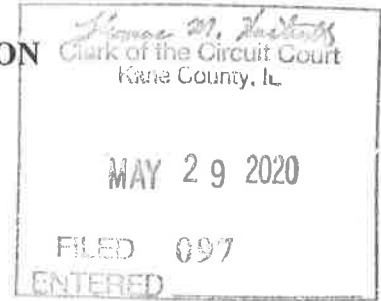


**SIXTEENTH JUDICIAL CIRCUIT
KANE COUNTY, ILLINOIS
ADMINISTRATIVE ORDER – CIVIL DIVISION
*Revised and Effective June 1, 2020***



IN THE MATTER OF COVID-19)
TEMPORARY PROCEDURES FOR)
CIVIL DIVISION MATTERS)

WHEREAS in view 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, County Health Department, and representatives of the private bar, consistent with current orders and guidelines of the Illinois Supreme Court, General Orders of the Chief Judge of the 16th Circuit, and pursuant to Illinois Supreme Court Rule 21(b) and the Court’s inherent authority,

IT IS HEREBY ORDERED THAT the previous Civil Division temporary administrative order, In The Matter Of COVID-19 Temporary Procedures For Civil Division Matters, effective May 4, 2020 is hereby vacated and replaced by this Order;

IT IS HEREBY ORDERED that the following temporary procedures will take effect June 1, 2020, and will apply to all cases assigned to the Civil Division:

- 1. COURTHOUSE SHALL BE OPEN ON A LIMITED BASIS.** Although all judges of the Civil Division will conduct remote hearings to the greatest extent possible (see below), it is recognized that some self-represented litigants or interested parties may arrive at the courthouse in person as plaintiffs or in response to summonses or notices. Security personnel will assist with the orderly admittance of litigants or interested parties, and will require compliance with guidelines regarding health questionnaires, taking temperatures, requiring masks/face coverings and social distancing. They will also help inform the judges presiding in the case(s) involved about the presence of such persons. The judge presiding in his or her discretion will decide whether to allow such persons into the courtroom or whether to merely have a copy of the order that was entered in the case given to them. In any event, it is expected that the litigants or other interested parties will be informed about remote hearing procedures for future court appearances, and about the court’s preference for parties’ conferring jointly and submitting proposed agreed orders rather than appearing in-person or via remote hearing.

- 2. CIVIL DIVISION JUDGES SHALL REQUEST AGREED ORDERS FOR ROUTINE MOTIONS, STATUS AND CASE MANAGEMENT ORDERS.** Judges of the Civil Division will continue to encourage the parties to communicate prior to court status and case management dates and to submit agreed orders, if possible, through the procedure detailed below in Paragraph 9. The court recognizes that in some cases, plaintiffs' attorneys cannot contact litigants directly due to statutes, court or professional practice rules. In such cases, the court in its discretion may allow in-person appearances or require remote hearings, as appropriate.
- 3. ATTORNEYS AND SELF-REPRESENTED LITIGANTS' EMAIL ADDRESSES.** Supreme Court Rule 11 requires that all pleadings bear the email address of attorneys. In order to ensure that parties receive proper notice from the court in setting remote hearings as provided herein, attorneys and self-represented litigants shall show e-mail addresses on all pleadings and motions filed.
- 4. SUPREME COURT RULE 218 CASE MANAGEMENT CONFERENCES.** In some cases, if the parties have not submitted proposed agreed case management orders as described herein at least two (2) business days prior to the set case management or status date, the court may unilaterally enter an order setting discovery deadlines and further status/case management dates. The court may enter such unilateral orders on or before the day prior to the set date, and if such an order is entered, the court will not address such a matter at the remote hearing.
- 5. REMOTE HEARINGS IF NO PRIOR PROPOSED AGREED OR UNILATERAL ORDER.** Beginning June 1, 2020, all court proceedings that are scheduled on the applicable court call and that have not been resolved or continued to a new date by submission of a proposed agreed order, or order on the court's own motion, will be held remotely using Zoom, with limited exceptions. Attorneys and self-represented litigants will be expected to join the remote hearing, in the manner described below. Attorneys who have failed to submit proposed agreed orders prior shall not appear in person at case management or motion hearings. It is expected that Zoom hearings will be initiated by the Civil Division and invitations sent to attorneys and self-represented litigants whose cases have not been continued by agreement or unilateral court order prior to the set court date. It is further expected that on or before June 30, 2020 and, until further order of court, the Sixteenth Judicial Circuit will publish on its website Zoom links for each Civil Division courtroom with scheduled court sessions, a Zoom Meeting ID, Password and Link for each session's date and time. Attorneys and self-represented litigants with cases scheduled on or after June 30, 2020 will be expected to appear through the Zoom link with the Meeting ID and Password for the courtroom assigned to their case.

6. **ZOOM INSTRUCTIONS AND PROTOCOL.** The Civil Division will also publish prior to June 30, 2020, a PDF sheet titled Sixteenth Judicial Circuit Zoom Instructions for Remote Hearings to be available on the Sixteenth Judicial Circuit website discussed in paragraph 5 above. All parties will be responsible for reading and following the Zoom information and protocol provided. Any party who believes that there is good cause why they cannot appear by Zoom may file a motion requesting an in-person court appearance. The motion must explain why the request is being made. As litigants and interested parties become aware of the procedures for remote hearings, the judge presiding on a particular case may require that any further in person court appearances in that case will take place only by order of the court.

7. **PRE-TRIAL SETTLEMENT CONFERENCES.** Pre-trial settlement conferences scheduled after June 1, 2020 will be conducted remotely on Zoom. All parties of record will receive a Zoom Meeting ID, Password and Link prior to the scheduled Pretrial. The plaintiff and the assigned insurance adjuster for the defendant, if applicable, shall also be present by Zoom. At least three (3) business days prior to the scheduled hearing, the parties shall submit courtesy copies of their pretrial settlement memoranda to the court through the Civil Division Judicial Assistant's e-mail at KlattCourtney@16thCircuit.IllinoisCourts.gov.

8. **BENCH TRIALS.** Bench trials scheduled on or after June 1, 2020, will be conducted remotely pursuant to procedures set forth below in paragraph 9. The remote appearance procedures in paragraph 9 will apply to all persons participating in bench trials, including the parties, attorneys, and witnesses. Parties who can demonstrate good cause why they are unable to proceed with a remote bench trial may file a motion with the court. Motions requesting an in-person appearance, or alternative bench trial procedure with a proposed order, must be filed, and courtesy copies sent to the court at CICCivilProposedOrders@co.kane.il.us at least 14 days prior to the scheduled bench trial.

9. **JURY TRIALS.** All civil jury trials and associated final pre-trial conferences scheduled to occur prior to September 8, 2020, are hereby cancelled and the assigned judge will set a status date for re-setting of the trial dates. For any cancelled jury trial in which the parties waive a jury, the parties may move the court to set an earlier bench trial date. Until further order of court, bench trials will be conducted remotely (see par. 8, above). For any civil jury trials scheduled on or after September 8, 2020, and until further order of court, it is expected that only six (6) person juries will be empaneled because of the social distancing guidelines in effect and expected to be in effect in Illinois, at least for the remainder of 2020. The Civil Division will be establishing further guidelines for in-person jury trials tried to six (6) person juries. The party or parties demanding a 12-

person jury will have to file an appropriate waiver of such 12-person jury demand. If appropriate and practicable, and by agreement of all parties to waive in person proceedings, the assigned judge may consider hearing parts or all of a civil jury trial by remote hearing.

10. PROCEDURE FOR PROPOSED AGREED ORDERS AND UNCONTESTED MATTERS FOR RULING BY EMAIL.

A. ROUTINE AND AGREED ORDERS. The Civil Division will continue to accept proposed agreed orders, and uncontested motions and presentations, including, but not limited to the following:

- (1) Dismissals;
- (2) Entry of Protective Orders (HIPAA) and otherwise;
- (3) Appointment of Special Process Servers;
- (4) Agreed Briefing Schedules; and
- (5) Extensions of Discovery Schedules

B. METHOD OF SUBMITTING PROPOSED ORDERS. All requests for entry of an agreed order, or ruling on uncontested matters, shall be sent to the Circuit Clerk's Office by email to CICCivilProposedOrders@co.kane.il.us. The email shall include a cover letter stating the case name and number, detail of the documents attached, summary of the action requested, and a representation by the attorney of record or self-represented litigant as to the agreed nature of the request. The documents attached shall include, but not be limited to, the subject motion, any supporting documentation, and the proposed order. If notice to any party would ordinarily be required, the attorney of record or self-represented litigant must represent that the party to whom notice is required has received all submitted materials and has consented to the proposed action/order.

C. ORDER AS SEPARATE PDF OR WORD ATTACHMENT. All proposed orders shall be submitted as a separate attachment in PDF or Microsoft Word (not as part of the letter and supporting documentation). If the proposed order needs only the judge's signature, it should be submitted as a PDF. If the proposed order needs additional language or a future date to be filled in, it should be submitted as a Word document.

D. CIRCUIT CLERK TO FORWARD TO JUDGE. Upon receipt, the Circuit Clerk's Office will forward the filing and the proposed order to the assigned judge. If the assigned judge approves the order, the Circuit Clerk will present

the order to the judge or the on-duty judge in the courthouse for signature. The Clerk will then email the signed order to the parties.

- E. CHANGES OR DECLINATION OF PROPOSED ORDER.** 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. In the event the judge does not approve the order, the Circuit Clerk will notify the parties, and provide further instruction as appropriate.

11. PROTOCOL FOR REMOTE HEARINGS IN CIVIL CASES

- A. COURT INITIATED REMOTE HEARING.** At the discretion of the assigned judge, arguments on contested civil court hearings (non-evidentiary), status hearings, and settlement conferences may be conducted by remote hearing either by telephone or the Zoom platform. Contested civil evidentiary hearings may be conducted only by the Zoom platform.
- B. MOTION FOR REMOTE HEARING.** The remote hearing may be initiated by the judge or by the attorney or self-represented litigant by filing a “Joint Motion for Leave to Schedule a Remote Hearing” (attached as Ex. 1).
- C. PROCEDURES AT REMOTE HEARING.**

- (1) Parties are responsible for obtaining a court reporter if they would like the hearing transcribed.
- (2) Notwithstanding the foregoing, if the parties file a consent that includes an appeal waiver on the issue of telephone testimony the assigned judge may, in his or her discretion, approve a request to take witness testimony by telephone.
- (3) Eligibility for a contested remote hearing is limited to cases wherein all parties are represented by attorneys. This limitation will be frequently reviewed and modified, when possible, in an ongoing effort to expand access to justice.
- (4) 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 Civil Procedure, Illinois Supreme Court

Rules and the Rules of Practice of the Circuit Court, Sixteenth Judicial Circuit.

- (5) The precise method in which a remote hearing will be conducted remains within the discretion of the judge assigned to the individual case, within the bounds of applicable law, rules, and practice procedures.

D. PRE-REMOTE HEARING PREPARATION. Holding a hearing remotely requires proper preparation and planning. Steps required to be taken prior to any remote hearing are as follows:

- (1) The attorney or self-represented shall e-file both a joint motion to set a telephone 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 telephone 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 filed without a proposed order will not be seen nor acted upon by a judge.
- (2) Upon entry of an order authorizing a hearing, the attorney or self-represented litigant shall email or place a joint telephone call to the Civil Division Judicial Assistant (630-232-3441) to schedule a hearing.
- (3) 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.
- (4) Three (3) business days prior to a hearing the parties shall exchange exhibits they intend to introduce into evidence and thereafter conduct a conference to identify any exhibit(s) they stipulate can be admitted into evidence. If a party fails to comply with this provision, the court in its discretion may deny the introduction of that party's exhibit.

(5) 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:

- (a) A searchable PDF format (and a color PDF, if necessary) shall be used;
- (b) Each exhibit shall be a separate file. Each file name shall reflect the party offering it and the exhibit number e.g. Plaintiff 1, Plaintiff 2, Defendant 1, Defendant 2, etc.;
- (c) An index of all exhibits shall be included that states the number of pages in each exhibit;
- (d) For exhibits greater than four pages, page numbers must be generated and inserted electronically within the PDF (not handwritten). The numbering must include the exhibit number and page number, e.g. Plaintiff 1-Page 1, Plaintiff 1-Page 2, Defendant 1-Page 1, Defendant 1-Page 2, etc.;
- (e) 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. NOTICE OF TELEPHONE HEARING. Attorneys of record will receive a notice via email from the Civil Judicial Assistant a day prior to the telephone hearing. On the day of the telephone hearing, it is the responsibility of the attorneys or self-represented litigant to ensure their clients and witnesses are available and ready to proceed at the appointed time.

F. NOTICE OF ZOOM HEARING. Attorneys of record and self-represented litigants will receive a notice via email from the Civil Division Judicial Assistant a day prior to the Zoom video hearing with access instructions. On the day of a video hearing, it is the responsibility of the attorneys and self-represented litigants to ensure their clients and witnesses are available and ready to proceed at the appointed time.

G. PROCEDURES DURING HEARING.

(1) EXHIBITS ADMITTED IN EVIDENCE. Once an exhibit is admitted into evidence during the hearing, the Circuit Clerk shall upload the exhibit into Odyssey so that it becomes part of the record. Upon conclusion of the hearing, the Circuit 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 convenience.

(2) USE OF INTERPRETER. Where the case is one that involves the use of an interpreter, parties shall coordinate the scheduling of an interpreter with the Civil Division Judicial Assistant.

(3) REMOTE WITNESS TESTIMONY. 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 Circuit Clerk. This provision is not mandatory for materials to be used in cross-examination or in the examination of adverse witnesses.

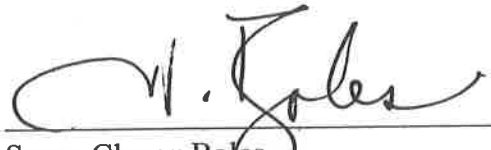
(4) NO RECORDING OTHER THAN CERTIFIED COURT REPORTER. The court reporter is the only person authorized to record the remote hearing by electronic means, stenography or any other method. Any recording by a party or other person of a remote hearing without the permission of the court is strictly forbidden.

(5) PUBLIC PROCEEDINGS. American courts are generally open to the public and it remains highly desirable that the operations of the civil 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 Civil Division Judicial Assistant for directions on how to attend. Observers are prohibited from speaking to witnesses or

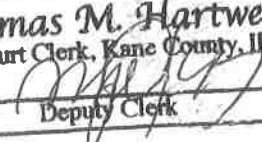
potential witnesses concerning any testimony or evidence until after the evidence has closed.

(6) **WI-FI CONNECTION.** All parties attending the remote hearing should ensure they have a 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 29th day of May, 2020



Susan Clancy Boles
Presiding Judge, Civil Division

A true copy of the original of this document is on file in my office
Attest: 5/29, 20 20
Thomas M. Hartwell
Circuit Court Clerk, Kane County, Illinois
By: 
Deputy Clerk

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). 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: _____

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 _____