



State of Illinois  
Circuit Court of Cook County

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Associate Judge

Chicago, Illinois 60602

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**COMMERCIAL CALENDAR "U" 1907 DALEY CENTER**

**STANDING ORDER**

(updated 1 / 01/07)

This standing order supersedes all prior standing orders regarding cases pending on Calendar U of the Law Division Room 1907, Richard J. Daley Center, Chicago.

The purpose of this standing order is to establish a consistent pretrial and trial procedure to aid in the just resolution of all matters assigned to Calendar "U". If special circumstances exist warranting modification, those cases will be handled according to the specific needs presented.

**I. MOTIONS - Emergency, Routine, Default & Regular/Dispositive**

**A. EMERGENCY MOTION CALL - 9:45 A.M. - DAILY**  
**(Must be signed-up in courtroom by 9:30 a.m.)**

THE MOTION MUST BE A TRUE EMERGENCY, OR IT WILL NOT BE HEARD, AND WILL BE STRICKEN. As a general rule, an emergency motion is some circumstance which could lead to irreparable damage to a party if relief is not obtained prior to the time a party can be heard on the court's regular motion call. Motions to extend or compel discovery are not ordinarily emergencies.

**B. ROUTINE AND SPECIAL ROUTINE MOTION CALL - 9:00 A.M. TO 9:30 A.M. DAILY**

Routine motions are taken in courtroom 1907 from 9:00 A.M. through 9:30 A.M. by the court clerk. A party may object to a routine motion in writing, orally, in person or by telephone. Objections must be made either the day prior to the scheduled day or presentation or **before** 8:45 A.M. by calling Chambers. The judge does not appear on this call. Routine motions are stamped and entered by the clerk, provided proper notice was given and no objections made. **Motions on cases three (3) years or older may not be presented on the routine motion call.**

The routine motion call guidelines are contained in the Law Division Motion Judges Rules 3.0 *et. seq.* Routine motions include, but are not limited to:

1. Motions to vacate findings of technical default and for leave to file an appearance, motion, or answer;
2. Motions for leave to file *instanter* an answer to the complaint, counterclaim and interrogatories;
3. Motions for leave to file any other pleading after the time normally provided, except where already required to do so by court order;
4. Requests for leave to file within 28 days an overdue pleading or response to discovery, unless already required to do so by court order;
5. Motions for leave to file a first amended complaint or counterclaim (against one already a party);
6. Motions for leave to appear as an attorney or as additional counsel, or to substitute one attorney for another by agreement (a motion to withdraw without a substitute attorney is not a routine motion);
7. Motions for an order suggesting death of record of any party, accompanied by a certified copy of the death certificate, or for an order appointing a special administrator to continue the suit as plaintiff or defendant;
8. Motions to appoint a special process server;
9. Stipulations to dismiss all or any part of a case, except wrongful death settlements and minors' settlements;
10. Motions for voluntary dismissal by plaintiff;
11. Motions to admit an out-of-state attorney, where such motion is accompanied by an affidavit attesting to the attorney's good

- standing in the state in which he or she has been admitted to practice;
12. Petitions for the issuance of subpoenae in out-of-state cases (specific documentation is required); and
  13. Motions for certification of Report of Proceedings pursuant to Supreme Court Rule 323(b).

### **C. Special Routine Motions for Default**

Default Motions must fully comply with this standing order and Motion Judges Rule 4.2. Affidavits in support of relief sought must be based on personal knowledge of the affiant. (See Motion Judges Rules 4.2. and 4.3.) The following is required before a default will be entered:

#### **1. Notice**

The moving party must provide the opposing party with notice as mandated by Motion Judges Rule 2.1. The notice of motion should be marked "Special Routine" and indicate the time as 9:00 a.m. All parties who have been served shall be given notice, whether or not an appearance has been filed;

#### **2. Courtesy Copies**

**At least five (5) court days** prior to the date selected to present the motion, the following documents must be delivered to the Judge's Chambers:

- a. original notice of motion and the motion;
- b. copy of summons;
- c. copy of return of service, reflecting service within 30 days of summons;
- d. if applicable, order for special process server (see Section 5/2-202 of the Illinois Code of Civil Procedure);
- e. an attorney's certificate, signed by counsel, certifying that both the court file and the clerk's computer have been checked for defendant's appearance and answer. The certificate must be dated no more than ten (10) days before the date selected to present the motion;
- f. if defaulting an individual, a military affidavit.

### **3. Draft Orders**

Orders must include language that the moving party will send copies of the order for default to all parties, and:

- a. Unliquidated Damages: the order shall set the matter for prove-up of damages in Courtroom 1907. The Court will select the date for prove-up.
- b. Liquidated Damages: the order shall enter the default and award a judgment. The following documentation is required for an award of liquidated damages:
  - i. a copy of the verified complaint with exhibits, or an affidavit by the moving party establishing the judgment amount;
  - ii. an affidavit detailing the costs of suit;
  - iii. an affidavit for attorneys' fees, if applicable (see below).

### **4. Attorneys' Fees**

Attorneys' fees are recoverable only by statute or when provided for in an agreement between the parties. If attorneys' fees are recoverable, an affidavit from the attorney is necessary to establish the amount. The affidavit shall state:

- a. the nature of the services performed;
- b. the number of hours spent performing these services;
- c. the attorney's hourly rate;
- d. the year the attorney graduated from law school;
- e. a statement that the number of hours spent and the rate charged per hour is fair and reasonable, and within the normal standards of the community for the type of services performed.

ANY SPECIAL ROUTINE MOTION FOR DEFAULT THAT FAILS TO COMPLY WITH ALL OF THE ABOVE REQUIREMENTS WILL BE STRICKEN.

**D. REGULAR MOTION CALL - 9:30 A.M. AND 10:00 A.M.**  
**TUESDAYS & THURSDAYS**

This Court has been designated Motion Call U and Regular Motions shall be spindled in the Clerk's Office in room 801, on the 8<sup>th</sup> floor of the Richard J. Daley Center. Cook County Circuit Rule 2.1 and the Motion Judges Rules shall apply to all motions set on the Court's Regular Motion Call. Brief holds may be placed on a motion only until the start of the next regular call. If the moving party intends to withdraw a motion from the call, please call the case coordinator at 603-5941 prior to the hearing date to inform the Court that the motion will not be presented.

If the parties agree that they wish to have the Court consider a contested Regular Motion the first day it is presented to the Court, without a responsive memorandum, then a copy of the motion must be delivered to the Court **at least three (3) days prior to the date of presentment**. The Court may rule on the motion on the date of presentment, or enter and continue the motion for ruling on another date.

For all other contested Regular Motions, on the date of presentment, the Court will enter a briefing schedule and a Clerk's Status date. The standard briefing schedule provides 28 days to respond and 14 days to reply. **The Clerk's Status will be at 9:00 a.m. on the Monday following the date the reply to the motion is to be filed.** Any changes in a court order regarding the time for filing briefs, Clerk's Status date, or hearing dates, shall be made only upon motion.

**1. Clerk's Status.**

At the Clerk's Status, the movant is responsible for delivering to Judge McGrath's clerk in Courtroom 1907, copies of the motion, all briefs, pleadings and exhibits relevant to the motion. The clerk will then provide the parties with a hearing date, or a date upon which the Court will rule on the motion. **Hearing dates and ruling dates will be set only upon receipt of ALL briefs.** No briefs filed after the Clerk's Status will be considered without leave of Court. Failure to attend the Clerk's Status and to provide the clerk with courtesy copies may result in the motion being stricken. Non-attorneys may appear at the Clerk's Status, but should come prepared with dates responsible counsel will be available for hearing.

Any regular motion which affects discovery must be accompanied by a copy of the applicable discovery and case management orders.

NOTE THAT ALTHOUGH THE CLERK OF COURT KEEPS COPIES OF ALL PLEADINGS, THE JUDGE HEARING THE CASE DOES NOT HAVE THE COURT FILE. THEREFORE, THE MOVANT MUST SUPPLY COURTESY COPIES OF ALL PLEADINGS THAT ARE RELEVANT TO THE MOTION.

## **2. Briefs and Citations.**

a. No brief shall exceed 15 pages, double-spaced, exclusive of exhibits. Any brief filed in excess of 15 pages requires leave of Court.

b. Citations shall include citation to Official Illinois Reporters. **Reference to the Northeastern Reporter is not necessary.**

c. To the extent unreported cases are cited, either a LEXIS citation or copies of the cases must be provided The Court does not have access to Westlaw.

**3. Hearing date.** If parties or their counsel fail to appear at a hearing on a motion, the Court may rule based on the written briefs submitted, or, at the Court's option, may strike the motion.

## **II. AGREED DISMISSAL ORDERS**

If a case has been resolved by agreement, the parties do not need to appear in Court to enter the dismissal order. Instead, the parties may hand deliver an agreed dismissal order to chambers for 1907 prior to the next scheduled court date. If the agreement resolves the entire case, such an order must contain language striking all future court dates.

## **III. INITIAL CASE MANAGEMENT - THURSDAYS 9:30 & 10:00 A.M.**

Initial case management dates are set by the clerk's office. Plaintiff's counsel shall prepare and present to the Court and opposing counsel a Pretrial Memorandum no later than at the Initial Case Management Conference. Counsel with authority to act must appear on this call and be prepared to inform the Court as to the status of service of process upon each defendant,

identify the complexity of the litigation, including the type and extent of discovery required. Subsequent case management conferences will be set Monday-Friday. **Plaintiff's failure to attend the Initial Case Management will result in a Dismissal for Want of Prosecution.**

#### **IV. RULE 216 – REQUESTS FOR ADMISSION**

Rule 216 Requests for Admission are generally not efficient first-wave discovery tools. Their primary function is not to unearth information, but to simplify issues for trial. See *P.R.S. Int'l v. Shred-Pax Corp.*, 184 Ill.2d 224, 237 (1998). That can often be done more fairly and efficiently through stipulations. Accordingly, and to prevent abuses of the Rule 216 procedure:

**A. Necessary Showing.** A party arguing that facts have been admitted under Rule 216 due to a failure to timely deny them must show, with at least the specificity appropriate to a Supreme Court Rule 201(k) certification, that (i) before serving the Rule 216 request, the requesting party attempted in good faith to negotiate with the responding party a stipulation regarding the subject matter of the requests, *and* (ii) after the failure of those attempts, the requesting party advised the responding party, in writing, that Rule 216 requests would be forthcoming.

**B. Limitations on number.** In order to avoid undue harassment and burden on a responding party, a party shall not serve a request to admit more than 30 facts, or a request to admit the genuineness of more than 10 documents, without first obtaining leave of Court. If a request to admit facts or the genuineness of documents is served that exceeds these numbers, the responding party need only respond to the first 30 facts requested to be admitted and to the first 10 documents the genuineness of which are requested to be admitted. Unless by agreement of the parties or with prior leave of Court, the Court will ordinarily consider serving more than thirty requests to admit (including subparts) to be “good cause” for extending the time to respond under Supreme Court Rule 183, before or after it has expired.

A motion for leave of Court to serve a request to admit more than 30 facts, or to serve a request to admit the genuineness of more than 10 documents, must be in writing and shall set forth the additional facts requested to be admitted and the documents the genuineness of which are requested to be admitted, and shall set for the reasons establishing good cause for these additional requests to admit.

C. **Responses.** Parties responding to Requests for Admission shall set forth each specific request to which they are responding, immediately preceding each response.

## **V. PRO SE**

A party who represents himself or herself (a corporation cannot represent itself and must appear through an attorney) is referred to in legal terms as a “*pro se* party.” A party’s *pro se* status affords him or her no special status, and he or she must comply with the established rules of court procedure, including the rules regarding how to plead found in the Illinois Code of Civil Procedure, 735 ILCS 5/2-601, and the Illinois Supreme Court Rules, Rules 131 through 137. These laws can be found in the library of the 29<sup>th</sup> floor of the Richard J. Daley Center. The judge cannot provide legal advice to the *pro se* litigant, nor is the lawyer for the opposing party required to advise a *pro se* party. The judge has a list of free and low-cost lawyers which it will provide to litigants, upon request.

## **VI. PRE-TRIAL SETTLEMENT CONFERENCES**

The Court encourages all parties to explore settlements or mediations (see below) of their cases. In most circumstances, these result in a more satisfactory resolution of the dispute, at a much lower cost. If the Court can assist the parties in their settlement negotiations at any stage of the pre-trial process, it stands ready to do so. Request for a pretrial may be made at any time, orally or in writing. A pre-trial may also be scheduled through Judge McGrath’s case coordinator, Mark Miller, by phone at 603-5941, or by e-mail (preferred), at [mamille@cookcountygov.com](mailto:mamille@cookcountygov.com). Plaintiff’s counsel and counsel for all parties with claims shall submit an updated pre-trial memo which sets forth the issues, the damages, the status of settlement negotiations and any additional information which will help the Court hold a meaningful pre-trial conference. Memos should be distributed to the Court and opposing counsel two (2) days prior to the conference. For settlement purposes, counsel are expected to have authority to settle the case or have the adjuster and/or clients present in court or available by telephone. **PLAINTIFF MUST HAVE MADE A GOOD FAITH SETTLEMENT DEMAND (i.e. less than the Plaintiff is seeking in its lawsuit) AND DEFENDANTS MUST HAVE MADE GOOD FAITH SETTLEMENT OFFERS (i.e. more than a nuisance value) BEFORE A PRE-TRIAL SETTLEMENT CONFERENCE WILL BE HELD.**

## **VII. MEDIATION (Circuit Court of Cook County Rule 20)**

Any Law Division case, irrespective of its filing date, procedural posture or discovery status, may be submitted for voluntary mediation. Mediation is a confidential process by which a neutral mediator, selected by the parties or selected by or with assistance of the Court, assists the litigants in reaching a mutually acceptable agreement. The role of the mediator is to assist the parties in identifying issues, reducing misunderstandings, exploring and clarifying the parties' respective interests and priorities, identifying and exploring possible solutions that will satisfy the interests of all parties and thereby resolve some or all of the issues in dispute. The parties and their representatives are required to mediate in good faith, but are not compelled to reach any agreement.

The Court may order any contested matter pending in the Law Division to mediation by entering an Order of Referral. An Order of Referral may be entered *sua sponte* or upon the motion of any party. Further, the parties may file a written stipulation to mediate any case or issue between them at any time and such shall be incorporated into the Order of Referral.

Please refer to Circuit Court of Cook County Rule 20 for further information regarding this process.

## **VIII. FINAL PRE-TRIAL CONFERENCE**

When a trial date is set, the Court will also set a date for the final pretrial conference. The final pretrial conference will usually be set approximately two (2) weeks prior to the trial date. At the final pretrial conference, the Court will conduct settlement discussions; review trial materials previously submitted; and rule on motions *in limine*, evidence depositions and exhibits. TRIAL COUNSEL MUST APPEAR AT THE FINAL PRETRIAL CONFERENCE unless previously excused by the Court. Failure to appear or to present trial materials by the due date may result in dismissal for want of prosecution, entry of an order of default, or other appropriate sanction.

The parties are reminded that they must provide their own court reporter in they wish to have a court reporter present.

At least five court days before the Final Pre-Trial Conference, each party must submit the following trial materials to chambers (1907). Certain materials must be jointly prepared so the parties are encouraged to meet in advance in order to comply. Separate trial materials should be submitted on matters the parties are unable to agree upon.

**A. Jury Trial** – Trial materials shall include the following:

1. Trial Days. The estimated number of trial days.
2. Statement of the Case. A jointly prepared **brief** statement of the case to be read to the venire. It should not go into great detail. Counsel for all parties must attempt to agree on the proposed statement of the case. If the parties are unable to agree, each must submit their own proposed statement of the case for use in jury selection, but agreement of all parties is expected.
3. Statement of Stipulated Facts. A statement of all facts stipulated to between the parties. If the stipulation is by way of admission pursuant to S.Ct. R. 216, Requests to Admit, the request(s) and response(s) should be included.
4. Exhibit Lists. A complete and jointly prepared list of all exhibits each party intends to use at trial or offer in evidence. All exhibits shall be listed according to the number that the party offering them intends to use at trial. Opposite each exhibit, the party preparing the memorandum shall indicate if a stipulation has been entered into regarding authentication of the exhibit or if foundation testimony for its admission has been waived. Additionally any objections should be noted. In the event of objections, the nature of the objections must be noted, *i.e.*, foundation, relevance, motion *in limine*, etc. **In the event a party fails to do so within the requisite time period, foundational objections may be deemed waived at trial.**
5. Witness Lists. A list of all potential witnesses expected to be called by each party. If evidence depositions are to be used, the parties should prepare and make copies of the transcripts so that the Court can rule on objections at the final pretrial conference.
6. Motions *In Limine*. Copies of each party's motions *in limine*, with supporting case law.
7. Rule 237. It is expected that each party desiring materials or witnesses at trial will serve the opposing party with timely Rule 237 notices so that the requests can be discussed between counsel **prior to preparation of the final pretrial materials.**

8. Jury Instructions. Two copies of proposed jury instructions (one marked and the other unmarked), which are to be sorted in the order of their numbering under the IPI system. The plaintiff will have the initial burden of proposing jury instructions and shall provide a copy of its proposed instructions to the defendant at least 10 court days before the Final Pre-Trial Conference. The defendant shall provide copies of its additional instructions to the plaintiff at least five court days before the Final Pre-Trial Conference.

**B. Bench Trial** – Trial materials include all items except 2 and 8 (above), as well as a memorandum of law summarizing the party’s respective legal theories of their positions at trial, with citations to cases.

## **IX. TRIAL**

**A. Trial dates** are firm, and requests for extensions are not encouraged. Trials may be advanced or continued a few days, according to the Court’s schedule. If another case is set for trial on the same date, it is within the Court’s discretion as to which case shall proceed and whether to hold the other case(s) for trial to the next available date, or assign it out to trial before another judge sitting in the Law Division.

**B. Voir Dire Procedure**.

1. The Court will fill both rows of the jury box with potential jurors and will allow attorneys to question jurors, and will swear in jurors, in panels of four.<sup>3</sup> The potential juror sitting in the far right seat in the front row (from the attorneys’ perspective) is in position 1; the potential juror sitting to the immediate left is in position 2; the potential juror in the far right seat in the back row is in position 3, and the potential juror sitting to the immediate left is in position 4. As potential jurors are excused from positions 1 and 2, the Court will have the potential jurors in the front row move down accordingly, and will have the potential jurors in the back row do the same as potential jurors are excused from positions 3 and 4.

2. The Court will ask the potential jurors a number of questions and will then turn over questioning to the parties. Pursuant to amended Supreme Court Rule 234, the Court shall permit the

parties to make reasonable inquiry into the qualifications of prospective jurors to determine bias or prejudice. As per the Rule, the nature of the questions and the time allowed will be limited based on the complexity of the case and the nature and extent of the damages. The following rules shall apply to the types of questions permitted:

- a. Questions shall not directly or indirectly concern matters of law or instruction;
- b. Questions already asked by the Court shall not be repeated;
- c. Questions directly or indirectly implying the existence of insurance shall not be permitted;
- d. Questions placing the potential juror in the position of any of the parties as to liability or damages shall not be permitted;
- e. Questions leading to the indoctrination or pre-education of jurors toward a specific theory, defense, witness or evidentiary point are prohibited.

VIOLETIONS OF THE ABOVE RULES MAY RESULT IN THE TERMINATION OF COUNSEL'S RIGHT TO FURTHER QUESTIONING.

ENTER:

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Brigid M. McGrath, #1800  
Associate Judge