

**ARTICLE 6: CONFERENCES, PLEADINGS, AND MOTIONS**

**6.01 CASE MANAGEMENT AND SETTLEMENT CONFERENCES**

(a) Case Management Conference

(1) In all cases designated L (\$50,000 & above), LM (\$0 to \$50,000), SC (up to \$10,000), CH, MR, TX, MC, or ED, the Clerk of the Court shall, on the date of filing, assign an automatic case management conference date to the case within 90 days from the date of filing. The Clerk shall affix notice of said date to the original pleading and to copies of said pleading to be served on the opposing party. Case management dates shall not be set during scheduled jury weeks.

(2) In the event an automatic case management conference falls on a date when the Court is not in session, the case will be set for the next court date.

(3) Failure of the parties or their counsel to appear on an automatic case management conference date may result in dismissal for want of prosecution, default and/or other sanctions.

(4) In all cases subject to Supreme Court Rule 218, the attorneys for the parties with the responsibility for trial of the case, shall, prior to the automatic case management conference and each conference thereafter, confer regarding matters set forth in Supreme Court Rule 218.

(5) Failure to comply with Supreme Court Rule 218, local rules, or court orders pertaining to case management may result in sanctions being imposed against a party and/or attorney.

(b) Initial Case Management Exemptions

The following case categories are excepted from the “Initial Case Management Conference” requirement under Supreme Court Rule 218(a):

- (a) Adoption (AD)
- (b) Family (F)
- (c) Mental Health (MH)
- (d) Miscellaneous Remedy (MR)
- (e) Municipal Corporation (MC)
- (f) Order of Protection (OP)
- (g) Ordinance Violation (OV)
- (h) Probate (P)
- (i) Small Claims (SC)
- (j) Tax (TX)

(c) Settlement Conference

(1) In the event a settlement conference is held, the attorney for the plaintiff and the attorney for the defendant shall prepare a pretrial memorandum and shall deliver a copy to the Judge and to counsel of record at the time of the settlement conference. At the settlement conference the attorneys present shall:

- (a) be familiar with the case; and
- (b) be authorized to act in furtherance of the settlement conference; and
- (c) have ascertained in advance the extent of authority given by their client to act in furtherance of settlement.

(2) Failure to abide by this Rule may result in sanctions.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

**6.02 CLERK’S NOTICE: DISMISSAL FOR WANT OF PROSECUTION**

Within 10 days of the entry of an order of dismissal for want of prosecution the Clerk of the Court shall, in deference to all pro se parties and all attorneys of record, send notice of the dismissal to the last known address indicated in the file by regular mail and place of record a certificate of mailing.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

**6.03 DISMISSAL FOR LACK OF ACTIVITY**

If a case assigned to the Civil Division is pre-judgment and has no future court date, the Clerk of Court shall notify the Judge assigned to the case. The court shall then set a date for the appearance of counsel and any parties not represented by counsel. The case may be dismissed if counsel fails to appear on the date scheduled by the court. If the case is dismissed pursuant to this rule, notice shall be provided as stated in Rule 6.02.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

**6.04 PLEADINGS TO BE READILY COMPREHENSIBLE**

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

(b) If incorporation of facts by reference to another pleading or to another part of the same pleading permitted by Supreme Court Rule 134 will render a pleading not readily comprehensible, the facts shall be re-alleged verbatim.

(c) Where necessary, the Judge assigned the case may order consolidation of the pleadings into one finished comprehensible set.

(d) Nothing in Rule 6.04 shall be applied in such a manner as to abridge or conflict with 735 ILCS 5/2-603 Code of Civil Procedure.

(e) All pleadings wherein money damages are requested for matters other than injury to the person shall be specific as to the dollar amount claimed. (735 ILCS 5/2-604, eff. 7/25/03).

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **6.05 MOTIONS GENERALLY**

(a) Every motion shall identify in its title or introductory paragraph the particular relief sought together with the section of the Code of Civil Procedure pursuant to which the motion is brought.

(b) Pleading motions shall not be combined with fact motions except as permitted by 735 ILCS 5/2-619.1 of the Code of Civil Procedure. Improperly combined motions may be stricken by the court without hearing.

(c) No motion may be heard unless previously scheduled for hearing on the Court's calendar. This rule does not apply to genuine emergency motions.

(d) The notice of hearing shall designate the Judge to whom the motion will be presented, state the title and case number of the action, and set forth the date and time the motion will be presented and the courtroom in which it will be presented. A copy of the motion, any papers to be presented with the motion, and proof of service shall be served with the notice.

(e) The following times of notice shall be observed:

- (1) Notice by personal service shall be made by 4:00 p.m. at least two court days before the scheduled hearing.
- (2) Notice by mail shall be deposited in a U.S. Post Office at least five court days before the scheduled hearing.
- (3) Notice by fax shall be completed by 4:00 p.m. at least three court days before the scheduled hearing.

(f) Service by fax will be effective only if at the presentation of the motion the movant produces an affidavit setting forth the date and time of service, the telephone number to which the notice was transmitted, a statement that the receipt was confirmed, and an assertion that Supreme Court Rules 131(d), 11, or 12 pertaining to fax service was followed. Fax notice and transmissions will not be considered valid or permitted where the opposing party/counsel does not have a fax machine.

(g) The burden of calling for hearing/setting any motion previously filed is on the party making the motion.

(h) Any motion not called for hearing/setting within 60 days from the date it was filed may be stricken without notice. Any motion not presented or supported by the moving party when called for hearing upon notice may be denied.

(i) The motion and notice of the motion shall be filed with the Clerk of Court at least 3 business days in advance of the scheduled hearing, or the Court may decline to hear said motion.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **6.06 PARTICULAR MOTIONS**

(a) All case or claim dispositive motions, other than those arising during trial, will be filed and noticed for setting no later than 120 days before the designated trial date except by leave of court upon good cause shown.

(b) All motions for leave to file counterclaims, actions over, contribution actions and third party complaints must be filed no later than 60 days before the designated trial date. No such filing will be construed to compel the court to continue the trial date or impair the Court's authority to sever such actions.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **6.07 CONTESTED MOTIONS**

(a) Any motion which is opposed may be heard at the end of the Court's call or at such other time designated by the Court.

(b) Any writing in support of or in opposition to a motion will be filed and served upon the opposing party.

(c) No writing in support of or in opposition to a motion will exceed 10 pages in length except by prior leave of court.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **6.08 MOTIONS FOR SUBSTITUTION OF JUDGE**

(a) Motions for substitution of a Judge as a matter of right in civil cases [735 ILCS 5/2-1001(a)(2)] will be filed with and heard by the Judge to whom the case is assigned.

(b) Motions for substitution of a Judge as a matter of right must be filed not later than 60 days before the designated trial date except where the Judge to whom the case was originally assigned is succeeded by another Judge within 60 days of trial.

(c) Motions for substitution of a Judge for cause in civil cases [735 ILCS 5/2-1001(a)(3)] will be filed with the Judge to whom the case is assigned, but transferred to the Presiding Judge for the sole purpose of hearing the motion to substitute for cause.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **6.09 MOTIONS FOR CONSOLIDATION OF CASES**

(a) Motions for consolidation of cases will be brought on notice to all parties of record in all cases involved in the proposed consolidation.

(b) Unless good cause is shown, cases will be consolidated into the oldest case.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **6.10 EMERGENCY MOTIONS AND EMERGENCY RELIEF**

(a) Application for Emergency Relief. If genuine emergency relief is required, application will be made to the assigned Judge. If the assigned Judge is unavailable, application will be made to any Judge. If no Judge is available, then application will be made to the Chief Judge or to a Judge designated by the Chief Judge.

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

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

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

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **ARTICLE 7: DISCOVERY**

### **7.00 GENERAL PROVISIONS**

(a) The sequence of discovery will comply with Supreme Court Rule 201. The obligation to comply with and complete discovery will not depend on the opponent's compliance unless otherwise ordered by the Court.

(b) All discovery will be completed no later than 60 days before the trial date unless otherwise authorized by the Court or agreed by counsel.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **7.01 DISCOVERY DOCUMENTS**

(a) Depositions, interrogatories, document requests, responses thereto, and other discovery documents will not be filed with the Clerk of Court (Supreme Court Rule 201), except as permitted by (b) or (c) below or pursuant to Supreme Court Rule 207. Requests to admit and responses thereto may be filed.

(b) Discovery documents may be filed as necessary in support of motions or as otherwise ordered by the Court.

(c) Proof of Service of discovery and responses thereto may be filed with the Clerk of the Court and upon filing will be prima facie evidence that such documents were served or answered.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **7.02 MOTIONS RELATING TO DISCOVERY**

(a) Motions to Compel compliance with discovery rules or orders will be scheduled to assure hearing prior to any date(s) that may be affected by said motion.

(b) Motions requesting relief from discovery rules or orders will be scheduled to assure hearing prior to any date(s) that may be affected by said request.

(c) Failure to bring timely motions may preclude relief.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **7.03 PHYSICIAN AND EXPERT FEES**

(a) In the instance of a conflict concerning reasonable compensation of a physician required to attend a deposition pursuant to Supreme Court Rule 204(c), or concerning the reasonable fee of an expert witness subpoenaed to appear at trial pursuant to the 735 ILCS 5/2-1101, Code of Civil Procedure, a petition seeking a ruling on the reasonableness and a response thereto will set forth under oath to the extent known the following:

- (1) the ordinary charges of the physician or expert for services rendered in his or her daily profession;
- (2) the usual and customary charges of physicians or experts (with similar credentials) in the area;
- (3) the level of skill possesses by the physician or expert as well as the time and effort expended and to be expended in the matter at issue;
- (4) the hardship, if any, of advancing the compensation or fee or of testifying prior to receiving the compensation or fee; and
- (5) other relevant facts.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **ARTICLE 8: SETTLEMENT AND LITIGATION CONFERENCE**

### **8.01 SETTLEMENT CONFERENCE**

In actions in which a settlement conference is held, the attorney for the plaintiff and the attorney for the defendant shall prepare a typewritten settlement conference memorandum and shall deliver a copy to the Judge and all counsel of record no less than seven days in advance of the settlement conference. The attorney for each party shall have ascertained in advance of the settlement conference the extent of settlement authority. The Court may order the trial attorneys to attend the settlement conference and may also order a representative of a self insured defendant or defendant's insurer to attend the settlement conference.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

### **8.02 LITIGATION CONFERENCE**

The Court may order a litigation conference in any case deemed appropriate.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **ARTICLE 9: TRIAL PRACTICE**

### **9.01 JURY SELECTION**

(a) Statement of the Nature of the Case: In all civil jury cases, the plaintiff's attorney will prepare and submit to the Court and to each opposing party a Statement of the Nature of the Case for use at voir dire. The statement will include the time, date and location of the alleged transaction or occurrence giving rise to the lawsuit; a brief description of the alleged transaction or occurrence; the name and city of residence (or business) of each of the parties involved and of their attorneys; and a list of the names and residence communities of witnesses whom the parties expect to call. Opposing counsel may suggest amendments to the statement.

(b) Voir dire examination of prospective jurors will be pursuant to Supreme Court Rule 234. Trial counsel shall submit topics or questions pertaining to unconventional or sensitive matters to opposing counsel and to the Court in advance of trial.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **9.02 STIPULATIONS**

(a) Proposed stipulations for use at trial will be in writing, signed by the parties or their attorneys and filed in the cause unless the Court directs otherwise.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **ARTICLE 10: SETTLEMENTS AND JUDGMENTS INVOLVING PROCEEDS FOR MINORS AND WARDS**

### **10.01 SETTLEMENTS: MINORS, WARDS AND DISABLED PERSONS**

(a) Only a personal representative authorized by law may seek court approval of settlement of a claim for personal injury, property damages or otherwise on behalf of a minor, a ward or a disabled person.

(b) Personal representative includes a guardian appointed under 755 ILCS 5/11a-3 and 755 ILCS 5/11-5, a next friend as recognized under 735 ILCS 5/1-1008(c), 755 ILCS 5/11-13(d) or 755 ILCS 5/11(a)-18(c) and a guardian ad litem appointed by the court.

(c) The personal representative must file a Verified Petition in Probate Court except: where the proposed settlement relates to a pending case the Verified Petition may be filed before the Judge assigned to that case unless that Judge determines that due to the complexity and expected duration of the matter it would be better supervised in a guardian estate.

(d) The personal representative must provide a bond two times the amount likely to come into the hands of the personal representative as proceeds of the judgment or settlement (or 1 ½ times if a surety company acts a surety) provided that upon request and upon good cause shown surety on the bond may be waived.

(e) Prior to representation of the Verified Petition, notice should be sent to the following entities with regard the minor, ward or disabled person:

- (1) the spouse, parents and adult siblings if any or, if none,
- (2) any appointed guardian if any or, if none,
- (3) any person or facility with which the minor, ward or disabled person resides unless a consent signed by the entity entitled to notice is filed with the Court or unless notice is excused by the Court upon good cause shown.

(f) The Verified Petition must contain, if known, the following:

- (1) the Petitioner's name, address and relationship to the minor, ward or disabled persons;
- (2) a brief description of the occurrence giving rise to the claim;
- (3) a brief description of the injuries, damages or relief claimed;
- (4) the name and address of each entity against whom the claim has been asserted;
- (5) the name and address of each liability insurance carrier, if any, affording coverage to any of the entities named above and the coverage limits;
- (6) a list of bills, expenses and liabilities incurred as a result of the occurrence;
- (7) a statement whether or not the proposed settlement is fair, is recommended and should be approved;
- (8) where appropriate, a current medical report executed by the attending physician stating the nature and extent of the injuries, the current condition of the minor, ward or disabled person as regards to those injuries and the prognosis;
- (9) the proposed place where any portion of settlement funds due to the minor, ward or disabled person is to be deposited.

(g) In cases where no independent attorney has been employed by the personal representative of a minor, ward or disabled person, the Court may appoint an attorney as guardian ad litem to investigate the merits of the proposed settlement and to report findings and recommendations to the Court.

(h) In the event the attorney appointed as guardian ad litem does not recommend approval of the proposed settlement, neither that attorney nor any member of that attorney's firm shall represent any parties having an interest in the claim as a private attorney for any matter pertaining to the claim. The guardian ad litem shall have no right, title or claim to proceeds realized from an eventual settlement.

(i) The Court may, at its discretion, allow the guardian ad litem reasonable compensation to be paid either from the proceeds of the settlement or otherwise.

(j) Attorneys fees will not be awarded or approved unless the attorney representing the claim of the minor, ward or disabled person sets forth in a separate sworn statement the following:

- (1) an itemization of the hours expended, the work performed and the hourly rates charged; or
- (2) if the fees sought are based upon a contingent fee agreement, an account of the work performed, the result realized (together with a copy of the fee agreement) and a statement justifying any amount in excess of 25% of the gross settlement amount.

(k) The order approving settlement, in addition to other provisions appropriate to the specific case, will require the following:

- (1) a statement of distribution of settlement funds;

- (2) a designation of the place where those funds due the minor, ward or disabled person will be deposited;
- (3) a date for the filing of vouchers signed by the recipient of any portion of the settlement funds;
- (4) in the case of a lump sum settlement the appointment of a guardian of the estate of the minor, ward or disabled person (if none has been previously appointed) for the sole purpose of receiving the proceeds of the settlement, distributing same and filing vouchers demonstrating the distribution;
- (5) the approval of an oath and bond to be filed by the above referenced guardian;
- (6) in the case of a structured settlement, the approval of the company proving the annuity, which must have a rating of "A" or better by the Best Insurance Guide;
- (7) in the case of a structured settlement where annuity payments are payable to a minor before the age of majority, a requirement that the funds be paid to the estate of the minor and shall not be withdrawn, expended or transferred until the minor attains majority unless by order of the Court.

(l) Any proceeds due a minor from a settlement approved hereunder shall be deposited in a restricted account in an institution approved by the Court and the voucher secured by the personal representative must contain the express language: "No withdrawals, expenditures or transfers shall be made of these monies at any time prior to (assert the date that the minor attains majority) unless same has been authorized by order of Court."

(m) If the portion of the settlement funds due a minor, ward or disabled person is \$15,000 or less, the Court may in its discretion order the amount to be distributed by the guardian of the estate directly to the parent or guardian with whom the minor, ward or disabled person resides to be used solely for the benefit of the minor, ward or disabled person.

(n) In the event a waiver of surety on the bond of the guardian of the estate appointed hereunder is sought and granted, it shall become the personal responsibility of the attorney seeking entry of a settlement order to deposit and disburse the funds in accordance with the order and to present proof of the same. The order approving the settlement shall set out this responsibility.

(o) Upon filing of the proper vouchers and upon proof of disbursement, the bond of the guardian of the estate appointed for the purposes of settlement may be discharged, that guardian may be dismissed and the case in which settlement is sought may be dismissed.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **10.02 JUDGMENTS: MINORS, WARDS AND DISABLED PERSONS**

(a) That portion of funds realized from any judgment payable to a minor, ward or disabled person shall be distributed consistent with Local Rule 10.01

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **ARTICLE 11: MANDATORY ARBITRATION**

11: [RESERVED]

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **ARTICLE 12: MEDIATION**

12: [RESERVED]

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **ARTICLE 13: [RESERVED]**

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **ARTICLE 14: [RESERVED]**

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **ARTICLE 16: SMALL CLAIMS and FORCIBLE ENTRY AND DETAINER**

### **16.01 FORM OF SUMMONS AND COMPLAINT**

(a) A summons form provided by the Clerk of Court substantially in the form set forth in Supreme Court Rule 101(b), shall be served upon each defendant together with a copy of the complaint.

(b) The form of complaint to be used in Small Claims Actions shall provide for a verified statement of claim setting forth the elements provided for in Supreme Court Rule 282(a). Small Claims Complaint forms shall be provided by the Clerk of the Court.

(c) The form of complaint to be used in Forcible Entry and Detainer Actions shall provide for a verified statement of claim setting forth the address of the premises and the amount of rent due and owing to the plaintiff. Forcible Entry and Detainer Complaint forms shall be provided by the Clerk of the Court.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

### **16.02 SCHEDULING RETURNS, CITATIONS, MOTIONS, ARBITRATIONS AND TRIALS**

(a) All returns of summons and citations motions shall be scheduled at 9:00 a.m. on dates when the Court is scheduled to hear Small Claims and Forcible Entry and Detainer cases. Cases shall not be scheduled for hearing during the Monday, Tuesday and Wednesday of scheduled jury weeks without leave of the Court.

(b) All bench trials shall be set by Court order for 1:00 p.m. unless the Court directs otherwise.

(c) Motions may be heard by the Judge presiding in Small Claims court, unless the facts and circumstances require it to be heard by some other Judge to whom the case has been assigned. Once a case has been set for trial and until judgment is entered, all motions shall be heard by the trial Judge.

(d) Motions must be scheduled by the movant or movant's attorney by filing the motion and notice of the motion in accordance with local court rules and Illinois law. The Court may decline to hear any motion not filed at least three business days in advance of the scheduled hearing.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

### **16.03 MOTIONS, PETITIONS AND ORDERS**

(a) All motions and petitions must be fully titled to include the relief sought. Non-form orders must be similarly titled. Orders which are agreed must so state.

(b) All orders, including pre-printed form orders, shall be fully completed and must clearly state the specific relief granted. Orders setting matters for hearing which do not specify the matter to be heard may not be entered by the Court. The presence or absence of the plaintiff or defendant and/or counsel appearing on their behalf must be indicated on any order presented. The name of the person preparing the order shall also appear.

(c) Neither a plaintiff nor plaintiff's counsel may represent the defendant(s). Orders presented by the plaintiff or plaintiff's counsel in absence of the defendant or defendant's counsel must be either on motion of the plaintiff or titled as agreed.

(d) Where the cases are cited to the Court in a written motion or pleading, or in oral argument, a complete and correct copy of the case shall be presented to the Court.

(e) Motions for turn over of garnished sums or withheld wages must be presented to the Court on notice to the judgment debtor and the garnishee or employer.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

### **16.04 APPEARANCE AND ANSWER**

(a) Pro Se defendants in Small Claims [Sup. Ct. Rule 286] and Forcible Entry and Detainer [Sup. Ct. Rule 181(b)(2)] actions shall not be required to file a written answer or appearance, unless ordered to do so by the Court.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

### **16.05 SMALL CLAIMS: DISCOVERY; FILING OF COUNTERCLAIMS, CROSSCLAIMS, INTERVENOR SUITS AND THIRD PARTY COMPLAINTS**

(a) Where discovery is a matter of right or where a party has been granted leave to engage in discovery pursuant to Supreme Court Rule 287, such discovery shall be automatically cut off 15 days prior to trial.

(b) No counterclaim, crossclaims, intervenor suits or third party complaints may be filed within 30 days prior to trial, except upon order of court and for good cause shown.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **16.06 CONTINUANCES**

(a) There shall be no telephone continuances.

(b) There shall be no continuances for status or payment, except by Court order.

(c) Motions may be continued by agreement. The Judge must approve the continuance date. No motion shall be continued, however, for a period greater than 90 days except for good cause shown. The order granting the continuance must provide that any other date for which the motion is scheduled is stricken.

(d) Trials will not be continued except upon motion brought in advance of the trial date and then only for good cause shown; provided, however, that if all parties (non-attorneys) are present in open Court and request a continuance, the Court shall consider the same. Orders setting a new date for trial shall include language striking the case from the trial call for the previously set date.

(e) Motions to continue a trial date may be filed by litigants or attorney's representing litigants in Small Claims cases.

(f) Cases settled in advance of the time set for trial may be continued by agreement for 30 days for the entry of judgment or dismissal. One or both parties or counsel representing them must appear before the Court to obtain such continuance. All matters so continued shall be scheduled for 9:00 a.m. on a date approved by the Judge. Orders granting such a continuance must include language striking the case from the call on the date set for trial. The failure to present an order of judgment or dismissal on the continuance date will result in an automatic dismissal.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

## **16.07 SERVICE OF SUMMONS, CITATIONS**

(a) On the return of an initial summons or citation to discover assets, if service of process has not been had on the named defendant(s) or citation respondent(s), the plaintiff or plaintiff's counsel must appear and submit an order continuing the matter for a date certain and thereupon an alias summons or citation may issue. If the plaintiff or plaintiff's counsel fails to appear, the matter will be dismissed.

(b) If service has not been had upon the named defendant(s) or citation respondent(s) within 6 months, the case will be automatically dismissed unless the plaintiff or plaintiff's counsel appears in court and can show good cause why the matter should not be so disposed. Nothing in this provision shall be construed to change or otherwise limit the power of the Court to dismiss matters pursuant to Local Rule 1.27

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

### **16.08 DEFAULT JUDGMENTS; DISMISSALS FOR WANT OF PROSECUTION**

(a) Failure of a served defendant or defendant's counsel to appear on the return date or at the time of trial will result in default. Proof of damages may be made by a verified complaint, affidavit, or such proof of claim as the court may determine to be sufficient. Verified complaints and affidavits must be signed by the plaintiff or plaintiff's agent, not by the plaintiff's attorney. Matters may be continued once for proof of damages. If the plaintiff or plaintiff's attorney is unable to prove damages after one continuance, a judgment will not be granted, except upon motion with notice to the defendant(s).

(b) Where a defendant or defendant's counsel appears on the return date or at the time of trial and the plaintiff or plaintiff's counsel fails to appear, the matter will be dismissed.

(c) In the event the Court determines it appropriate to reinstate a complaint previously dismissed or vacate any default judgment, the Court shall consider sanctions.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

### **16.09 CITATIONS TO DISCOVER ASSETS**

(a) In addition to the requirements set forth in 735 ILCS 5/2-1402 of the Code of Civil Procedure and Illinois Supreme Court Rule 277, the following Rules of Court are hereby established concerning citation proceedings:

(1) If the citation respondent appears on the return date, he shall be sworn and examined subject to the discretion of the Court. Upon completion of the examination an order shall be entered dismissing the citation, unless the Court determines that it is necessary to continue the citation. Orders continuing a citation must set forth specifically the reason for the continuance and what is required to complete the citation. Continuances merely to permit a judgment debtor to complete an installment payment schedule or otherwise satisfy the judgment will not be allowed.

(2) If the citation respondent, having been duly served, fails to appear on the return date, a rule to show cause shall issue. No continuances in lieu of a rule will be granted, except where the court determines it necessary to do so to protect the rights and interests of all parties to the proceedings.

(3) Orders compelling respondent to make installment payments to be applied to the judgment must provide that the underlying citation is dismissed. Rules to show cause for the failure to comply with the terms of such a payment order shall issue only upon petition.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*

#### **16.10 RULES TO SHOW CAUSE, ORDERS FOR BODY ATTACHMENT**

(a) Where a rule or body attachment is returned unserved:

(1) The first alias shall be returnable approximately 30 days from the date of issuance. The second alias shall be returnable approximately 60 days from the date of issuance. The third alias shall be returnable approximately 90 days from the date of issuance.

(2) If the third alias is returned unserved, the supplementary proceeding may be dismissed with leave to reinstate upon showing that service can likely be obtained.

(b) Except upon affidavit showing lack of knowledge of the description of the body sought to be attached, no orders for body attachment shall issue unless a physical description of the body is provided in the appropriate space on the order. The order shall also contain notation as to the total amount of judgment plus court costs presently owed by the judgment debtor.

*Kendall County Gen. Order 09-08, eff. May 15<sup>th</sup>, 2009*