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MANDATORY ARBITRATION RULES

17.01 ACTIONS SUBJECT TO MANDATORY ARBITRATION (SUPREME COURT RULE 86)

- (a) Mandatory arbitration proceedings are undertaken and conducted in the 22nd Judicial Circuit, McHenry County, Illinois pursuant to orders of the Illinois Supreme Court.
- (b) Mandatory arbitration proceedings are a part of the underlying civil action, and therefore, all rules of practice contained in the Illinois Code of Civil Procedure and the Illinois Supreme Court Rules shall apply to these proceedings.
- (c) All civil actions, except confessions of judgment on promissory notes, will be subject to mandatory arbitration if each claim is exclusively for money in an amount exceeding \$10,000 but not exceeding \$50,000, exclusive of interest and costs.
- (d) Every complaint or counterclaim filed shall contain specific prayers for relief except that in actions for injury to the person no ad damnum may be pleaded except to state whether the damages sought are: (1) greater than \$10,000 but not exceeding \$15,000; (2) greater than \$15,000 but not exceeding \$50,000; (3) greater than \$50,000.
- (e) Any case not assigned to an arbitration calendar, including cases transferred from another jurisdiction, may be ordered to arbitration at a status call, pre-trial conference, or upon receipt from another jurisdiction when it appears to the Court that any claim in the action has a value exceeding \$10,000 and that no claim in the action has a value in excess of \$50,000. Within 14 days of such determination any such case shall be transferred to and set on the motion call of the Supervising Judge of arbitration, at which time an arbitration hearing date shall be scheduled no more than 180 days from the date of such transfer. In cases transferred from another jurisdiction it shall be incumbent upon the clerk to provide timely notice of such hearing to all parties of record.
- (f) Section (e) above shall allow the ordering to arbitration of cases filed prior to the effective date of these rules as amended.
- (g) The award of the arbitration panel shall be limited to the amount originally prayed for in the complaint, counterclaim, or third party complaint, unless prior to the arbitration hearing, leave of Court is given to increase the ad damnum with the appropriate difference in filing fee paid but in no event shall the award be in excess of \$50,000.

(h) Small claims in cases in which a jury demand is filed shall be subject to mandatory arbitration pursuant to [Part 7.05](#) of these rules.

17.02 APPOINTMENT, QUALIFICATION AND COMPENSATION OF ARBITRATORS (SUPREME COURT RULE 87)

(a) Retired judges, licensed to practice in Illinois and residing in the 22nd Judicial Circuit, shall be eligible as arbitrators by filing the appropriate form with the Arbitration Administrator.

(b) All attorneys licensed in Illinois who reside in, maintain offices in, or practice in the 22nd Judicial Circuit, shall be eligible for appointments as arbitrators in said Circuit by filing the appropriate form with the Arbitration Administrator. Panel members must certify that they have engaged in the active practice of law for a minimum of two years within the five years immediately preceding the filing of the application. Eligible arbitration panel members shall be certified by attending The Arbitration Seminar prior to active service on an arbitration panel.

(c) The Arbitration Administrator shall maintain a separate list of approved arbitrators for the 22nd Judicial Circuit. These arbitrators will be called for service on a random, rotating basis within the county. The list shall identify those arbitrators who are approved to serve as chairpersons. Every panel of arbitrators shall be chaired by a member of the bar who has been engaged in trial practice for at least five years within the preceding ten years of the filing of the application or a retired judge. Except for emergency calls, notice of the date set for arbitration shall be provided to the arbitrators not less than 45 days prior to the scheduled date. Each panel will consist of three (3) arbitrators or such lesser number as may be agreed upon in writing by the parties. The eligibility of each attorney to serve as arbitrator may, from time to time, be reviewed by the arbitration administrator and determined by the supervising judge.

(d) Not more than one member or associate of a firm, office, or association of attorneys shall be appointed to the same panel. Upon appointment to the case, an arbitrator shall notify the court and withdraw from the case if any grounds appear to exist for disqualification pursuant to the Illinois Code of Judicial Conduct.

(e) Each arbitrator shall take an oath of office in conformity with the form provided in Supreme Court Rule 94. In addition, an arbitrator may not be contacted, or publicly comment, or respond to questions regarding a particular arbitration case heard by that arbitrator during the pendency of that case and until a final order is entered and the time for appeal has expired.

(f) Upon completion of each day's arbitration proceedings, the Arbitration Administrator will process the necessary voucher through the Administrative Office of the Illinois Courts for payment of the arbitrators. Each arbitrator will be compensated in accordance with the Supreme Court Rules.

17.03 SCHEDULING OF HEARINGS (SUPREME COURT RULE 88)

(a) For all actions which fall within the purview of this rule, the complaint and the original and all alias summons must state in upper case letters in the upper right-hand corner, "THIS IS AN ARBITRATION CASE." On the effective date of these rules, as amended and on or before the first day of each July thereafter, the Arbitration Administrator shall provide the Office of the Circuit Clerk with a schedule of available arbitration hearing dates for the ensuing calendar year. The Clerk of the Circuit Court shall assign a date and time for arbitration hearing upon the commencement of the action, and said date and time will be noted on the complaint and all summons. THIS IS THE ONLY

NOTICE OF THE HEARING WHICH THE PARTIES WILL RECEIVE. The arbitration hearing date shall be scheduled approximately but not less than 120 days from the filing of the complaint for all cases not exceeding \$15,000, and approximately but not less than 180 days from the filing of the complaint for cases greater than \$15,000 but not exceeding \$50,000. Any case transferred from another court or jurisdiction shall be scheduled for hearing pursuant to [Rule 17.01\(e\)](#).

Every original summons shall be made returnable before the Supervising Judge on a specified return date to be set by the Circuit Clerk not less than 28 nor more than 40 days after the issuance of the summons.

All parties shall appear in court on every return date unless otherwise excused by order of Court. On the original or any continued return date, the Court may enter orders consistent with Illinois Supreme Court Rule 218.

In the event defendant, after service of process, fails to file an appearance on or before the return date set forth in the summons, the plaintiff shall appear before the Supervising on the return date for the purpose of obtaining a judgment, or an order of default and a date for prove-up, and removing the case from the previously scheduled arbitration hearing date.

If plaintiff fails to appear on the original return day or any continued date thereof, the case may be dismissed for want of prosecution without further notice.

In the event plaintiff has failed to obtain timely service of process on any defendant by any return date, plaintiff shall appear before the Supervising Judge on the return date and may request the issuance of an alias summons and rescheduling the arbitration hearing date, if necessary. Any parties whose presence was previously excused shall be provided notice of the entry of said order.

In the event plaintiff has failed to obtain service of process on all defendants by means of an original or alias summons more than 60 days before the original arbitration hearing date, or any rescheduled date thereof, and the Court finds that the plaintiff has failed to exercise reasonable diligence to obtain service on any defendant, the Court may dismiss the action as to such unserved defendant pursuant to Supreme Court Rule 103(b).

Upon the timely filing of any amended complaint, any counter complaint or any third party complaint with an ad damnum not in excess of \$50,000, the filing party or their counsel shall be required to appear before the Supervising Judge within 10 days of said filing for the setting of appropriate dates to allow the Clerk to issue summons and for any other order(s) the Court deems appropriate. The Clerk shall not issue summons on the above pleadings until return dates and arbitration hearing dates have been set by the Court.

(b) Any party to a case may request advancement or postponement of a scheduled arbitration hearing date by written notice and motion with notice included to the Arbitration Administrator. Hearing on the motion shall be scheduled before the Supervising Judge, not less than 7 days prior to the arbitration hearing date. The motion shall contain a concise statement of the basis upon which a change in the arbitration hearing date is requested. The Supervising Judge may grant such advancement or postponement upon good cause shown. Such advancement or postponement may be conditioned on such terms as the Supervising Judge deems appropriate.

(c) Consolidated actions shall be heard on the date assigned to the latest case involved.

(d) It is stated public policy of the mandatory arbitration proceedings of this Circuit that cases be heard in one-half day, if possible, but not to exceed one full day. Counsel for the plaintiff shall confer with all other counsel and obtain an approximation of the length of time required for presentation of the case and advise the Arbitration Administrator at least seven (7) days in advance of the hearing date of the estimated duration of the hearing. Failure to notify the Arbitration Administrator of the need for more than one-half day for hearing may result in a delay of the scheduled hearing. All counsel shall advise the arbitration administrator at least seven (7) days in advance of the hearing of changes of appearances or additions or parties or counsel. Failure of the parties to advise the arbitration administrator in a timely fashion of changes of appearances or additions of parties or of counsel, or of the need for additional time may result in the imposition of sanctions including the taxing of arbitrator's fees and costs at the discretion of the Supervising Judge.

17.04 MOTIONS

Notwithstanding the assignment of any matter to arbitration, all motions for change of venue, objections to jurisdiction, motions for summary judgment, motions for judgment on a pleading, motions pursuant to Sections 2-615 and 2-619 of the Code of Civil Procedure, and all other motions dispositive of the case shall be addressed, upon proper notice and motion, to the Supervising Judge of arbitration.

17.05 DISCOVERY (SUPREME COURT RULE 89)

(a) Discovery may be conducted in accordance with established rules and shall be completed prior to the arbitration hearing. No discovery shall be permitted after the hearing, except upon leave of court and good cause shown.

(b) All parties shall comply with the provisions of Supreme Court Rule 222. Plaintiffs shall comply with the disclosure requirements of Supreme Court Rule 222 within 30 days of filing the original complaint and each Defendant shall comply with the disclosure requirements of Supreme Court Rule 222 within 30 days after appearance is due, unless otherwise ordered by the Court. Upon service of a disclosure, a notice of disclosure shall be promptly filed with the Court. The failure to comply with Supreme Court Rule 222 may result in imposition of sanctions as prescribed in Supreme Court Rule 219(c).

17.06 CONDUCT OF THE HEARING (SUPREME COURT RULES 90 AND 91)

(a) Hearings shall be conducted in general conformity with the procedures followed in civil trials. The chairperson shall administer oaths and affirmations to witnesses. Rulings concerning admissibility of evidence and applicability of law shall be made by the chairperson upon consultation with the panel members. Findings made at the close of the Plaintiff's case or upon the close of all proof shall be by agreement of a majority of the arbitrators.

(b) At the commencement of the hearing, the attorneys for the parties will provide a brief written statement of the nature of the case which shall include a stipulation as to all of the relevant facts to which the parties agree. The stipulation shall include, if applicable, relevant contract terms, dates, times, places, location of traffic control devices, year, make and model of automobiles or other vehicles, equipment or goods and products which are involved in the litigation and other relevant and material facts. Unless otherwise agreed by the parties, a stipulation to liability shall be binding on the parties at an eventual trial, if a rejection is filed. The time devoted to the presentation of evidence

should be limited to those facts upon which the parties genuinely disagree. Counsel shall provide the arbitration panel with copies of any legal authority upon which they rely.

(c) Established rules of evidence shall be followed in all hearings before arbitrators, except as provided in Supreme Court Rule 90.

(d) The failure of a party to be present at an arbitration hearing, either in person or through counsel, shall be governed by the provisions of Supreme Court Rule 91a.

(e) All parties to the arbitration hearing must participate in the hearing in good faith and in a meaningful manner as provided in Supreme Court Rule 91b.

(f) A stenographic record or recording of the hearing shall not be made unless a party does so at the party's own expense. If a party has a stenographic record transcribed, the original must first be filed with the Circuit Clerk, a copy of which shall be furnished to any other party requesting same upon payment of a proportionate share of the total cost of the making of the record or recording and the duplication of same. The party providing the reporter shall inform the chairperson of the reporter's name, address and reporting firm before commencing. No sound recording equipment shall be allowed in the arbitration hearing except as utilized by a court reporter.

(g) Any party requiring the services of a language interpreter during the hearing shall be responsible for providing same. 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.

(h) Hearings are to be conducted to facilitate disclosure of all relevant evidence and to obtain substantial justice for all of the parties.

(i) All exhibits admitted into evidence shall be retained by the panel until the entry of the award. It is the duty of the attorneys or parties to retrieve such exhibits from the Arbitration Administrator within seven (7) days after the entry of judgment, notice of rejection, or order of dismissal. All exhibits not retrieved shall be destroyed.

17.07 AWARD AND JUDGEMENT ON AWARD (SUPREME COURT RULE 92)

(a) After each hearing, the arbitrators shall make an award in favor of the plaintiff(s) or defendant(s). The panel shall make the award promptly upon termination of the hearing. The award shall dispose of all claims for relief. The award on each claim may not exceed the amount prayed for in the complaint or counterclaim and in no event may the award be more than \$50,000 exclusive of interest and costs. The award shall be signed by the arbitrators or the majority of them. A dissenting vote without further comment may be noted. In the event a panel of arbitrators unanimously finds that a party has violated the good faith provisions of Supreme Court Rule 91(b), such finding, accompanied by a factual basis, shall be noted on a findings sheet. Such findings sheet shall become part of the arbitration award. The Arbitration Administrator shall provide forms to be completed by the arbitrators to report their award. The award including findings sheet, shall be filed immediately with the Clerk of the Court, who shall serve notice of the award to all parties, including any in default.

(b) The Clerk of the Court shall include in the notice of award a date certain, not less than 30 days from the filing of the award, before the Supervising Judge of Arbitration, for entry of judgment on the award, dismissal or the scheduling of a trial date in the event a timely rejection has been filed. All

parties shall be required to appear on said date. Failure to appear may result in the entry of judgment on the award or dismissal for want of prosecution on motion of a party or on the Court's own motion.

17.08 REJECTION OF AWARD (SUPREME COURT RULE 93)

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

17.09 REFILING AFTER NONSUIT

If a case is voluntarily dismissed by a plaintiff at any time after an arbitration hearing and is subsequently refiled alleging the same cause of action and naming the same parties, the refiled case shall not be eligible for an arbitration hearing unless a new party has been added to the lawsuit.

17.10 LOCATION OF ARBITRATION HEARING

The location of hearing shall be determined by the Chief Judge of the 22nd Judicial Circuit or his designee.

17.11 FORMS

All forms shall be as prescribed by Supreme Court Rule or by Administrative Order by the Chief Judge.

17.12 ADMINISTRATION OF MANDATORY ARBITRATION

(a) The Chief Judge or his designee shall appoint one or more Judges to act as Supervising Judge for Arbitration. For the purpose 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.