

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF DU PAGE )

IN THE CIRCUIT COURT OF THE 18TH JUDICIAL CIRCUIT  
DU PAGE COUNTY, ILLINOIS

**\*FILED\***  
FEB 04, 2025 04:14 PM  
*Candice Adams*  
CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

IN THE MATTER OF MODIFICATIONS AND ) Administrative Order 25-5  
ADDITIONS TO THE CIRCUIT COURT RULES )

WHEREAS, the Circuit Judges of the 18th Judicial Circuit adopted local Circuit Court Rules on November 16, 2004; and

WHEREAS, from time to time the Circuit Judges find it necessary to ratify and codify certain revisions, amendments and additions to said local Circuit Court Rules; and

WHEREAS, on January 29, 2025, **Circuit Court Rules 13.02.1, 13.03(g)(h), 16.03(d), 14.36, 14.37, 14.40(a)(c)(d), 14.44(c)(g), 14.45(a), 14.46(a), 14.47(c), 14.48(a) were amended and attached as Exhibit A, B, and C.**

IT IS THEREFORE ORDERED that these changes, shown as adopted in exhibits attached hereto, were adopted into the local Circuit Court Rules to be effective immediately.

ENTER:

*Bonnie M. Wheaton*  
Bonnie M. Wheaton  
Chief Judge

Dated: February 4, 2025  
Wheaton, Illinois



## **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. Arbitration proceedings and small claims jury 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 \$10,000 but not exceeding the monetary limit of \$50,000, 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 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. However, all small claims jury proceedings are subject to Mandatory Arbitration pursuant to 16.04 of these Rules.

(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 or the judge to whom the case is assigned shall promptly assign an arbitration hearing date. Except by agreement of counsel for all parties, and subject to approval by the court, 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. An extension may be granted upon good cause shown.

### **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, except for individuals who have served on the judiciary;

(2) Has read and is informed of the Supreme Court Rules and the Act relating to mandatory arbitration;

(3) Is presently licensed to practice law in Illinois and is in good standing;

(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, 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 to two chair-qualified panelists, one of which is 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.

(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.

#### **13.02.1 DILIGENCE DATE**

The Clerk of the Court shall issue a diligence date for each case classified "AR" for six months from the date of filing, at the time specified and set by Administrative Order, and shall notify the plaintiff of that date by affixing it on the complaint. 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 shall~~ be dismissed pursuant to Supreme Court Rule 103(b). ~~Except for good cause shown, n~~ No more than one diligence date will be given ~~unless a motion for good cause shown is filed and scheduled for presentment prior to the original diligence date~~. Summons shall not issue for a return date beyond the diligence date set by a court except with leave of 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 an unserved summons issued with a future diligence date, the court shall take the matter off call. Plaintiff or plaintiff's counsel must appear on the return date of a served summons. Failure to do so may result in a dismissal for want of prosecution.

#### **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. 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."

(c) The Court shall assign an arbitration hearing date on the earliest available date, after all parties have been required to appear or answer in accordance with Supreme Court Rule 88.

(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.

The motion shall be set for hearing on the calendar of the Supervising Judge or the judge to whom the case is assigned 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.

(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) Failure to inform the Arbitration Administration of any settlement, dismissal, or scheduling issue, by 3:00 p.m. the day PRIOR to hearing, shall result in the parties being responsible for any arbitration hearing costs incurred.**

(g h) 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. Any party seeking a hearing in excess of two hours must obtain an Order of Court and tender that Order to the Arbitration Administrator at least ten days prior to the arbitration.

#### **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. Within 60 days after the filing of a responsive pleading to the complaint, counterclaim, third party complaint, etc., the parties shall each make the initial disclosure required by S. Ct. Rule 222 and file a notice of disclosure with the Clerk of 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. Failure to make 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). No disclosure statement shall be filed with the Clerk, except on order of the court.

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

(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 or other assistance for the deaf or hearing impaired during the hearing shall notify the Arbitration Administrator of said need not less than thirty (30) days prior to the hearing.

(e) Cases should be ready at the scheduled time. The Arbitration Administrator may extend the time for good cause shown. If no notice is given to the Arbitration Administrator, 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.

#### **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.

#### **13.07 AWARD AND JUDGMENT ON AWARD (S. Ct. Rule 92)**

The panel shall render its decision and enter an award on the same day of the hearing. The Chair shall present the award to the Arbitration Administrator who shall then file same with the Clerk of the Circuit Court. The Clerk of the Circuit Court shall serve a notice of the award upon all parties who have filed an appearance.

#### **13.08 REJECTION OF AWARD (S. Ct. Rule 93 and Letter from the Illinois Supreme Court dated November 20, 1996)**

Rejection of the award of the arbitrators shall be in strict compliance with Supreme Court Rule 93.

(a) In all cases where the arbitration award exceeds \$30,000 the rejection fee shall be \$500. The arbitration award shall be marked in such a manner as to make this clear to all attorneys and litigants.

(b) 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 cause.

#### **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 required under Article 13.

**13.10 FORM OF NOTICE OF REJECTION OF AWARD (S. Ct. Rule 95)**

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS.

A.B., C.D., etc. (naming all plaintiffs),	)	
Plaintiffs,	)	
	)	
v.	)	
	)	No. _____
H.J., K.L., etc. (naming all defendants),	)	Amount Claimed _____
Defendants.	)	

**NOTICE OF REJECTION OF AWARD**

To the Clerk of the Circuit Court:

Notice is given that \_\_\_\_\_ rejects the award of the arbitrators entered in this cause on (date), and hereby requests a trial of this action.

By: \_\_\_\_\_  
(Certificate of Notice of Attorney)

**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.

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

**13.12 DUTIES OF SUPERVISING JUDGE FOR ARBITRATION**

(a) Supervisory authority over questions arising in an arbitration proceeding, including the applicability of Rules under Article 13.

(b) Act as liaison between the Circuit Court and the Administrative Office of Illinois Courts.

(c) 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.



(d) 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.

(e) Periodically meet with representatives of the DuPage Bar Association to discuss recommendations regarding the improvement of the Arbitration process.

### **13.13 DESTRUCTION OF ARBITRATION HEARING EXHIBITS**

Exhibits admitted into evidence may be retained by the panel until the entry of the award. It is the duty of the attorneys or parties to complete forms informing the Arbitration Administrator that they are leaving such exhibits. Exhibits must be retrieved by the attorneys or parties from the Arbitration Administrator within seven (7) days after the entry of judgment. All exhibits not retrieved shall be destroyed.

## ARTICLE 16: SMALL CLAIMS

### 16.01 FORM OF SUMMONS AND COMPLAINT

(a) An approved summons form provided by the Clerk of the Court, substantially in the form set forth in Supreme Court Rule 101(b), shall be served upon each defendant together with a copy of the complaint.

(b) The form of complaint to be used in small claims actions shall provide for a statement of claim setting forth the elements provided in Supreme Court Rule 282 on approved forms provided by the Clerk of the Court.

### 16.02 (RESERVED)

### 16.03 RETURN DAY PROCEDURES

(a) *Failure of Defendant to Appear.* If the defendant fails to appear as required by a duly served summons, the Court may enter judgment for the plaintiff upon a verified complaint or proof by affidavit or testimony upon an unverified complaint.

(b) *Written Appearance by Defendant.* If the defendant files a written appearance on or before the return date, unless the Court orders the filing of a written answer, the defendant's appearance shall stand as an answer denying the allegations of the complaint.

(c) *Plaintiff's Failure to Appear.* If the plaintiff fails to appear on the return date, the case will be dismissed for want of prosecution.

(d) The Clerk of the Court shall issue a diligence date for each case classified "SC," for six (6) months from the date of filing at the time specified and set by Administrative Order. 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, n~~ No more than one diligence date will be given **unless a motion for good cause shown is filed and scheduled for presentment prior to the original diligence date.** Summons shall not issue for a return date beyond the diligence date set by a court, except with leave of 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 an unserved summons issued with a future diligence date, the court shall take the matter off call. Plaintiff or plaintiff's counsel must appear on the return date of a served summons. Failure to do so may result in a dismissal for want of prosecution.

(e) *Continuances*. Motions for continuances shall be governed in accord with Supreme Court Rule 231 and Local Rule 9.01.

(f) *Case not Tried on the Return Date*. Cases not tried or otherwise disposed of on the return date will be set for trial by order of the Court.

(g) *Pre-Judgment Court Costs*. Any litigant seeking court costs shall, at the time judgment is entered, tender to the court, in writing, an itemization specifically and individually listing each and every cost incurred and the amount sought, together with a statement that these costs have been paid.

The Court will only take judicial notice of the filing fee and certified mail cost.

#### **16.04 JURY DEMANDS**

Supreme Court Rule 281, small claims actions in which a jury demand is filed, shall be subject to Mandatory Arbitration under Article 13 of these Rules. The judge to whom the case is assigned shall promptly assign an arbitration hearing date before a trial is scheduled.

## ARTICLE 14 (Part 2): COURT-ORDERED MEDIATION FOR GUARDIANSHIP OF A MINOR CASES (GF)

Court-ordered mediation in cases involving the guardianship of a minor is established by Administrative Order and shall be governed by Administrative Order and this Article.

### 14.35 PURPOSE OF THE GUARDIANSHIP FAMILY ENGAGEMENT MEDIATION PROGRAM

The 18th Judicial Circuit Court Guardianship Family Engagement Mediation Program (“The Program”) is designed to provide families with an active guardianship of a minor case an opportunity to participate in court-ordered mediation whereby a qualified and neutral mediator, appointed through 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 that the court determines are in the best interests of the children.

### 14.36 GUARDIANSHIP OF A MINOR CASES ELIGIBLE FOR PARTICIPATION IN THE GUARDIANSHIP FAMILY ENGAGEMENT MEDIATION PROGRAM

~~The Program is a pilot program initiated by CASA of DuPage County, Inc (“CASA”) using grant funding to establish the Guardianship Family Engagement Mediation Program, in collaboration with an independent contractor engaged to develop and pilot the program.~~

The Program ~~shall~~ may apply to all newly filed cases, as well as all pending guardianship of a minor cases, whereby ~~CASA has been appointed by the Court, and the~~ parties are proceeding as self-represented litigants ~~and are so ordered by the court.~~ Parties with legal counsel may be eligible for participation in the Program at the discretion of the Court. ~~The Program is funded through Access to Justice Grant money provided by the Illinois Supreme Court commission on Access to Justice.~~

### 14.37 SUBJECT MATTER AND COMMENCEMENT OF MEDIATION

(a) The Court may order mediation of any pre- or post- contested issue of guardianship, change of custody, discharge of guardian, visitation or parenting time, relocation, access to child(ren) or other non-economic issues arising in the guardianship of a minor case that is not otherwise determined to be ineligible. Upon ~~the recommendation of CASA and if all parties to the case agree, entry of an agreed order,~~ the parties ~~may shall~~ voluntarily mediate through The Program any non-economic issue that may arise between the parties provided the Program has availability to mediate and the case remains active in court.

(b) The mediation process shall commence as soon as practicable after an action is filed if the Court so orders. ~~CASA may recommend to the Court that the parties participate in~~

~~mediation.~~ The parties may request the Court to order mediation.

(c) 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. The mediator shall screen for such impediments. The Court may make inquiries of counsel or the parties concerning the issue of impediments to mediation.

(d) 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.

#### **14.38 APPOINTMENT, QUALIFICATIONS, AND COMPENSATION OF MEDIATORS**

(a) The Program shall provide a list of mediators to the 18th Judicial Circuit. These mediators shall be approved by the Presiding Judge of the Chancery Division of the 18th Judicial Circuit. Mediators must provide any required application and/or supporting documentation and meet the following criteria:

- (i) All Guardianship Family Engagement Mediators shall successfully complete a minimum of a 40-hour mediation training skills program, the content of which is acceptable to the Presiding Judge of Chancery, or their designee, plus any additional relevant specialized training as may be determined beneficial by the Presiding Judge of Chancery.
- (ii) Additionally, Guardianship Family Engagement Mediators shall possess either (a) a Juris Doctor degree with demonstrated experience, (b) a bachelor's, master's or doctoral degree in a field that includes the study of law, conflict resolution, psychiatry, psychology, social work, human development, family counseling or other behavioral science substantially related to family interpersonal relationships, or a related field or other degree program otherwise approved by the Presiding Judge, or (c) a background in mediation with experience acceptable to the Court.
- (iii) If engaged in a licensed discipline, Mediators must maintain said license in full force and effect.
- (iv) Guardianship Family Engagement Mediators shall serve at the discretion of the Presiding Judge.

(b) No person shall serve as a Mediator, in any matter referred to mediation hereunder, if they have a potential conflict of interest.

(c) The Program will select a mediator for appointment to a case from the list approved by the Presiding Judge.

(d) The Approved List of Mediators will be updated from time to time to add the names of new members and remove those who either no longer qualify or who the Presiding Judge of Chancery determines are otherwise ineligible.

(e) The Presiding Judge of Chancery, or at their designation the Program, shall determine the frequency and order of assignment of mediation cases to mediators on the roster of approved Mediators.

(f) Compensation of Mediators shall be according to the rate established by the Court and may vary based on available funding.

#### **14.39 ORDER REFERRING GUARDIANSHIP OF A MINOR CASE TO GUARDIANSHIP FAMILY ENGAGEMENT MEDIATION:**

(a) The Court's Mediation Referral Order for the Program shall include:

- (i) Instructions as to where, when, and how the mediation will be expected to proceed and what each side should do to prepare for the same;
- (ii) Instructions as to how the case should proceed in the event an agreement is reached through mediation; and
- (iii) Instructions as to how the case should proceed in the event no agreement is reached, including specifically a requirement that the parties return to court on a date and at a time certain thereafter, either to advise the Court as to the status of their dispute and schedule additional proceedings (if the date scheduled in the referral order is for "STATUS") or to immediately proceed to trial (if the date scheduled in the referral order is for "TRIAL").
- (iv) The Program, in consultation with the ADR Administrator, shall develop forms for the Program and a process for the scheduling of mediations.
- (v) The parties should advise the Court, prior to the entry of a Mediation Referral Order, whether any discovery may be necessary prior to trial and the Court should consider the same in determining whether to schedule the case for STATUS or TRIAL.

#### **14.40 REFERRAL ASSIGNMENT PROCEDURE**

(a) In a guardianship of a minor case, ~~in which CASA is appointed~~ the Court may order the parties to participate in mediation. ~~† The parties shall mediate through the Guardianship Family Engagement Mediation Program, which is a neutral party, independently contracted by CASA of DuPage County.~~

(b) The mediation may occur in person, by telephone or Zoom video conference. In person mediation shall occur in DuPage County, with the location to be determined by the Chief Judge.

(c) ~~CASA shall provide~~ The Program shall receive notice of a referral to Guardianship Family Engagement Mediation within (3) days of referral via email to the Program facilitator.

(d) The parties shall contact the Program **as ordered and** within three (3) days after the referral order is entered for the purpose of setting an appointment. Instructions on how to contact the Program are provided within the order referring the case to mediation.

#### **14.41 CONFLICT OF INTEREST**

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

(b) 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.

(c) No person will be eligible to serve as a Mediator on a case if that person, or a member of that person's practice, agency or business entity or someone with whom that person shares office space has served or is serving as an attorney, CASA volunteer or Guardian ad Litem in that case.

#### **14.42 REPORTING RISK OF BODILY HARM AND ABUSE**

(a) 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.

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

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

#### **14.43 CONFIDENTIALITY, APPLICABILITY OF UNIFORM MEDIATION ACT, IMMUNITY AND DISCLOSURE OF INFORMATION**

(a) Mediations conducted pursuant to these Rules shall be governed by the Illinois Uniform Mediation Act, 735 ILCS 35/1, *et seq.* (The "Uniform Act") and "Mediation Communications," as defined therein, shall be deemed privileged and confidential, subject to those limitations as are provided in the Uniform Act.

(b) 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 the work product of the mediator shall be subpoenaed in any proceeding except by leave of the Court.

(c) The mediator shall require the parties to execute a confidentiality agreement and complete a screening to determine if an impediment to mediation exists. The Guardianship Family Engagement Mediation Program in consultation with the ADR Administrator shall create the Confidentiality Agreement and screening process.

(d) A Mediator, approved and certified by this Circuit and acting pursuant to these Rules, shall have judicial immunity as provided for in Illinois Supreme Court Rule 99(b).

#### **14.44 ATTENDANCE AND PARTICIPATION IN MEDIATION AND REPORTING OUTCOMES**

(a) The parties to a case which is scheduled for mediation pursuant to a Mediation Referral Order hereunder, are required to attend. If either of the parties is represented by counsel, it is not required that such counsel participate.

(b) The mediation will commence with introductory comments by the Mediator. The parties will be asked to execute a Confidentiality Agreement at that time and to make any introductory comments as may be appropriate. Thereafter, the Mediator may either work with the group all together or separate each side, allowing for the parties to caucus (a process which allows the Mediator to speak privately with each side outside the presence of the others). The parties may step away as needed to confer with their attorney. The mediation may be continued, if all agreed to determine that a continuance could help facilitate settlement, but no continuance which would require the rescheduling of a trial date may proceed without court approval.

(c) If an agreement is reached to resolve the matter in whole or in part, it must be reduced to writing and signed by the parties or their agents at the end of the mediation. On or before the status date, the ~~mediator~~ Program shall submit a Mediation Report to the Court and provide copies to the parties and their legal counsel, CASA and/or the Guardian ad Litem, if applicable. **The mediator assigned by the Program will ensure the Program has the necessary information to complete the Mediation Report.** It is then the responsibility of the parties to ~~enter present~~ their agreement ~~in to the Court to enter as an Order~~ at the status/trial date. Mediated agreements are not binding unless **entered as an order of the Court as presented** by the parties to the case.

(d) 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. Attorneys shall not participate in the mediation but may be present for consultation in a separate breakout area.



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

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

(g) The mediator shall immediately advise the ~~Court~~ **Program and the Program shall immediately inform the Court** in writing via a Mediation Report if he or she suspends or terminates mediation or in the event that either or both parties fail to comply with the terms of mediation.

(h) On or before the status date, the mediator shall submit a Mediation Report to the Court, the parties, attorneys, and the CASA Guardian ad Litem, if applicable, which shall include information listed in this rule under the section entitled "Program Reporting Requirements,"

#### **14.45 PROGRAM REPORTING REQUIREMENTS**

(a) Following the conclusion of mediation, the mediator **shall provide the Program with the information necessary so the Program can** complete the court approved Mediation Report. ~~and t~~ The mediator shall also comply with any other reporting requirements hereunder.

(b) Pursuant to 710 ILCS 35/7(a), a Mediator assigned to a case hereunder "may not make a report, assessment, evaluation, recommendation, finding, or other communication regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation" but a mediator may disclose, under 710 ILCS 35/7(b)(1), "whether the mediation occurred or has terminated, whether a settlement was reached, and attendance." Such disclosures shall be made by the Mediator to the judge assigned to each case, as aforesaid, in the format provided for under these Rules, or in such additional or other format as the Presiding Judge may deem appropriate.

(c) The Court shall report to the Supreme Court the number of cases submitted to mediation pursuant to this program, the type and number of issues resolved through the mediation program, and participant satisfaction rates and survey results. The Program shall provide the statistics to the Court so said report can be submitted to the Supreme Court 30 days after the conclusion of each quarter or as requested by the Administrative Office of the Illinois Courts.

(d) The Program shall report to the Chief Judge, the Presiding Judge of Chancery, and the ADR Administrator the number of cases submitted to mediation pursuant to this program, the type and number of issues resolved through the mediation program, participant satisfaction rates and survey results, the number of mediation sessions conducted, case outcomes, time from referral to resolution/return to court and a summary of noted problems relevant to the effective administration of the Program. Said report shall be submitted on a quarterly basis or as otherwise requested by the Office of the Chief Judge.

#### **14.46 SETTLEMENT PRIOR TO MEDIATION CONFERENCE**

(a) Upon settlement or withdrawal of any mediation case pending before the Court, the parties or **any appointed** CASA shall immediately notify the Judge in writing and submit the written settlement or other dispositive order on or before the scheduled mediation conference date. **CASA The parties** shall also notify the Program that the mediation will not take place as scheduled.

#### **14.47 ORDERS ON AGREEMENT REACHED IN MEDIATION & MEDIATION REPORT**

(a) The Program, in consultation with the ADR Administrator, shall develop procedures to ensure that, in each case, a Mediation Report is provided to the trial court prior to the mediation status date that is set forth in the Mediation Referral Order. The Court will review that report with the parties when they then appear in court and shall enter such orders as may be appropriate under the circumstances. The Program will provide the parties with a copy of the Mediation Report.

(b) In the event of any party's failure to appear or participate in the mediation, or of any breach or failure to perform by a party under any agreement reached in mediation prior to or contemporaneously with the entry of any final order in the case, the Court shall have authority to impose sanctions on that party, pursuant to and subject to the same restrictions as are provided for discovery violations under Illinois Supreme Court Rule 219.

(c) The **mediator Program** 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.

(d) With the sole exception of written discovery on issues not being mediated, no discovery shall proceed while mediation is pending.

#### **14.48 POST-MEDIATION CONFERENCE STATUS DATE**

(a) The agreement shall be sent to the parties and **the any appointed** CASA/Guardian Ad Litem by the Mediator. One or both parties shall appear at the post-mediation conference status date to present the agreement for court consideration and approval.

(b) All parties or their attorneys whose claim is not resolved after the mediation conference shall appear at the post-mediation conference status date. Failure to appear at the post-mediation conference status date may result in the entry of a default judgment or dismissal.

#### **14.49 PRESIDING JUDGE AND REPORTING REQUIREMENTS**

(a) The Presiding Judge of Chancery shall supervise the Guardianship Family Engagement Mediation Program.

(b) The Presiding Judge of Chancery shall review applications submitted by candidates for appointment as a Mediator hereunder, as well as complaints about any particular Mediator or the process, and the determination as to the initial and continued eligibility of such candidates (or as the Presiding Judge delegates these rolls to their designee); and

(c) General supervision over this program, including periodic reviews of its progress and effect to ensure appropriate recommendations may be submitted to the Chief Judge, ensuring that the Program is properly developed, and ensuring information about the availability of this program is readily available to the parties as well as attorneys and other professionals who may be interested in service as mediators hereunder.

#### **14.50 LANGUAGE ACCESS**

(a) It is the policy of this Program to provide meaningful language access to limited English proficient program participants at all stages of participation. Written materials originated by the Program shall be readily available in English and Spanish, and other language translations shall be reasonably made available upon request. Phone interpretation services may be available for all phone, video and in-person communications, and in-person interpretation services shall be available for in-person mediation hearings unless impracticable. Language Access services shall be provided at no additional cost to the participants. The Judge ordering mediation shall enter an interpreter order for the mediation and post-mediation status dates.