

**SUPPLEMENTARY PROCEEDINGS
AND MISCELLANEOUS REMEDIES
CALL
General Order 2006-~~05~~ (M)**

1. The Court call shall depend on the nature of the case:

Court Call	Nature of Case
9:15 a.m.	<i>Motions of Course</i> Citation Return Day and Set Call
9:30 a.m.	Citation Return Day, Set Call, and Motions related thereto
10:45 a.m.	<i>Motions of Course</i> Garnishment Call
11:00 a.m.	Garnishment Call and Motions related thereto
1:45 p.m.	<i>Motions of Course</i> Replevin, Detinue, Revival of Judgments, Confirmation of Confession of Judgment, and other extraordinary relief (Mondays and Tuesdays only)
2:00 p.m.	Replevin, Detinue, Revival of Judgments, Confirmation of Confession of Judgments, Confirmation of Levy Sales, other extraordinary relief, and Motion related thereto (Mondays and Tuesdays only)
1:15 p.m.	<i>Motions of Course</i> Enforcement of the Findings, Decision and Order of the City of Chicago Department of Administrative Hearings (Wednesdays and Thursdays only)
1:30 p.m.	Enforcement of the Findings, Decision and Order of the City of Chicago Department of Administrative Hearings and Motions related thereto (Wednesdays and Thursdays only)
2:00 p.m.	Pretrials (Friday Only)

2. Except as provided below, no examination shall take place before the court advises the defendant or third party, as the case may be, of the nature of the proceedings and his or her rights and obligations. Attorneys must appear

promptly at 9:30 a.m. and commence their citation examinations. Failure to commence a citation examination by 10:30 a.m. may result in dismissal of the citation. No judgment debtor appearing after 10:00 a.m. shall be heard by the Court unless the judgment creditor or judgment creditor's attorney is still present in court.

3. Citations may be set for 9:00 a.m. with leave of court. Counsel may seek such leave by petitioning the court for an order allowing the 9:00 a.m. return time but only on those days when the pro se self-help desk staff is present to assist pro se litigants (currently Monday, Tuesday, and Thursday).
4. Citation examinations must be conducted by an attorney.
5. Citation examinations shall be conducted "before the court" pursuant to Illinois Supreme Court Rule 277(e), except that where both creditor and debtor agree, the examination may be conducted in the conference room or hallway.
6. Motions for service by special order of court pursuant to 735 ILCS 5/2-203.1 shall be supported by an affidavit of the process server (a verified or sworn return suffices) and shall include, in addition to what is required by the statute, the date and time of all prior attempts at service and facts showing that defendant resides at the location where service has been attempted. Proposed orders shall provide that service shall be by regular mail, certified mail return receipt requested, and posting on the defendant's service address; service shall include a copy of the order authorizing special service.
7. Motions to continue citation proceedings where the defendant has appeared must be supported by good cause. 735 ILCS 5/2-1402(a). The reason for the continuance must be stated in the proposed order with specificity, e.g., "for defendant to obtain legal counsel," "for defendant to produce documents requested in the citation," etc.
8. Motions requesting leave to initiate a second citation to a party where there has been a prior supplementary proceeding against that party shall be supported by an affidavit stating particularized facts sufficient to meet the requirements of Illinois Supreme Court Rule 277(a).
9. Motions filed in this courtroom to vacate a judgment entered in another Cook County courtroom shall be transferred pursuant to Circuit Court of Cook County General Order 1.3. The filing of a motion to vacate a judgment will not stay enforcement absent application for a stay. Cf. 735 ILCS 5/2-1305 (2006); 735 ILCS 5/2-1401(d)(2006).
10. All pleadings, including verified pleadings, proofs of service, and notices of motions and hearings, filed with the Clerk of the Court must be signed. The full name of the person signing shall be typed or printed below the signature.
11. If either the citation or rule has been served by substitute or abode service, the attached Sheriff's return or special process server's affidavit must show that there has been strict compliance with every requirement of the statute authorizing substitute service. State Bank of Lake Zurich v. Thill, 113 Ill. 2d 294, 497 N.E.2d 1156 (1986).

Installment Orders

12. Except as provided in 625 ILCS 5/7-312, if any installment order has been entered, it must be vacated prior to the initiation of any further supplementary proceedings. Cf. Illinois Supreme Court Rule 288.
13. In small claims judgments, the payments shall not extend over a period in excess of three years. Illinois Supreme Court Rule 288. In all other cases, any proposed installment order shall provide for periodic payments in an amount greater than the statutory interest. Cf. 735 ILCS 5/2-1402(c)(2). Exceptions to this rule may be permitted with leave of court provided that the judgment debtor is present before the court and admonished by the court regarding the nature of this order.

Wage Garnishments and Citations

14. In wage citations and wage garnishments, the interrogatories/answers and the proposed wage deduction order must be identical in wording to the forms made available by the Clerk of the Circuit Court, with no changes, additions, or deletions. Except where the employer is a federal agency, wage deduction orders shall not be entered without a verified answer to interrogatories from the employer. 735 ILCS 5/12-808(c). When the employer fails to complete the interrogatories/answers on the form made available by the Clerk of the Circuit Court or substantially similar form, judgment creditor may move to strike the answer and enter conditional judgment against the employer. A wage deduction order shall not be entered absent an answer made in substantially the same form as the interrogatories/answers made available by the Clerk of the Circuit Court.
15. In wage garnishment proceedings, motions for conditional judgment shall attach proof of service for the wage deduction summons or wage citation. Motions for final judgment (confirmation after conditional judgment) must attach proof of service for the wage deduction summons or wage citation, and the summons after conditional judgment. Cf. 735 ILCS 5/12-807; Illinois Supreme Court Rule 105. Where a third party files an answer in response to a summons after conditional judgment or otherwise files its answer after the original return date, no request for a wage deduction order shall be considered except upon notice to the judgment debtor of the return date on the summons after conditional judgment or the continued wage deduction hearing date.
16. In both wage citation and garnishment, where the employer's answer miscalculates the deduction such that amount deducted violates the limits imposed by law, the creditor must submit the Supplementary Wage Deduction Order.

Non-Wage Garnishments

17. In non-wage garnishments or third party citations to discover assets, motions for turnover orders must include an answer/interrogatory which shall require the respondent to identify any adverse claimants. Cf. Cook County Circuit Court Rule 6.1(g); 735 ILCS 5/12-707. If adverse claimants are indicated in the answer, the motion must include proof of service to any adverse claimants. 735 ILCS 5/12-710. If the answer indicates funds available, upon entry of a judgment on the answer of the third party, commonly known as a "turnover order," the non-wage garnishment or third party citation shall be deemed concluded except as otherwise ordered by the Court.
18. Motions for final judgment against a third party respondent in a non-wage garnishment based on a failure to turnover property after entry of a turnover order must attach the answer and turnover order and shall include an affidavit attesting that the third party respondent was sent a copy of the order and said party has refused or neglected to deliver the property, and identifying the inquiries the judgment creditor has made of the third party respondent regarding its failure to turnover the property. See 735 ILCS 5/12-715 (2006).

Contempt and Body Attachment

19. When defendant fails to appear on the citation return date or fails to bring documents specifically requested in the rider attached to the citation, creditor may orally request a Rule to Show Cause *on the return date*. In all other cases, a written verified petition must be filed to obtain a Rule to Show Cause. The petition must state facts establishing both jurisdiction and prima facie evidence of contempt, such as failure to appear, failure to produce documents specifically ordered to be produced, or failure to make payments pursuant to a court installment order and an allegation of willfulness. If the basis for the request is failure to appear, the petition must attach a copy of proof of service for the citation. If the basis is the failure to comply with the installment order, the motion shall identify what payments have been made to date, the date of the last payment, what payments are in default and shall attach a copy of the installment order. The motion must indicate in the caption the specific nature of the contempt alleged, such as:

PETITION FOR A RULE TO SHOW CAUSE-
INDIRECT CIVIL CONTEMPT
FOR FAILURE TO COMPLY WITH AN
INSTALLMENT ORDER.

20. Motions for body attachment must be verified and shall include proof of service of the Citation and Rule pursuant to Cook County Circuit Court Rule 6.1(c). See also Illinois Supreme Court Rule 277(h); 735 ILCS 5/12-107.

21. In all cases in which a defendant appears in court pursuant to a body attachment order, if neither creditor nor creditor's counsel is present, then the clerk shall telephone creditor or creditor's counsel and advise him or her that the defendant is present in court. Unless the Court orders otherwise, if neither creditor nor creditor's counsel appears in court by 11:00 a.m., the defendant will be given a continuance date. To facilitate communication between the clerk and creditors or creditors' attorneys under this general order, the clerk in Room 1401 is authorized to maintain a registry of telephone numbers (including cellular phone numbers) for creditors and creditors' attorneys who wish to provide such information to the clerk.
22. All body attachment writs must be filed with the Sheriff's Office within 30 days of issuance. Writs not filed within 30 days and writs not served within 120 days of issuance shall be void. Any judgment creditor at whose request a body attachment has been issued shall serve upon the Sheriff's Office a certified copy of any subsequent order that would affect the sheriff's enforcement of the body attachment, whether it be quashed, recalled or modified in any form.
23. Where a judgment creditor seeks a rule to show cause based on the failure of an entity other than a natural person to comply with citation or other court order, the judgment creditor must identify a corporate officer or other managerial employee as the respondent to the rule to show cause. See County Circuit Court Rule 6.1(d). Such identification must be supported by affidavit or secretary of state record establishing the respondent's office or managerial post in the entity. For example, if the rule is sought against a president of a corporation based on the corporation's failure to respond to the citation, then verified petition must state that the respondent is the corporate president and the basis for such knowledge. Where the attachment is requested against a natural person not a party to the action, the motion shall again specify that natural person's relationship to the entity.
24. All applications for *alias* rules or attachments must include the prior court order allowing the rule or attachment. The application for any *alias* attachment shall include a copy of all returns on such writs and explain why an *alias* is sought.

Replevin and Detinue

25. No default or *ex parte* judgments will be entered except on proof of service and witness testimony, verified pleading or affidavit based on personal knowledge establishing proof of the allegations of the pleadings upon which relief is sought. 735 ILCS 2-1301(d) (2006). Affidavits based on information and belief do not suffice.
26. No wrongful detention damages or damages for the fair market value of the property shall be awarded in replevin and detinue actions except upon specific proof of such damages.

27. Forcible repossession may be obtained lawfully pursuant to a replevin order only. No language authorizing forcible repossession of personal property may be included in a draft order for judgment in detinue.
28. Petitioner shall bring a witness to the hearing wherein it requests an order for replevin without notice. 735 ILCS 5/19-106 (2006).

Motions of Course

29. The following motions may be as a motion of course provided they strictly comply with the pertinent statutes, court rules, and orders, including this General Order: appointment of special process server (735 ILCS 5/2-202); alternative service, rules to show cause, body attachments where an individual bond is sought—the proposed writ should have “1,000” inserted in the blank after “Individual Bond” (any request for deposit bond must be filed on the regular call), judgment on the answer of the third party or turnover orders, vacating installment agreements, voluntary dismissals, satisfaction and release of judgment, conditional judgment, final judgment, memorandum of judgment, and revival of judgment.

Enforcement of the Findings, Decision and Order of the City of Chicago Department of Administrative Hearings

30. The “findings, decision and order” entered by the City of Chicago Department of Administrative Hearings may be enforced in the Circuit Court of Cook County “in the same manner as a judgment entered by a court of competent jurisdiction.” 65 ILCS 5/1-2.1-8 (2004). The “findings, decision and order” may be enforced in the Circuit Court of Cook County upon “filing in the office of the clerk of any circuit court in any county in this State of a transcript of a judgment...” 735 ILCS 5/12-106 (2004). To constitute a *transcript of judgment*, the “findings, decision and order” must be authenticated pursuant to the rules promulgated by the Department of Administrative Hearings.
31. Attorneys must appear promptly at 1:30 p.m. and commence their citation examinations. Failure to commence a citation examination by 2:30 p.m. may result in dismissal of the citation. No judgment debtor appearing after 2:00 p.m. shall be heard by the Court unless the judgment creditor’s attorney is still present in court

Pro Se Motions

32. Any pro se citation, garnishment, rule to show cause and motion shall be noticed in Courtroom 1401 for the appropriate call according to the subject matter and nature of the case (e.g., a pro se garnishment shall be noticed up for 11:00 a.m., a pro se replevin for 2:00 p.m.).

Miscellaneous

33. Unless otherwise ordered, in all matters where briefing has been ordered, respondent shall have 21 days to file a response, the movant shall have 14 days to file a reply, and the matter will be set for hearing no less than 14 days and no more than 21 days thereafter. No brief in excess of ten pages may be filed without leave of court. The movant shall provide courtesy copies of all papers to the Court 10 days prior to hearing.
34. Pursuant to Cook County Circuit rule 17.1, no lawyer may engage in an *ex parte* communication regarding any matter pending before that judge except as provided by law. If counsel deems it necessary to bring a matter to the Court's attention when it is not in session (e.g., the entry of a release and satisfaction, quashing of body attachment, etc.), counsel must present the matter to the Court's Clerk.
35. All emergency motions filed pursuant to Cook County Circuit Court Rule 2.2 must be verified and state facts supporting the emergency nature of the motion or be supported by evidence to the same effect.
36. Nothing herein shall serve to limit the discretionary authority conferred on the Court under otherwise applicable law.

This Order supercedes General Orders 99-16(M), 90-1(M), 89-8(M), 88-23(M), 2001-4(M), 2003-1(M), 2003-2(M), and all other General Orders and the Standing Order for Room 1401 (entered 4/22/04) to the extent they are inconsistent with this Order.

This Order shall be spread upon the records of this court and be effective as of December 18, 2006.

DATED at Chicago, Illinois, this 18 day of September, 2006.

ENTER:

E. Kenneth Wright, Jr.
Presiding Judge
First Municipal District

ENTERED
Judge E. Kenneth Wright, Jr.

SEP 18 2006

Circuit Court-1624