

PART 11.00 FAMILY LAW

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11.01 SCOPE

Family law cases are defined as any proceeding assigned to the Family Division, excluding Juvenile and support matters through the office of the State's Attorney.

11.02 AFFIDAVIT OF PARTIES AND PRODUCTION OF DOCUMENTS

(a) Every pleading seeking to establish or otherwise affect issues of support or maintenance, whether temporary or permanent in nature, other than the Petition for Dissolution of Marriage, shall be accompanied by an affidavit as to income and expenses in the form approved by the Twenty-second Judicial Circuit. The Financial Affidavit shall be supported by documentary evidence including, but not limited to, income tax returns, pay stubs and banking statements. Unless otherwise ordered by the Court, the Financial Affidavit shall be filed with the Clerk of the Court and shall become part of the public record. The tax returns, paystubs and any other supporting documentary evidence, unless otherwise ordered by the Court, shall not be filed with the Clerk of the Court and shall not be made part of the public record.

(b) Said affidavit shall be filed and served on the opposing party within two (2) business days of the filing of the initial and responsive pleadings. No affidavit dated more than sixty (60) days before the scheduled hearing date or pre-trial shall be considered valid for the purpose of that proceeding unless accompanied by a new affidavit stating that the party offering it represents that there has been no substantial change in any of the information since the original affidavit was prepared.

(c) Failure by either party to submit the affidavit required herein may be cause for sanctions pursuant to Supreme Court Rule 219.

(d) At least seven (7) days prior to the hearing, each party shall produce, and provide to the Court assigned to hear the matter, a courtesy copy of the Financial Affidavit and the following financial documents:

- i) the party's last three (3) pay stubs;
- ii) the party's last two (2) filed federal income tax returns;

iii) an index of any other documentary evidence submitted in support of the Financial Affidavit. The index shall describe the documentary evidence with specificity and shall identify the number of pages of each document (e.g. bank statements from XYZ Bank for the month January, 2016).

Unless specifically requested by the Court, other than the information specified in (i), (ii) and (iii) above, no other supporting documentary evidence shall be submitted to the Judge assigned to hear the matter.

11.03 INTERROGATORIES

No party shall serve on any other party more than thirty (30) written interrogatories in the aggregate, including any subsections thereof, without leave of Court or prior written stipulation of the parties, except as authorized in Supreme Court Rule 213.

11.04 ATTORNEY FOR THE CHILD

a) The 22nd Judicial Circuit recognizes the importance of appointing qualified attorneys to represent the interests of dependent or minor children in allocation of parental responsibility and parenting time cases, as defined by Statute and Rules of the Illinois Supreme Court.

b) The Chief Judge of this Circuit shall maintain and disseminate to the trial courts of this Circuit a list of attorneys who have applied for and agreed to accept appointment, have met the necessary qualifications and requirements, and have been approved by this Circuit for court appointments to allocation of parental responsibility and parenting time cases.

c) To be considered for initial acceptance, applicants must submit to the Trial Court Administrator of this Circuit information including but not necessarily limited to the following:

1. The applicant must be a licensed attorney in good standing with the Supreme Court of Illinois and have no less than three (3) years experience in cases arising under the Illinois Marriage and Dissolution of Marriage Act, the Parentage Act, the Domestic Violence Act, the Uniform Child Custody Jurisdiction and Enforcement Act and Article 112 A of the Code of Criminal Procedure; and experience of not less than one (1) year in cases arising under the Juvenile Court Act.
2. The applicant must advise the Court of his or her past experience, within the five years next preceding the application, concerning contested allocation of parental responsibility and parenting time cases, as defined by Statute and Supreme Court rule. The Court may inquire or solicit the opinions of other court appointed children's counsel of this Circuit, other

attorneys, bar associations and court personnel in ruling upon the acceptance of any application.

3. The applicant must have completed, or agree to complete within two years of the adoption of these rules, at least ten hours of approved continuing legal education courses in the following areas: roles of guardian *ad litem* and child representative, ethics in parental responsibility allocation cases, relevant substantive state or federal case law in parental responsibility allocation and parenting time issues, family dynamics, including substance abuse, domestic violence and abuse, and mental health issues, and related, approved training sessions presented or approved by this Court or by state or local bar associations. Attorneys who work for government or non-profit family or legal aid agencies may meet the requirements of this rule by attending and specifying appropriate in-house legal education classes.

d) The list of attorneys qualified for court appointment shall be updated by the Chief Judge of this Circuit no less than every two years. To maintain qualification, each applicant shall be required to update their office and contact information, and shall provide a summary of their continuing legal education courses as specified above.

e) An attorney appointed pursuant to this rule shall have the powers, duties and responsibilities including, but not necessarily limited to, those specified in 750 ILCS 5/506, Illinois Supreme Court Rule 907, the applicable sections of the Marriage and Dissolution of Marriage Act, the Parentage Act, the Domestic Violence Act, the Juvenile Court Act, the Uniform Child Custody Jurisdiction and Enforcement Act, Section 112A of the Code of Criminal Procedure, and other duties and responsibilities as the Court may specify.

f) An attorney appointed pursuant to this rule shall report to the Court on the status of the cause and file a motion for fees pursuant to statute within 90 days following appointment and every 90 days thereafter. The motion shall be filed with the Clerk and scheduled for hearing together with a status concerning the underlying cause, and a copy of the motion shall be placed with the Trial Court Administrator for distribution to the Judge hearing the cause.

g) An attorney may be removed from the approved appointment list by failing to comply with the requirements of this rule, by action of the Court, or by voluntary request. An attorney may decline a specific appointment due to potential conflict of interest, time constraints, or other good cause shown upon notice and application to the appointing judge.

h) The Chief Judge shall be responsible for disseminating and collecting attorney applications for appointment hereunder, for disseminating motions for fees hereunder, for maintaining and updating information on the list of attorneys available for court appointment, and for the publication of the requirements of this rule.

11.05 CONCILIATION, MEDIATION, ADVICE TO COURT, INVESTIGATIONS AND REPORTS

Local procedures for conciliation, mediation, advice to the Court, investigations and reports as authorized under 750 ILCS 5/404, 5/604.10 may be implemented by court rule or by administrative order of the Chief Judge of this Circuit.

11.06 CASE MANAGEMENT CONFERENCES

(a.) **Initial Case Management Conference.** Upon the filing of the initial pleading in any Dissolution (DV) or Family (FA) case, a date and time will be set approximately ninety days (90) days from the filing of the initial pleading for the parties or their attorneys to appear in open court on a schedule established by the Court and implemented by the Clerk of the Circuit Court for an Initial Case Management Conference. It shall be mandatory for all pro se parties and counsel of record to attend the Initial Case Management Conference, unless otherwise excused for good cause by prior court order, at which time the Court shall determine the following issues:

1. The status of service of summons;
2. The status of pleadings;
3. The status of parenting education, at which time the parties shall show proof of completion of the approved parenting education program, provide a fixed schedule for compliance, or show cause to excuse compliance; and
4. The status of parental responsibility and mediation, at which time the parties shall provide the Court with an agreed order regarding the allocation of parental responsibility and an agreed parenting plan, if there is an agreement, or if there is no agreement regarding the allocation of parental responsibility or a parenting plan or both, the Court shall schedule the matter for mediation and shall advise each parent of the responsibilities imposed upon them by the pertinent local court rules.

The Court may enter any appropriate scheduling orders and consider any other matters that may aid in the disposition of the case, including setting a date for a full Case Management Conference pursuant to Supreme Court Rule 218.

(b.) **Full Case Management Conference.** A full Case Management Conference pursuant to Supreme Court Rule 218 may be conducted upon notice and motion of a party or upon order of the Court. A full Case Management Conference shall be held no later than thirty (30) days after mediation has been completed. In addition to other matters the Court may choose to address at the conference, and if the Court has not appointed counsel previously, the Court shall address whether to appoint an attorney for the child or a *guardian ad litem* or a child representative in accordance with Section 506 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/506).

Prior to the full Case Management Conference, counsel of record familiar with the case and authorized to act shall meet and complete a Case Management Conference Memorandum in the form approved by the Court. Any self-represented party shall also complete a Case Management Memorandum in the form approved by the Court. It shall be mandatory for all self-represented parties and counsel of record to attend the full Case Management Conference, and all subsequent conferences thereafter, unless otherwise excused for good cause by court order.

The Case Management Conference Memorandum shall address the following issues:

1. The nature, issues, and complexity of the case;
2. The formation and simplification of the issues, including the elimination of frivolous claims;
3. Amendments to the pleadings;
4. Status of Discovery;
5. Possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
6. Limitations on Discovery, including:
 - (a.) the number and duration of depositions which can be taken;
 - (b.) the area of expertise and the number of opinion witnesses who can be called;
 - (c.) deadlines for the disclosure of all witnesses under Supreme Court Rule 231(f), including all opinions witnesses, and the completion of written discovery and depositions.
7. Possibility of settlement and scheduling of a Pre-Trial Settlement Conference.
8. Advisability of alternative dispute resolution;
9. Advisability of holding subsequent case management conferences and pre-trial settlement conferences; and
10. Any other matters which may aid in the disposition of the case.

The completed memorandum shall be tendered to the Court at the full Case Management Conference. At the conclusion of the full Case Management Conference, an order in the form approved by the Court shall be prepared by the petitioner or

petitioner's counsel addressing the above considerations and presented to the Court for approval and entry.

Any party and/or attorney required under this rule to attend any Case Management Conference who, without good cause, fails to attend after having been given due and proper notice, or fails to meet and complete the full Case Management Conference Memorandum, shall be subject to the sanctioning power of this Court, including, but not limited to, those authorized under Supreme Court Rule 219(c), such as civil or criminal contempt, dismissal, imposition of attorney's fees, imposition of monetary sanctions, and the awarding of the other party's costs of transportation, loss of work income and other expenses incident to that party's presence at the conference.

11.07 SETTLEMENT CONFERENCE

(a) Settlement conferences shall be mandatory in all contested pre-judgment Family Division cases and contested post-judgment allocation of parental responsibility and relocation petitions unless specifically excused by Court order. No such case shall proceed to trial or hearing as a contested matter until a settlement conference has been held.

(b) A settlement conference memorandum shall be provided by each party to the Court and opposing counsel or self-represented party two (2) court days prior to the settlement conference. The settlement conference memorandum shall be in the form approved by the Court.

(c) Settlement conferences shall be set by order of Court pursuant to the Court's own motion or notice and motion or by agreement of the parties. It is mandatory that the trial attorneys be present at all settlement conferences.

(d) Any party and/or attorney required under this rule or order of Court to attend a settlement conference who, without good cause, fails to attend after having been given due and proper notice or fails to provide a settlement conference memorandum, shall be subject to the sanctioning power of this Court including, but not limited to, those authorized under Supreme Court Rule 219(c), such as civil or criminal contempt, dismissal, imposition of attorney's fees, imposition of monetary sanctions, and the awarding of the other party's costs of transportation, loss of work income and other expenses incident to that party's presence at the conference.

11.08 SUBSEQUENT CASE MANAGEMENT CONFERENCE TO SIMPLIFY AND REDUCE TRIAL ISSUES AND PROOFS (hereinafter referred to as a "TRIAL CONFERENCE")

(a) Upon motion of either party or order of the Court a Trial Conference shall be scheduled. The purpose of the Trial Conference is:

1. The formation and simplification of the issues, including the elimination of frivolous claims;
2. determining whether amendments to the pleadings are necessary or desirable;
3. to obtain admissions of fact and documents which will avoid unnecessary proof, stipulations regarding the authenticity of documents, and advance rulings from the Court on the admissibility of evidence including written motions in limine;
4. the avoidance of unnecessary proof and of cumulative evidence;
5. the identification of the number of witnesses and exhibits, the need and schedule for filing and exchanging briefs, and the date or dates of further conferences and for trial;
6. the identification of any unresolved Petitions, including attorney's fees of attorneys previously involved in the case; and
7. such other matters as may aid in the disposition of the action.

(b) Upon the entry of an order scheduling a Trial Conference and prior to the Trial Conference, the attorneys for all the parties and the unrepresented parties shall meet either in person, by telephone, or as otherwise ordered by the Court. At such meeting, they shall:

1. reach an agreement on any possible stipulations narrowing the issues of law or fact;
2. exchange copies of exhibits that will be offered in evidence at the trial;
3. perform such other acts as have been ordered by the Court; and
4. jointly prepare a trial conference memorandum in the form approved by the Court.

It shall be the continuing duty of all of the parties and attorneys to meet, respond, and cooperate to fulfill the terms of this Rule.

(c) At the Trial Conference each party shall be represented by the attorney who will be representing him or her in the trial of the case unless otherwise permitted by Court order. All the parties and attorneys must attend the Trial Conference. Any attorney having a pending fee petition must also attend the conference.

(d) After the Trial Conference has taken place pursuant to this Rule, an order shall be entered reciting the actions taken. This order shall control the subsequent course of the case unless modified by subsequent order. The order following a Trial Conference shall be modified only to prevent manifest injustice.

(e) If a party or party's attorney or any attorney having a pending fee petition, fails to do one or more of the following:

1. obey a scheduling or trial conference order;
2. appear at the Trial Conference;
3. properly prepare to participate in the conference; or
4. participate in good faith, the Court upon motion or on its own initiative, may make such order with regard thereto as are just, and assess sanctions pursuant to Supreme Court Rule 219(c), including attorney's fees, and monetary sanctions, unless the court finds that noncompliance was substantially justified or that other circumstances make an award of expenses or the imposition of sanctions unjust.

11.09 PARENTING EDUCATION

1. The Circuit Court of McHenry County has the responsibility and duty to protect the interests of minor children whose parents are engaged in litigation dissolving their marriage. The litigation process is stressful, but particularly so when the family is undergoing a change in structure. It is at such a time, and in its aftermath, that activities harmful to the child can occur. Therefore, it is to the benefit of all such parents, regardless of their parenting skills, and in the best interest of their minor children that they take time from the immediate personal concerns to consider the impact of the dissolution process on their children.
2. In furtherance of this policy and to implement the provisions of 750 ILCS 5/404.1 (1994), a Family Parenting Program (FPP) shall be established as a resource to the Circuit Court.
 - (a.) The program may be contracted for and shall be overseen by the Chief Judge or his or her designee.
 - (b.) The contents of the FPP shall be directed to the best interests of the minor children of the parties to dissolution or post dissolution proceedings and shall concern the effects of divorce on children. The program shall be educational in nature and not designed for individual therapy. The program shall not exceed four (4) hours in duration.
 - (c.) The parenting program described above shall be financially self-supportive through court assessed fees paid by the parties attending the program. The amount of the fee to be assessed for the program shall be related to the cost of conducting the program and shall be determined by the Chief Judge or his or her designee. The fee may be waived by the Court for good cause shown.
3. All parents of minor children who have appeared or who have otherwise personally submitted to the jurisdiction of the Circuit Court of McHenry County in any pending dissolution of marriage proceeding or any post-judgment proceeding wherein there is an issue of modification of significant decisions making responsibility, parenting time or relocation or any pending parentage action pursuant to 750 ILCS 45/1 *et. seq.* shall attend the FPP unless excused for good cause.

4. All parents shall complete the FPP no later than 60 days after the initial scheduling conference or prior to the entry of the final judgment or order, whichever occurs first, unless excused by the Court for good cause. All parents in a parentage action shall complete the FPP prior to the entry of a final support and parenting time judgment unless excused by the Court. The Trial Court may in the best interest of the minor children delay the presentment of evidence or the entry of part or all of the Court's findings pending completion of FPP by the parents.
5. The judge assigned to a case other than described in #3 above may, in the exercise of discretion, require parents of minor children or other parties to attend the FPP.
6. Where a party required to attend the FPP resides outside of the 22nd Circuit, the Court may authorize attendance at another similar parenting program in lieu of the FPP.
7. Persons registered for a session who do not attend and do not cancel at least 24 hours in advance shall be required to reregister and pay an additional full fee.

11.10 EMERGENCY MOTIONS

An Emergency Motion shall be labeled as such and shall be heard only if the Court first determines that an emergency exists and that reasonable attempts at notice have been made. Any emergency motion shall be verified and state the nature of the emergency as well as when the emergency arose. A party and/or his or her counsel who respond to a motion propounded as, but found not to be an emergency may be entitled to reimbursement by the proponent of actual expenses, fees and costs incurred in responding to the said motion.

11.11 REPORT OF PROCEEDING/PROVE-UP FORMS

The report of proceedings from all domestic relations prove-ups shall be transcribed and filed within 30 days, unless excused by order of the Court.

At the prove-up or upon the entry of the Judgment for Dissolution, the petitioner shall submit a typed statistics certificate as required by the State of Illinois. Prior to the entry of a judgment for dissolution in cases involving the custody of children, the parties must provide the court with the information required pursuant to 750 ILCS 35/10 by submitting an affidavit in a form approved by the court.

11.12 JOINT SIMPLIFIED DISSOLUTION PROCEDURE

Parties seeking a joint simplified dissolution pursuant to 750 ILCS 5/452 shall use forms approved by the court which shall be available upon request from the Clerk of the Circuit Court. After filing the joint petition, both parties shall appear in person before the court on the assigned date and a hearing will be held. No transcript of the hearing shall be required. Brochures approved by the Chief Judge explaining the joint simplified dissolution procedures shall be provided by the Clerk of the Circuit Court.