

Lake County Arbitration Question & Answer Booklet



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This booklet provides information regarding the arbitration program and is offered as general information. It should not be legally relied upon without checking the specific statutory provisions and any amendments to local rules.

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WHAT IS ARBITRATION?

Mandatory court-annexed arbitration is an alternate dispute resolution procedure used in court systems across the country. Court-annexed arbitration was established in Illinois as a non-binding form of alternative dispute resolution. The program is a deliberate effort on the part of the judiciary, bar, and public to reduce the length and cost of litigation in Illinois.

The program applies to all civil cases seeking money damages exclusively greater than \$10,000 and less than the jurisdictional limit approved for that particular circuit by the Illinois Supreme Court. In Lake County the limit is currently \$50,000. Lake County further requires that small claims actions are subject to arbitration when a jury demand is filed. Cases may also be transferred to the arbitration calendar from other court calls or divisions.

These arbitration eligible cases are litigated before a panel of three attorney/arbitrators in a hearing resembling a traditional bench trial. Each party makes a concise presentation of its case to the panel of arbitrators, who then deliberate the issues and make an award on the same day as the hearing.

The parties to the dispute then have thirty (30) days to decide whether or not to accept the arbitrators' award. In the event one of the parties is not satisfied with the panel's decision, he or she may, upon the payment of the proper fee, the filing of the proper form with the Clerk of the Circuit Court, and the giving of notice to all other parties, reject the award. The parties will then proceed to

trial before a judge as if the arbitration hearing had never occurred.

The Arbitration Program has provided a speedier resolution of small civil lawsuits than had previously been possible. The parties accept a substantial proportion of the arbitration awards. In addition, the members of the Lake County bar, as arbitrators, have played a major role in helping to reduce the length and cost of litigation in this circuit.

I. ARBITRATION FACILITIES

1. Where is the Arbitration held?

The Lake County *Arbitration Center* is located one block west of the main courthouse on the first floor of the *415 Executive Building, 415 W. Washington Street, Room 106, Waukegan, IL, 60085*.

1. If I have any questions regarding the process, who do I call?

In the event you have a question about the arbitration process and/or the arbitration hearing, contact the Arbitration Center at *Tel. (847) 360-5747; FAX (847) 263-7758*.

In the event you have a question about the filing of papers or any fees, contact the Office of the Circuit Clerk at *(847) 377-3380*.

In the event you want to place a case on the motion call or you have questions regarding the Arbitration court call, please contact the Arbitration Clerk at *(847) 377-3245*.

For additional resources, please contact the Center for Self-Representation at *(847) 377-2800*.

II. ARBITRATION CASES

1. What type of cases will be assigned to arbitration?

In the 19th Judicial Circuit, a civil action shall be subject to mandatory arbitration if each claim therein is exclusively for money damages in an amount exceeding \$10,000, but not exceeding \$50,000, exclusive of costs and interest [Illinois Supreme Court Rule 86(b)]. Small claims cases in which a jury demand has been made are subject to mandatory arbitration as well [Circuit Rule 17.01(h)]. Cases may also be transferred to the arbitration calendar from other calls or divisions upon the motion of the court or any party.

2. Must I go through arbitration before I can go to trial?

Yes. All eligible actions are subject to mandatory arbitration before a panel of three attorney/arbitrators. Any party attending the arbitration hearing who is not debarred may, within thirty (30) days and upon payment of the proper fee to the Clerk of the Court and notice to all other parties, file a rejection of the award and proceed to trial before a judge or jury (depending on whether a jury demand was properly filed).

3. What happens in cases where the claim is inflated to exceed the jurisdictional limit (\$50,000) to avoid arbitration?

Illinois Supreme Court Rule 86(d) provides that cases not assigned to the arbitration calendar may be ordered to arbitration at a status call, pre-trial, or case management conference when it appears to the court that no claim in the action has a value in excess of the

monetary limit authorized by the Supreme Court for that circuit (currently \$50,000) irrespective of defenses.

4. Could an action be filed in the law division and then amended below the jurisdictional limit (\$50,000) in order to qualify for arbitration?

Yes. An appropriate motion to amend damages and to transfer an assigned "L" case to the arbitration calendar must be made before the law division judge in accordance with court rules.

5. If a case was filed as an arbitration case, but should be a law division case, how do I transfer the case to the "L" calendar?

A case pending in arbitration may be transferred to the law division calendar by filing an appropriate motion with the arbitration judge in accordance with court rules.

6. What if a counter-claim is filed in a small claims case seeking more than \$10,000 in damages?

A small claims case may be transferred to the arbitration calendar upon the appropriate motion before the small claims judge in accordance with court rules.

7. What is done with the lawsuit when the defendant has filed bankruptcy?

In a case where a defendant has filed bankruptcy, any party may move to have the matter set on the arbitration judge's bankruptcy stay calendar. Upon the granting of the motion, the case will be set for review by court order.

8. For what types of cases will arbitration not be available?

Generally, it will not be available for the following:

Forcible Entry and Detainer	Replevin
Confession of Judgment	Trover
Detinue	Registration of
Ejectment	Foreign Judgments

However, if damages remain the only issue, the matter *may* be sent to the arbitration calendar.

9. Can I observe an arbitration hearing prior to my own arbitration hearing date?

Yes. Arbitration hearings are open to the public. It is *strongly* suggested that you contact the arbitration center to schedule a time to view a hearing, as hearings are *not* conducted every day. The arbitration staff will give you alternate days and times to select from.

10. If I can't make it to the Arbitration Hearing, can my spouse represent me?

Unless your spouse is licensed to practice law, he or she may not represent you in your arbitration hearing.

You must either represent yourself or have an attorney represent you.

11. Can the arbitration center recommend an attorney to handle my case?

No. One possible source for attorney referrals is the Lake County Bar Association at (847) 244-3143.

12. If I am an officer of a corporation, can I represent the corporation?

No corporation may appear as claimant, assignee, subrogee, or counterclaimant in a small claims proceeding, *unless* represented by counsel. However, an officer, director, manager, department manager or supervisor of the corporation may *defend as defendant* when the amount claimed *does not exceed the jurisdictional limit for small claims* (currently \$10,000.00) [Illinois Supreme Court Rule 282(b)].

III. ARBITRATORS

1. Who will be the arbitrators that will hear my case?

Arbitrators are lawyers who have met specific criteria and who have been trained and certified to act as arbitrators. They are assigned on a specific day to hear cases that have been previously scheduled for that day.

Circuit Rule 17.02(a)(b) provides that any licensed attorney shall be eligible for appointment as an

arbitrator by filing an application with the arbitration administrator certifying that he/she is: in good standing with the Illinois Attorney Registration and Discipline Commission (ARDC); has completed a court-approved training seminar on arbitration practices and procedures; has been engaged in the active practice of law in Illinois for a minimum of two (2) years within the five years immediately preceding the filing of the application or is a retired judge; and resides in, practices in, or has an office located within Lake County. In order to be considered for the position of chair, an attorney must fill out an additional application indicating a minimum of five (5) years recent trial experience. The application will be reviewed and approved by the supervising judge.

2. Will I have a choice of arbitrators?

No. Arbitrators are selected at random to insure against prejudice or bias. When the arbitrators arrive at the center each hearing day, they review their assigned files for a conflict of interest. Whether there is a conflict of interest is a matter of discretion with each arbitrator, though they are bound by the Code of Judicial Ethics.

3. Do I have to pay the arbitrators?

No. The State of Illinois pays the arbitrators from the Mandatory Arbitration Fund. This fund was created by the legislature and allows for an \$8 fee (\$10 in Cook County) to be collected on every appearance filed in a civil action within the Circuit.

4. How are the arbitrators chosen?

Arbitrators are chosen at random several months in advance of the hearing date. Arbitrators may also be called on an emergency basis to fill in for those arbitrators unable to attend on their scheduled day.

5. When will I know who will be the members of the panel who will hear my case?

The panel members will introduce themselves to the litigants at the beginning of the hearing.

6. May I ask to change arbitrators if I think there is prejudice, a conflict or other problems?

No. Arbitrators may recuse themselves if they feel there may be a conflict, or withdraw if grounds appear to exist for disqualification pursuant to the Code of Judicial Conduct [Illinois Supreme Court Rule 87(c)]. There is no provision made in the rules for a substitution of arbitrators or change of venue from the panel or any of its members. The remedy of rejection of an award and the right to proceed to trial has been determined to be the appropriate response to a perceived bias or prejudice on the part of any member of the panel or error by the panel in the determination of its award.

7. What happens if an arbitrator discovers a conflict after the hearing has started?

If an arbitrator discovers a conflict after the hearing has started and no arbitrator is available to take his/her

place, the arbitration hearing can continue before the two remaining panelists if all parties agree. Otherwise, an emergency arbitrator will be called and the hearing will be delayed until the emergency arbitrator arrives.

8. If I do not understand the meaning of the award, may I contact the arbitrators? Can I ask the arbitrators what I did wrong?

No. The arbitrators are bound by the Code of Judicial Conduct and cannot have *ex parte* communications with any of the parties or their attorneys. Arbitrators may not be contacted, nor respond to questions regarding a particular arbitration case heard by that arbitrator, during the pendency of that case and until a final order is entered and the time for appeal has expired [Circuit Rule 17.02(e)].

IV. MOTIONS

1. What days and times are arbitration motions heard?

Arbitration motions are heard Monday, Wednesday, and Thursday at 1:30 p.m. at the Lake County Courthouse, 18 N. County Street, Waukegan, IL, 60085. Please contact the circuit clerk's office, arbitration clerk, to place a case on the motion call [(847) 377-3245].

2. Where are the arbitration motions heard?

The Supervising Judge for Arbitration in Courtroom 307 hears the majority of arbitration motions.

3. If a case was filed as a law division case, but is really an arbitration matter, how do I put it on the arbitration-hearing schedule?

If a case is in the law division, it may be transferred to the arbitration calendar by making the appropriate motion before the law division judge to whom the case was assigned.

4. If a case was filed as an arbitration case, but is really a law division case, how do I have it transferred to the law division?

A case pending in arbitration may be transferred to the law division by filing the appropriate motion with the supervising judge for arbitration in accordance with the rules.

5. If the case has been disposed of by default, summary judgment, or stipulation of the parties, do I have to notify the arbitration center?

Yes. Circuit Rule 17.03(d) provides that counsel *shall* give notification to the arbitration administrator at least seven (7) days in advance of the hearing of changes of appearances or additions of parties or counsel, or of the need for additional time. Sanctions may be imposed for failure to do so.

6. Can arbitrators hear motions?

The arbitrators' authority to hear motions is limited. Their authority and power exist only in relation to the conduct of the hearing at the time it is held. Thus, the arbitrators can hear and determine motions to exclude witnesses, motions *in limine*, rulings on the admissibility of evidence and motions for directed finding.

Any other motions pertaining to the case must be brought at the appropriate time and in the appropriate manner before the Supervising Judge of Arbitration. Arbitrators *MAY NOT* hear and determine motions for continuance of the hearing.

V. DISCOVERY

1. Are there special rules governing discovery in arbitration?

Yes. Arbitration cases are subject to the disclosure provisions of Illinois Supreme Court Rule 222. All litigants are well advised to read and comply with this Rule. Failure to file or serve the disclosure statement as provided by rule, or as the court may order prior to the arbitration hearing, may result in the imposition of sanctions as prescribed in Illinois Supreme Court Rule 219(c).

NO DISCOVERY IS TO BE CONDUCTED AFTER THE HEARING EXCEPT BY LEAVE OF COURT AND FOR GOOD CAUSE SHOWN [Circuit Rule 17.05(a)].

2. Do I have to bring all my witnesses or can I present certain types of evidence without the maker being present?

It is up to each litigant to present the evidence. Illinois Supreme Court Rule 90(c) provides that items such as hospital reports, doctor's reports, drug bills, and other medical bills, as well as bills for property damage, estimates of repair, earnings reports, expert opinions, and depositions of witnesses are admissible without the maker being present. *In order to take advantage of this rule, a written notice of the intent to offer those documents along with a copy of the documents MUST BE sent to all other parties AT LEAST 30 DAYS PRIOR to the scheduled arbitration hearing date. All documents shall be accompanied by a summary cover sheet indicating money damages incurred and specifying whether each bill is paid or unpaid.*

3. If I file my documents in accordance with Rule 90(c), are they automatically admitted into evidence?

No. Any documents that are filed pursuant to Rule 90(c) are *presumptively* admitted; i.e., no further foundation needs to be laid for their admittance. However, the documents are still subject to objections according to the usual rules of evidence.

4. May I call the maker of a document my opponent seeks to introduce as a witness?

Yes. Illinois Supreme Court Rule 90(e) provides that any other party may subpoena the author or maker of a document admissible under Rule 90(c), at the expense of the party issuing the subpoena, and examine the author or maker as if under cross-examination. The provisions of the Code of Civil Procedure relative to subpoenas are applicable.

5. May I subpoena witnesses to appear just as I could in a trial?

Yes. Subpoena practice in arbitration cases is conducted in the same fashion as that followed in a non-arbitration case. A subpoena to testify at an arbitration hearing is in essentially the same form provided for in the Code of Civil Procedure. It is the duty of the party requesting the subpoena to modify the form to show that the appearance is set before an arbitration panel and to give the *time and place* set for the hearing. Arbitration subpoena forms are available at the clerk's office.

6. Do the same rules for witness fees apply to arbitration hearings as to a trial?

Yes. Witness fees and costs shall be in the same amount and shall be paid by the same party or parties as established by the Code of Civil Procedure and the Circuit Rules.

7. Can discovery take place after the hearing?

In most instances, no. Illinois Supreme Court Rule 89 provides that discovery may be conducted in

accordance with established rules and shall be completed prior to the arbitration hearing. *No discovery shall be permitted after the hearing, except by leave of court for good cause shown.*

VI PRIOR TO THE ARBITRATION HEARING

1. Who issues the arbitration summons?

Before an arbitration hearing can proceed, all parties must be served with a summons. The Office of the Circuit Clerk of Lake County issues the arbitration summons, as well as any necessary aliases.

2. When will an arbitration hearing date be assigned?

Upon the filing of a case, the Clerk of the Circuit Court shall assign a date and time for the arbitration hearing. The date and time will be noted on the complaint and all summons. *This is the only notice of the hearing that the parties will receive.*

2. There is another date on the summons. Do I need to attend that date as well?

Yes. The summons contains a return of service date in the first paragraph, which is set before the Supervising Judge of Arbitration. *All parties must appear in court on the return date unless otherwise excused by order of the court.*

If plaintiff fails to appear on the original or continued return day, the case may be dismissed for want of prosecution.

If the defendant fails to file an appearance on or before the return day, an order of default may be entered, at which time the arbitration hearing date will be removed [Circuit Rule 17.03(a)].

3. What if I am the Plaintiff and I do not have service on a defendant by the return of service date?

A plaintiff who has failed to obtain timely service by the return date shall appear before the supervising judge of arbitration on the return date. Plaintiff may request the issuance of an alias summons and rescheduling of the arbitration date, if necessary.

In the event the plaintiff has failed to obtain service of process on all defendants by means of an original or alias summons more than 60 days before the original arbitration hearing date or any rescheduled arbitration hearing date, and the Court finds that the plaintiff has failed to exercise reasonable diligence to obtain service on any defendant, the Court may dismiss the action as to such unserved defendant pursuant to Illinois Supreme Court Rule 103(b) [Circuit Rule 17.03(a)].

4. What if I am the defendant and I wish to contest the allegations in the complaint?

If any defendant wants to contest the claims made by the plaintiff, the defendant must file an appearance

and an answer. ***No case will proceed to arbitration unless an answer is on file to any complaint, counter claim and/or affirmative defense.***

For the appearance, there is a form available in the Office of the Circuit Clerk and a clerk will advise you of the appropriate fee.

For the answer, there is no form available. The defendant must answer each allegation of the complaint, in writing. For example, if there are six paragraphs in the complaint, the answer must contain either an admission or denial of each paragraph contained in the complaint.

5. What if I need to add another defendant, file a counter complaint, or file a third party complaint?

Upon the timely filing of any amended complaint, any counter complaint or any third party complaint with an ad damnum not in excess of \$50,000, the filing party or their counsel shall be required to appear before the supervising judge of arbitration ***within 10 days*** of said filing for the setting of appropriate dates to allow the clerk to issue summons and for any other orders the Court deems appropriate. The clerk shall not issue summons on the above pleading until return dates and arbitration hearing dates have been set by the Court [Circuit Rule 17.03(a)].

6. Where can I get the forms required for my case?

Most required forms are available at the Office of the Circuit Clerk. Forms are also available on the 19th

Judicial Circuit Court's web site: <http://19thcircuitcourt.state.il.us> (follow the directions for small claims).

7. What if the parties settle the matter prior to the hearing?

If the parties settle the matter prior to the hearing, the parties will be required to appear before the supervising judge of arbitration at the scheduled motion call ***before*** the arbitration hearing date to submit the appropriate stipulations and/or orders disposing of the case. The parties are required to notify the arbitration center immediately of any settlement or disposition of a case scheduled for hearing. Copies of any dispositive orders may be mailed, delivered, or faxed to the arbitration center.

VII. THE ARBITRATION HEARING

1. How long should a hearing last?

It is anticipated that the majority of cases heard by an arbitration panel will require two (2) hours or less for the presentation of the evidence. Plaintiff's attorney is responsible for conferring with all other parties to determine an approximation of time required for presentation of the case. The arbitration administrator ***must*** be advised at least seven (7) days in advance of the hearing of the estimated duration of the hearing [Circuit Rule 17.03(d)].

2. Will I get any notice of the arbitration hearing date after it is set?

No. However, the arbitration center contacts all counsel of record, or the party himself or herself if not represented by counsel and who have an appearance on file, a week before the hearing to make sure the case is still proceeding in order to have a panel available to hear the case.

3. How will the arbitration administrator know that the parties are ready for the hearing?

The attorneys for each party, or the parties if not represented by an attorney, are required to check in when they enter the arbitration center. The arbitration administrator calls the cases at their assigned time.

4. What should the parties do if they believe that the hearing will take more than two hours?

Circuit Rule 17.03(d) provides that the plaintiff or plaintiff's attorney contact all parties to determine the approximate time required for the hearing and advise the arbitration administrator *at least seven (7) days* in advance of the hearing date. If the hearing will require a half-day (three hours) the arbitration administrator will schedule the allotted time. *If the parties determine that more than three (3) hours are needed for the hearing, they should also notify the Supervising Judge of Arbitration* at the time the supervising judge sets the date of the hearing and *state in the order* setting the hearing that the hearing will necessitate a specified amount of additional time.

Sending a copy of this order to the arbitration administrator will suffice as the Rule 17.03(d) notice. Arbitration hearings are *not* to exceed one (1) day.

5. What if I want the date extended? Do I need to seek the arbitration judge's approval? If both parties agree, do they need to come to court to change the date?

The Supervising Judge of Arbitration may continue a hearing date for good cause shown. Motions to continue should be set on the motion call before the arbitration judge *not less than seven (7) days* prior to the arbitration hearing [Circuit Rule 17.03(b)].

Two things must be filed with the Clerk of the Circuit Court: (1) a Notice of Motion which *must* be sent in a timely manner to all parties involved in the lawsuit *and* to the arbitration administrator indicating that you want to appear in court to ask the court for a change in the hearing date, and (2) a Motion to Continue which must be attached to the Notice of Motion, outlining the reasons for the continuance. If the motion is granted, the arbitration administrator must be notified of the new date and time for a case [Circuit Rule 17.03(d)].

The arbitrators *CANNOT*, for any reason, continue a case. Even if both parties agree to the continuance, the Supervising Judge of Arbitration must sign the order granting the continuance and assigning the new date.

6. What should I do if I am going to be late on the day of the hearing? Who do I call?

The arbitration administrator should be notified immediately if a party will be late on the day of the hearing. Time may be extended for good cause shown. If no notice is given, the hearing will proceed in accordance with the rules.

7. If I am late, will I still get a two-hour hearing?

No. If the case starts after the scheduled time due to the fault of one of the parties, that party may be penalized by having that amount of time deducted from his or her presentation. If the hearing starts after the scheduled time due to the fault of the arbitration center or one of the arbitrators, the parties will not be penalized.

8. What happens if one party does not show up?

If a party fails to appear at the hearing, the hearing will proceed *ex-parte* and the appropriate award entered. If there is another case scheduled that is ready, the administrator will generally start that case first. If there are no other scheduled cases, the arbitration administrator will generally wait ten to fifteen (10-15) minutes for a party to appear before calling the case.

Pursuant to Illinois Supreme Court Rule 91(a), the non-appearing party waives the right to reject the award and consents to entry of a judgment on the award.

9. Is there a place where the attorneys can confer with their clients before the hearing?

Yes. The Arbitration Center has two conference rooms available for use by attorneys and their clients. Also, when available, any of the five hearing rooms or two mediation rooms may be used for conference rooms.

10. What are the options if one party mis-diaries the hearing date or time or appears at the wrong location and does not appear at the hearing as scheduled by the court?

See answer to Section VII.8 above. The judgment entered on the *ex-parte* award may be vacated [See Illinois Supreme Court Rule 91(a)]. Pursuant to the Rule, costs and fees may be assessed against the party that did not appear. The costs may include, but are not limited to payments of filing fees and service of summons fees, attorney's fees, witnesses' fees, stenographic fees, and any other out-of-pocket expenses incurred by any party or witness.

11. What happens if a party does not comply with a Rule 237 subpoena?

Pursuant to Illinois Supreme Court Rule 90(g), the provisions of Illinois Supreme Court Rule 237, and thus the sanctions provided in Illinois Supreme Court Rule 219, are equally applicable to arbitration hearings. The arbitrators are instructed to note the failure to comply with Rule 237 on the award and fact

sheet. Rule 90(g) further provides that sanctions for failure to comply with a Rule 237 request may include an order debarring that party from rejecting the award.

12. What happens if the defendant has failed to file an appearance or answer?

In the event a defendant, after service of process, fails to file an appearance or answer on or before the return date set in the summons, it may be determined that all allegations in the complaint are admitted. The plaintiff shall appear before the Supervising Judge of Arbitration on the return date for the purpose of obtaining a judgment, or an order of default and a date for prove-up, removing the case from the previously scheduled arbitration hearing date.

Arbitrators *CAN NOT* enter a default judgment. *If* the Supervising Judge of Arbitration has entered an order for a default with a *court-ordered prove-up scheduled at the arbitration hearing* the arbitrators may determine that all allegations in the complaint are admitted and proceed on the issue of damages only in regards to the defaulted defendant.

13. What happens if neither of the parties appears on the date of the arbitration hearing?

The Supervising Judge of Arbitration will dismiss the case for want of prosecution.

14. What happens if one of the parties appears but does not present a case?

Illinois Supreme Court Rule 91(b) provides that all parties to an arbitration hearing must participate in good faith and in a meaningful manner. If the panel unanimously finds that a party has failed to participate in the hearing in good faith and in a meaningful manner, they may so state on the appropriate Rule 91(b) form (fact sheet) or on the award along with the factual basis for the decision. Any other party may bring a motion for sanctions before the Supervising Judge of Arbitration. Sanctions against the non-good faith participant may include those as provided in Illinois Supreme Court Rule 219(c), an order debarring that party from rejecting the award, and costs and attorney's fees incurred for the arbitration hearing and in the prosecution of the petition for sanctions.

15. Should I leave my Rule 90(c) documents with the panel?

As a courtesy to the panel, you should make three (3) copies of your Rule 90(c) documents and any other evidence that you plan to present to the panel. The arbitration center is not responsible for documents left with it and litigants are encouraged not to leave any original documents at the arbitration center.

16. What happens to my exhibits after the hearing?

The arbitration administrator stores them on the premises. According to Circuit Rule 17.06 (i), it is the duty of the attorneys or parties to retrieve the exhibits from the arbitration center within *seven (7) days* after the *entry of judgment, notice of rejection, or order of*

dismissal. All exhibits not retrieved shall be destroyed. It should be noted that the arbitration center is not responsible for the documents. Litigants are **STRONGLY URGED** to make copies of original documents and leave the copies, **NOT THE ORIGINALS**, with the panel while they make their deliberations.

17. If, during the arbitration hearing, I disagree with a ruling of the arbitrators, may I, at that time, go before the Supervising Judge of Arbitration for a ruling?

No. Illinois Supreme Court Rule 90(a) provides that the arbitrators shall have the power to administer oaths and affirmations to witnesses, to determine the admissibility of evidence, and to decide the law and facts of the case. The chair of the panel shall make rulings on objections to evidence or on other issues that arise during the hearing. The remedy of rejection of the award and the right to proceed to trial is determined to be the appropriate remedy for a perceived bias or prejudice on the part of any member of the panel or error by the panel in the determination of its award.

18. Will a court reporter be present to make a transcript of the hearing?

A court reporter is not provided. Circuit Court Rule 17.06 (f) provides that any party, at that party's expense, may make a stenographic record of the hearing. If a party has a stenographic record transcribed, notice thereof shall be given to all other

parties and a copy shall be furnished to any party upon payment of a proportionate share of the total cost of making the stenographic record. Testimony from the arbitration hearing has limited use in any later trial of the matter.

No sound recording equipment shall be allowed in the arbitration hearing except as utilized by a court reporter.

19. Will a language interpreter be provided?

The arbitration center does not schedule or recommend language interpreters. Each party is responsible for providing their own language interpreter if one is required.

An interpreter or other assistance for the deaf or hearing impaired will be arranged, provided the arbitration administrator is notified of the need **not less than seven (7) days** prior to the scheduled arbitration hearing [Circuit Rule 17.06(g)].

20. I have videotape as part of my 90(c) evidence. Is there a way I can let the arbitration panel see the video?

The arbitration center does have a video player (we do not have DVD capability). The requesting party **must** make arrangements with the arbitration center staff to reserve the video equipment **prior** to the arbitration hearing.

VIII. THE ARBITRATION AWARD AND JUDGMENT ON THE AWARD

1. Will the determination of the award be made the same day as the hearing?

Yes. The panel will make an award promptly upon termination of the hearing. The award shall dispose of *all* claims for relief, *including costs, attorney's fees, and interest*. The award may not exceed the sum authorized for that particular circuit. Lake County's authorized sum is \$50,000, which includes any claim for attorney's fees and is exclusive of costs and interest. The arbitrators, or the majority of them, shall sign the award. A dissenting vote *without further comment* may be noted on the award.

Usually, the award and notice of award are filed the day of the hearing with the Clerk of the Court. The Clerk of the Court is responsible for serving notice of the award and the entry of the same on the record. Copies will be mailed to all parties who have filed an appearance in the matter.

2. Will the panelists announce the award to the parties on the day of the hearing?

The panel does not announce the award to the parties. Litigants may wait for the award or call the arbitration center later to have the award read. A copy of the award will be mailed to all litigants who have filed an appearance.

3. Is the award of the arbitrators binding?

No. Pursuant to Illinois Supreme Court Rule 93, any party who was present at the hearing either in person or through counsel, except one that has been debarred from rejecting the award, may within thirty (30) days of the filing of the award, and upon the *payment of the proper fee and notice to all other parties*, file a rejection of the award with the Clerk of the Court.

4. When does the 30-day period to reject the award begin to run?

The 30-day period begins to run from the date the award is filed with the Clerk of the Court. As the status hearing is approximately 35 days after the hearing, *a rejection of the award CANNOT be filed at the status hearing*.

5. What if I believe there is a mistake in the award?

Illinois Supreme Court Rule 92(d) provides that when it appears from the record and the award that there is an *obvious and unambiguous* error in language or mathematics, the court, upon application by one of the parties within the 30-day rejection period, may correct the same. If such a motion is made, it will stay the proceedings, including the running of the 30-day rejection period, until the Court decides the matter.

6. Is the arbitration award a final order? If not, how do I make it final?

The arbitration award is *not* final. In order to be so, the Supervising Judge of Arbitration must enter a judgment on the award. Pursuant to Supreme Court Rule 92(c), if no rejection is filed within the 30-day period after the hearing, any party may thereafter move the court to enter a judgment on the award. Typically, this is done at the Judgment on Award status hearing.

If the hearing was *ex-parte*, the party appearing may move at any time after the award has been filed with the Clerk of the Court for an entry of judgment on the award [See Illinois Supreme Court Rule 91(a)].

7. Can the parties enter a stipulation for an amount different from the award after the award is entered?

Yes. Parties may stipulate to an amount different from the award after the hearing but prior to entry of the judgment on the award.

8. What happens if neither party asks for judgment on the award to be entered?

At the time of the arbitration hearing the court sets a status date called the Judgment on Award date approximately 35 days after the arbitration hearing. The parties receive a copy of the court order setting the Judgment on Award status date along with their copy of the award via the mail. Typically, one of the parties will move for judgment on the award at the status date. *The Judgment on Award status date is mandatory for all parties.* If neither party attends the

status date, the Supervising Judge of Arbitration may dismiss the case for want of prosecution.

9. Can the parties dismiss the action after the hearing and the award are entered?

Yes. The parties may voluntarily dispose of the matter at any time prior to the entry of judgment. However, recent case law indicates that a plaintiff may not circumvent the effects of Illinois Supreme Court Rule 91 by not appearing at a hearing and subsequently moving to voluntarily non-suit the matter. A stipulation to dismiss may even be presented at the Judgment on Award status hearing.

IX. REJECTION OF THE AWARD AND TRIAL DE NOVO

1. Is there a cost to reject the award?

Yes. Pursuant to Illinois Supreme court Rule 93(a), ***WITHIN 30 DAYS AFTER*** the filing of the award with the Clerk of the Court, and upon payment of the sum of \$200 to the Clerk of the Court if the award was \$30,000 or less, or \$500 if the award was greater than \$30,000, any party *who was present* at the arbitration hearing, either in person or by counsel, and who has not been debarred from rejecting the award, may file with the Clerk of the Court a written notice of rejection and request to proceed to trial. The party filing the rejection of the award must also file a certificate of service of such notice on all other parties.

2. If another party has rejected the award, must I also pay a rejection fee?

No. Per Illinois Supreme Court Rule 93, the filing of a single rejection shall be sufficient to enable all parties except a party who has been debarred from rejecting the award to proceed to trial on all issues of the case without the necessity of each party filing a separate rejection. The filing of a notice of rejection shall not be effective as to any party who is debarred from rejecting an award.

3. If I go to trial, can the arbitration panel that made the award be called as witnesses?

No. Illinois Supreme Court Rule 93(b) prohibits an arbitrator from being called as a witness at any subsequent trial of the matter.

4. Can I use the award from the arbitration hearing at my trial?

No. Illinois Supreme Court Rule 93 prohibits any reference in subsequent trial to the fact that an arbitration proceeding was held or that an award was made.

5. Who may reject the arbitration award?

Illinois Supreme Court Rule 93(a) provides that any party who was present at the arbitration hearing, either in person or by counsel, may, upon payment of the appropriate rejection fee, file with the clerk a written

notice of rejection of the award and request to proceed to trial, together with a certificate of service of such notice on all other parties. The filing of a single rejection shall be sufficient to enable all parties, except a party who has been debarred from rejecting the award, to proceed to trial on all issues of the case without the necessity of each party filing a separate rejection. The filing of a notice of rejection shall not be effective as to any party who is debarred from the rejection of an award.

X. FAQ: THINGS TO KNOW WHEN APPEARING IN COURT

1. What is “service,” and why is it important?

Service is the formal process by which a party to a case is informed that the case has been filed against him or her, and that he or she must come to court on a specific date. Proper service is important because without it, a court does not have the power to order a party to do anything or resolve the dispute. A party is served when he or she receives a summons (see below). Usually, the Sheriff delivers a summons to a defendant and there is a fee for the service.

2. What is a “summons” and an “alias summons?”

A summons is a pre-printed legal form that tells a defendant that he or she is being sued, and contains the date the defendant must come to court (the “Return Date”). An “alias summons” is a second

summons that is issued by the court when the first attempt to serve a summons was unsuccessful.

3. What is an “appearance?”

An appearance is a written form the defendant must file with the Clerk of the Court. The appearance tells the court that the defendant intends to have the court hear the matter for which the plaintiff has filed the complaint. The appearance form also tells the court if you are representing yourself, or whether you have hired an attorney to represent you.

4. What is an “answer?”

An answer is the written statement a defendant must file with the court. It addresses each of the paragraphs in the plaintiff’s complaint by admitting or denying the allegations the plaintiff is making.

5. What is a “motion,” and how do I file one?

Filing a motion with the court is the manner in which a party officially requests the court to do something, such as rule on an issue or schedule a hearing. A party filing a motion must send it to all of the parties in a case, and also file it in the Office of the Circuit Clerk.

6. What is a “notice of motion,” and how do I file one?

A “notice of motion” is simply the form a party files with the court telling the court that all of the parties to a case have been informed that a motion has been

filed. The notice of motion contains the time, date and place in which a motion will be heard, and is sent to the opposing parties and the court along with copy of the motion itself. If the other party files a motion, you should receive a copy of the motion and a copy of the notice of motion either in the mail or by hand delivery.

7. What is a “continuance?”

A “continuance” simply means that the case will be continued on another date set by the court.

8. What is a “status date?”

A status date means a future date on which the parties will again appear in court to tell the judge what is happening with the case. The court uses these dates to ensure that the case is moving along towards a final resolution and not just languishing on the court’s docket.

9. What is an “order?”

An order (or “court order”) contains instructions to the parties regarding what they must do. Orders can contain instructions as simple as “the parties will next appear on Feb. 27, 2007,” or command the parties to do – or to forbid them from doing – specific tasks. Generally, each time you appear in court, the court will order the parties to do something. All orders are placed in the court file.

10. How can I see what is in the court file?

Court files are public documents and can be viewed by anyone. To view the file for your case, go to the Office of the Circuit Clerk located in the lower level of the courthouse. For a small fee, you can have the clerk copy items in the court file for you.

11. What do I need to bring to court?

If you are coming to court for a trial, you need to bring with you all of the evidence you have to prove your case, including any receipts, contracts, pictures, any other documents and, of course, any witnesses.

12. What is arbitration, and must my case go to arbitration?

All cases in which a party is seeking only money damages between \$10,000 and \$50,000 must go to arbitration before being heard by a judge. Small claims cases in which a jury demand has been made are subject to mandatory arbitration as well. At arbitration, the parties present their case to a panel of three arbitrators, and the arbitrators make a monetary award based on the evidence. If you are not satisfied with the arbitrators' decision, you can reject it by filing a notice of rejection and paying a small fee within 30 days from the date the award is filed with the clerk. The case will be returned to court and a trial conducted before a judge.

13. What should I bring to an arbitration hearing?

Similar to a trial, you need to bring to an arbitration all of the evidence you have to prove your case, including any receipts, contracts, pictures, any other documents and any witnesses. Please refer to Illinois Supreme Court Rule 90(c).

*All forms are available in the Clerk's office, located in the lower level of the courthouse.

Where can I get further help? If you have other questions about court procedures or court forms and instructions, you can visit the Center for Self-Representation, located in the William D. Block Memorial Library in the main lobby of the courthouse, or visit: <http://www.19thcircuitcourt.state.il.us/self-help>

SAMPLE PLEADINGS

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS
SUMMONS (Action for \$10,001-\$50,000)**

Plaintiff) THIS IS AN ARBITRATION CASE
) No. _____
)
 vs.) Amount claimed \$ _____
)
 Defendant)

**THIS IS AN ARBITRATION CASE
SUMMONS**

TO EACH DEFENDANT:

YOU ARE HEREBY SUMMONED and required to appear before this Court at 18 N. County Street, Room No. _____, Waukegan, Illinois, at _____ .m, on _____ 20__ to answer the complaint in this case, a copy of which is hereto attached. **IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF ASKED IN THE COMPLAINT.**

NOTICE: Both plaintiff and defendant shall appear in court on the return date unless an appearance and answer, as well as any required fees and any other required responsive pleading thereto has been filed on or before the return date. In such case neither party need appear and the case will be heard at the Arbitration Center, 415 W. Washington Street, Waukegan, IL at _____ on the _____ day of _____, 20__, by arbitration without further notice.

NOTICE TO PLAINTIFF: Notwithstanding the aforestated, if plaintiff fails to appear on the original return date or any continued date thereof, the case may be dismissed for want of prosecution without further notice.

To the Officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service and not less than 3 days before the day for appearance. If service cannot be made, this summons shall be returned so endorsed.

This summons may not be served later than 3 days before the day for appearance.

(Seal of Court) WITNESS _____, 20__

 (Clerk of the Circuit Court)

 (Deputy)

(Plaintiff's attorney or plaintiff if he is not represented by an attorney)
 Name _____
 Attorney for _____
 Address _____
 City _____
 Telephone _____

REVERSE SIDE MUST BE COMPLETED

SHERIFF'S FEES (Service and Return \$ _____
 (_____
 (Miles _____ \$ _____
 (_____
 (Total \$ _____

 Sheriff of _____ County

I certify that I served this summons on defendants as follows:

- Individual defendants - personal:

The officer or other person making service shall (a) identify as to sex, race and approximate age of the defendant with whom he left the summons, and (b) state the place where (whenever possible in terms of an exact street address) and the date and time of the day when the summons was left with the defendant.

- Individual defendants - abode:

By leaving a copy and a copy of the complaint at the usual place of abode of each individual defendant with a person of his family, of the age of 13 years or upwards, informing that person of the contents of the summons. The officer or other person making service shall (a) identify as to sex, race and approximate age of the person, other than the defendant, with whom he left the summons and (b) state the place where (whenever possible in terms of an exact street address) and the date and time of day when the summons was left with such person.

And also by sending a copy of the summons and of the complaint in a sealed envelope with postage fully prepaid, addressed to each individual defendant at his usual place of abode, as follows:

Name of defendant	Mailing Address	Date of Mailing
_____	_____	_____
_____	_____	_____

- Corporation defendants:

By leaving a copy and a copy of the complaint with the registered agent, officer or agent of each defendant corporation, as follows:

Defendant corporation	Registered agent, officer or agent	Date of Service
_____	_____	_____
_____	_____	_____

- Other Service:

 _____, Sheriff of _____ County

By: _____
 Dated this _____ day of _____, 20__

**SALLY D. COFFELT, CLERK OF THE 19TH JUDICIAL CIRCUIT COURT
LAKE COUNTY, WAUKEGAN, ILLINOIS 60085**

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

Plaintiff)
) No. _____
)
vs.)
)
Defendant)

APPEARANCE

_____ hereby enter the appearance of _____

As defendant(s) in the above entitled cause and _____ sel _____ as the attorney therein.

(Signature)
Attorney for

Attorney/Pro Se _____
Address _____
City _____
Telephone _____
ARDC NO. _____

SALLY D. COFFELT, CLERK OF THE 19TH JUDICIAL CIRCUIT COURT
LAKE COUNTY, WAUKEGAN, ILLINOIS 60085

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

) Plaintiff(s),
) vs.) Gen. No. _____
) Defendant(s).)
)

ARBITRATION ANSWER

I _____, representing myself in this case, hereby answer the complaint
(your name)
filed against me by admitting, **or** denying each individual paragraph of the complaint.

Note: Each number below should correspond to the number of the paragraphs in the complaint. You should add additional numbers as necessary. If you are denying, write "deny" and state the reason you are denying.
Example: 1. I admit the allegations in paragraph one.
 2. I deny the allegations because I already paid the debt with check number XXX dated January 1, 2006.

- 1.
- 2.
- 3.

(Signature)

PLEASE PRINT
Name: _____
Address: _____
City: _____
Telephone: _____

SALLY D. COFFELT, CLERK OF THE 19TH JUDICIAL CIRCUIT COURT
LAKE COUNTY, WAUKEGAN, ILLINOIS 60085

IN THE CIRCUIT COURT OF THE 19TH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

Certificate of Attorney

Plaintiff(s),
vs.

Defendant(s).
Gen. No. _____

I certify that on _____, 20____, I served this notice by
mailing a copy to each person to whom it is directed.

(Attorney)

VI. AFFIDAVIT OF SERVICE

_____ on oath states; On _____, 20____,
_____, I served this notice by mailing a copy to each person to whom it is
directed.

(Signature)

Signed and sworn to before me

_____, 20____

Notary Public

NOTICE OF REJECTION OF AWARD

TO:

**NOTICE MUST BE SENT TO THE CLERK OF THE COURT AND TO ALL PARTIES OF
RECORD. PAYMENT OF THE (\$200.00 for awards of \$30,000 or less; \$500.00 for awards
greater than \$30,000) REJECTION FEE MUST ACCOMPANY THE FILING OF THIS
NOTICE.**

NOTICE IS GIVEN THAT _____
(Plaintiff/Defendant)
rejects the Award of the Arbitrators entered in this cause on
_____ and requests a trial before the

Court. Parties shall appear on the date previously scheduled on the Notice of Award to set a date
for trial.

Signature (Rejecting Party or Attorney)

Name: _____
Attorney for: _____
Address: _____
City: _____
Telephone: _____

Received _____, 20____, at _____M.

SALLY D. COFFELT, CLERK OF THE 19TH JUDICIAL CIRCUIT COURT

LAKE COUNTY, WAUKEGAN, ILLINOIS 60085

REVERSE SIDE MUST BE COMPLETED

Glossary of Terms

This glossary is not meant to be all-inclusive. For further definitions, please refer to Black's Law Dictionary

Ad damnum: The technical name for damages in a civil lawsuit.

Affirmative Defense: A defense that does not deny the truth of the allegations against the defendant but gives some other reason why the defendant cannot be held liable. All affirmative defenses must be raised in the responsive pleading (answer).

Alias Summons: A summons issued when the original has not produced its effect because defective in form or manner of service. When issued, it supersedes the first writ.

Complaint: In a civil action, the document that initiates a lawsuit. The complaint outlines the alleged facts of the case and the basis for which a legal remedy is sought.

Counterclaim: Claim presented by a defendant against the plaintiff following the claim of the plaintiff. If established, the claim will defeat or diminish the plaintiff's claim.

Debar: To bar, exclude or preclude from having or doing something.

Default Judgment: When a party against whom a judgment for affirmative relief is sought has failed to appear, plead (ie; answer) or otherwise defend against that claim, the party is in default and the court may enter a judgment by default. A ruling entered against a defendant who fails to answer a summons in a lawsuit.

Defendant: In civil matters, the person or organization that is being sued. The person who is defending or denying. The person against whom relief or recovery is sought in an action or suit.

Directed Finding: In a case in which the party with the burden of proof has failed to present a sufficient evidence of a genuine issue of material fact the arbitrators may enter an award based on the assertion that there is no material fact at issue. A motion for a directed finding is only made after the opponent has presented the evidence.

Discovery: Part of the pre-trial litigation process during which each party requests relevant information and documents from the other side in an attempt to "discover" pertinent facts.

Ex-parte: On one side only; by and for one party.

Ex-parte Hearing: Hearings in which the court or tribunal hears only one side of the controversy.

Exhibit: A paper, document, or object produced in court during a trial or hearing and identified as evidence.

Motion: A request made to a court or judge for purpose of obtaining a rule or order directing some act to be done in favor of the applicant.

Motion in Limine: A pretrial motion that requests the court to issue a provisional or intervening order that prevents an opposing party from introducing or referring to potentially irrelevant, prejudicial, or otherwise inadmissible evidence until the court has finally ruled on its admissibility.

Notice of Motion: A notice in writing, entitled in a cause, stating that on a certain day designated, a motion will be made to the court for the purpose or object stated. Such notice is required to be served upon all parties.

Plaintiff: A person who brings an action. The party who complains or sues in a civil action and is so named on the record.

Pro Se: (pronounced pro say) Latin phrase that means "for himself." A person who represents himself in court alone without the help of a lawyer is said to appear pro se.

Prove-up: To establish or make certain; to establish a fact or hypothesis as true by satisfactory and sufficient evidence.

Return: The act of a sheriff or other ministerial officer in delivering back to the court a writ, notice, process or other paper, which he was required to serve or execute, with a brief account of his doings under

the mandate, the time and mode of service or execution, or his failure to accomplish it, as the case may be.

Service of Process: The service of writs, summonses, etc. Signifies the delivering to or leaving them with the party to whom or with whom they ought to be delivered or left; and, when they are so delivered, they are then said to have been served.

Subpoena: A command to appear at a certain time and place to give testimony upon a certain matter. A subpoena duces tecum requires production of books, papers and other things. An order compelling a person to appear to testify or produce documents.

Summary Judgment: Any party to a civil action may move for a summary judgment on a claim, counterclaim, or cross-claim when he believes that there is no genuine issue of material fact and that he is entitled to prevail as a matter of law.

Summons: A legal document that notifies a party that a lawsuit has been initiated and states when and where the party must appear to answer the charges.

Third Party Claim: A complaint filed against a third party by a defendant or plaintiff alleging that the third party is liable for all or part of a claim or counterclaim in dispute between the original parties.

Trial de Novo: The court holds a new trial or retrial of a case as if no prior trial had been had held.

Vacate: To annul; to set aside; to cancel or rescind.
To render an act void; as to vacate an entry of record
or a judgment.

**MANDATORY ARBITRATION
SUPREME COURT RULES**

**RULE 86. ACTIONS SUBJECT TO
MANDATORY ARBITRATION**

(a) *Applicability to Circuits.* Mandatory arbitration proceedings shall be undertaken and conducted in those judicial circuits which, with the approval of the Supreme Court, elect to utilize this procedure and in such other circuits as may be directed by the Supreme Court.

(b) *Eligible Actions.* A civil action shall be subject to mandatory arbitration if each claim therein is exclusively for money in an amount or of a value not in excess of the monetary limit authorized by the Supreme Court for that circuit or county within that circuit, exclusive of interest and costs.

(c) *Local Rules.* Each judicial circuit court may adopt rules for the conduct of arbitration proceedings which are consistent with these rules and may determine which matters within the general classification of eligible actions shall be heard in arbitration.

Assignment from Pretrials. Cases not assigned to an arbitration calendar may be ordered to arbitration 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 the monetary limit authorized by the Supreme Court for

that circuit or county within that circuit, irrespective of defenses.

(e) *Applicability of Code of Civil Procedure and Rules of the Supreme Court.* Notwithstanding that any action, upon filing, is initially placed in an arbitration track or is thereafter so designated for hearing, the provisions of the Code of Civil Procedure and the rules of the Supreme Court shall be applicable to its proceedings except insofar as these rules otherwise provide.

**RULE 87. APPOINTMENT, QUALIFICATION
AND COMPENSATION OF
ARBITRATORS**

(a) *List of Arbitrators.* A list of arbitrators shall be prepared in the manner prescribed by a circuit rule. The list shall consist of a sufficient number of members of the bar engaged in the practice of law and retired judges within the circuit in which the court is situated.

(b) *Panel.* The panel of arbitrators shall consist of three members of the bar, or such lesser number as may be agreed upon by the parties, appointed from the list of available arbitrators, as prescribed by circuit rule, and shall be chaired by a member of the bar who has engaged in trial practice for at least three years or by a retired judge. Not more than one member or associate of a firm or office association of attorneys shall be appointed to the same panel.

- (c) **Disqualification.** Upon appointment to a case, an arbitrator shall notify the court and withdraw from the case if any grounds appear to exist for disqualification pursuant to the Code of Judicial Conduct.
- (d) **Oath of Office.** Each arbitrator shall take an oath of office in each county or circuit in which the arbitrator intends to serve on an arbitration panel. The oath shall be in conformity with the form provided in Rule 94 herein and shall be executed by the arbitrator when such arbitrator's name is placed on the list of arbitrators.

Arbitrators previously listed as arbitrators shall be re-listed on taking the oath provided Rule 94.

- (e) **Compensation.** Each arbitrator shall be compensated in the amount of \$75 per hearing.

RULE 88. SCHEDULING OF HEARINGS

The procedure for fixing the date, time and place of a hearing before a panel of arbitrators shall be prescribed by the circuit rule provided that not less than 60 days' notice in writing shall be given to the parties or their attorneys of record. The hearing shall be held on the scheduled date and within one year of the date of filing of the action, unless continued by the court upon good cause shown. The hearing shall be held at a location provided or authorized by the court.

RULE 89. DISCOVERY

Discovery may be conducted in accordance with established rules and shall be completed prior to the hearing in arbitration. However, such discovery shall be conducted in accordance with Rule 222, except that the timelines may be shortened by local rule. No discovery shall be permitted after the hearing, except upon leave of court and good cause shown.

RULE 90. CONDUCT OF HEARINGS

(a) **Powers of Arbitrators.** The arbitrators shall have the power to administer oaths and affirmations to witnesses to determine the admissibility of evidence and to decide the law and the facts of the case. Rulings on objections to evidence or on other issues which arise during the hearing shall be made by the chairperson of the panel.

(b) **Established Rules of Evidence Apply.** Except as prescribed by this rule, the established rules of evidence shall be followed in all hearings before arbitrators.

(c) **Documents Presumptively Admissible.** All documents referred to under this provision shall be accompanied by a summary cover sheet listing each item that is included detailing the money damages incurred by the categories as set forth in this rule and specifying whether each bill is paid or unpaid. If at least 30 days' written notice of the intention to offer the following documents in evidence is given to every other party,

accompanied by a copy of the document, a party may offer in evidence, without foundation or other proof:

- (1) bills (specified as paid or unpaid), records and reports of hospitals, doctors, dentists, registered nurses, licensed practical nurses and physical therapists, or other health-care providers;
- (2) bills for drugs, medical appliances and prostheses, (specified as paid or unpaid),
- (3) property repair bills or estimates, when identified and itemized setting forth the charges for labor and material used or proposed for use in the repair of the property;
- (4) a report of the rate of earnings and time lost from work or lost compensation prepared by an employer;
- (5) the written statement of an opinion witness, the deposition of a witness, the statement of a witness which the witness would be allowed to express if testifying in person, if the statement is made by affidavit or by certification as provided in 735 ILCS 5/1-109 of the Code of Civil Procedure;
- (6) any other document not specifically covered by any of the foregoing

provisions, and which is otherwise admissible under the rules of evidence.

(d) *Opinions of Opinion Witnesses.* A party who proposes to use a written opinion of an opinion witness or the testimony of an opinion witness at the hearing may do so provided a written notice of such intention is given to every other party not less than 30 days prior to the date of hearing, accompanied by a statement containing the identity of the opinion witness, his qualifications, the subject matter, the basis of his conclusions, and his opinion as well as any other information required by Rule 222 (d)(6).

(e) *Right to Subpoena Maker of the Document.* Any other party may subpoena the author or maker of a document admissible under this rule, at the party's expense, and examine the author or maker as if under cross-examination. The provisions of the Code of Civil Procedure relative to subpoenas, 735 ILCS 5/2-1101, shall be applicable to arbitration hearings and it shall be the duty of a party requesting the subpoena to modify the form to show that the appearance is set before an arbitration panel and to give the time and place set for the hearing.

(f) *Adverse Examination of Parties or Agents.* The provisions of the Code of Civil Procedure relative to the adverse examination of the parties or agents, 735 ILCS 5/2-1102, shall be applicable to arbitration hearings as upon the trial of the case.

(g) *Compelling Appearance of Witness at Hearing.* The provisions of Rule 237, herein, shall be equally

applicable to arbitration hearings as they are to trials. The presence of a party may be waived by stipulation or excused by court order for good cause shown not less than seven days prior to the hearing. Remedies upon a party's failure to comply with notice pursuant to Rule 237(b) may include an order debaring that party from rejecting the award.

(h) **Prohibited Communication.** Until the arbitration award is issued and has become final by either acceptance or rejection, an arbitrator may not be contacted *ex parte*, nor may an arbitrator publicly comment or respond to questions regarding a particular arbitration case heard by that arbitrator. Discussions between an arbitrator and judge regarding an infraction or impropriety during the arbitration process are not prohibited by this rule. Nothing in this rule shall be construed to limit or expand judicial review of an arbitration award or limit or expand the testimony of an arbitrator at judicial hearing to clarify a mistake or error appearing on the face of an award.

Rule 90(c) Cover Sheet

**IN THE CIRCUIT OF _____
COUNTY, ILLINOIS**

Plaintiff)
)
) No.
v.)
)

Defendant)

**NOTICE OF INTENT
PURSUANT TO SUPREME COURT RULE 90(C)**

Pursuant to Supreme Court Rule 90(c), the plaintiff(s) intend(s) to offer the following documents that are attached into evidence at the arbitration proceeding:

- | I. | Healthcare Provider
Bills | Amount
Paid | Amount Unpaid |
|-----|------------------------------------|----------------|---------------|
| | 1. | | |
| | 2. | | |
| | 3. | | |
| | 4. | | |
| | 5. | | |
| | 6. | | |
| | 7. | | |
| | 8. | | |
| | 9. | | |
| | 10. | | |
| | | | |
| II. | Other Items of Compensable Damages | | |
| | 1. | | |
| | 2. | | |
| | 3. | | |
| | 4. | | |

5.

Attorney for Plaintiff

Adopted May 20, 1987, effective June 1, 1987; amended April 7, 1993, effective June 1, 1993; amended March 26, 1996, effective immediately; amended March 28, 2002, effective July 1, 2002; amended December 5, 2003, effective January 1, 2004; amended October 14, 2005, effective January 1, 2006.

RULE 91. ABSENCE OF A PARTY AT HEARING

(a) *Failure to be Present at Hearing.* The arbitration hearing shall proceed in the absence of any party who, after due notice, fails to be present. The panel shall require the other party or parties to submit such evidence as the panel may require for the making of an award. The failure of the party to be present, either in person or by counsel, at an arbitration hearing shall constitute a waiver of the right to reject the award and a consent to the entry by the court of a judgment on the award. In the event the party who fails to be present thereafter moves, or files a petition to the court, to vacate the judgment as provided therefor under the provisions of the Code of Civil Procedure for the vacation of judgments by default, 735 ILCS 5/2-1301 or 5/2-1401, the court, in its discretion, in addition to vacating the judgment, may order the matter for rehearing in arbitration, and may also impose the sanction of costs and fees as a condition for granting such relief.

Good-Faith Participation. All

parties to the arbitration hearing must participate in the hearing in good faith and in a meaningful manner. If a panel of arbitrators unanimously finds that a party has failed to participate in the hearing in good faith and in a meaningful manner, the panel's finding and factual basis therefor shall be stated on the award. Such award shall be *prima facie* evidence that the party failed to participate in the arbitration hearing in good faith and in a meaningful manner and a court, when presented with a petition for sanctions or remedy therefor, may order sanctions as provided in Rule 219(c), including, but not limited to, an order debarring that party from rejecting the award, and costs and attorney fees incurred for the arbitration hearing and in the prosecution of the petition for sanctions, against that party.

RULE 92. AWARD AND JUDGMENT ON AWARD

(a) *Definition of Award.* An award is a determination in favor of a plaintiff or defendant.

(b) *Determining an Award.* The panel shall make an award promptly upon termination of the hearing. The award shall dispose of all claims for relief. The award may not exceed the monetary limit authorized by the Supreme Court for that circuit or county within that circuit, exclusive of interest and costs. The award shall be signed by the arbitrators or the majority of them. A dissenting vote without further comment may be noted. Thereafter, the award shall be filed immediately with the clerk of the court, who shall serve notice of the

award, and the entry of the same on the record, to other parties, including any in default.

(c) **Judgment on the Award.** In the event none of the parties files a notice of rejection of the award and requests to proceed to trial within the time required herein, any party thereafter may move the court to enter judgment on the award.

(d) **Correction of Award.** Where the record and the award disclose an obvious and unambiguous error in mathematics or language, the court, on application of a party within the 30-day period allowed for rejection of an award, may correct the same. The filing of such an application shall stay all proceedings, including the running of the 30-day period for rejection of the award, until disposition of the application by the court.

RULE 93. REJECTION OF AWARD

(a) **Rejection of Award and Request for Trial.** Within 30 days after the filing of an award with the clerk of the court, and upon payment to the clerk of the court of the sum of \$200 for awards of \$30,000 or less or \$500 for awards greater than \$30,000, any party who was present at the arbitration hearing, either in person or by counsel, may file with the clerk a written notice of rejection of the award and request to proceed to trial, together with a certificate of service of such notice on all other parties. The filing of a single rejection shall be sufficient to enable all parties except a party who has been debarred from rejecting the award to proceed to trial on all issues of the case without the necessity of each party filing a separate rejection. The filing of a

notice of rejection shall not be effective as to any party who is debarred from rejecting an award.

(b) **Arbitrator May Not Testify.** An arbitrator may not be called to testify as to what transpired before the arbitrators and no reference to the fact of the conduct of the arbitration hearing may be made at the trial.

(c) **Waiver of Costs.** Upon application of a poor person, pursuant to Rule 298, herein, the sum required to be paid as costs upon rejection of the award may be waived by the court.

Rule 94. Form of Oath, Award and Notice of Award

The oath, award of arbitrators, and notice of award shall be in substantially the following form:

In the Circuit Court of the _____ Judicial Circuit, _____ County, Illinois.

(Or, in the Circuit Court of Cook County, Illinois)

OATH

I do solemnly swear (or affirm) that I will support, obey, and defend the Constitution of the United States and the Constitution of the State of Illinois and that I will faithfully discharge the duties of my office.

Name of Arbitrator

Date

AWARD OF ARBITRATORS

In the Circuit Court of the _____ Judicial
Circuit, _____ County, Illinois.

(Or, in the Circuit Court of Cook County, Illinois)

A.B., C.D., etc. (naming
all plaintiffs),

Plaintiffs,)

v.)

H.J., K.L., etc. (naming)
all defendants),)

No. _____

Amount Claimed _____

Defendants.

All parties participated in good faith.

_____ did NOT participate in good faith
based upon the following findings.

Findings:

We, the undersigned arbitrators, having been duly
appointed and sworn (or affirmed), make the
following award:

_____ Dissents as to the Award

Date of Award: _____

NOTICE OF AWARD

In the Circuit Court of the _____ Judicial
Circuit, _____ County, Illinois.

(Or, in the Circuit Court of Cook County, Illinois)

A.B., C.D., etc.(naming
all plaintiffs),

Plaintiffs)

v.)

No. _____)

Amount Claimed _____)

H.J., K.L., etc.(naming
all defendants),)

Defendants

On the _____ day of _____, 20__, the
award of the arbitrators dated
_____, 20__, a copy of which
is attached hereto, was filed and entered of record in

**this Cause. A copy of this NOTICE has on this date
been sent by regular mail, postage prepaid, addressed
to each of the parties appearing herein, at their last
known address, or to their attorney of record.**

Dated this _____ day of _____, 20__.

Clerk of the Circuit Court

Adopted May 20, 1987, effective June 1, 1987; amended March 1, 2001, effective
immediately; amended October 20, 2003, effective December 1, 2003.

Rule 95. Form of Notice of Rejection of Award

The notice of rejection of the award shall be in
substantially the following form:

In the Circuit Court of the _____ Judicial
Circuit, _____ County, Illinois.

(Or, in the Circuit Court of Cook County, Illinois.)

A.B., C.D. *etc.* (naming all plaintiffs),

Plaintiffs

v.

No. _____

H.J., K.L. *etc.* (naming all
defendants),
Claimed _____

Amount

Defendants

NOTICE OF REJECTION OF AWARD

To the Clerk of the Circuit Court:

Notice is given that

_____ rejects
the award of the arbitrators entered in this cause on
_____, and hereby
requests a trial of this action.

By: _____

(Certificate of Notice of Attorney)

Adopted May 20, 1987, effective June 1, 1987.

**RULE 222. LIMITED AND SIMPLIFIED
DISCOVERY IN CERTAIN CASES**

(a) *Applicability.* This rule applies to all cases subject to mandatory arbitration, civil actions seeking money damages not in excess of \$50,000, exclusive of interest and costs, and to cases for the collection of taxes

not in excess of \$50,000. This rule does not apply to small claims, ordinance violations, actions brought pursuant to 750 ILCS (FAMILIES), and actions seeking equitable relief. Except as otherwise specifically provided by this rule, the general rules governing discovery procedures remain applicable to cases governed by this rule.

(b) *Affidavit re Damages Sought.* Any civil action seeking money damages shall have attached to the initial pleading the party's affidavit that the total of money damages sought does or does not exceed \$50,000. If the damages sought do not exceed \$50,000, this rule shall apply. Any judgment on such claim which exceeds \$50,000 shall be reduced post-trial to an amount not in excess of \$50,000. Any such affidavit may be amended or superseded prior to trial pursuant to leave of court for good cause shown, and only if it is clear that no party will suffer any prejudice as a result of such amendment. Any affidavit filed pursuant hereto shall not be admissible in evidence at trial.

(c) *Time for Disclosure; Continuing Duty.* The parties shall make the initial disclosure required by this rule as fully as then possible within 120 days after the filing of a responsive pleading to the complaint, counter-complaint, third-party complaint, etc., unless the parties otherwise agree, or for good cause shown, if the court shortens or extends the time. Upon service of a disclosure, a notice of disclosure shall be promptly filed with the court. The duty to provide disclosures as delineated in this rule and its subsections shall be a continuing duty, and each party shall seasonably supplement or amend disclosures

whenever new or different information or documents become known to the disclosing party.

All disclosures shall include information and data in the possession, custody and control of the parties as well as that which can be ascertained, learned or acquired by reasonable inquiry and investigation.

(d) *Prompt Disclosure of Information.*

Within the times set forth in section (c) above, each party shall disclose in writing to every other party:

- (1) The factual basis of the claim or defense. In the event of multiple claims or defenses, the factual basis for each claim or defense.
- (2) The legal theory upon which each claim or defense is based including, where necessary for a reasonable understanding of the claim or defense, citations of pertinent legal or case authorities.
- (3) The names, addresses, and telephone numbers of any witnesses whom the disclosing party expects to call at trial with a designation of the subject matter about which each witness might be called to testify.
- (4) The names, addresses, and telephone numbers of all persons whom the party believes may have knowledge or

information relevant to the events, transactions, or occurrences that gave rise to the action, and the nature of the knowledge or information each such individual is believed to possess.

(5) The names, addresses, and telephone numbers of all persons who have given statements, whether written or recorded, signed or unsigned, and the custodian of the copies of those statements.

(6) The names, addresses, and telephone numbers of each person whom the disclosing party expects to call as an opinion witness at trial, the subject matter on which the opinion witness is expected to testify, the conclusions and opinions of the opinion witness and the basis therefor, the qualifications of the opinion witness, and copies of any reports prepared by the opinion witness.

(7) A computation and the measure of damages alleged by the disclosing party and the document or testimony on which such computation and measure are based and the names, addresses, and telephone numbers of all damage witnesses.

(8) The existence, location, custodian, and general description of any tangible evidence or documents that the

disclosing party plans to use at trial and relevant insurance agreements.

(9) A list of the documents or, in the case of voluminous documentary information, a list of the categories of documents, known by a party to exist whether or not in the party's possession, custody or control and which that party believes may be relevant to the subject matter of the action, and those which appear reasonably calculated to lead to the discovery of admissible evidence, and the dates(s) upon which those documents will be made, or have been made, available for inspection and copying. Unless good cause is stated for not doing so, a copy of each document listed shall be served with the disclosure. If production is not made, the name and address of the custodian of the document shall be indicated. A party who produces documents for inspection shall produce them as they are kept in the usual course of business.

(e) *Affidavit re Disclosure.* Each disclosure shall be made in writing, accompanied by the affidavit of an attorney or a party which affirmatively states that the disclosure is complete and correct as of the date of the disclosure and that all reasonable attempts to comply with the provisions of this rule have been made.

(f) *Limited and Simplified Discovery Procedures.* Except as may be ordered by the trial court,

upon motion and for good cause shown, the following limited and simplified discovery procedure shall apply:

Each party may propound to any other party a total of 30 interrogatories and supplemental interrogatories in the aggregate, including subsections. Interrogatories may require the disclosure of facts upon which a party bases a claim or defense, the enumeration, with proper identification, of all persons having knowledge of relevant facts, and the identification of trial witnesses and trial exhibits.

(2) *Discovery Depositions.* No discovery deposition shall exceed three hours, absent agreement among the parties. Except as otherwise ordered by court, the only individuals whose discovery depositions may be taken are the following:

(a) *Parties.*
The discovery depositions of parties may be taken. With regard to corporations, partnerships, voluntary associations, or any other groups or entities, one representative deponent may be deposed.

(b) *Treating Physicians and Expert Witnesses.*

Treating physicians and expert witnesses may be deposed, but only if they have been identified as witnesses who will testify at trial. The provisions of Rule 204(c) do not apply to treating physicians who are deposed under this Rule 222. The party at whose instance the deposition is taken shall pay a reasonable fee to the deponent, unless the deponent was retained by a party to testify at trial or unless otherwise ordered by the court.

(3) Evidence Depositions.

No evidence depositions shall be taken except pursuant to leave of court for good cause shown. Leave of court shall not be granted unless it is shown that a witness is expected to testify on matters material to the issues and it is unlikely that the witness will be available for trial, or other exceptional circumstances exist. Motions requesting the taking of evidence depositions shall be supported by affidavit. Evidence depositions shall be taken to secure trial testimony, not as a substitute for discovery depositions.

(4) Requests pursuant to Rule

214, 215 and 216 are permitted, as are notices pursuant to Rule 237.

(g) Exclusion of Undisclosed Evidence. In addition to any other sanction the court may impose, the court shall exclude at trial any evidence offered by a party that was not timely disclosed as required by this rule, except by leave of court for good cause shown.

(h) Claims of Privilege. When information or documents are withheld from disclosure or discovery on a claim that they are privileged pursuant to a common law or statutory privilege, any such claim shall be made expressly and shall be supported by a description of the nature of the documents, communications or things not produced or disclosed and the exact privilege which is being claimed.

(i) Affidavits Wrongly Filed. The court shall enter an appropriate order pursuant to Rule 219 (c) against any party or his or her attorney, or both, as a result of any affidavit filed pursuant to (b) or (e) above which the court finds was (a) false; (b) filed in bad faith; or (c) was without reasonable factual support.

(j) Applicability Pursuant to Local Rule.

This rule may be made applicable to additional categories of cases pursuant to local rules enacted in any judicial circuit.

PART 17.00

MANDATORY ARBITRATION RULES

**17.01 a, c, d, e, f (amended) ACTIONS SUBJECT TO
MANDATORY ARBITRATION (SUPREME
COURT RULE 86)**

(a) Mandatory arbitration proceedings are undertaken and conducted in the 19th Judicial Circuit, Lake and McHenry Counties, pursuant to orders of the Illinois Supreme Court dated December 19, 1988, November 27, 1990 and November 22, 1993. On January 17, 2002, the Supreme Court increased the jurisdictional limit of cases subject to mandatory arbitration in the 19th Judicial Circuit to \$50,000.

(b) Mandatory arbitration proceedings are a part of the underlying civil action, and therefore, all rules of practice contained in the Illinois Code of Civil Procedure and the Illinois Supreme Court Rules shall apply to these proceedings.

(c) All civil actions, except confessions of judgment on promissory notes, will be subject to mandatory arbitration if each claim is exclusively for money in an amount exceeding \$5,000 but not exceeding \$50,000, exclusive of interest, costs, and attorneys fees.

(d) Every complaint or counterclaim filed shall contain specific prayers for relief except that in actions for injury to the person no ad damnum may be

pleaded except to state whether the damages sought are: (1) greater than \$5,000 but not exceeding \$15,000; (2) greater than \$15,000 but not exceeding \$50,000; (3) greater than \$50,000.

(e) Any case not assigned to an arbitration calendar, including cases transferred from another jurisdiction, may be ordered to arbitration at a status call, pre-trial conference, or upon receipt from another jurisdiction, when it appears to the Court that any claim in the action has a value exceeding \$5,000 and that no claim in the action has a value in excess of \$50,000. Within 14 days of such determination any such case shall be transferred to and set on the motion call of the Supervising Judge of arbitration of each county within the 19th Judicial Circuit, at which time an arbitration hearing date shall be scheduled no more than 180 days from the date of such transfer. In cases transferred from another jurisdiction it shall be incumbent upon the clerk to provide timely notice of such hearing to all parties of record.

(f) Section (e) above shall allow the ordering to arbitration of cases filed prior to the effective date of these rules as amended.

(g) The award of the arbitration panel shall Be limited to the amount originally prayed for in the complaint, counterclaim, or third party complaint, unless prior to the arbitration hearing, leave of Court is given to increase the ad damnum with the appropriate difference in

filing fee paid but in no event shall the award be in excess of \$50,000.

(h) Small claims in cases in which a jury demand is filed shall be subject to mandatory arbitration pursuant to Part 7.05 of these rules.

**17.02 APPOINTMENT, QUALIFICATION
AND COMPENSATION OF ARBITRATORS
(SUPREME COURT RULE 87)**

(a) Retired judges, licensed to practice in Illinois and residing in the 19th Judicial Circuit, shall be eligible as arbitrators by filing the appropriate form with the Arbitration Administrator.

(b) 1. All attorneys licensed in Illinois who reside in, maintain offices in, or practice in the County of Lake, 19th Judicial Circuit, shall be eligible for appointment as arbitrators in Lake County by filing the appropriate form with the Arbitration Administrator. Panel members must certify that they have engaged in the active practice of law for a minimum of two years within the five years immediately preceding the filing of the application. Eligible arbitration panel members shall be certified by attending the Arbitration Seminar prior to active service on an arbitration panel.

(2) All attorneys licensed in Illinois who reside in, maintain offices in, or practice in the County of McHenry, 19th Judicial Circuit, shall be eligible for appointment as arbitrators in McHenry County by filing the appropriate form with the Arbitration Administrator. Panel members must certify that they

have engaged in the active practice of law for a minimum of two years within the five years immediately preceding the filing of the application. Eligible arbitration panel members shall be certified by attending the Arbitration Seminar prior to active service on an arbitration panel.

(c) The Arbitration administrator shall maintain a separate list of approved arbitrators for each county within the 19th Judicial Circuit. These arbitrators will be called for service on a random, rotating basis within the respective county. The list shall identify those arbitrators who are approved to serve as chairpersons. Every panel of arbitrators shall be chaired by a member of the bar who has been engaged in trial practice for at least five years within the preceding ten years of the filing of the application, or a retired judge. Except for emergency calls, notice of the date set for arbitration shall be provided to the arbitrators not less than 45 days prior to the scheduled date. Each panel will consist of three (3) arbitrators, or such lesser number as may be agreed upon in writing by the parties. The eligibility of each attorney to serve as arbitrators may, from time to time, be reviewed by the arbitration administrator and determined by the supervising judge.

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

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

conformity with the form provided in Supreme Court Rule 94. In addition, an arbitrator may not be contacted, nor respond to questions regarding a particular arbitration case heard by that arbitrator during the pendency of that case and until a final order is entered and the time for appeal has expired.

(f) Upon completion of each day's arbitration proceedings, the Arbitration Administrator will process the necessary voucher through the Administrative Office of the Illinois Courts for payment of the arbitrators. Each arbitrator will be compensated in accordance with Supreme Court Rules at the rate of \$75.00 per hearing.

17.03 SCHEDULING OF HEARINGS (SUPREME COURT RULE 88)

(a) For all actions which fall within the purview of this rule, the complaint and the original and all alias summons must state in upper case letters in the upper right-, "hand corner THIS IS AN ARBITRATION CASE." On the effective date of these rules, as amended and on or before the first day of each July thereafter, the Arbitration Administrator shall provide the Office of the Circuit Clerk of each county with a schedule of available arbitration hearing dates for the ensuing calendar year. The Clerk of the Circuit Court of the appropriate county shall assign a date and time for arbitration hearing upon the commencement of the action, and said date and time will be noted on the complaint and all summons. THIS IS THE ONLY NOTICE OF THE HEARING WHICH THE PARTIES WILL RECEIVE. The arbitration hearing date shall be scheduled approximately but not less than 120 days from

the filing of the complaint for all cases not exceeding \$15,000, and approximately but not less than 180 days from the filing of the complaint for cases greater than \$15,000 but not exceeding \$50,000. Any case transferred from another court or jurisdiction shall be scheduled for hearing pursuant to Rule 17.01(e).

Every original summons shall be made returnable before the Supervising Judge of the respective county on a specified return date to be set by the Circuit Clerk not less than 28 nor more than 40 days after the issuance of the summons.

All parties shall appear in court on every return date unless otherwise excused by order of Court. On the original or any continued return date, the Court may enter orders consistent with Illinois Supreme Court Rule 218.

In the event defendant, after service of process, fails to file an appearance or otherwise plead on or before the return date set forth in the summons, the plaintiff shall appear before the Supervising Judge of the respective county on the return date for the purpose of obtaining a judgment, or an order of default and a date for prove-up, and removing the case from the previously scheduled arbitration hearing date.

If plaintiff fails to appear on the original return day or any continued date thereof, the case may be dismissed for want of prosecution without further notice.

In the event plaintiff has failed to obtain timely service of process on any defendant by any return date, plaintiff shall appear before the Supervising Judge of the

respective county on the return date and may request the issuance of an alias summons and rescheduling the arbitration hearing date, if necessary. Any parties whose presence was previously excused shall be provided notice of the entry of said order.

In the event plaintiff has failed to obtain service of process on all defendants by means of an original or alias summons more than 60 days before the original arbitration hearing date, or any rescheduled date thereof, and the Court finds that the plaintiff has failed to exercise reasonable diligence to obtain service on any defendant, the Court may dismiss the action as to such unserved defendant pursuant to Supreme Court Rule 103(b).

Upon the timely filing of any amended complaint, any counter complaint or any third party complaint with an ad damnum not in excess of \$50,000, the filing party or their counsel shall be required to appear before the Supervising Judge within 10 days of said filing for the setting of appropriate dates to allow the Clerk to issue summons and for any other order(s) the Court deems appropriate. The Clerk shall not issue summons on the above pleadings until return dates and arbitration hearing dates have been set by the Court.

(b) Any party to a case may request advancement or postponement of a scheduled arbitration hearing date by written notice and motion with notice included to the Arbitration Administrator. Hearing on the motion shall be scheduled before the Supervising Judge of the appropriate county, not less than 7 days prior to the arbitration hearing date. The motion shall contain a concise statement of the basis upon which a change in the

arbitration hearing date is requested. The Supervising Judge of the respective county may grant such advancement or postponement upon good cause shown.

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

(d) It is stated public policy of the mandatory arbitration proceedings of this Circuit that cases be heard in one-half day, if possible, but not to exceed one full day. Counsel for the plaintiff shall confer with all other counsel and obtain an approximation of the length of time required for presentation of the case and advise the Arbitration Administrator at least seven (7) days in advance of the hearing date of the estimated duration of the hearing. Failure to notify the Arbitration Administrator of the need for more than one-half day for hearing may result in a delay of the scheduled hearing. All counsel shall advise the arbitration administrator at least seven (7) days in advance of the hearing of changes of appearances or additions or parties or counsel. Failure of the parties to advise the arbitration administrator in a timely fashion of changes of appearances or additions of parties or of counsel, or of the need for additional time may result in the imposition of sanctions including the taxing of arbitrator's fees and costs at the discretion of the Supervising Judge for arbitration of the respective county.

17.04 MOTIONS

Notwithstanding the assignment of any matter to arbitration, all motions for change of venue, objection to jurisdiction, motions for summary judgment, motions for

judgment on a pleading, motions pursuant to Sections 2-615 of the Code of Civil Procedure, and all other motions dispositive of the case shall be addressed, upon proper notice an motion, to the Supervising Judge of arbitration of the respective county.

17.05 DISCOVERY (SUPREME COURT RULE 89)

(a) Discovery may be conducted in accordance with established rules and shall be completed prior to the arbitration hearing. No discovery shall be permitted after the hearing, except upon leave of court and good cause shown.

(b) All parties shall comply in a timely manner with the provisions of Supreme Court Rule 222 as to those cases to which said Rule applies. Failure to file or serve the disclosure statement as provided by rule, or as the court may order prior to the arbitration hearing, may result in the imposition of sanctions as prescribed in Supreme Court Rule 219(c), including a dismissal for want of prosecution without notice.

17.06 CONDUCT OF THE HEARING (SUPREME COURT RULES 90 AND 91)

(a) Hearings shall be conducted in general conformity with the 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 upon consultation with the panel members. Rulings granting findings at the close of the Plaintiff's case or

upon the close of all proof shall be granted by agreement of a majority of the arbitrators.

(b) 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. The stipulation shall include, if applicable, relevant contract terms, dates, times, places, location of traffic control devices, year, make and model of automobiles or other vehicles, equipment or goods and products which are involved in the litigation and other relevant and material facts. Unless otherwise agreed by the parties, a stipulation to liability shall be binding on the parties at an eventual trial, if a rejection is filed. The time devoted to the presentation of evidence should be limited to those facts upon which the parties genuinely disagree. Counsel shall provide the arbitration panel with copies of any legal authority upon which they rely.

(c) Established rules of evidence shall be followed in all hearings before arbitrators, except as provided in Supreme Court Rule 90.

(d) The failure of a party to be present at an arbitration hearing, either in person or through counsel, shall be governed by the provisions of Supreme Court Rule 91(a).

(e) All parties to the arbitration hearing must participate in the hearing in good faith and in a meaningful manner as provided in Supreme Court Rule 91(b).

(f) A stenographic record or recording of the hearing shall not be made unless a party does so at the party's own expense. If a party has a stenographic record transcribed, the original must first be filed with the Circuit Clerk, a copy of which shall be furnished to any other party requesting same upon payment of a proportionate share of the total cost of the making of the record or recording and the duplication of same. The party providing the reporter shall inform the chairperson of the reporter's name, address and reporting firm before commencing. No sound recording equipment shall be allowed in the arbitration hearing except as utilized by a court reporter.

(g) 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 Arbitration Administrator of said need not less than seven (7) days prior to the hearing.

(h) Hearings are to be conducted to facilitate disclosure of all relevant evidence and to obtain substantial justice for all of the parties.

(i) All exhibits admitted into evidence shall be retained by the panel until the entry of the award. It is the duty of the attorneys or parties to retrieve such exhibits from the Arbitration Administrator within seven (7) days after the entry of judgment, notice of rejection, or order of dismissal. All exhibits not retrieved shall be destroyed.

17.07 AWARD AND JUDGMENT ON AWARD (SUPREME COURT RULE 92)

(a) After each hearing, the arbitrators shall make an award in favor of the plaintiff(s) or defendant(s). The panel shall make the award promptly upon termination of the hearing. The award shall dispose of all claims for relief. The award on each claim may not exceed the amount prayed for in the complaint or counterclaim and in no event may the award be more than \$50,000 exclusive of interest, costs and attorney's fees. The award shall be signed by the arbitrators or the majority of them. A dissenting vote without further comment may be noted. In the event a panel of arbitrators unanimously finds that a party has violated the good faith provisions of Supreme Court Rule 91(b), such finding, accompanied by a factual basis, shall be noted on a findings sheet. Such findings sheet shall become part of the arbitration award. The Arbitration Administrator shall provide forms to be completed by the arbitrators to report their award. The award including findings sheet, shall be filed immediately with the Clerk of the Court, who shall serve notice of the award to all parties, including any in default.

(b) The Clerk of the Court shall include in the notice of award a date certain, not less than 30 days from the filing of the award, before the Supervising Judge of Arbitration in the appropriate county, for entry of judgment on the award, dismissal or the scheduling of a trial date in the event a timely rejection has been filed. All parties shall be required to appear on said date. Failure to appear may result in the entry of judgment on the award or dismissal for want of prosecution on motion of a party or on the Court's own motion.

17.08 REJECTION OF AWARD (SUPREME COURT RULE 93)

Rejection of the award of the arbitrators shall be in strict compliance with Supreme Court Rule 93.

17.09 REFILING AFTER A NONSUIT

If a case is voluntarily dismissed by a plaintiff at any time after an arbitration hearing and is subsequently refiled alleging the same cause of action and naming the same parties, the refiled case shall not be eligible for an arbitration hearing unless a new party has been added to the lawsuit.

17.10 LOCATION OF ARBITRATION HEARING

The location of hearing shall be determined by the Chief Judge of the 19th Judicial Circuit or his designee.

17.11 FORMS

All forms shall be as prescribed by Supreme Court Rule or by administrative order by the Chief Judge.

17.12 ADMINISTRATION OF MANDATORY ARBITRATION

(a) The Chief Judge or his designee shall appoint one or more Judges to act as Supervising Judge for Arbitration in Lake County and McHenry County. For the purpose of these rules, the Supervising Judge is defined as that judge appointed for arbitration or any judge sitting in the stead of the Supervising Judge.