

## **ARTICLE 15: DOMESTIC RELATIONS**

### **15.01 DEFINITIONS**

For purposes of these Rules, a “domestic relations case” is defined as any proceeding arising under the provisions of Chapter 750 of the Illinois Compiled Statutes, which seeks an order or judgment relating to a new action or modification of an action for dissolution of marriage, declaration of invalidity of marriage or legal separation, dissolution of a civil union, an Order of Protection, or relief pursuant to the Illinois Parentage Act. These Rules are promulgated in accordance with the authority conferred in Section 802 of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/802) and the Illinois Code of Civil Procedure.

### **15.02 APPLICABILITY AND CASE DESIGNATION**

These Rules, to the extent not inconsistent with the Rules of the Illinois Supreme Court and the Illinois Compiled Statutes, shall apply to all domestic relations cases, as defined in Local Rule 15.01. In all newly filed cases seeking dissolution or declaration of invalidity, if there are one or more minor children of the marriage at the time of filing, the complaint shall be designated “Petition for Dissolution of Marriage, Minor Children,” and the Clerk of the Circuit Court shall maintain such designation. In all pre-decree dissolution cases, if there are one or more minor children of the civil union at the time of filing, the complaint shall be designated “petition for Dissolution of Civil Union, Minor Children,” and the Clerk of the Circuit Court shall maintain such designation.

### **15.03 MARRIAGE**

(a) A petition for an order directing the County Clerk of DuPage County to issue a marriage license as provided in 750 ILCS 5/201 *et seq.* shall be presented to the Presiding Judge of the Domestic Relations Division.

(b) The issuance of a marriage license by the County Clerk of DuPage shall be prima facie evidence of compliance with the statute and may be relied upon by any Judge assigned to perform a marriage ceremony.

### **15.04 TIME LIMITATIONS IN CHILD CUSTODY OR ALLOCATION OF PARENTAL RESPONSIBILITIES CASES**

Illinois Supreme Court Rule 922 governing “Time Limitations” is incorporated herein. Except as provided in Illinois Supreme Court Rule 922, all custody or allocation of parental responsibilities cases as defined in Illinois Supreme Court Rule 900(b)(1) shall be resolved

within 18 months from service of the petition or complaint to final order.

### **15.05 DISCOVERY**

The provisions pertaining to discovery contained in Local Rules 7.01 and 7.02 are also applicable to all cases for declaration of invalidity of marriage, dissolution of marriage, legal separation, or miscellaneous remedies (MR) and parentage (FA) cases assigned to Domestic Relations.

In all Domestic Relations proceedings involving child support, children's expenses, college expenses, maintenance, the division of marital and non-marital assets, and attorney fees, each party other than the Illinois Department of Healthcare and Family Services shall provide the other with a completed Financial Affidavit in the form approved by the Illinois Supreme Court. The Financial Affidavit shall be supported by documentary evidence including, but not limited to, income tax returns, pay stubs, and banking and credit card statements.

A Financial Affidavit shall not be required in any Title IV-D cases where the Illinois Department of Healthcare and Family Services is seeking child support on behalf of the State of Illinois or any other State agency. A Financial Affidavit shall be required in any Title IV-D cases where the Illinois Department of Healthcare and Family Services is seeking child support on behalf of an individual, however supporting documentary evidence shall not be required.

#### **(a) Mandatory Financial Affidavit**

##### *1. Pre-Judgment Proceedings.*

(a) Within thirty (30) days of the filing of the respondent's general appearance or the first responsive pleading in any pre-judgment Domestic Relations proceeding for, each party shall serve upon all parties entitled to notice, a completed Financial Affidavit in the form approved by the Illinois Supreme Court.

(b) At the time the Financial Affidavit is tendered to the other party, the tendering party shall immediately file with the Clerk of the Circuit Court certificate of compliance and proof of service, certifying that a completed Financial Affidavit was served upon those parties entitled to notice. The Financial Affidavit shall not be filed with the Clerk of the Circuit Court.

(c) If any request for temporary financial relief is made prior to the expiration of thirty (30) days for the filing of respondent's appearance or first responsive pleading, a Financial Affidavit and required financial documents shall be served contemporaneously with the notice and the petition/motion seeking temporary financial relief. The responding party shall provide a Financial Affidavit and required documents to all parties entitled to notice and to the Court, with the response to the temporary petition/motion, not less than two (2) days prior to the hearing on the temporary financial relief.

*2. Post-Judgment Proceeding.*

(a) In any post-judgment financial Domestic Relations proceedings (excluding enforcement proceedings), the moving party shall tender a Financial Affidavit to the opposing party within thirty (30) days of the filing of the post-judgment proceeding, and the opposing party shall tender to the moving party a Financial Affidavit with thirty (30) days of receiving the moving party's Financial Affidavit.

*3. Extension of Time.*

(a) The Court, in its discretion, may extend the time for tendering of the Financial Affidavits and required documents, as required in paragraphs 1 and 2 above, on notice and motion and for good cause shown.

(b) *Duty to Update.* Each party in pre-judgment Domestic Relations proceedings shall tender an updated Financial Affidavit thirty (30) days before trial.

(c) *Sanctions for Non-Compliance.* Upon motion by any party, the Court may impose such sanctions for any violation of Local Rule 15.05, including all sanctions set forth in Supreme Court Rule 219.

(d) *Additional Discovery.* Until a party has tendered a completed Financial Affidavit, such party shall not make discovery requests to the opposing party that duplicate information required in a Financial Affidavit.

**15.05.01 JURISDICTION AND VENUE**

(a) The proceedings shall be had in the county where the petitioner or the respondent resides, except as otherwise provided herein. The parties, other than the Illinois Department of Healthcare and Family Services, must sign an Affidavit of Venue to confirm that venue in DuPage County is proper.

(b) If neither of the parties resides in DuPage County, either or both of the parties must file a written motion advising the Court that the forum selected is not one of proper venue and seeking an appropriate order from the Court allowing a waiver of the venue requirements of Section 5/104 of the IMDMA. The waiver of venue motion must be filed before any other pleadings and shall be filed along with the original petition for dissolution of marriage.

#### **15.05.02 PROVE UPS**

(a) Prove ups may be done at any point before any judge in the Domestic Relations division at the discretion of the court.

(b) The necessary prove-up documents are:

- (1) Judgment of Dissolution
- (2) Marital Settlement Agreement
- (3) Final Allocation Judgment – Allocation of Parental Responsibilities and Parenting Plan (if applicable)
- (4) Child Support Calculation (if applicable)
- (5) Certificates of Completion of Caring and Coping Class (if applicable)
- (6) Certificate of Dissolution

#### **15.05.03 DUE DILIGENCE AFFIDAVIT; LEAVE TO SERVE BY PUBLICATION**

(a) A party seeking the entry of a default judgment must file an affidavit of due diligence of service attempts.

(b) If the petitioner is seeking a default by way of publication, the petitioner must first seek leave of court in order to do so.

#### **15.06 EDUCATION PROGRAM**

(a) The Circuit Court of DuPage County has established two separate Education Programs for divorcing and never-married parents conducted through the DuPage County Family Center. The education programs cover the subjects of parenting time, custody, co-parenting or allocation of parental responsibilities, communication and the impact of these issues on children. These programs are The Caring, Coping and Children (CCC) Program and the

Parents and Kids (PAK) Program.

(b) In all pre-judgment parentage (FA) cases in which the parties have a minor child, the parties must complete the Parents and Kids (PAK) Program as soon as possible after the establishment of parentage but in no event later than sixty (60) days after the initial status conference.

(c) In all pre-judgment dissolution of marriage (DC) cases in which the parties have a minor child, the parties must complete the Caring, Coping, and Children (CCC) Program as soon as possible, but no later than 60 days after the initial status conference.

(d) Except when excused by the Court for good cause shown, each party's attendance and completion of the Education Program is mandatory. The Court shall not excuse a party's attendance and completion of the Education Program unless the reason is documented in the record and a finding is made that excusing one or both parents from attendance is in the best interests of the children.

(e) Willful failure to comply with the Education Program requirement may result in sanctions by the Court.

#### **15.07 INITIAL STATUS CONFERENCE**

(a) The purpose of a status conference is to prevent delay in the disposition of the case and to monitor compliance with the Local Rules.

(b) An initial status shall be assigned by the Clerk of the Court upon a case being filed under the Illinois Marriage and Dissolution of Marriage Act or the Illinois Parentage Act. At the initial status, if not earlier, the parties or attorneys of record who are knowledgeable as to the issues in the case, shall report the progress of the case to the Court, including:

(1) Compliance with the parenting education program requirement of Illinois Supreme Court Rule 924 and Local Rule 15.06;

(2) Agreed custody or allocation of parental responsibilities arrangements and parenting plans, if any;

(3) The scheduling of mediation in compliance with Illinois Supreme Court Rule 905(b), if required; and

(4) Whether Financial Disclosure Statements have been exchanged.

(c) A status shall be scheduled every thirty (30) to sixty (60) days thereafter unless otherwise directed by the Court. In addition to other matters the Court chooses to address, the Court shall consider whether to appoint an attorney for the child, a guardian ad litem, or a child representative in accordance with 750 ILCS 5/506.

#### **15.08 TITLES ON ALL PETITIONS, MOTIONS, AND ORDERS**

(a) All petitions and motions submitted to the Court in domestic relations cases shall be substantially in the approved form provided by law and shall begin with a title that accurately describes the contents of the petition or motion.

(b) All petitions and motions shall include a recitation of the statutory or case law basis for said relief. Filings that fail to comply with this requirement may be stricken on the court's motion.

(c) If any order submitted to the Court is agreed, the adjective "agreed" should precede the word "order" in the title.

#### **15.09 MOTIONS AND HEARINGS**

(a) Except for the initial status date provided in Local Rule 15.07, all court dates and times, including pre-trial and trial dates, shall be obtained from the trial judge or one of the court schedulers at the direction of the trial judge.

(b) *Notice.* Except for emergency matters, the moving party shall serve proper notice for all motions or petitions for relief in accordance with Local Rule 6.04(d). The notice provided shall state that the motion will be presented on the date specified in the notice.

(c) *Presentment Call.* Except for emergency matters, all motions and petitions shall be placed on the Court's presentment call, by contacting the court scheduler, prior to being set for hearing. The presentment call commences at such time as set by Administrative Order. No contested matters shall be heard during the presentment call. If the motion or petition is not resolved by agreement, an order shall be entered setting a briefing schedule granting the defending party reasonable time to respond or otherwise plead and setting a future status or hearing date on the underlying motion or petition.

(d) *Hearings.* All hearing dates will be assigned by the Court in its discretion. Courtesy copies shall be delivered to the Court by the moving party prior to the hearing pursuant to

Rule 6.05(c). Failure to provide courtesy copies in compliance with these Rules may result in a continuance of the hearing by the Court.

*(e) Changes in Court Dates Initiated by the Court.*

(1) Whenever the assigned judge determines it necessary to reschedule a court date, the court scheduler, at the direction of the assigned judge, shall prepare an order for signature by the assigned judge.

(2) A copy of the order shall be sent by the court scheduler to all attorneys of record in the case.

(3) Whenever possible, attorneys of record shall be contacted by the court scheduler beforehand to obtain a mutually acceptable date.

*(f) Other Changes in Court Dates.*

(1) All agreed motions for a change in court date must be presented in writing with required notice. If the agreed motion is to change the date of a prove-up or a hearing on a motion, the matter will be reset to an available date. If the agreed motion is to change the date of a pre-trial or trial date, the motion will be placed on the judge's motion call by the court scheduler.

(2) Any request for a change in court date which is not by agreement shall be placed on the judge's motion call by the court scheduler.

(3) No pre-trials or trials shall be continued except upon written motion and written order after hearing.

(4) An appropriate order must be presented to the court scheduler at the time a change in court date is scheduled. The order shall include a paragraph striking the existing date from the call. If the date appearing on an order resetting a prove-up or a hearing of a motion is not available on the appropriate call of the assigned judge, the court scheduler shall place the case on the motion call or prove-up call of the assigned judge on the next available date to which the attorneys can agree.

### **15.10 EMERGENCY MATTERS**

(a) Designation of a matter as an "emergency" is determined to be an extraordinary measure and shall be heard at the discretion of the Court.

(b) Emergency motions will be heard by the Judge assigned to the case. If the assigned Judge is unavailable, then the emergency motions shall be heard by the Presiding Judge or his or her designee.

(c) The proponent of an alleged “emergency” matter shall have the initial burden of proving the emergency which burden shall include, at a minimum:

(1) Prior notice to the opposing party and a supporting affidavit pursuant to Local Rule 6.08;

(2) Inability to obtain an assignment on the regularly scheduled call within a reasonable time given the circumstances for which or from which relief is sought; and

(3) That immediate and irreparable injury, loss or damage will result if the relief is not granted.

(d) Upon a determination by the Court that a matter does not meet the criteria for “emergency” matters, an order so finding shall be entered and the matter may be set on a regular call. Upon oral motion by a party or their attorney who responds to an alleged “emergency,” the party or their attorney may be entitled to reimbursement from the movant for actual expenses, fees and costs incurred in responding to the motion.

#### **15.11 MOTIONS FOR TEMPORARY RELIEF**

(a) Except as otherwise provided by law, in all proceedings involving petitions for temporary relief, the moving party shall serve proper notice in accordance with Local Rule 6.04 and provide, to opposing counsel, the necessary Financial Affidavit in accordance with Local Rule 15.05.

(b) In any proceeding to set temporary relief (including initial or temporary child support and maintenance), the moving party may set the petition on the Court’s presentment call, pursuant to Local Rule 15.09(c). The moving party shall serve notice, accompanied by a copy of a verified petition intended to be filed in the cause, and present said Temporary Relief Petition in accordance with Local Rules 6.04(d) and 15.05.

#### **15.12 RULE TO SHOW CAUSE**

(a) In any proceeding seeking a Rule to Show Cause, the moving party may set the petition on the Court's presentment call, pursuant to Local Rule 15.09(c). The moving party shall serve notice, accompanied by a copy of the verified petition intended to be filed in the cause. No Rule to Show Cause shall issue except upon proper Notice and Motion, and except upon a prima facie showing of contempt by verified pleading.

(b) Upon presentment, the Court shall set the Petition for Rule to Show Cause for hearing on an expeditious basis, as determined in the court's discretion. Further, the Court may order the Rule returnable on the same day, if the Rule issues.

(c) The Order setting the Rule to Show Cause for hearing shall be served in accordance with Illinois Supreme Court Rules as in service of summons.

### **15.13 CONSOLIDATION OF GUARDIANSHIP CASES**

When any divorce, parentage, or petition for custody or allocation of parental responsibilities involving custody or allocation of parental responsibilities of a child or children is pending, any action for creation or termination of the guardianship of the same minor child or children shall be transferred to the domestic relations division, to be heard by the same judge assigned the domestic relations or parentage case.

### **15.14 GUARDIANS AD LITEM, CHILD REPRESENTATIVES, AND ATTORNEYS FOR CHILDREN**

#### **(a) QUALIFICATIONS**

The 18th Judicial Circuit shall promulgate a list of attorneys who have been approved by this Court to act as Guardians ad Litem, Child Representatives, or Attorneys for Children. These Guardians ad Litem, Child Representatives, or Attorneys for Children, approved by the Chief Judge and the Presiding Judge of the Domestic Relations Division of the 18th Judicial Circuit, must file the required application, supply supporting documentation and meet the following criteria:

- (1) Shall satisfactorily complete a Guardians ad Litem/Child Representatives/Attorneys for Children training program approved by the Court. In addition, the applicant must complete additional training as required by the Court from time to time, in accordance with Illinois Supreme Court Rule 906(c). Said training program shall consist of ten (10) hours in the two (2) years prior to the date the attorney qualifies for appointment in approved continuing legal education courses in the following areas: child development; roles of guardian ad litem and

child representative; ethics in child custody or allocation of parental responsibilities cases; relevant substantive state, federal, and case law in custody or allocation of parental responsibilities and visitation or parenting time matters; family dynamics, including substance abuse, domestic abuse, and mental health issues.

(2) Hold a valid license to practice law in the State of Illinois and be in good standing.

(3) Maintain an office in DuPage County.

(4) Shall serve at the discretion of the Presiding Judge.

(5) Shall provide evidence of malpractice insurance in an amount as set by the Presiding Judge.

(6) Shall agree to appointment as a Guardian ad Litem/Child Representative/Attorney for Child(ren) in at least one (1) reduced fee or pro bono cases per year as identified by the Court.

#### (b) APPOINTMENT PROCEDURE

(1) Upon the Court order appointing a Guardian ad Litem/Child Representative/Attorney for Child(ren), a Guardian ad Litem/Child Representative/Attorney for Child(ren) shall be selected by the court from the list of qualified Guardians ad Litem/Child Representatives/Attorneys for Children prepared by the Presiding Judge of the Domestic Relations Division.

(2) The Court shall designate in its order what percentage of the retainer and hourly rates for the Guardian ad Litem/Child Representative/Attorney for Child(ren) should be paid by each party or whether the case should be considered a reduced fee or pro bono case.

(3) The parties shall contact the Guardian ad Litem/Child Representative/Attorney for Child(ren) within two (2) days after the appointment order is signed for the purpose of adequate representation of any minor children to provide the Guardian ad Litem/Child Representative/Attorney for Child(ren) with all notices, pleadings, orders, and reports in the proceeding.

(4) The Guardian Ad Litem/Child Representative/Attorney for the Child appointed in this cause shall promptly file his or her appearance on behalf of the minor

child(ren).

(5) During the proceeding, the Court may appoint an additional attorney to serve in another of the enumerated capacities on its own motion or on the motion of a party for good cause shown.

(6) The Chief Judge and the Presiding Judge of the Domestic Relations division shall be responsible for administering the training program and insuring compliance with Illinois Supreme Court Rule 906.

(7) An attorney approved to be appointed by the Court as a Guardian Ad Litem/Child Representative/Attorney for the Child under a training program approved in a different county or judicial circuit shall have reciprocity to participate in child custody or allocation of parental responsibilities and visitation or parenting time matters in all other counties and judicial circuits in the State of Illinois.

(c) POWERS, DUTIES, AND RESPONSIBILITIES

(1) The Guardian Ad Litem/Child Representative/Attorney for the Child shall have all the duties, powers, and authority defined for his/her role by Section 506 of the Illinois Marriage & Dissolution of Marriage Act, 750 ILCS 5/506.

(2) The rights afforded to the Guardian Ad Litem/Child Representative/Attorney for the Child shall be as set forth by Illinois Supreme Court Rule.

(3) The Guardian Ad Litem/Child Representative/Attorney for the Child is authorized to conduct such discovery as necessary and proper to fulfill his or her appointed role.

(4) If appointed as such, the Attorney for the Child shall participate in the litigation as would the attorneys for the parties and shall be bound by the Illinois Rules of Professional Conduct.

(5) If appointed as such, the Child Representative shall have the following rights and obligations:

(i) To participate in the litigation as would the attorneys for the parties.

(ii) To investigate the facts of the case and interview necessary parties.

- (iii) To advocate the best interests of the child.
- (iv) To promote settlement and the use of alternative dispute resolution.
- (v) To disclose the Child Representative's position in a pretrial memorandum.
- (vi) No party may cross-examine the Child Representative.
- (vii) The Child Representative shall be bound by the Illinois Rules of Professional Conduct.

(6) If appointed as such, the Guardian ad Litem shall tender a written report to the Court, if so ordered. Further, the Guardian ad Litem shall make recommendations to the Court, if so ordered. As required by Illinois Supreme Court Rule 906, a Guardian ad Litem shall be bound by the Illinois Rules of Professional Conduct.

#### (d) FEES

Unless otherwise ordered by the Court at the time fees and costs are approved, all fees and costs payable to a Guardian Ad Litem/Child Representative/Attorney for the Child under Section 506 of the Illinois Marriage & Dissolution of Marriage Act are by implication deemed to be in the nature of support of the child and are within the exceptions to discharge in bankruptcy under 11 U.S.C.A. 523. The provisions of Sections 501 and 508 of the Illinois Marriage & Dissolution of Marriage Act shall apply to fees and costs for attorneys appointed under Section 506 of the Illinois Marriage & Dissolution of Marriage Act.

#### **15.15 MEDIATION REFERRAL PROGRAM**

Mediation under these Rules involves a Court-Ordered confidential process whereby a qualified and neutral mediator, selected by the parties or appointed by 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. Parties and their representative are required to mediate in good faith. This rule is subject to the provisions of Illinois Supreme Court Rule 905.

**(a) SUBJECT MATTER AND COMMENCEMENT OF MEDIATION**

(1) *Matters Subject to Mediation.* As authorized by Illinois law, the Court may order mediation of any pre- or post-judgment contested issue of parental responsibility, custody or allocation of parental responsibilities, visitation or parenting time, or relocation, access to child(ren) or other non-economic issues arising in any action not otherwise determined to be ineligible. Without leave of Court, the parties may not proceed to a judicial hearing on contested issues including temporary relief until the mediation process has been concluded and the mediation report has been submitted to the Court. Mediation may be waived if the parties have participated in mediation pursuant to a joint parenting agreement or by the Court on good cause shown.

(2) *Commencement of Mediation.* The mediation process shall commence as soon as practicable after an action is filed. If the process has not already commenced at the first court date after the Court obtains jurisdiction over both parties, the Court may order mediation if the Court determines it is in the best interest of the child(ren).

(3) 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. All cases that are ordered to mediation shall be screened for such impediments. The Court shall make inquiries of counsel or the parties concerning the issue of impediments to mediation.

(4) 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.

(5) The parties shall complete the appropriate parent education course under Local Rule 15.06 prior to the commencement of mediation, unless said classes have already been previously completed, as in post-judgment cases.

**(b) QUALIFICATIONS OF MEDIATORS**

(1) The 18th Judicial Circuit shall promulgate a list of mediators who have been approved by this Court to act as mediators for the Court-Ordered Family Mediation Program. These mediators, approved by the Chief Judge and the Presiding Judge of

the Domestic Relations Division of the 18th Judicial Circuit, must file the required application, supply supporting documentation and meet the following criteria:

(a) Shall satisfactorily complete a Divorce Mediation training program approved by the Court. In addition, the applicant must complete additional training as required by the Court from time to time.

(b) Hold a graduate degree in a field that includes the study of law, psychiatry, psychology, social work, human development, family counseling or other behavioral science substantially related to marriage and family interpersonal relationships, or a related field or other degree program otherwise approved by the Presiding Judge.

(c) If engaged in a licensed discipline, maintain said license in full force and effect.

(d) Maintain an office in DuPage County.

(e) Shall serve at the discretion of the Presiding Judge.

(f) Shall provide evidence of malpractice insurance in an amount as set by the Presiding Judge.

(g) Shall agree to mediate at least four (4) reduced fee or pro bono cases per year as identified by the Court.

(2) The mediation shall occur in DuPage County unless the parties agree otherwise.

#### (c) REFERRAL ASSIGNMENT PROCEDURE

(1) In divorce cases, upon the Court's order for the parties to participate in mediation, a mediator shall be selected by agreement of the parties from the list of qualified mediators prepared by the Presiding Judge of the Domestic Relations Division. Absent an agreement, the trial judge shall assign the mediator. In paternity cases, upon the Court's order for the parties to participate in mediation, the parties shall mediate through the DuPage County Family Center unless the parties agree otherwise.

(2) The Court shall designate in its order what percentage of the mediation fee should be paid by each party or whether the case should be considered a reduced

fee or pro bono case. In cases in which the Court has determined the parties indigent, the DuPage County Family Center may be assigned to mediate.

(3) The attorneys shall encourage the parties to mediate in good faith. The parties shall participate in mediation in good faith.

(4) On or before the status date, the mediator shall submit a report to the Court and the parties' legal counsel, which shall include information listed in this rule under the section entitled "Mediation Report."

(5) The parties shall contact the mediator within two (2) days after the referral order is signed for the purpose of setting an appointment.

(d) CONFLICT OF INTEREST

(1) If the mediator has or has had any possible conflict of interest, including but not limited to, a current or previous therapeutic, personal 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 attorneys and may be removed for that reason. If there is a conflict, the parties may select or the Court shall appoint another mediator.

(2) 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.

(3) *Imputed Disqualification.* 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 Evaluator in that case.

(e) REPORTING RISK OF BODILY HARM AND ABUSE

(1) 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.

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

(3) 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.

(f) DISCLOSURE OF INFORMATION

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

(2) The mediator shall require the parties to execute a confidentiality agreement and complete a screening to determine if an impediment to mediation exists.

(g) ATTENDANCE AND TERMINATION OF MEDIATION

(1) 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.

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

(3) The mediator shall immediately advise the Court in writing if he or she suspends or terminates mediation or in the event that either or both parties fail to comply with the terms of this paragraph.

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

(h) MEDIATION REPORT

(1) The mediator 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.

(2) Only written discovery on issues not being mediated shall be allowed until mediation is terminated, except by order of the Court or agreement of the parties.

(3) No investigation or examination pertaining to issues pending in mediation shall be ordered by the Court, except when the Court finds good cause.

(4) In the event the party fails to attend mediation without good cause shown, the Court upon motion may impose sanctions, including but not limited to costs and attorney fees.

(i) PAYMENT OF FEES

The mediation fee and the amount of the advance deposit shall be set from time to time by the Chief Judge and the Presiding Judge of the Domestic Relations Division. Mediation fees shall consist of a maximum of three (3) hours plus one (1) hour for administrative charges which may include but are not limited to time spent in mediation sessions with the parties, telephone conference, correspondence, consultations with attorneys or expert consultants, preparation of the mediator's report and any other work performed by the mediator on behalf of the parties. The parties shall be required to pay for individual sessions at the time of each mediation session. In the event payments are not made as agreed by the mediator, the mediation process may not be suspended by the mediator, but failure to pay shall be promptly reported to the Court.

(j) STATISTICS

The Presiding Judge of the Domestic Relations Division shall maintain data on the mediation program and consult on a regular basis with the other judges in the Domestic Relations Division about the operation of the program.

(k) MEDIATOR IMMUNITY

A mediator, approved and certified by this Circuit and acting pursuant to these Rules, shall have judicial immunity in the same manner and to the same extent as a judge, under the authority conferred by Illinois Supreme Court Rule 99(b)(1) as amended.

### **15.16 EVALUATION PROGRAM**

(a) SUBJECT MATTER OF EVALUATION

The DuPage Evaluation Program is a discretionary program of the Circuit Court of the 18th Judicial Circuit. If the Court determines that a custody or allocation of parental responsibilities evaluation, pursuant to 750 ILCS 5/604.10(b), is needed or would assist the court in making its determination, the Court may so order an evaluation.

Court-ordered Evaluation may include any pre- or post-judgment contested issue of parental responsibility, custody or allocation of parental responsibilities, visitation or parenting time, access to the children or other non-economic issues in relation to child(ren).

Unless otherwise provided in these Rules, the Court may order the parties to participate in evaluation at the mediation status date, upon motion of a party or upon the Court's own motion. The evaluator appointed by the Court shall make a recommendation to the Court with respect to those issues in dispute.

**(b) PREREQUISITE TO EVALUATION**

(1) The parties ordered to evaluation by the Court shall have completed mediation prior to the commencement of an evaluation, unless the court in its discretion concludes otherwise.

(2) The Court may appoint an attorney for the child/guardian ad litem/child representative prior to considering a Court-ordered evaluation, in light of Illinois Supreme Court Rule 907(e).

**(c) QUALIFICATIONS OF EVALUATORS**

(1) The 18th Judicial Circuit shall promulgate a list of evaluators who have been approved by the Chief Judge and the Presiding Judge of the Domestic Relations Division to act as evaluators for the DuPage County Evaluation Program, each of whom shall serve at the discretion of the Presiding Judge. Applicants for the program must file the required application with supporting documentation and meet the following criteria:

(i) Shall satisfactorily complete a training program approved by the Court. In addition, the applicant must complete additional training as required by the Court from time to time;

(ii) Shall be a Ph.D. in psychology, Psy.D., licensed clinical psychologist or psychiatrist;

(iii) Shall maintain Illinois licensure in full force and good standing and carry current malpractice insurance in an amount as approved by the Presiding Judge;

(iv) Maintain an office in DuPage County and be available to conduct evaluations in DuPage County;

(v) Shall have at least five (5) years of experience in practice post-licensure, education, training and experience with children and families, plus training and/or experience specifically relevant to the evaluation process.

(2) The Presiding Judge shall periodically prepare a list of Court-approved evaluators.

(3) An evaluator shall agree to handle three (3) reduced fee or pro bono cases per year as identified by the Court. All requests for pro bono or reduced fee evaluations shall be made to and approved by the Presiding Judge of the Domestic Relations Division.

(d) REFERRAL ASSIGNMENT PROCEDURE

(1) Upon the Court's order for the parties to participate in evaluation, an evaluator shall be selected by agreement of the parties from the list of qualified evaluators. Absent an agreement, the trial judge shall assign the evaluator, and a one hundred twenty (120) day status date shall be set for the final evaluation report.

(2) The Court shall designate in its order of evaluation:

(i) The percentage of the evaluation fee that shall be paid by each party and/or whether the case should be considered a reduced fee or pro bono case;

(ii) Who shall receive a copy of the evaluation report; and

(iii) What specific issues are to be evaluated.

(3) On or before the status date, the evaluator shall submit a report to those parties, or counsel of record for same, listed in order of evaluation.

(4) The time for evaluation shall be tolled during any periods in which a motion to disqualify is pending.

(5) The Petitioner shall provide the order appointing the evaluator to the evaluator,

via facsimile, personal delivery, or electronic delivery within forty-eight (48) hours of the entry of said order.

(6) The parties shall contact the evaluator within seventy-two (72) hours after the assignment for the purpose of scheduling an initial session.

(e) CONFLICT OF INTEREST

(1) If the evaluator appointed has or has had any possible conflict of interest, including but not limited to a current or previous therapeutic, personal 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 attorneys and may be removed for that reason. If there is a conflict, the parties may select or the Court shall appoint another evaluator.

(2) The evaluator may not function as a therapist to the parties, the children, or stepparents before, during or after the evaluation.

(3) *Imputed Disqualification.* No person will be eligible to serve as an Evaluator on any case in which 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 a Court-appointed mediator in that case under these Rules.

(f) REPORTING RISK OF BODILY HARM AND ABUSE

All evaluators will conduct themselves in accord with the Abused and Neglected Child Reporting Act standards (325 ILCS 5/1 *et seq.*).

(g) DISCLOSURE OF INFORMATION

The information exchanged during the evaluation process does not constitute "mental health services" or "services" within the meaning of the Mental Health and Developmental Disabilities Confidentiality Act and is, therefore, not confidential. The records of an evaluator are not subject to discovery without leave of court after proper notice to the other parties and the evaluator.

(h) EVALUATION PROCESS

(1) The parties shall attend the evaluation sessions which shall consist of up to thirty (30) hours in length including testing, unless extended by agreement of the

parties and the evaluator or order of Court. Attendance at evaluation shall be limited to the parties, the children and those specifically requested by the evaluator.

(2) Attorneys for the parties shall not contact the evaluator either during or after the evaluation, without leave of Court, except concerning those matters in the referral form or in regard to scheduling. Guardians ad litem/child representatives/attorneys for child(ren) are permitted to have contact with the evaluator, as requested by the evaluator, or to provide initial information about the child(ren) or the case progress.

(3) The evaluation may be terminated or suspended at the option of the Court, the evaluator or upon settlement of the issues which caused the case to be referred to evaluation.

(4) The evaluator shall immediately advise the Court and counsel for the parties in writing if the report will not be completed by the status date and state the reason for the delay and the expected date of completion.

(5) In the event a party fails to promptly attend and participate in the evaluation without good cause shown, the Court upon motion may impose sanctions.

(6) The evaluation must take place in DuPage County unless the parties agree otherwise.

(7) The evaluation report shall be provided to the Court, and any other designated parties, no later than one hundred twenty (120) days from the entry of the order appointing the evaluator.

(i) PAYMENT OF FEES

(1) The evaluator's hourly fee and the amount of the advance deposit shall be set from time to time by the Chief Judge and the Presiding Judge of the Domestic Relations Division. The hourly rate shall be \$250 per hour, with a maximum charge, excluding testifying at deposition and/or trial, of \$10,000. The evaluation fee shall include up to thirty-five (35) hours for sessions, costs of testing, analysis, and for preparation of the report. The limitation on charges contained in these Rules shall not include time expended for preparation or attendance at a court proceeding or deposition. Those charges shall be paid by the party calling the evaluator as a witness.

(2) The parties shall be required to pay a retainer, as ordered by the court, to be applied toward the cost of evaluation. When the retainer is exhausted, the parties shall pay for remaining individual sessions and the cost of the report as those costs are incurred. In the event payments are not made as ordered by the Court, the evaluator may not suspend the process but shall promptly report failure to pay to the attorneys and the Court.

(3) The evaluator's report shall include reference to the fee charged and itemize the charges, whether that fee has been paid in full, and if not, the outstanding amount owed. The Court may direct the parties to pay any sum that remains due and owing to the evaluator and may enter judgment accordingly.

#### (j) STATISTICS

The Presiding Judge shall maintain data on the evaluation program and consult on a regular basis with the other judges in the Domestic Relations Division about the operation of the program.

#### (k) OVERSIGHT COMMITTEE

(1) The Presiding Judge of the Domestic Relations Division shall appoint a committee which shall be known as the "Oversight Committee." That committee shall be comprised of attorneys practicing in the area of family law, psychologists and/or psychiatrists, and members of the general public. All members of the Oversight Committee shall serve three (3) year terms on a rotating basis. In addition, the current chairperson of the DuPage County Bar Association Family Law Committee shall serve as an additional member of the committee on an annual basis. The purpose of that committee shall be as follows:

(i) To review and make recommendations to the Presiding Judge regarding any complaint against a court-appointed mediator or evaluator;

(ii) To make recommendations for modification to the mediation and/or evaluation rules or procedures established pursuant thereto;

(iii) To make recommendations for procedures and practices to implement the rules;

(iv) To assist in the review of statistical data relative to the efficacy of the program;

(v) To review any complaints or concerns about the mediation and evaluation programs; and

(vi) To perform any other tasks assigned by the Presiding Judge.

(2) In screening and making recommendations regarding a complaint against an evaluator, the committee shall consider the ethical standards and laws which apply to the profession(s) of that evaluator.

### **15.17 RECORD IN CERTAIN PROCEEDINGS**

Every contested hearing which will result in a final custody or allocation of parental responsibilities or relocation order shall be reported.

### **15.18 PRE-TRIAL CONFERENCE AND TRIAL DATES**

(a) A case may be set for a pre-trial conference at the discretion of the trial judge. If a case set for pre-trial is settled or disposed of prior to its scheduled pre-trial conference date, the attorneys shall advise the judge in advance so that said appointed time may be used to accommodate other cases. Failure of attorneys to comply may result in the imposition of sanctions.

(b) Litigants must be advised of any pre-trial conference date by their attorneys. Litigants need not appear, but must be available for consultation with their attorneys by phone during the pre-trial conference. If the attorneys fail to appear for an appointed pre-trial conference, the pre-trial will be stricken and the case may be subject to dismissal and the attorney may be subject to sanctions.

(c) Whenever practical, both counsel shall prepare a written joint pre-trial memorandum. Absent such a joint memorandum, each counsel shall prepare a pre-trial memorandum that must include the following:

(1) Attorneys names, addresses and phone numbers;

(2) Parties' names, ages, education levels, employment, health;

(3) Children's names, ages, school information, special needs;

(4) Assets, debts, and liabilities; including values and characterization of marital vs. non-marital;

(5) Notice of Claim of Dissipation of Marital Assets, if any;

(6) Statement of areas of agreement;

(7) Statement of areas of disagreement; and

(8) Suggestions for settlement.

Copies of the pre-trial memorandum shall be sent to the judge and to opposing counsel at least two (2) business days prior to the Conference.

A future status date shall be set following the pre-trial conference to determine if the case will settle or proceed to trial. If the case has not been resolved as of the next status date, the trial judge may set the case for trial.

(d) At the time a case is set for trial, a trial status date shall be set. At the trial status date, counsel for each party shall tender a trial memorandum to the trial judge and opposing counsel. The trial memorandum shall contain a statement of contested issues, uncontested issues, list of income, assets and liabilities, stipulations on agreed matters, a list of witnesses intended to be called, and probable length of trial. Each party shall submit a list of numbered exhibits with copies of all exhibits having been exchanged among all attorneys at least three (3) days prior to trial.

(e) Cases set for trial shall only be continued for statutory cause shown with proper notice, or by order of the trial judge. It is the responsibility of each attorney to contact the court scheduler in advance of the trial date to find out if the Court is otherwise engaged and unable to hear a case on the scheduled trial date.

#### **15.19 (RESERVED)**

#### **15.20 ENTRY OF JUDGMENT**

(a) The Court shall designate who will prepare the judgment and when the judgment shall be tendered for entry. Non-payment of attorney fees will not be recognized as good cause for the Judgment entry to be withheld.

(b) (Reserved)

(c) (Reserved)

(d) When a Judgment resolving a domestic relations matter requires the payment of an amount of money for reasons other than child support or maintenance, the Judgment order shall be entitled Judgment for Dissolution and Money Judgment.

(e) At the prove-up of a dissolution of marriage/legal separation/declaration of invalidity of marriage case/dissolution of a civil union, if Judgment is not entered that day, the case shall be continued to a date certain not to exceed six (6) weeks from the close of proofs at 10:55 a.m., for the entry of the judgment order.

(f) If the judgment resolving a domestic relations matter is not presented for entry on or before the date provided under paragraph (e), above, then before entry of the judgment, the Court may require an affidavit from counsel as to the reason for failure to comply. Non-payment of attorney fees will not be recognized as good cause.

(g) The Domestic Relations Judges will review and consider entering final judgments and parental allocation judgments presented to them electronically, subject to the following conditions:

(1) Parties and their attorneys can email their fully executed proposed settlement documents to include the Judgment, Marital Settlement Agreement, Allocation Judgment and Parenting Plan (if applicable) and copy of the Certificate of Dissolution (half/sheet) to the Court for the assigned Judge's review and possible entry.

(2) The Allocation Judgment/Parenting Plan may enter as an Agreed Order following review as presumed to be in the best interest of the minor children if signed by both parties. All mandatory clauses shall be included within the Plan (e.g., mediation provision).

(3) With respect to the Marital Settlement Agreement, setting of child support and maintenance shall reference calculation pursuant to statute (i.e., income and duration, income sharing) and/or specify the basis for deviation and/or waiver or reservation of the same. Disproportionate distribution of marital property (assets and liabilities), if any, shall also be explained.

(4) The parties shall both sign and submit a notarized affidavit containing the following:

- (i) Agreement that the Court has both personal and subject matter jurisdiction.
- (ii) Stipulation as to the grounds and description of grounds.
- (iii) Review of the Agreement in its entirety by the parties.
- (iv) Number of children born or adopted by the parties, emancipation of those children if appropriate, and the parties present conditions as to pregnancy.
- (v) An understanding of the terms of the Agreement and intent to be bound by them by the parties and that no one was coerced to sign the same.
- (vi) Entry into the Agreement freely and voluntarily by the parties.
- (vii) A belief that the Agreement is a fair and equitable division of the marital estate.
- (viii) Waiver of appearance at a prove-up by the parties.
- (ix) Waiver of a transcript from a prove-up by the parties.
- (x) If either side is a self-represented litigant, it should indicate their acknowledgment that they are not represented by opposing counsel and that they have had/waived the opportunity to confer with outside counsel prior to signing the Agreement.
- (xi) The parties desire that the Court approve their Agreement(s), incorporate it/them into the Judgment and enter the Final Judgment of Dissolution.
- (xii) The Agreement must comment as to resumption of former names by either party, if appropriate.
- (xiii) The parties waive cross examination of the other party.
- (xiv) The parties waive physical presence in Court for these proceedings, as well as notice.

(xv) Proof of completion of parenting class where applicable by both parties.

(5) Entry of Said Final Judgment shall be at the Court's discretion.

(6) The Circuit Court Clerk has already assigned future dates to all affected cases. The attorneys or parties shall also submit an agreed order striking all such future dates.

(7) Withholding Order and other similar post-judgment orders such as Q.D.R.O.'s shall be presented separately as Agreed Orders after Judgment is entered.

### **15.21 MAINTENANCE OR SUPPORT PAYMENTS**

(a) Maintenance or support payments shall be made by an order of withholding upon a separate order of court providing therefore, using the approved form furnished by the Clerk's office. If payments are through the Clerk of the Circuit Court, said withholding order shall be accompanied by the Clerk's form child support order.

(b) Orders for maintenance or support payments shall be presented to the Court in duplicate.

(c) Upon failure of a party to comply with an order of this Court pursuant to paragraph (a) above, a petition for a Rule to Show Cause shall be filed with the Court. Such petition shall be filed by the obligee, or where appropriate, by the State's Attorney on behalf of the obligee.

### **15.22 EXPEDITED MATRIMONIAL FEE ARBITRATION PROGRAM**

The Expedited Matrimonial Fee Arbitration Program in the Circuit Court for the 18th Judicial Circuit, DuPage County, Illinois is governed by 750 ILCS 5/508(c) for the conduct of Expedited Matrimonial Fee Arbitration proceedings. Pursuant to 750 ILCS 5/508(c), the Circuit Judges of the 18th Judicial Circuit adopt the following Local Rules. Arbitration proceedings shall be governed by Section 508(c) and this Article 15.22.

#### **15.22.01 ELIGIBLE ACTIONS**

Actions Subject to Arbitration. All actions brought pursuant to 750 ILCS 5/508(c) shall be submitted to mandatory arbitration in accordance with these Rules only if neither the

client nor the counsel affirmatively opts out of such procedures in the initial pleading requesting an award. An attorney may not enter into an agreement which purports to restrict the right of a client or the client's assignee to commence fee arbitration or which purports to relieve the attorney of the obligation to submit to arbitration under these Rules. Any such agreement is void as against public policy.

#### **15.22.02 POWERS AND DUTIES**

(a) The Presiding Judge of the Domestic Relations Division of the 18th Judicial Circuit shall have the following powers and duties related to the Fee Arbitration Program:

- (1) To appoint any lawyer licensed in Illinois who has either a residence or office in DuPage County and non-lawyers to serve as arbitrators, and to provide an educational program for arbitrators;
- (2) To make rules for expedited matrimonial fee arbitration proceedings which are not inconsistent with the expedited matrimonial fee arbitration Rules of this court and Section 508(c) of the Illinois Marriage and Dissolution of Marriage Act;
- (3) To educate the public and the practicing bar about the expedited matrimonial fee arbitration program; and
- (4) To perform all acts necessary for the effective operation of the program.

(b) The Chief Judge of the 18th Judicial Circuit Court shall have the power and responsibility to establish filing fees for expedited matrimonial fee arbitration and payment for arbitrators' services.

#### **15.22.03 APPLICABILITY OF CODE OF CIVIL PROCEDURE**

Notwithstanding that any action, upon filing, is initially submitted to an arbitration or is thereafter so designated for hearing, the provisions of the Code of Civil Procedure shall be applicable to its proceedings except insofar as these Rules otherwise provide.

#### **15.22.04 COMMENCEMENT OF ARBITRATION AND HEARING**

(a) After due notice has been given, unless either party opts out of arbitration in writing on the Court date when the Petition for Setting Final Fees and Costs is initially presented to the Court, the dispute will be assigned to arbitration. If neither party opts out of arbitration, the arbitration shall be binding on the parties.

(b) Fee proceedings shall be stayed until the conclusion of the arbitration and a party shall refrain from any collection activities related to disputed sums pending the outcome of the arbitration.

(c) Once the arbitration process has commenced, neither party may withdraw from arbitration.

(d) All parties to the arbitration hearing must participate in the hearing in good faith and in a meaningful manner.

#### **15.22.05 REPLY AND NOTICE**

Any reply to the Petition for Setting Final Fees and Costs or other response and proof of service shall be filed with the Clerk of Court and delivered to the other party by mail or by hand delivery within fifteen (15) days after entry of the arbitration order.

#### **15.22.06 ABSENCE OF PARTY AT HEARING**

**Failure to be Present at Hearing.** The arbitration hearing shall proceed in the absence of any party who, after due notice, fails to be present. The panel shall require the other party or parties to submit such evidence as the panel may require for the making of an award. The failure of a party to be present, either in person or by counsel, at an arbitration hearing shall constitute a consent to the entry by the Court of a judgment on the award. In the event the party who fails to be present thereafter moves or files a petition to the Court to vacate the judgment as provided therefore under the provisions of the Code of Civil Procedure for the vacation of judgments by default, Sections 2-1301 and 2-1401, the Court, in its discretion, in addition to vacating the judgment, may order the matter for rehearing in arbitration, and may also impose the sanction of costs and fees as a condition for granting such relief.

#### **15.22.07 AWARD AND JUDGMENT ON AWARD**

(a) *Definition of Award.* An award is a determination in favor of a party.

(b) *Determining an Award.* The panel shall make an award the same day as the hearing. The award shall dispose of all claims for relief. The award shall be signed by the arbitrators or the majority of them.

(c) *Form of Decision.* The panel shall issue its decision in writing. The decision shall include

a clear statement of the amount in dispute, whether and to whom monies are due, and in what amount, and shall be sent to the parties within a reasonable time after the hearing.

(d) *Correction of Award.* Where the award discloses an obvious and unambiguous error in mathematics or language, the panel, on application of a party within the thirty (30) day period of the entry of the award, may correct the same. The filing of such an application shall stay all proceedings.

#### **15.22.08 BINDING ARBITRATION AND JUDGMENT ON AWARD**

The arbitration award shall be final, and any party thereafter may file a motion with the Court seeking entry of judgment on the award.

#### **15.22.09 ARBITRATOR MAY NOT TESTIFY**

An arbitrator may not be called to testify as to what transpired before the arbitrators and no reference to the fact of the conduct of the arbitration hearing may be made at trial.

#### **15.22.10 WITNESS IMMUNITY**

Witnesses shall have such immunity as is applicable in a civil action.

#### **15.22.11 DISCLOSURE OF ATTORNEY-CLIENT COMMUNICATION AND WORK PRODUCT**

Nothing herein contained shall prohibit the disclosure of any relevant work product of the attorney in connection with:

- (a) An arbitration hearing pursuant to these Rules;
- (b) A trial after arbitration; and
- (c) Judicial confirmation correction or vacation of an arbitration award.

In no event shall such disclosures be deemed a waiver of the confidential character of such matters for any other purpose.

#### **15.22.12 DISPUTES NOT SUBJECT TO ARBITRATION**

A dispute is not subject to arbitration if any of the following factors exist:

- (a) If one or both parties affirmatively opts out of arbitration as previously set forth in these Rules;
- (b) If the underlying cause of action was filed in a county other than DuPage County; or
- (c) The dispute has been determined by court order or decision.

#### **15.22.13 DOCKETING OF ARBITRATION**

Upon receipt of the arbitration order, together with the appropriate filing fee, if any, the court scheduler shall set the matter for arbitration.

#### **15.22.14 REVIEW OF PETITION FOR ARBITRATION**

The Chairperson shall review the request for arbitration and any response thereto to determine if it is properly the subject of arbitration under these Rules. If a petition or response is not properly completed, the Chairperson will return and specify what clarification or additional information is required. If the dispute is not subject to arbitration, the Chairperson shall be so advised.

#### **15.22.15 ASSIGNMENT TO ARBITRATION PANEL**

(a) Upon entry of the arbitration order, the court scheduler shall assign the parties to an arbitration panel and shall set a date for hearing on the petition within thirty (30) days after the due date for the response or as soon as practicable, and shall set a status date within sixty (60) days after the due date for the response. In the event one party is not present at the initial court date and an arbitration order is entered, the appearing party must within three (3) business days deliver a copy of the order to the non-appearing party by mail or by hand delivery. The panel of arbitrators shall consist of three (3) members appointed by the Court. The Chairperson shall be a member of the bar who has engaged in matrimonial law for at least five (5) years or a retired judge. At least one of the remaining members shall be a non-lawyer.

(b) All disputes of \$500 or less shall be arbitrated based upon the Petition and reply or other response and any other written documentation and no hearing shall be held.

(c) The Chairperson shall preside at the hearing. Ruling on objections to evidence or on other issues which arise during the hearing shall be made by the Chairperson of the panel.

(d) Continuances are not favored. Once the hearing date has been set, continuances may be

granted by the Chairperson for statutory purposes only. If a continuance is granted, the Chairperson shall give notice to all parties to the arbitration.

**15.22.16 DUTIES OF ARBITRATION PANEL; ARBITRATOR DISQUALIFICATION; COMPENSATION**

(a) The panel shall have the following powers and duties:

- (1) To take and hear evidence pertaining to the proceedings;
- (2) To administer oaths and affirmations;
- (3) To perform all acts necessary to conduct an effective arbitration hearing.

(b) *Disqualification.*

- (1) Upon appointment to a case, an arbitrator shall notify the Court and withdraw from the case if any grounds appear to exist for disqualification pursuant to the Code of Judicial Conduct.
- (2) If any panel member who has been duly notified of his/her appointment for any reason fails to attend the arbitration, the remaining arbitrators may, at their option, without stipulation by either party, proceed with the arbitration.

**15.22.17 HEARING**

The arbitration panel shall preside over a hearing on all disputes over \$500. A party may be represented by counsel in the arbitration proceeding at the party's own expense. The panel shall accept such evidence as is relevant and material to the dispute and may request additional evidence as necessary to understand and resolve the dispute. The hearing shall be informal in nature. The rules of evidence need not be followed. The parties shall be entitled to be heard, to present evidence and to question parties and witnesses. The proceeding shall not be recorded or reported in any manner. Cases to be heard by an arbitration panel will require no more than sixty (60) minutes for presentation and decision.

**15.22.18 FEES AND COSTS**

Neither party to the arbitration may recover costs or attorney fees incurred in preparation for or in the course of the fee arbitration proceedings. However, a Court confirming,

correcting, or vacating an award under this article may award to the prevailing party reasonable fees and costs incurred in obtaining confirmation, correction, or vacation of the award.

### **15.23 REFILED CASES**

Except in cases of petitions for Orders of Protection, any domestic relations case between the same parties which is re-filed after a dismissal will be assigned to the same docket to which the dismissed case was assigned.

### **15.24 DOMESTIC VIOLENCE**

Actions arising under the Illinois Domestic Violence Act of 1986 (750 ILCS 60/101 *et seq.*) should, to the extent practicable, utilize the approved forms provided for such actions.

### **15.25 PRO SE COURT**

Upon entry of the parties' pro se appearances, the Presiding Judge of the Domestic Relations Division (or his or her designee) may transfer the case involving self-represented litigants to the Pro Se Court for further proceedings.

### **15.26 PERIODIC MEETINGS**

The Chief Judge, the Presiding Judge of the Domestic Relations Division, the Chairperson of the Family Law Committee of the DuPage County Bar Association, the Chairperson of the Child Advocacy Committee of the DuPage County Bar Association, or their designees, shall meet periodically as necessary to address practice and procedural changes required.

### **15.27 SELF-REPRESENTED LITIGANT ASSISTANCE CENTER**

The Self-Represented Litigant Assistance Center of the Circuit Court for the 18th Judicial Circuit, DuPage County, Illinois is established by Administrative Order. The Self-Represented Litigant Assistance Center shall be governed by Administrative Order and this Article.

#### **(a) PURPOSE OF SELF-REPRESENTED LITIGANT ASSISTANCE CENTER**

The 18th Judicial Circuit Court Self-Represented Litigant Assistance Center is designed to offer assistance to self-represented litigants by providing information on pro bono and low-cost legal services, information on legal referral services and information about mediation services, forms, and instructions on completing approved Statewide forms,

information on court procedures and help with completing limited documents in domestic relations cases.

**(b) LIMITATIONS OF SELF-REPRESENTED LITIGANT ASSISTANCE CENTER**

The Self-Represented Litigant Assistance Center cannot provide legal advice. No attorney-client relationship exists at the time a volunteer attorney assists a self-represented litigant at the Self-Represented Litigant Assistance Center. If an individual chooses to be self-represented, that individual will have the same responsibility as an attorney to follow Local Court Rules and procedures. Staff and volunteers of the Self-Represented Litigant Assistance Center are not responsible for the outcome of the litigant's case and the services provided by the Self-Represented Litigant Assistance Center is not a substitute for legal advice. Individuals represented by counsel shall not be permitted to utilize the services of the Self-Represented Litigant Assistance Center.

**(c) PROCEDURES**

(1) The Self-Represented Litigant Assistance Center has a virtual help desk that can be accessed through a link provided on the DuPage County Circuit Court website and Circuit Court Clerk website. The Chief Judge may assign a physical location for the Self-Represented Litigant Assistance Center at his or her discretion.

(2) The Self-Represented Litigant Assistance Center shall operate at dates and times as authorized by the Chief Judge and subject to the criteria established by the Presiding Judge of the Domestic Relations Division (or another Presiding Judge as assigned by the Chief Judge).

(3) The Self-Represented Litigant Assistance Center will be staffed by volunteer attorneys.

(4) The Presiding Judge of the Domestic Relations division (or another Presiding Judge as assigned by the Chief Judge) shall appoint a secretary within their division to maintain the list of attorney volunteers. The Presiding Judge may request any appropriate entity, including a professional association of attorneys to serve as the "Host" to the virtual Self Represented Litigant Assistance Center, including by providing a Zoom license (or license to a similar virtual platform), responding to technical issues with the Zoom platform, scheduling the links to the virtual meetings and soliciting volunteers to staff the Self-Represented Litigant Assistance Center

(5) Before receiving assistance from the Self-Represented Litigant Assistance Center volunteer attorney, each self-represented litigant will execute any necessary documents.

(6) All Self-Represented Litigant Assistance Center attorney volunteers must complete a training approved by the Chief Judge prior to being eligible to volunteer or provide assistance at the Self-Represented Litigant Assistance Center.