

**CIRCUIT COURT OF COOK COUNTY, CHANCERY DIVISION  
RICHARD J. DALEY CENTER, COURTROOM 2601 - 312.603.5415  
CHICAGO, IL 60602  
CALENDAR 2 - JUDGE RAYMOND W. MITCHELL  
STANDING ORDER  
Amended – May 7, 2018**

Calendar 2 procedures set out in this order must be followed unless a signed order provides otherwise. Please note, the court does not provide a court reporter. Also, public case files are generally not available for court hearings, which necessitates that a courtesy copy of any filing for the court's review be provided. Suggestions to improve these procedures are welcome and should be directed to Chamber Staff at 312.603.5415. The Standing Order has been changed when an "amended" date is provided.

**AGREED / ROUTINE / PROVE-UP MOTIONS - 10:15 a.m. (Mon. thru Thur.)**

Agreed, Routine, and Prove-up motions do **not** require an appearance in open court. Motions captioned "Agreed," "Routine," or "Prove-up" must be accompanied by draft orders. A party objecting to a motion filed as "Routine" must give notice to the movant, either orally or in writing, before the date of presentment. Upon timely notice of an objection, the movant of the motion labeled routine must spindle the motion. If a routine motion is granted in the face of a timely objection, the opposing party must spindle an appropriate motion, which may include a request for sanctions. For examples of motions generally considered routine, see Calendar 9 Standing Order, Part I., Section E. Generally, draft orders will be ready for pick-up by noon of the following business day.

**EMERGENCY MOTIONS / REQUESTS FOR TEMPORARY  
RESTRAINING ORDERS - 10:00 a.m.**

Emergency Motions and requests for Temporary Restraining Orders must be delivered to Chamber Staff on the day of filing to obtain a

prompt hearing date. Chamber Staff will set a hearing date and time to permit adequate notice to the opposing party, unless movant can demonstrate immediate harm and injury will result before notice can be given. Motions claiming an “Emergency” will be scrutinized. An emergency is usually something not reasonably foreseeable or avertable from which irreparable harm will result if relief is not provided. An impending due date almost always will not give rise to an emergency. See SCR 183, which permits the court to extend time, upon good cause, for “the doing of any act, which is required by the rules to be done within a limited period, either before or after the expiration of the time.” A motion improperly labeled an “Emergency” may trigger award of costs, including attorney fees, to the opposing party.

### **REGULAR MOTIONS - 10:15 a.m. (Mon. thru Thur.)**

Regular Motions must be spindled thru Chancery Clerk’s office. Notice of motion must be provided as mandated by SCR 11(b)(4) / Cook County Circuit Court Rule 2.1(c)(i). Regular motions are not heard on Fridays, which are reserved for Clerk Status and set matters. Please drop off a file-stamped courtesy copy of the notice and motion in the basket outside the courtroom on the date the motion is filed to ensure that the motion will be heard on the scheduled date.

### **CASE MANAGEMENT CALL - 10:00 or 10:30 a.m. (Mon. thru Thur.)**

Cases are heard pursuant to SCR 218. Whether set by court order or by “postcard” sent by Clerk of Court, counsel (including a *pro se* litigant, that is any individual acting as his or her own attorney) must appear at each status hearing. Cases remain subject to SCR 218 until a trial date is set. Failure of counsel or *pro se* litigant to appear may result in the dismissal of the case for want of prosecution, a default of the missing party, or other sanction.

## **BRIEFING MOTIONS--**

***Courtesy Copies.*** Movant is responsible for delivering to chambers a *complete set of courtesy copies* including the motion and all related briefing, transcripts, complaint (or other pleadings), and all exhibits referred to in any pleadings. Courtesy copies may be placed in the tray on the table outside the courtroom. Courtesy copies should be delivered on the same day that the reply brief is filed.

***Length of Briefs and Motions.*** No motion, movant's brief or response brief shall exceed *fifteen (15) double-spaced pages with 12 pt. font and 1 inch margins* (exclusive of exhibits). No reply brief shall exceed *seven (7) pages*. Oversized briefs are disfavored and require leave of court. No surreplies will be permitted.

***Binding and Voluminous Exhibits.*** On the judge's courtesy copies, the papers must be securely fastened by a staple or binding on the left side. Binder clips are not acceptable. Exhibits exceeding 80 pages in length should be bound separately from the brief or motion.

***Ruling Date.*** Please note that courtesy copies are due on the same day as the reply brief. If after reviewing the briefing, the judge determines that a hearing would be helpful, the Court will set a hearing date in consultation with counsel. Scheduling will typically be done by email. Many motions, however, will be disposed of in a written order without a hearing, and counsel will be sent a copy of the order by email. Every effort is made to dispose of a motion on or before a Ruling Date, but depending on the Court's workload, a Ruling Date may be extended.

***Modification to Briefing Schedule.*** The Court will grant a reasonable request to extend a briefing schedule provided that the proposed modification does not affect a scheduled trial date. To the extent possible, the parties should confer and agree on a proposed modified schedule.

If the modified schedule is agreed, the parties must (1) advise the Court's law clerk by phone ((312) 603-5415); and (2) submit a proposed order as an email attachment to the following email address:

Proposed.Order.Calendar2@gmail.com

The subject line of the email must include the case number and name, and the title of the order that is proposed. All such documents must be submitted in Word format. All counsel of record and self-represented litigants must be copied on the email.

In those rare instances when the parties are unable to agree on a modified schedule, the party requiring the extension will need to spindle a motion.

## **TRIALS & EVIDENTIARY HEARINGS—**

Trial dates are firm. Continuances will rarely be granted and only for good cause — usually involving serious illness (or death) of counsel, a party, or necessary witness. A motion for continuance should be brought as early as possible and should be supported by an affidavit.

If your case should settle after a trial date has been scheduled, please advise the Court's law clerk by email (Proposed.Order.Calendar2@gmail.com) or phone ((312) 603-5415) at your earliest convenience.

## **DISPOSITIVE MOTIONS—**

Unless otherwise specified by order, dispositive motions shall be *presented* no later than 90 days before trial.

## **DISMISSAL & AGREED ORDERS—**

An order of dismissal may be delivered to the courtroom or submitted by email at any time. If submitting such an order by email, counsel

must (1) advise the Court's law clerk by phone ((312) 603-5415); and (2) submit a proposed order as an email attachment to the following email address:

Proposed.Order.Calendar2@gmail.com

The subject line of the email must include the case number and name, and the title of the order that is proposed. All such documents must be submitted in Word format. All counsel of record must be copied on the email. Agreed orders may also be submitted for consideration by email.

## **TRIALS—**

The parties must exchange proposed trial materials at least 14 days before trial. Each party must submit trial materials to the court not less than 3 days before the scheduled trial date.

Trial materials must include:

- (1) an exhibit list, which identifies each exhibit and whether there is a stipulation as to foundation;
- (2) a submission of stipulated facts or SCR 216 admitted facts;
- (3) a list of contested factual questions and legal issues;
- (4) any motions *in limine* (such motions will be taken up on the first day of trial unless an earlier ruling on a crucial motion might assist the parties in settling the case);
- (5) full transcripts of any evidence depositions, with each marked to identify portions that will be offered at trial;
- (6) a witness list; and
- (7) discovery responses of any opinion witness, which satisfy the proponent's burden that the proposed testimony is in compliance with SCR 213.

Trial dates are firm. Requests for continuances are disfavored. *See* SCR 231.

## **SETTLEMENT CONFERENCES –**

Requests for a pretrial / settlement conference may be made by the parties upon motion or orally at a status date. Before a pretrial conference is held, each party must submit a short memorandum setting forth the nature of the claims or defenses. At the pretrial conference, the court may also entertain matters in preparation for trial, including setting a firm trial date. Failure to appear at a pretrial conference may result in dismissal for want of prosecution, an order of default, or any other appropriate sanction. Counsel appearing at a settlement conference are expected to have authority to settle the case and have the client present in court or be available by telephone. All settlements must be reduced to writing at the time settlement is reached.

## **DISCOVERY DISPUTES –**

Generally, motions regarding discovery disputes must be presented at the Regular Motion call. Counsel should keep in mind: Discovery rules “contemplate that discovery will generally proceed without judicial intervention,” with most discovery disputes “resolved by counsel themselves.” *Williams v. A.E. Staley Mfg. Co.*, 83 Ill. 2d 559, 563 (1981). SCR 201(k) requires a showing that “counsel responsible for the trial of the case” have personally attempted to resolve the dispute. Accordingly, trial counsel is required to present or oppose any contested discovery motion. If a party’s position regarding a discovery dispute is found to be unreasonable, the court will ordinarily order the offending party to pay the costs of the motion. See SCR 219(c). Privilege claims in opposing discovery must be supported by a privilege log. See SCR 201(n). “The burden of establishing the applicability of a discovery privilege rests with the party seeking to invoke the privilege.” *Chicago Trust Co. v. Cook County Hospital*, 298 Ill. App. 3d 396, 401 (1998). Claims of privilege not in compliance with SCR 201(n) may trigger a sanction. See SCR 219(c).

## **RULE 216 REQUEST FOR ADMISSION OF FACT –**

“[R]equests to admit must be limited to questions of fact.” *P.R.S. Int’l v. Shred-Pax Corp.*, 184 Ill. 2d 224, 237 (1998). “[T]he purpose of admissions is \*\*\* to establish some of the material facts in a case without the necessity of formal proof at trial. Requests to admit are a device by which to separate the wheat from the chaff and are intended to circumscribe contested factual issues in the case so that issues [that] are disputed might be clearly and succinctly presented to the trier of facts.” *Id.* (Internal quotation marks omitted). As has been observed, a Rule 216 request to admit is not an efficient first-wave discovery tool. Stipulations are favored over proof of facts admitted under Rule 216.

## **AFFIDAVITS IN SUPPORT OF DISPOSITIVE MOTIONS –**

An affidavit must be grounded on the personal knowledge of the affiant, supported by material facts, particularly set out in the affidavit, and admissible in evidence by the affiant’s testimony. Documents submitted in support of a dispositive motion must be sworn to or certified. “If all of the facts to be shown are not within the personal knowledge of one person, two or more affidavits shall be used.” SCR 191.

## **PROVE-UPS –**

Generally, following the entry of an order of default, prove-ups should proceed by way of affidavits, which conform to the Law Division Motion Judge’s Rules, and any other supporting documentation, such as the verified complaint. A draft judgment order must be submitted by the movant, specifying the precise relief awarded. To warrant relief, materials submitted must establish a *prima facie* case entitling the party to affirmative relief. See 735 ILCS 5/2-1301(d). Prove-ups may be scheduled for submission at the Routine Motion call at 10:00 a.m., with drop off two days in advance and pickup in the afternoon of the scheduled date.

## **MOTIONS TO RECONSIDER –**

Motions to reconsider are not favored. “The intended purpose of a petition to reconsider is to bring to the court's attention (1) newly discovered evidence which was not available at the time of the first hearing, (2) changes in the law, or (3) errors in the court's previous application of existing law.” *Gardner v. Navistar Int’l Transportation Corp.*, 213 Ill. App. 3d 242, 248-49 (1991). A motion to reconsider is not a second bite at the evidentiary apple and usually does not provide a separate and distinct issue, from the original ruling, for review by the appellate court. *See Farley Metals v. Barber Coleman Co.*, 269 Ill. App. 3d 104, 116 (1994).

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Judge Raymond W. Mitchell