

STANDING ORDER
Calendar 14 – Mediation/Pretrial
Effective March 2021

Daniel Malone, Acting Presiding Judge
Room 1803, Daley Center
50 W. Washington St.
Chicago, IL 60602
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I. Purpose

a. In an effort to provide an expeditious and cost saving alternative to litigation, the Probate Division is offering two types of mediation: a mediation pursuant to Circuit Court of Cook County Rule 24 conducted by a private mediator with Court oversight; and a mediation done on Calendar 14 by Judge Malone. The procedures for Rule 24 mediations will not change and will remain in effect.

b. Calendar 14 is the Probate Division's mediation/pretrial calendar. Mediation and pretrial settlement conferences are held by appointment and only upon agreement by all parties. Any judge may order the following matters pending in Probate to mediation by entering a Transfer Order: (1) Decedents Estates; (2) Minor Guardianship; and (3) Adult Guardianship after a finding of adjudication has been entered.

c. Calendar 14 gives the parties an opportunity to settle their case without prolonged litigation. Accordingly, it is important for attorneys to inform their clients as to the purpose and goal of mediation or pretrial. This discussion can include the cost benefits and time saved by mediation as opposed to a trial.

i. To facilitate mediation or pretrial, the Parties should complete discovery needed to have a meaningful session before they request mediation. Parties shall also have all pertinent documents and information available at the mediation.

ii. All parties in interest must participate in good faith. Until court reopens, their appearance is required via Zoom or telephone with authority to settle.

d. Mediations shall be conducted in accordance with Illinois Uniform Mediation Act the "Mediation Act"). See generally 710 ILCS 35/1 *et seq.* Parties should review the Mediation Act prior to the session to ensure they understand the confidentiality of the proceedings, the exceptions to confidentiality, and the admissibility of disclosures during a mediation.

i. To ensure that the session(s) remain confidential, all parties are prohibited from recording the session in any medium. Court reporters are also barred from participating in the mediation or pretrial.

II. Mediation Procedures

a. Mediation conferences are held by appointment and only upon agreement of all parties. Cases can be sent to Calendar 14 for mediation on the court's own motion, by stipulation, or by motion of one of the parties using a Transfer Order from the original Calendar to Calendar 14.

b. Once the case is properly transferred to Calendar 14, Judge Malone or his assistant will contact the attorney(s) listed on the Transfer Order to schedule an initial conference.

c. The initial conference shall consist only of attorneys. Parties will **not** attend the initial conference unless the party is a self-represented litigant. The initial conference shall take place at 10:00 AM or at 2:00 PM. At the conclusion of the initial conference, one of the parties shall prepare an order setting a mediation date.

d. Both attorneys and clients shall attend the mediation and may join Zoom together or on separate screens.

i. A session may be scheduled for an afternoon or a whole day. Mediations scheduled in the afternoon will be from 2:00 PM to 4:30 PM. Sessions scheduled for a whole day will be from approximately 10:00 AM to 12:00 PM and 2:00 PM to 4:30 PM.

e. Depending on the outcome of the mediation or pretrial, Judge Malone may instruct the attorneys to prepare an order as follows: (1) schedule another mediation; (2) transfer the case back to the original Calendar judge; or (3) draft a settlement agreement and a discharge order.

III. Courtesy Copies

a. The court approved mediation memorandum form shall include a recitation of the: (1) facts and procedural history; (2) legal issues pending; (3) a brief argument in support of the parties' legal position; and (4) a recommended compromise. The memorandum shall **not** be E-filed.

b. Any other documents that the parties intend to use during the mediation shall be attached as exhibits to the memorandum. If the mediation memorandum and attached exhibits do not exceed 25 pages, the document may be emailed to Judge Malone at Daniel.malone@cookcountyil.gov at least 5 days in advance of the scheduled mediation.

c. If the memorandum form and exhibits exceed 25 pages, the parties shall deliver courtesy copies of the memorandum form and exhibits to all parties and the Court at least (5) business days in advance of the scheduled mediation.

d. Courtesy copies to the Court shall be sent by mail, federal express, or hand delivered to the 18th floor of the Daley Center.

i. The postage shall be labeled as follows:

Judge Daniel Malone
Probate Division, Calendar 14
50 W. Washington St., Room 1803
Chicago, IL 60602

IV. Pretrial Procedures

a. Pretrial settlement conferences are held by appointment and only upon agreement by all parties. Conferences should be scheduled by contacting Judge Malone's assistant, Joseph Fleming at (312) 603-7546. Counsel should be prepared to provide several dates upon which the parties are available to facilitate the scheduling process. No later than five (5) days prior to the conference, the parties must submit to the Court via email: Daniel.malone@cookcountyil.gov unless exhibits exceed 25 pages. Any exhibits in excess of 25 pages shall be hand delivered no later than 5 days or mailed to Judge Malone via FedEx or UPS at the Daley Center, Room 1803 Chicago, IL, 60602, with copies to all other parties, a Court approved Pretrial Memorandum form including the issues in dispute (legal and factual), the bases for relief sought, recommendations for compromise on all issues, and the status of settlement negotiations. The memorandum form should also include any information and exhibits that the parties, after consultation and agreement, believe would assist the Court in resolving the matter.

V. Accessing the Zoom Meeting

e. Due to COVID-19, Judge Malone will utilize an individual Zoom Account through which he will conduct mediations and pretrials for Calendar 14.

f. The meeting ID will remain the same for Calendar 14 on each day. The meeting ID for Calendar 14 is as follows:

<u>Calendar</u>	<u>Judge Name</u>	<u>Zoom Meeting ID</u>	<u>Meeting Password</u>	<u>Zoom Link</u>
Calendar 14	Daniel B. Malone	824-9860-4014	935124	Click here

g. Participants will not be allowed to enter the meeting until the Host joins the meeting. The Host may be Judge Malone, a Probate Division staff member, or an extern. Participants can join the meeting (call) 15 minutes prior to the beginning of the court call.

h. The Zoom meeting can be accessed by computer, smartphone, or telephone:

i. To join the meeting by computer, go to www.zoom.us. At the top of the screen, click "Join a Meeting". In the pop-up box that appears, enter the meeting ID number. Click Join. After clicking Join, you will be prompted to enter the meeting Password. After entering the meeting password, you will join the meeting.

i. To join the meeting by smartphone application (app), search for "zoom.us" in your smartphone's app store. From the search results, download and open the app entitled "ZOOM Cloud Meetings". Accept the Terms and Conditions. Tap the blue button entitled "Join a Meeting". Enter the meeting ID number, the session ID number, and click Join. After clicking Join, you will be prompted to enter the Password. After entering the meeting password, you will join the meeting

ii. To join the meeting via telephone, dial (312) 626-6799 and enter the meeting ID number. You will then be asked for the password, which you should enter and press pound (#). Finally, you will be asked for the "session ID number". There is no session ID number, so simply press pound (#). Upon pressing pound (#), you will be allowed into the meeting.

i. Upon joining, participants will be placed in the "Waiting Room" and will remain there until they are checked in by the Host or the Co-Host.

j. After the meeting one of the parties must submit an order to Judge Malone via email at Daniel.malone@cookcountyil.gov

VI. Questions or concerns

a. If you have any problems accessing the Mediation or Pretrial within 15 minutes of the hearing, send an email to Amanda Tagliarino at amanda.tagliarino@cookcountyil.gov and to Joseph Fleming at joseph.fleming@cookcountyil.gov with "URGENT: Mediation or Pretrial" in the subject line. In the body of the email, include your name, case number, phone number, and the problem you are having. You will be contacted to facilitate your access to the meeting.

b. If attorneys and self-represented litigants have questions regarding the Probate Division or these Instructions, please contact the administrative assistant, Joseph Fleming, at (312) 603-7545 or (312) 603-7546.

3-23-21

Date



Daniel B. Malone
Acting Presiding Judge
Probate Division