

ARTICLE 38: SPECIAL RULES APPLICABLE TO DEKALB COUNTY ONLY

38.00 GENERAL

The hereinafter rules of DeKalb County have been adopted effective with the approval of the Kane County Rules. To the extent that any rule or order of Kane County conflicts with the rules of DeKalb County, the same are modified and revised to accord with the custom, practice and rules of DeKalb County.

38.01 TEMPORARY RELIEF AFFIDAVIT

A Temporary Relief Affidavit shall henceforth be used on all petitions and motions for temporary relief with respect to support, maintenance, and other monetary relief requested and shall be served upon opposing counsel. Opposing party shall also furnish such affidavit at the hearing for temporary relief. Such Temporary Relief Affidavit shall also be updated and served by both counsel on the other at least four days prior to trial as a means of summarization and focusing financial issued.

38.02 PROVE-UPS

(a) Notice to Respondent - After default on personal service, five-day written notice of intent to appear on prove-up shall be given to the respondent at the address where the respondent was served with summons or at the known residence or known place of employment of the respondent and certificate of such service shall be filed at or prior to hearing.

(b) Presence of Respondent in Open Court

(1) Where there is an appearance by counsel and/or the respondent or a response by the respondent, and/or a stipulation signed by counsel and respondent for a hearing as a default matter, the respondent shall be present in open court at such prove-up to confirm it or to amend it.

(2) Whenever it shall appear from the record or the testimony that there has been some communication and/or agreement between the parties concerning support, custody, or separation agreement, then in such event both parties shall be in court at the hearing unless there is a bonafide flight from the jurisdiction subsequent to service of process.

(3) In the event respondent refuses to appear, attorney for petitioner shall prepare and have issued a subpoena for such party, not less than five (5) days prior to prove-up date, directing respondent to appear on said prove-up date.

(c) Waiting Period - No dissolution of marriage, legal separation, or invalidity of marriage case will be heard upon its merits prior to the summons return dates or thirty (30) days from the filing date if upon response and/or appearance without issuance and service of summons.

38.03 SERVICE BY PUBLICATION

Where service of summons is by publication, plaintiff's attorney shall file, pursuant to Statute, Clerk's Certificate of Mailing to defendant's last known address. It shall be the responsibility of the petitioner's attorney to furnish the Circuit Clerk with a copy of the publication notice for such mailing.

38.04 JUDGMENT OF DISSOLUTION OF MARRIAGE

(a) Separation Agreement - Unless the Separation Agreement is negotiated at or immediately prior to a contested hearing, it shall be executed in writing, introduced as an exhibit, and incorporated physically as a part of the judgment.

(b) Certificate of Evidence - A Certificate of Evidence shall be required to be filed on all prove-ups.

(c) Court Reporter Fees - Court Reporter fees shall be paid at the time of default prove-up or prove-up on a stipulation signed by the parties.

(d) Hold-Up on Judgment for Payment of Fees - Under no circumstances will a transcript be held up from presentment to the Court pending the payment to the attorney of his or her fee.

38.05 ENTRY OF AN ORDER FOR SUPPORT

In all dissolution of marriage actions, upon the entry of an order for support counsel are obligated to file, in addition to the order for support and order for payment through the Clerk's Office, a supplemental order for Withholding as described in 750 ILCS 20/26.1(b).

This is mandatory under the statute and must be adhered to in the future.

38.06 APPLICABILITY OF UNIFORM CIRCUIT COURT RULES

(a) The Uniform Circuit Court Rules have been adopted by and are applicable in the 16th Judicial Circuit.

(b) Article 15 herein deals with matrimonial cases and is to be observed in DeKalb County, except as otherwise provided.

38.07 CITATIONS TO DISCOVER ASSETS

(a) Original citations to discover assets (and alias citations where service of the original has not been obtained) shall be issued by the Clerk without prior approval of a Judge. This includes citations in small claims cases unless stayed by order of Court pursuant to Supreme Court Rule 288.

(b) The issuance of subsequent citations after service of an original or alias shall be in accordance with Supreme Court Rule 277 and requires prior approval of a Judge.

38.08 RETURN DATES OF FORCIBLE ENTRY AND DETAINER AND SMALL CLAIMS CASES

Henceforth, all Forcible Entry and Detainer and Small Claim cases filed in DeKalb County shall be returnable before an Associate Judge on the following days of the week:

Tuesday and Wednesday mornings at 9:30 a.m.

38.09 TRAFFIC AND MISDEMEANOR CASES

(a) In traffic and misdemeanor cases the Clerk of Court will no longer send notices of the next hearing date when the defendant is represented by counsel. It will be the obligation of both counsel for the State and counsel for defendant to follow the case and be present on the continued date.

(b) In cases where a defendant is not represented by counsel, the Clerk will send notices as in the past.

38.10 ASSOCIATE JUDGES CALENDAR

Until further Order, the Associate Judges calendar will be handled as follows:

MONDAY:

A.M. Pleas and bench trials in traffic and misdemeanor cases.

P.M. Status reviews and specially set matters.

TUESDAY:

A.M. At DeKalb Branch Court - Traffic and misdemeanors

At Sycamore Courthouse - Small claims returns, orders of protection, forcible entry and reciprocal matters.

P.M. Status reviews and specially set matters.

WEDNESDAY:

A.M. 1st & 3rd Wednesdays of each month. At Sandwich Branch Court

At Sycamore Courthouse - Each Wednesday. Orders of protection, forcible entry and small claim returns.

P.M. Small claims and forcible entry trials.

THURSDAY:

A.M. State Police and other traffic and misdemeanor cases.

P.M. Preliminary hearings, status reviews, and judicial sales.

FRIDAY:

A.M. At DeKalb Branch Court - Traffic and misdemeanor pleas.

At Sycamore Courthouse - Specially set motions and trials.

P.M. Status reviews and other specially set matters.

38.11 ORDERS

(a) Agreed orders and ex parte orders must be presented directly to the Judge or his courtroom clerk while court is in session so they may be acted upon at that time.

(b) If the orders are agreed orders, they should, when possible, be signed by both sides.

(c) Orders are not to be left in the first or second floor offices of the Circuit Clerk with a request that a deputy present them to a Judge.

(d) Counsel are expected to prepare orders during or immediately following a session of court for signature by the Judge at that time.

(e) The practice of securing a ruling by the Court and not submitting an order at the time of the hearing should be avoided whenever possible. Longhand orders are quite proper.

38.12 COURT REPORTERS

(a) The Court will provide for the attendance of a court reporter at the trial of "CF" and "L" matters, whether jury or nonjury.

(1) In "L" jury trials the court reporter will not take the voir dire or closing arguments unless requested by the parties, and at their expense.

(2) The Court will not provide a court reporter in jury or nonjury cases involving "LM", small claim, misdemeanor, traffic, conservation and ordinance matters.

(3) In divorce actions a court reporter will be furnished for prove-ups and the trial of contested B-1 and B-2 matters. They will not be furnished for temporary relief petitions, post decree matters, et cetera, unless required by the Court.

(4) In all other type cases such as "CH", "F", "MR", "P", et cetera, court reporters will not be furnished unless the Court determines one is required for a particular hearing.

(b) In those cases where the Court does not provide a court reporter, the litigants may do so at their own expense. However, unavailability of a court reporter in such cases shall not be a ground for continuance.

38.13 SETTING OF BOND