

**THIRD JUDICIAL CIRCUIT RULES GOVERNING
COURT-ANNEXED MANDATORY ARBITRATION
For Madison County**

The Court-Annexed Mandatory Arbitration Program of the Third Judicial Circuit is governed by Illinois Supreme Court Rules 86 through 95 for the Conduct of Mandatory Arbitration Proceedings as authorized by 735 ILCS 5/2-1001A *et.seq.* The following assignments and rules are adopted pursuant to Supreme Court Rule 86(c) subject to approval of the Illinois Supreme Court to become effective on January 1, 2007. Because arbitration proceedings are governed by both Supreme Court and local court rules, reference is made in each Local Rule to the Supreme Court Rule controlling the subject.

A. Supervising Judge for Arbitration.

The Chief Judge shall appoint a judge to act as Supervising Judge for Arbitration who shall have the powers and responsibilities set forth in these rules and who shall serve at the discretion of the Chief Judge.

B. Administrative Assistant for Arbitration.

The Chief Judge shall designate an Administrative Assistant for Arbitration who shall have the authority and responsibilities set forth in these rules. The Administrative Assistant for Arbitration shall serve at the discretion of the Chief Judge under the immediate direction of the Trial Court Administrator.

C. Arbitration Center.

The Chief Judge shall designate an Arbitration Center for arbitration hearings.

RULE 1. ACTIONS SUBJECT TO COURT-ANNEXED MANDATORY ARBITRATION (S.CT.RULE 86)

(a) Court-annexed mandatory arbitration proceedings are undertaken and conducted in Madison County, Third Judicial Circuit, pursuant to approval of the Supreme Court of Illinois. Arbitration proceedings are part of the underlying civil action, and therefore, all rules of practice contained in the Illinois Code of Civil Procedure and Illinois Supreme Court Rules shall apply to these proceedings.

(b) All civil actions will be subject to court-annexed mandatory arbitration if such claims are solely for money in an amount exceeding \$10,000 but not exceeding \$50,000, exclusive of interest and costs. Such cases shall be assigned to the Arbitration Calendar of the Third Judicial Circuit at the time of initial case filing with the Circuit Clerk's office. All such cases will be provided with an AR designation pursuant to the Manual on Record Keeping.

(c) Cases not originally assigned to the Arbitration Calendar may be ordered to arbitration on the motion of either party, by agreement of the parties or by Order of Court at a status call or pretrial conference when it appears to the Court that no claim in the action has a value in excess of \$50,000, irrespective of defenses.

(d) Small claims cases exclusively for money in which either party makes a jury demand shall be assigned to the mandatory arbitration docket at the time a jury demand is filed.

(e) When a case not originally assigned to the Arbitration Calendar is subsequently so assigned pursuant to Supreme Court Rule 86(d), the Administrative Assistant for Arbitration shall promptly assign an arbitration hearing date for such case. In such cases, the date of the arbitration hearing shall be not less than 60 days nor more than 180 days from the date of assignment to arbitration, as determined by the Court considering the status of the case, the period of time necessary to afford the parties adequate preparation time and status of the arbitration calendar.

RULE 2. APPOINTMENT, QUALIFICATION AND COMPENSATION OF ARBITRATORS (S.CT.RULE 87)

(a) Illinois-licensed Illinois attorneys in good standing who have been in practice at least five (5) years or retired judges shall be eligible for certification and appointment as arbitrators by filing an approved application form with the Administrative Assistant for Arbitration and completing the required arbitrator training seminar. Applicants shall be certified as arbitrators by the Chief Judge of the circuit. The eligibility of each attorney to serve as an arbitrator may be reviewed periodically by the Administrative Assistant for Arbitration and Supervising Judge. All applicants must maintain a law office or residence in Madison County.

(b) The Administrative Assistant for Arbitration shall maintain an alphabetical list of approved arbitrators to be called for

service on a random basis. The Administrator shall also maintain a list of those persons who have indicated on their application a willingness to serve on an emergency basis. Such individuals, when appointed, shall also be assigned on a rotating basis. The lists shall designate the arbitrators who are approved to serve as chairpersons.

(c) Three arbitrators appointed pursuant to (a) and (b) shall constitute a panel. Once assigned, the three arbitrators shall choose a chairperson for each arbitration. Three arbitrators shall constitute a panel unless the parties stipulate to a lesser number.

(d) The Administrative Assistant for Arbitration shall notify the arbitrators of the hearing date at least 60 days prior to the assigned hearing date. The notification period may be less to those arbitrators who have agreed to serve on an emergency basis.

(e) Not more than one member or associate of a firm or office shall be appointed to the same panel. Upon appointment to a case, an arbitrator shall notify the Administrative Assistant for Arbitration and withdraw from the case if any grounds for disqualification appear to exist pursuant to the Illinois Code of Judicial Conduct.

(f) Upon completion of each day's arbitration hearings, arbitrators shall file a voucher with the Administrative Assistant for Arbitration for submission to the Administrative Office of the Illinois Courts for payment of the prescribed compensation.

(g) Each arbitrator shall take an oath of office in

conformity with the form provided in Supreme Court Rule 94 in advance of the hearing.

RULE 3. SCHEDULING OF HEARINGS (S.CT.RULE 88)

(a) On or before the first day of each July, the Administrative Assistant for Arbitration shall provide the Circuit Clerk's office with a schedule of available arbitration hearing dates for the next calendar year. Upon the filing of a civil action subject to these rules, the Clerk of the Circuit Court shall set a return date for the summons not less than 21 days or more than 40 days after filing, returnable before the Supervising Judge for Arbitration. The summons shall require the plaintiff or the representative of the plaintiff and all defendants or their representatives to appear at the time and place indicated. The summons shall state in upper case letters on the upper right-hand corner "THIS IS AN ARBITRATION CASE."

(b) Upon the return date of the summons and the Court finding that all parties have appeared, the Court shall assign an arbitration hearing date not more than 180 days from the filing date or the earliest available hearing date thereafter. If one or more defendants have not been served within 90 days from the date of filing, the Court may in its discretion dismiss the case as to unserved defendants for lack of diligence.

(c) Any party to a case may request advancement or postponement of a scheduled arbitration hearing date by filing a written motion with the office of the Circuit Clerk requesting such change. Such motion and notice of hearing thereon shall be served upon all other parties in the same

manner as other motions and a copy of the motion and notice of time of hearing thereon shall likewise be served upon the Administrative Assistant for Arbitration. The motion shall be set for hearing on the calendar of the Supervising Judge for Arbitration and contain a concise statement of the reason for the change of hearing date. The Supervising Judge may grant such advancement or postponement upon good cause shown.

(d) Consolidated actions shall be heard on the date assigned to the latest case involved.

(e) Counsel for plaintiff shall give immediate notification in writing to the Administrative Assistant for Arbitration of any settlement of cases or dismissal. Failure to do so may result in the imposition of sanctions.

(f) It is anticipated that the majority of cases to be heard by an arbitration panel will require two hours or less for presentation and decision. It shall be the responsibility of counsel for the plaintiff to confer with counsel for all other parties to obtain an approximation of the length of time required for presentation of the case and advise the Administrative Assistant for Arbitration at least 14 days in advance of the hearing date in the event additional hearing time is anticipated and the length of such additional time.

RULE 4. DISCOVERY (S.CT.RULE 89)

(a) Discovery shall proceed as in all other civil actions and shall be completed not less than thirty (30) days prior to the arbitration hearing.

(b) All parties shall comply completely with the provisions of Supreme Court Rule 222. However, pursuant to Rule 89, time limits may be shortened by local rule or by order of the court.

(c) No discovery shall be permitted after the arbitration hearing, except upon leave of Court and for good cause shown.

RULE 5. CONDUCT OF THE HEARINGS (S.CT.RULE 90)

(a) The Supervising Judge for Arbitration shall have full supervisory powers over all questions arising in any arbitration proceeding, including the application of these rules.

(b) A stenographic record of the hearing shall not be made unless a party does so at his/her expense. If a party has a stenographic record transcribed, notice thereof shall be given to all parties and a copy shall be furnished to any other party requesting same upon payment of a proportionate share of the total cost of making the record.

(c) The statements and affidavits of witnesses shall set forth the name, address and telephone number of the witness.

(d) Witness fees and costs shall be in the same amount and shall be paid by the same party or parties, as provided for in trials in the Circuit Court of this circuit.

(e) Hearings shall be conducted in general conformity with procedures followed in civil trials. The chairperson shall administer oaths and affirmations to witnesses. Rulings

concerning admissibility of evidence and applicability of law shall be made by the chairperson.

(f) At the commencement of the hearing, the attorneys for the parties will provide a brief written statement of the nature of the case which shall include a stipulation as to all of the relevant facts to which the parties agree or which have been admitted pursuant to a request to admit. The stipulation shall include, if applicable, relevant contract terms, dates, times, places, location of traffic control devices, year, make and model of automobiles and of other vehicles, equipment or goods and products which are involved in the litigation and other relevant and material facts. However, the stipulation may not be used for evidentiary and/or impeachment purposes in any subsequent hearing and the written stipulation shall so state. The time devoted to the presentation of evidence should be limited to those facts upon which the parties genuinely disagree.

(g) Parties are encouraged to utilize the procedure set out in Supreme Court Rule 90, including the summary cover sheet for Supreme Court Rule 90(c) for admission of documents into evidence without foundation or other proof and Rule 90(d) providing for written notice of any expert witness testimony or written opinion.

(h) Any party requiring the services of a language interpreter during the hearing shall be responsible for providing same. Any party requiring the services of an interpreter or other assistance for the deaf or hearing impaired shall notify the Administrative Assistant for Arbitration of said need not less than seven (7) days prior to the hearing.

(i) All exhibits admitted into evidence shall be retained by the panel until entry of the award. It is the duty of the attorneys or parties to retrieve such exhibits from the Administrative Assistant for Arbitration within seven (7) days following the court ordered motion date for entry of judgment. All exhibits not retrieved shall be destroyed.

RULE 6. DEFAULT OF A PARTY (S.CT.RULE 91)

A party who fails to appear and participate in the hearing may have an award entered against him/her upon which the Court may enter judgment. Costs that may be assessed under Supreme Court Rule 91 upon vacation of a default include, but are not limited to, payment of costs, attorneys' fees, witness fees, stenographic fees and any other out-of-pocket expenses incurred by any party or witness.

RULE 7. AWARD AND JUDGMENT ON AWARD (S.CT.RULE 92)

- (a) The panel shall render its decision and enter an award on the same day of the hearing. The chairperson shall present the award to the Administrative Assistant for Arbitration who shall then file same with the Clerk of the Circuit Court. The Clerk of the Circuit Court shall serve a notice of the award upon all parties who have filed an appearance.
- (b) In the event the panel of arbitrators unanimously finds that a party has violated the good-faith provision of Supreme Court Rule 91(b), such finding accompanied by a factual basis shall be noted on a

findings sheet. Such finding sheet shall become part of the award.

(c) The Administrative Assistant for Arbitration shall provide the form called for by these rules. (S. Ct. Rule 94).

RULE 8. REJECTION OF AWARD (S.CT.RULE 93)

(a) Rejection of the award shall be in compliance with Supreme Court Rule 93.

(b) The Administrative Assistant for Arbitration shall provide the form of Notice of Rejection of Award. (S. Ct. Rule 95)

RULE 9. DUTIES OF SUPERVISING JUDGE FOR ARBITRATION

It shall be the duty of the supervising judge for arbitration for each county to:

- (a) Hear motions to interpret all Rules.
- (b) Hear motions to advance or postpone hearing.
- (c) Hear motions to consolidate cases.
- (d) Hear motions to vacate judgments.
- (e) Hear motions to enter judgment.
- (f) Hear all post-judgment enforcement proceedings.

The Circuit Judges of the Third Judicial Circuit hereby adopt the Mandatory Arbitration Rules on this ____ day of _____, 2006.

s/Ann Callis
Chief Judge

s/Dan J. Stack

s/Lola Maddox

s/Charles Romani

s/A.A. Matoesian

s/Edward C. Ferguson

s/Nicholas G. Byron

s/Don W. Weber

s/John Knight