

II. CIVIL PROCEEDINGS

ARTICLE 6: PLEADINGS AND MOTIONS

6.01 AUTOMATIC STATUS DATES

(a) All Chancery (CH) and Tax (TX) cases as shall be designated by administrative order shall be given an automatic status date one hundred twenty (120) days from the date of filing at the hour normally set for hearing such causes, and shall be assigned for Case Management Conferences at a date and time to be determined by the assigned judge. All Dissolution of Marriage (DC or DN) cases, Paternity/Child Support (FA) cases and such Miscellaneous Remedy (MR) cases as shall be designated by administrative order shall be given an automatic case status date sixty (60) days from the date of filing at the hour normally set for hearing such causes, and shall be assigned future status hearings at a date and time to be determined by the assigned judge.

(b) All Law (LA), Eminent Domain (ED), and Law Magistrate (LM) cases shall be given an automatic case management conference date approximately ninety (90) days from the date of filing for hearing at 9:00 a.m. All Eviction (EV) cases shall be assigned an automatic status date ninety (90) days from the date of filing at the hour normally set for hearing such causes, but shall not be assigned a Case Management Conference date.

(c) All Probate (PR) cases shall be given an automatic status date one (1) year from the date of filing, returnable at the time normally set for hearing such cases.

(d) In the event an automatic status date falls on a date when the Court is not in session, the status will be set for the next court day.

(e) Failure of the parties or their counsel to appear on the automatic status date or any other date set by the Court may result in dismissal for want of prosecution or default, on the Court's motion.

6.02 NOTICE OF DISMISSAL FOR WANT OF PROSECUTION

Upon dismissal of any cause for want of prosecution, the Clerk of the Court shall give all pro se parties and all attorneys of record notice of the dismissal by regular U.S. mail, at the last address indicated in the court file, within ten (10) days of the dismissal.

6.03 PLEADINGS TO BE READILY COMPREHENSIBLE

(a) *Multiple-Count Pleadings.* If a pleading contains multiple counts or affirmative defenses, each count or defense shall bear a short title concisely stating the theory of liability or defense. If the pleading is filed on behalf of or against multiple parties and all such parties are not asserting the same claims or defenses as to all opposing parties, the title of each count or defense shall also concisely designate the subgroup of parties to whom it pertains.

(b) *Incorporation by Reference.* If the incorporation of facts by reference to another pleading or to another part of the same pleading will cause a pleading not to be readily comprehensible, such facts shall be realleged verbatim. Rule 6.03 does not prohibit the incorporation of facts as permitted by Supreme Court Rule 134, provided that the pleading remains readily comprehensible.

(c) The Court may order a consolidation of pleadings into one finished comprehensible set.

(d) Nothing in Rule 6.03 shall be applied in such manner as to abridge or conflict with 735 ILCS 5/2-603 (Code of Civil Procedure).

(e) All pleadings wherein money damages are requested for matters other than injury to the person shall be specific as to the dollar amount claimed. In all pleadings where injury to the person is alleged, the prayer for relief must indicate the amount of damages claimed to be as follows:

- (1) Not greater than \$2,500; or
- (2) Greater than \$2,500 and but not in excess of \$10,000; or
- (3) Greater than \$10,000 and but not in excess of \$15,000; or
- (4) Greater than \$15,000 and but not in excess of \$50,000; or
- (5) Greater than \$50,000.

6.04 MOTIONS GENERALLY

(a) *Filing.* All case or claim dispositive motions, other than motions arising during the course of trial, shall be filed no later than sixty-three (63) days before the scheduled trial date, except by prior leave of court and for good cause shown. The title to each motion shall indicate the relief sought and the applicable section of the Code of Civil Procedure.

(b) *Allotment for Hearing or Presentment.* With the exception of emergency matters, no motion shall be heard or presented unless previously scheduled with the Court or with the Court's secretary, or on a previously scheduled status date.

(c) *Content of Notice or Presentment.* The notice of hearing or presentment shall designate

the judge to whom the motion will be presented; shall show the title and number of the action, the date when the motion will be set or presented, the time it will be set or presented, and the courtroom where it will be heard or presented. If the motion is written, a copy of the motion or a statement that it previously has been served shall be served with the notice. Copies of all documents presented to the Court with the motion shall be served with the notice or the notice shall state that copies have been served.

(d) *Notice of Hearing or Presentment.* Except for emergency motions or notice by personal service as defined by Supreme Court Rule 11(c)(1), hearing on or presentment of a motion shall proceed not less than five (5) court days after the effective date of service as defined by Supreme Court Rule 12(c). If notice of motion is by personal service delivered by 4:00 p.m., hearing on or presentment of the motion shall proceed not less than the second court day following personal service.

(e) *Summary Judgment.* A motion for summary judgment shall not be heard until ten (10) days after service of the notice of motion in compliance with Supreme Court Rule 11.

(f) *Failure to Call Motion for Hearing.* Any party may call a motion for hearing, but the burden for calling a motion for hearing shall be on the movant. Any motion not called for hearing within sixty (60) days of filing may be stricken upon motion, or by the Court without any notice to any party.

(g) Motions not presented or supported by the moving party when called, pursuant to notice, may be denied.

6.05 CONTESTED MOTIONS

(a) For purposes of Rule 6.05, any motion which is opposed is a contested motion and will be heard at a time designated by the Court.

(b) Every motion, and each basis in the motion, brought pursuant to the Code of Civil Procedure or Supreme Court Rule shall be identified by the Code of Civil Procedure section and/or the Supreme Court Rule number under which it is brought.

(c) For every contested motion there shall be delivered to the chambers of the assigned judge, **by the movant**, not less than seven (7) court days prior to the hearing a hard, paper copy of:

- (1) The motion, response, and reply, and any exhibits thereto.

(2) Any pleadings involved in the motion, i.e., any pleading to which the court may need to refer in ruling on the motion.

(3) Any writing in support of or in opposition to the motion.

(4) All citations shall be in conformity with Supreme Court Rule 6.

(d) No Motion or writing in support of or in opposition to a motion shall exceed fifteen (15) pages in total length (excluding supporting documents) without prior leave of Court. All grounds attacking a pleading or paper shall be contained in a single motion and shall be subject to the foregoing page limits.

Motions to allow additional pages are not favored, and specific grounds establishing the necessity for excess pages shall be clearly set forth in an affidavit filed in support of the motion.

All documents submitted shall be single-sided, double spaced and shall contain margins of at least one (1) inch at the top, bottom and each side. Type shall be 12 point or larger. All citations shall be in conformity with Supreme Court Rule 6. Failure to comply with Rule 6.05 shall be sufficient grounds for the Court's refusal to consider the offending document.

6.06 STANDING ORDERS

Standing orders for the respective court rooms/divisions should be consulted for any matters not directly addressed herein.

Standing orders can be found by first selecting the applicable division and then selecting the applicable courtroom on the court's website at:

<https://www.dupagecourts.gov/18th-judicial-circuit-court/divisions/>

6.07 MOTIONS FOR CONSOLIDATION OF CASES

Motions to consolidate two or more cases shall be presented to the judge who is requested to receive and hear the consolidated case after notice to all parties of record in all cases involved in the proposed consolidation. On all documents to be presented to the Court, the captions of all involved cases shall appear with the case which is proposed to be consolidated appearing above and the receiving case below.

If all cases proposed for consolidation are within the same division of the Court and are of the same designation, the motion shall be presented to the judge to whom the oldest case is assigned. If the cases are within the same division but are of different designations, the

motion shall be presented to the judge who is assigned to the case with the “higher” designation, determined according to the following hierarchy, in descending order:

For Chancery Division:

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|---------|---------|
| (1) CH, | (5) AD, |
| (2) MR, | (6) FC, |
| (3) PR, | (7) MH, |
| (4) GG, | (8) EV. |

For Law Division:

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|---------|
| (1) LA, |
| (2) LM, |
| (3) AR, |
| (4) SC. |

If the cases to be consolidated are in different divisions, the moving party shall first present a Motion to Transfer for Purposes of Consolidation to the judge assigned to the case which is proposed to be consolidated and if that motion is granted then the Motion to Consolidate shall be presented to the judge assigned to the “receiving” case.

Once a motion to consolidate has been granted, and for as long as the consolidation is in effect, all court documents concerning said cases shall bear the captions of all consolidated cases with the principal case’s caption at the bottom and the transferred case’s caption at the top.

It shall be grounds to deny a Motion to Consolidate that at the time of presentation of the motion there are case dispositive motions pending in any case which is proposed to be transferred or consolidated into another.

6.08 EMERGENCY MOTIONS AND EMERGENCY RELIEF

(a) *Application for Emergency Relief.* If emergency relief shall be required, application shall be made to the assigned judge, or if unavailable, to any other judge assigned to the division in which the case is filed. If no judge in the division is available, then to the Presiding Judge of the division in which the case is filed or the designee of the Presiding Judge. Each application for emergency relief shall be accompanied by an affidavit by the movant or movant’s attorney stating the reason the requested relief is necessary on an emergency basis, and in cases where the request is without notice, except as permitted by law, said affidavit shall state what attempts have been made to notify opposing counsel of the request for emergency relief. Failure to attach said affidavit(s) to the request for emergency relief shall be sufficient grounds for denial of same.

(b) *Ex Parte and Emergency Motions.* Every complaint or petition requesting an ex parte order for the appointment of a receiver, temporary restraint, preliminary injunction or any other emergency relief, shall be filed in the Office of the Circuit Court Clerk, if during court hours, before application to the Court for the order.

(c) *Notice after Hearing.* If an ex parte or emergency motion is heard without prior notice, a copy of the order granting or denying the motion shall be entered. The party presenting the motion shall serve a copy of the order personally or by U.S. mail upon all persons having an interest who have not yet been served with summons and upon all parties of record not theretofore found by the Court to be in default. The party presenting the motion shall file with the Clerk of the Court, within two (2) days of hearing, proof of service of a copy of the order entered granting or denying relief.

(d) Counsel shall use every reasonable effort to notify opposing counsel or parties, unless otherwise provided by law.

6.09 PROOF OF DAMAGES UPON ENTRY OF DEFAULT

When an order of default is obtained, if any fees are recoverable, at the Court's discretion, the attorney shall present an affidavit stating the nature of the services performed, the number of hours spent, the attorney's hourly rate, statement of the level of experience and expertise of the attorneys, and that number of hours spent and the hourly rate charged per hour are fair and reasonable according to the standards of the local community.

6.10 PRIVACY ISSUES

(a) While numerous specific types of information, including personal identifiers, are properly requested and included in documents necessary for the maintenance of litigation, there is no public need to have access to that private information. Because all documents filed with the Circuit Court Clerk are available to the public, pleadings, attachments to pleadings, discovery, orders, exhibits or other documents filed with the Circuit Court Clerk, with the exception of civil writs of attachment, shall be redacted to protect the privacy rights of everyone concerned.

(b) It is the responsibility of counsel and the parties to be sure that all filed documents comply with these Rules. They shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers, from all pleadings, discovery, orders, exhibits, or other documents filed with the Circuit Court Clerk, with the exception of civil writs of attachment, unless ordered otherwise by the Court:

(1) *Social Security Number.* If an individual's social security number must be included in a document, only the last four digits of the number shall be used.

(2) *Names of Minor Children.* If the involvement of a minor child must be mentioned, only the initials of that child's name shall be used.

(3) *Dates of Birth*. If an individual's date of birth must be included, only the year shall be used.

(4) *Financial Account Numbers*. If financial account numbers are relevant, only the last four digits of these numbers shall be used.

(c) In addition to the above provisions, persons shall exercise caution when filing documents that contain the following:

(1) Other identifying numbers, such as drivers' license numbers

(2) Medical records, such as diagnosis and treatment records

(3) Employment history information

(4) Individual financial information

(5) Proprietary or trade secret information

6.11 APPROVAL OF CLASS ACTIONS

(a) PRESENTATION OF A MOTION FOR PRELIMINARY APPROVAL OF A CLASS ACTION

(1) To present a Motion for Preliminary Approval, the first page of such motion as an Introduction Section, shall recite:

(a) a brief description of the occurrence giving rise to the cause of action, including the basis for jurisdiction and venue;

(b) the potential class size;

(c) whether the settlement is a claims-made or an opt-out settlement for the class;

(d) the total settlement fund along with an *cy pres* recipient or reversion of the fund;

(e) the amount each class member will receive from the settlement or the anticipated pro rata share;

(f) any injunctive relief and brief analysis as to value or benefit of said injunctive relief to the class or potential future class members;

(g) any specific details as to value of any coupons or vouchers;

(h) settlement administrator information, qualifications, and anticipated cost;

(i) exact specification for how notice will be disseminated to the class; and

(j) proposed deadlines with at least fourteen (14) days between the date the motion for attorney's fees is filed and the deadline for objecting to the settlement.

(2) A Final Approval Hearing shall be set after all of the claims, objections, and exclusion deadlines have passed.

(3) A Proposed Preliminary Approval Order shall be submitted as an exhibit to any Motion for Preliminary Approval and shall have proposed specific future dates for notice to be disseminated, claims to be submitted, objections or exclusions to be submitted, final approval briefs and request for attorney's fees to be submitted, etc.

(b) PRESENTATION OF A MOTION FOR FINAL APPROVAL OF A CLASS ACTION AND MOTION FOR CLASS REPRESENTATIVE AWARD, ATTORNEY'S FEES, ETC.

(1) To present a Motion for Final Approval, the first page of such motion as an Introduction Section, shall recite:

(a) a brief description of the occurrence giving rise to the cause of action, including the basis for jurisdiction and venue;

(b) the actual class size;

(c) whether the settlement was a claims-made or an opt-out settlement for the class;

(d) the total settlement fund along with any *cy pres* recipient or reversion of the fund;

(e) the amount of claims submitted by the class if it is a claims-made settlement along with the percentage of claims submitted compared to the entire class (if the motion for attorney's fees was filed before the claims deadline had passed, counsel for the class shall submit an updated affidavit from the settlement administrator with updated claims, objections, and/or exclusions once all of the deadlines have passed);

(f) the number of objections and/or exclusions;

(g) the amount each class member will receive;

(h) any injunctive relief and brief analysis as to value or benefit of said injunctive relief to the class or potential future class members;

(i) any specific details as to value of any coupons or vouchers;

(j) confirmation that notice was disseminated as required in the Preliminary Approval Order;

(k) the success rate of the notice administration;

(l) the actual cost for the settlement administrator; and

(m) the proposed class representative award and proposed fee request.

(2) A Proposed Final Approval Order shall be submitted as an exhibit to any Motion for Final Approval.