrator in writing at least fourteen days in advance of the hearing date as to any additional time required.

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13.04 DISCOVERY (S.Ct. Rule 89)

(a) Discovery shall proceed as in all other civil actions.

(b) All parties shall comply with the provisions of Supreme Court Rule 222. Plaintiff shall file an initial Rule 222 Disclosure statement with the Clerk of the Court with the initial pleading. Thereafter, defendant or third party defendant if applicable shall file an initial Rule 222 Disclosure Statement with the Clerk of the Circuit Court not later than 28 days after their first court appearance, ~~in conjunction with a written answer~~ or as otherwise ordered by the court. If a case is transferred to the Arbitration call by order of court, all parties shall comply with disclosure not later than 28 days after the date of transfer. ~~Prior to the arbitration hearing, f~~ Failure to serve the disclosure statement, as provided by rule, or as the court allows may result in the imposition of sanctions as prescribed in Supreme Court Rule 219(c) and Rule 222(g). *(Amended eff. 7/15/03)*

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13.05 CONDUCT OF THE HEARINGS (S.Ct. Rule 90)

~~_____ (a) The Supervising Judge for Arbitration shall have complete supervisory authority over all questions arising in any arbitration proceeding, including the application of the rules in Article 13. *(Deleted effective 7/15/03)*~~

(a) A stenographic record of the hearing may be made by any party at that party's expense. If a party has a stenographic record transcribed, notice thereof shall be given to all other parties and a copy shall be furnished to any party upon payment of a proportionate share of the total cost of making the stenographic record.

(b) Statements of witnesses shall set forth the name, address and telephone number of the witness.

(c) Costs shall be considered by the arbitration panel pursuant to law.

(d) Any party requiring the services of a language interpreter during the hearing shall be responsible for providing it. Any party requiring the services of an interpreter or other assistance for the deaf or hearing impaired shall notify the Arbitration Administrator of said need not less than seven (7) days prior to the hearing.

(e) Cases should be ready at the scheduled time. The Arbitration Administer may extend the time for good cause shown. If no notice is given to the Arbitration Administer, a party who does not answer ready within fifteen minutes of the time called will be found to be in default and the hearing will proceed *ex parte*. If a party calls the Arbitration Center and indicates they will be late, the case will be

held for a reasonable time. Any time delay will be deducted from the presentation time of the party causing the delay.

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13.06 DEFAULT OF A PARTY *(S.Ct. Rule 91)*

A defendant who fails to appear at the scheduled arbitration hearing may have an award entered against that defendant, upon which the Court may enter judgment. If a defendant appears and a plaintiff fails to appear, an award may be entered for the defendant and the court may enter judgment on the award. Costs that may be assessed under Supreme Court Rule 91 if the judgment on the award is vacated or the complaint reinstated may include, but are not limited to, filing fees, attorney fees, witness fees, stenographic costs and any reasonable out-of-pocket expenses incurred by any party or witness for appearing at the arbitration hearing. *(Amended eff. 7/15/03)*

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13.09 FORM OF OATH, AWARD AND NOTICE OF ENTRY OF AWARD *(S.Ct. Rule 94)*

The Clerk of the Court and the Arbitration Administrator or Assistant Administrator of the ADR Center shall provide the forms called for in the rules in Article 13. *(Amended eff. 7/15/03)*

13.11 ADMINISTRATION OF MANDATORY ARBITRATION

(a) The Chief Judge of the 18th Judicial Circuit shall appoint one or more Judges from the 18th Judicial Circuit to act as Supervising Judge for Arbitration, who shall serve at the pleasure of the Chief Judge. ~~For the purposes of these rules, the Supervising Judge is defined as that judge appointed for arbitration or any judge sitting in the stead of the Supervising Judge.~~ (Amended eff. 7/15/03)

(b) The Chief Judge of the 18th Judicial Circuit shall designate an Arbitration Center for arbitration hearings.

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13.12 DUTIES OF SUPERVISING JUDGE FOR ARBITRATION

~~(a) Hear motions to interpret all rules.~~

Supervisory authority over questions arising in an arbitration proceeding, including the applicability of rules under Article 13. (Amended eff. 7/15/03)

~~(b) Hear motions to advance or postpone hearing.~~

Act as liaison between the Circuit Court and the Administrative Office of Illinois Courts.
(Amended eff. 7/15/03)

~~(c) Hear motions to consolidate cases.~~

Review applications for appointment or recertification as an arbitrator or chair arbitrator, complaints about an arbitrator or the arbitration process, and determine the initial and continued eligibility of arbitrators. (Amended eff. 7/15/03)

~~(d) Hear motions to vacate judgments.~~

Promote the dissemination of information about the arbitration process, the results of arbitration, developing case law, and new practices and procedures in the area of Arbitration as well as to provide for the continuing education of the arbitrators and the bar. (Amended eff. 7/15/03)

~~(e) Hear motions to enter judgment.~~

Periodically meet with representatives of the DuPage Bar Association to discuss recommendations regarding the improvement of the Arbitration process.
(Amended eff. 7/15/03)

~~(f) Hear all post judgment enforcement proceedings.~~ (Deleted eff. 7/15/03)

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Rule 15.18 (II)

H. EVALUATION PROCESS

(1) The parties shall attend the evaluation sessions which shall consist of up to fourteen (14) ~~twelve (12)~~ 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. *(Amended eff. 7/15/03)*

(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.

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 evaluation fee shall include up to fourteen (14) ~~twelve (12)~~ hours for sessions and costs of testing, plus two (2) 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. *(Amended eff. 7/15/03)*

(2) The parties shall be required to pay a retainer, as ordered by the court, to be applied toward the cost of evaluation. ~~for individual sessions at the time of each evaluation session.~~ 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. *(Amended eff. 7/15/03)*

(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.

30.06 DEFENDANT'S DEMAND FOR SPEEDY TRIAL

(a) All demands for trial, pursuant to the Code of Criminal Procedure [725 ILCS 5/103-5(b)], shall be made in the following manner:

(1) In writing with proper caption and case number signed and dated by the defendant or the defendant's attorney;

(2) A copy of ~~the said~~ demand shall be served on the State's Attorney in any manner permitted by Supreme Court Rules 11 and 12; and *(Amended eff. 7/15/03)*

(3) A copy of ~~the said~~ demand shall be filed with the Clerk of this Court with proof of service on the State's Attorney; ~~and~~ *(Amended eff. 7/15/03)*

(4) Notice of ~~the said~~ demand shall be given to the assigned judge ~~on the first court appearance~~ within 7 days following the filing of any speedy trial demand. *(Amended eff. 7/15/03)*

(b) The requirements of Rule 30.06 are mandatory and a demand for trial that does not comply with the foregoing shall not be recognized unless the Court finds that the State had actual notice of defendant's trial demand and that the interests of justice require recognition of such demand.