

SIXTEENTH JUDICIAL CIRCUIT
ADMINISTRATIVE ORDER – MISDEMEANOR/TRAFFIC DIVISION
Effective May 6, 2020

IN THE MATTER OF COVID-19)
TEMPORARY PROCEDURES FOR)
MISDEMEANOR/TRAFFIC MATTERS)

WHEREAS, in light of the Coronavirus pandemic, and in order to protect the health and safety of the general public, circuit court judges and circuit court employees, and after consultation with the offices of the Kane County State’s Attorney, Public Defender, Sheriff, Circuit Clerk, County Board, and representatives of the private bar, and pursuant to Illinois Supreme Court Rule 21(b), Kane County General Orders 20-17, 20-18 and the Court’s inherent authority,

IT IS HEREBY ORDERED that the following temporary procedures will apply to all cases assigned to the Misdemeanor/Traffic Division. All parties (whether represented by counsel or that appear as self-represented litigants) are subject to this Order and should make every effort to work within these procedures and to facilitate their implementation.

A) RULINGS ON AGREED ORDERS AND UNCONTESTED MATTERS.

- 1) The Misdemeanor/Traffic Division will accept proposed agreed orders, and uncontested motions and presentations, including, but not limited to the following:
 - a) Dismissals;
 - b) Discharges of cases (Satisfactorily or Unsatisfactorily);
 - c) Continuances generally;
 - d) Entry of Protective Orders (HIPAA) and otherwise;
 - e) Agreed Briefing Schedules; and
 - f) Extensions of Subpoenas or Discovery Response Schedules.

- 2) All requests for an entry of an agreed order or ruling on uncontested matters shall be sent to the Clerk's Office by email.
CICCriminalRemoteOrders@co.kane.il.us.
- 3) Each submission must include: (i) a cover message (or letter) stating the case name and number, (ii) a brief summary of the action requested, (iii) list of the documents attached, (iv) a representation by the attorney of record as to the agreed nature of the request, and (v) if notice to any party would ordinarily be required, the attorney of record must represent that such notice has been provided and that all parties have consented to the proposed action/order.
- 4) All proposed draft orders shall be submitted as a separate document in PDF or Microsoft Word.
- 5) Upon receipt, the Clerk's Office will forward the filing and the proposed order to the assigned judge. If the assigned judge approves the order, the Clerk will present the order to the judge or the on-duty judge in the courthouse for signature. The Clerk's Office will then email the signed order to the parties.
- 6) Even where an order is agreed, or uncontested, the Court reserves the right to require additional information or to require a hearing, or to modify or deny the proposed order.
- 7) In the event the judge does not approve the order, the Clerk's Office will notify the parties, and provide further instruction as appropriate.

B) PROTOCOL FOR REMOTE HEARINGS IN MISDEMEANOR/TRAFFIC CASES

Effective immediately, the Misdemeanor/Traffic Division Judges will begin to conduct remote hearings on contested matters as follows:

- 1) At the discretion of the assigned judge, and upon such judge's available schedule, agreed dispositions, arguments on contested Misdemeanor/Traffic court hearings, Rule 402 conferences, and contested discovery matters may be undertaken by way of remote hearing either telephonically or via the Zoom platform.
- 2) The remote hearing may be initiated by the judge or by counsel (by the procedure describe in Section A) filing a "Joint Motion for Leave to Schedule a Remote Hearing" (See Ex. 1).

- 3) Parties may not object, nor opt out, from a request solely on the basis that a matter is sought to be heard remotely. Eligibility for a contested remote hearing is currently limited to cases wherein all parties consent to the hearing method.
- 4) The Clerk's office shall forward an approved hearing order to: (i) the Supervisor of the Court Reporters to schedule a court reporter for the hearing, and (ii) assign a court clerk to appear at the remote hearing to assist with the hearing.
- 5) If the parties file a consent that includes an appeal waiver on the issue of telephonic testimony the assigned judge may, in his or her discretion, approve a request to hold the hearing or to take witness testimony via telephone.
- 6) Except as otherwise provided for in this order, hearings conducted pursuant to this order shall be conducted to the same standards as hearings in a courtroom and in accordance with the Illinois Rules of Criminal Procedure and Civil Procedure (where applicable), Illinois Supreme Court Rules and the Circuit Court, Sixteenth Judicial Circuit.
- 7) The precise method for conducting remote hearings is within the discretion of the judge assigned to the individual case, within the bounds of applicable law, Court Rules, and practice procedures.

C) CONTESTED HEARINGS – PARTIES' OBLIGATIONS

- 1) Holding a remote hearing on contested matters are not favored during this COVID-19 related period. Where necessary, however, scheduling such hearings requires the parties' proper preparation and planning. Steps required to ensure a proper record prior to any contested remote hearing are as follows:
 - a) The attorneys shall e-file both a joint motion to set a telephonic or video remote hearing, consenting to the remote hearing, and a proposed order granting the motion. Actual facsimile signatures, not typewritten signatures, are required. Sample forms are attached as Ex.1 and Ex.2. The assigned judge will then review the file and either approve the order, or reject it and make a docket entry as to why. The judge may also conduct a telephonic hearing on the motion. Note: the filing of a proposed order is the only trigger that brings the motion to a judge's attention. A motion for a contested hearing filed without a proposed order will not be seen nor acted upon by a judge.

- b) Three (3) court days prior to a hearing, the parties shall file a list containing the names and email addresses of the attorneys, parties and witnesses (if any) who will attend the hearing. All persons must use their real names (not aliases) while online to ensure they will not be prevented from entering the hearing.
- c) Three (3) court days prior to a hearing the parties shall exchange exhibits they intend to introduce into evidence and conduct a conference to identify any stipulated to exhibit(s). If a party fails to comply with this provision, the court in its discretion may deny the introduction of that party's exhibit.
- d) At least two (2) court days before the hearing parties shall prepare and email to the Circuit Clerk at CICexhibits@co.kane.il.us proposed exhibits (and if appropriate, an electronic bundle of authorities) as follows:
 - i. A searchable PDF format (and a color PDF, if necessary) shall be used;
 - ii. Each exhibit shall be a separate file. Each file name shall reflect the party offering it and the exhibit number e.g. P1, P2, CP1, CP2, RA, RB, D1, D2, etc.;
 - iii. An index of all exhibits shall be included that states the number of pages in each exhibit;
 - iv. For exhibits greater than four pages, pagination must be generated and inserted electronically within the PDF (not handwritten). Pagination must be by exhibit number and page number, e.g. P1-1, P1-2, P1-3...RA-1, RA-2, RA-3, etc.;
 - v. The assigned judge may also require a courtesy copy of all exhibits and/or authorities either in electronic or paper form, and in such order and/or format as the judge otherwise directs.
- e) Attorneys of record will receive a notice via email from the Misdemeanor/Traffic Judicial Assistant a day prior to the telephone hearing. On the day of the telephone hearing, it is the responsibility of the attorneys to ensure their clients and witnesses are available and ready to proceed at the appointed time.
- f) Attorneys of record will receive a notice via email form the Misdemeanor/Traffic Judicial Assistant a day prior to the video hearing with access instructions. On the day of a video

hearing, it is the responsibility of the attorneys to ensure their clients and witnesses are available and ready to proceed at the appointed time.

- 2) Once admitted into evidence during the hearing, the Clerk of Court shall upload the exhibit into Odyssey system so that it becomes part of the record. Upon conclusion of the hearing, the clerk shall not be obligated to maintain any proposed exhibits that were not made part of the court record and may delete them at the Clerk's Office's convenience.
- 3) Where the case involves the use of an interpreter, the requesting party's initial motion for hearing must include an interpreter request, with notice provided to the Misdemeanor/Traffic Judicial Assistant.
- 4) Where a witness attends the remote hearing, the witness will be sworn or affirmed by the judge prior to commencement of their testimony. In addition,
 - a) The witness is to be alone, in a secure room with the doors closed. A record will be made by the judge of those conditions.
 - b) Witnesses and parties should wear appropriate attire and present themselves as they would if they were appearing in a physical courtroom.
 - c) The witness is to ensure that there will be no interruptions or distractions for the duration of their appearance at the remote hearing.
 - d) The witness should have recently read all affidavits, statements, and documents before the remote hearing and have a copy of those documents with them and identified in the same manner as the documents filed with the Clerk's Office. This provision is not mandatory for materials to be used in cross-examination or in the examination of adverse witnesses.
- 5) The court reporter is the only person authorized to record the remote hearing by electronic means, stenography or any other method. Any recording by a party or other person of a remote hearing without the permission of the court is strictly forbidden and shall be subject to all court remedies.
- 6) American courts are generally open to the public and it remains highly desirable that operations of the criminal/misdemeanor/traffic courts are transparent as possible. Within this context, the court and the

parties must consider how the press and public can have access to the remote hearing. The daily court schedule shall reflect that a hearing is remote and the date and time of such hearings. Members of the public and/or media who desire to observe a hearing should contact the Misdemeanor/Traffic Judicial Assistant for directions on how to attend. Observers are prohibited from speaking to witnesses or potential witnesses concerning any testimony or evidence until after the evidence has closed.

- 7) All parties attending the remote hearing should ensure they have good connection/signal to avoid a breakdown in connection during the hearing. An Ethernet (wired) connection is recommended over a Wi-Fi connection. A poor video connection of a party or their attorney is not grounds to continue a hearing.

Entered this 6th day of May, 2020

Robert K. Villa, Presiding Judge

IN THE CIRCUIT COURT OF THE
SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY

_____,)
Petitioner/Plaintiff,)
)
and)
) Case No:
_____,)
Respondent/Defendant.)

SAMPLE

Joint Motion For Leave to Schedule a Remote Hearing

Now come the parties to this cause by and through their attorneys, _____ and _____ and move this Court for leave to schedule a remote _____ (insert either telephonic or video) hearing in the above captioned matter for _____ (insert requested time allotment). **This new date replaces the previously set date of _____.** All documents required by statute, court rules, and administrative order have been completed and filed with the Circuit Clerk, and the parties consent to the requested hearing format.

Petitioner/Plaintiff

By: _____

Respondent/Defendant

By: _____

Ex. 1

IN THE CIRCUIT COURT OF THE
SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY

_____,)
Petitioner/Plaintiff,)
)
and)
) Case No:
_____,)
Respondent/Defendant.)

SAMPLE

Order Granting Leave to Schedule a Remote Hearing

The Court, having reviewed the Motion for Leave to Schedule a Remote Hearing and having reviewed the court file hereby orders that the motion is granted. The parties are authorized _____ (insert time allotment) of court time to schedule a _____ (insert either telephonic or video) hearing.

All parties shall coordinate among themselves to place a conference call to Court Administration (630-232-3441) to schedule a time for the hearing. All necessary parties must be on the line when the call is made to Court Administration.

Entered: _____
_____ Judge

Ex. 2