

IN THE SIXTEENTH JUDICIAL CIRCUIT

GENERAL ORDER 22-03

effective February 8, 2022

IN THE MATTER OF)
LOCAL COURT RULE)
ARTICLE 11: MANDATORY ARBITRATION)
AMENDING AND SUPERSEDING)
GENERAL ORDERS 95-05, 95-11, 96-22, 03-08)
AND 06-06)

Theresa E. Barreiro
Clerk of the Circuit Court
Kane County, IL

FEB - 8 2022

FILED 22
ENTERED _____

WHEREAS, in response to changes in the Code of Civil Procedure, the Sixteenth Judicial Circuit has acted to update Article 11: Mandatory Arbitration of the Local Court Rules.

IT IS THEREFORE ORDERED that by a majority vote of the Circuit Judges of the Sixteenth Judicial Circuit, the attached Article 11: Mandatory Arbitration of the Local Rules is adopted in and for the Sixteenth Judicial Circuit, effective February 7, 2022, and amends and supersedes the current version of the Mandatory Arbitration Local Rule.

Entered this 8th day of February 2022, and effective February 8, 2022.



Clint Hull, Chief Judge

A true copy of the original of this document is on file in my office

Attest: February 8th 20 22

Theresa E. Barreiro
Circuit Court Clerk, Kane County, Illinois

By: Theresa E. Barreiro/22
Deputy Clerk

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ARTICLE 11: MANDATORY ARBITRATION

11.00 APPLICABILITY OF RULES

- (a) The Sixteenth Judicial Circuit Mandatory Arbitration Program is governed by Illinois Supreme Court Rules 86 through 95 and these rules have been adopted by the Sixteenth Judicial Circuit in accordance with such Supreme Court Rules for the conduct of mandatory arbitration proceedings.
- (b) The rules contained in this Article 11 shall be applicable to cases subject to mandatory arbitration by rule or court order.
- (c) Rules contained in Article 6 for the conduct of civil cases shall be applicable to cases subject to mandatory arbitration, except where specifically modified by rules in this Article 11.

11.01 CIVIL ACTIONS SUBJECT TO MANDATORY ARBITRATION

- (a) Mandatory arbitration proceedings are undertaken and conducted in the Sixteenth Judicial Circuit, pursuant to approval of the Illinois Supreme Court.
- (b) Mandatory arbitration proceedings are a part of the underlying civil action. All rules of practice contained in the Illinois Code of Civil Procedure and Illinois Supreme Court Rules shall apply to these proceedings.
- (c) All civil actions exclusively for money in an amount not exceeding \$75,000 exclusive of interest and costs shall be subject to mandatory arbitration.
- (d) Cases not originally assigned to the Arbitration Calendar may be ordered to arbitration on the motion of either party, by agreement of the parties or by order of Court, when it appears to the Court that no claim in the action has a value in excess of \$75,000, irrespective of defenses, or where a jury has been demanded in a small claims action.

11.02 APPOINTMENT, QUALIFICATION AND COMPENSATION OF ARBITRATORS

- (a) Applicants shall be eligible for appointment as arbitrators by filing an application form with the Arbitration Administrator at the Kane County Courthouse certifying that the applicant:
 - (1) Has attended an approved mandatory arbitration seminar;
 - (2) Has read and is informed of the rules of the Supreme Court and the Uniform Arbitration Act 710 ILCS 5/1 et seq relating to mandatory arbitration;
 - (3) Is currently licensed to practice law in Illinois;
 - (4) Has engaged in the practice of law in Illinois for a minimum of three (3) years; or is a retired judge;
 - (5) Resides in, practices in, or maintains an office in the Sixteenth Judicial Circuit.

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- (b) Applicants who further certify in their applications that they have engaged in trial practice in Illinois for a minimum of five (5) years, or that they are retired judges, shall be eligible to serve as chairpersons.
- (c) The Administrator shall maintain an alphabetical list of qualified arbitrators who shall be assigned to serve on a rotating basis. The Administrator shall also maintain a list of those persons who have indicated on their application a willingness to serve on an emergency basis. Emergency arbitrators shall also serve on a rotating basis. Each panel will consist of three (3) arbitrators or such lesser number as may be agreed upon in writing by the parties.
- (d) All arbitrators except emergency arbitrators shall receive not less than sixty (60) days' notice of the date, time, and place of service.
- (e) Upon completion of each day of service, each arbitrator shall file a voucher with the Arbitration Administrator. The Administrator shall process the appropriate vouchers for prompt payment of the arbitrators.
- (f) Only one (1) member or associate of a firm, office, or association of attorneys shall be appointed to the same panel. Upon assignment to a case, an arbitrator shall notify the Arbitration Administrator of any conflict and withdraw from the case if grounds for disqualification appear to exist pursuant to the Illinois Code of Judicial Conduct.
- (g) An arbitrator may not be contacted, nor publicly comment or respond to questions regarding a particular case heard by that arbitrator during the pendency of the case.

11.03 SCHEDULING OF HEARING

- (a) Upon filing of any civil action subject to this article, the Circuit Court Clerk shall set a return date for summons, not less than twenty-one (21) days no more than forty (40) days after filing, returnable before the supervising judge for arbitration. The summons shall require that the plaintiff and all defendants appear at the time and place indicated.
- (b) Upon the return date of the summons and the Court finding that all parties have appeared and filed answers to the complaint, the Court shall assign the next available arbitration hearing date, not less than one hundred eighty (180) days from the initial case filing date to the next available hearing date thereafter. If one or more defendants have not been served within one hundred (100) days from the initial case filing date, the Court may in its discretion dismiss the case for defendants not served for lack of due diligence.
- (c) Any party may request advancement or postponement of a scheduled arbitration hearing date by filing a written motion with the Circuit Court Clerk requesting the change. The notice of hearing and motion shall be served upon all other parties and upon the Arbitration Administrator, as provided by Supreme Court Rule and the Rules of the Circuit Court for the Sixteenth Judicial Circuit. The Motion shall be set for hearing on

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the calendar of the judge assigned to the case. The motion shall contain a concise statement of the reason for the change of the hearing date and be subject to Supreme Court Rule 231 (Motions for Continuance). The judge may grant an advancement or postponement of the arbitration hearing upon good cause shown.

- (d) Consolidated cases shall be heard on the hearing date assigned to the latest case.
- (e) Upon settlement of any case scheduled for arbitration, counsel or plaintiff shall immediately, or as soon as possible, notify the Arbitration Administrator in person or in writing. Failure to do so may result in the imposition of sanctions or costs on one or all parties or their attorney.
- (f) It is anticipated that the majority of cases to be heard by an arbitration panel will require a maximum of two (2) hours for presentation and decision. It shall be the responsibility of plaintiff's counsel or the plaintiff to confer with counsel and self-represented litigants, to obtain an approximation of length of time required for presentation of the case and advise the Arbitration Administrator at least fourteen (14) days in advance of the hearing date as to any additional time required.
- (g) Supreme Court Rule 218 case management conferences shall not be required for cases subject to mandatory arbitration, unless and until a rejection of the arbitration award is filed, pursuant to Supreme Court Rule 93. In a case where a valid rejection of the arbitration award has occurred, the case management conference shall be conducted at the post-hearing status date and time, issued to the parties at the time of the arbitration hearing. The Court shall set the post-hearing status date within thirty-five to fifty (35-50) days after the entry of an arbitration award.

11.04 DISCOVERY

- (a) Discovery may be conducted in accordance with the established rules and shall be completed (unless the parties otherwise agree) not less than thirty (30) days 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 with the provisions of Supreme Court Rule 222. Plaintiff shall file an initial Rule 222 Disclosure Statement with the Circuit Court Clerk not later than the case's initial return date. Thereafter, defendant shall file an initial Rule 222 Disclosure Statement with the Circuit Court Clerk not later than twenty-eight (28) days after their first appearance, in conjunction with a written answer and appearance, or as otherwise ordered by the Court. Prior to the arbitration hearing, failure to serve the disclosure statement as provided by rule or as the Court allows may result in the imposition of sanctions as prescribed in Supreme Court Rule 219(c) and Rule 222(g).

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11.05 CONDUCT OF THE HEARING

- (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, applicability of law, objections to evidence or other issues which arise during the hearing shall be made by the chairperson.
- (b) At the commencement of the hearing, the parties shall provide a brief written statement of the nature of the case, including a stipulation as to all relevant facts on which the parties agree. The stipulation shall include relevant contract terms, dates, times, places, location of traffic control devices, year, make and model of automobiles, of other vehicles, equipment or goods and products which are involved in the litigation and other relevant and material facts. The time devoted to the presentation of evidence should be limited to those facts upon which the parties disagree.
- (c) Hearings shall be conducted in accordance with Supreme Court Rule 90.
- (d) The provisions of Sections 2-1102 of the Illinois Code of Civil Procedure (735 ILCS 5/2-1102) and the provisions of Supreme Court Rule 237 shall be applicable to arbitration hearings.
- (e) The absence of a party at an arbitration hearing shall be dealt with according to the provisions of Supreme Court Rule 91.
- (f) A stenographic record or recording of the arbitration hearing shall not be made unless a party does so at his/her own expense. If a party has a stenographic record made, a copy shall be furnished to any other party requesting the same upon payment of a proportionate share of the total cost of the making of the record or recording and the duplications of the same. The party providing the reporter shall inform the chairperson of the reporter's name, address and reporting firm before beginning the arbitration hearing.
- (g) Any party requiring the services of a language interpreter during the hearing shall be responsible for providing it. 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 thirty (30) days prior to the hearing.
- (h) Witness fees and costs shall be in the same amount and shall be paid by the same party or parties as provided for trials.
- (i) A defendant who fails to appear at the scheduled arbitration may have an award entered against that defendant, upon which the Court may enter judgment. If a plaintiff fails to appear, an award may be entered for the defendant and the Court may enter judgment on the award.

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- (j) All exhibits admitted into evidence shall be held by the panel until entry of the arbitration award. Attorneys or parties must retrieve all exhibits from the Arbitration Center within seven (7) days after entry of judgment, notice of rejection, or order of dismissal. All exhibits not retrieved shall be destroyed.
- (k) The arbitrators in arbitration of small claims cases may use relaxed rules of evidence consistent with Supreme Court Rule 286(b).

11.06 AWARD AND JUDGMENT ON AWARD

The panel shall render its decision and enter an award on the same day as the hearing. The Chairperson shall present the award to the Arbitration Administrator, who shall then file the same with the Circuit Court Clerk. The Circuit Court Clerk shall serve a Notice of Award upon the parties.

11.07 REJECTION OF AWARD

Rejection of an arbitration award shall be in strict compliance with Supreme Court Rule 93.

11.08 LOCATION OF HEARINGS

Hearings shall be held at the Kane County Courthouse.

11.09 FORMS

All forms shall be as prescribed by Supreme Court Rule and by Administrative/General Order by the Chief Judge not inconsistent with any Supreme Court Rule.

11.10 ADMINISTRATION OF MANDATORY ARBITRATION

- (a) The Chief Judge of the Sixteenth Judicial Circuit shall appoint a judge of the Sixteenth Judicial Circuit to act as Supervising Judge for Arbitration.
- (b) The Chief Judge shall designate an Arbitration Administrator or any assistants deemed necessary for the Mandatory Arbitration System.