

**SUPPLEMENTARY PROCEEDINGS
AND MISCELLANEOUS REMEDIES
CALL
General Order 2008-02 (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 related Motions
10:45 a.m.	<i>Motions of Course</i> Garnishment Call
11:00 a.m.	Garnishment Call and related Motions
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 related Motions (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 related Motions (Wednesdays and Thursdays only)
2:00 p.m.	Pretrials (Friday Only)

2. (a) 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.
(b) All proposed orders must contain the name, address, and phone number of the attorney or party submitting it.

Motions

3. (a) 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).

(b) Proposed orders shall provide that service shall be by regular mail, certified mail return receipt requested, and posting an envelope containing the documents on the defendant's service address. Service shall include a copy of the court order authorizing special service.
4. 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.
5. Motions requesting leave to initiate a second citation to a party where there has been an earlier supplementary proceeding against that party shall be supported by an affidavit stating particularized facts meeting the requirements of Illinois Supreme Court Rule 277(a).
6. (a) Motions to vacate a judgment entered in another Cook County courtroom should not be filed in this courtroom but rather in the courtroom in which the judgment was entered.

(b) 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).
7. Whenever 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 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

8. Except as provided in 625 ILCS 5/7-312, if any installment order has been entered, it must be vacated before the initiation of any further supplementary proceedings. Cf. Illinois Supreme Court Rule 288.
9. (a) In small claims judgments, the payments shall not extend over a period in excess of three years. Illinois Supreme Court Rule 288.

(b) 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).

(c) Exceptions to paragraph 9(b) may be permitted only with leave of court, the judgment debtor present before the court and the court admonishing the judgment debtor regarding the nature of the order.

Wage Citations and Garnishments

10. (a) Except as provided in this Order or otherwise ordered by the court, no examination shall take place before the court advises the defendant or third party of the nature of the proceedings and his or her rights and obligations.

(b) Attorneys must appear promptly at 9:30 a.m. and commence their citation examinations. Failure to complete a citation examination by 11:00 a.m. may result in dismissal of the citation.

(c) 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.
11. Citations may be set for 9:00 a.m. with leave of court. Counsel may seek leave by petitioning the court for an order allowing the 9:00 a.m. return time.
12. Citation examinations must be conducted by an attorney.
13. Citation examinations shall be conducted "before the court" pursuant to Illinois Supreme Court Rule 277(e), in a conference room or the hallway.
14. (a) In wage citations and wage deduction proceedings 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.

(b) 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). Further, no wage deduction order shall be entered unless the creditor tenders a signed certification that the required documents have been mailed to the judgment debtor. See 735 ILCS 5/12-805(a); 735 ILCS 5/2-1402(d); cf. Collection Professionals v. Logan, Inc. 296 Ill. App. 3d 959, 968 (1998)(notice to debtor required for due process).

(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, the judgment creditor may move to strike the answer and enter the conditional judgment against the employer.

15. (a) A motion for conditional judgment in a wage proceeding either by citation for wages or wage deduction, shall attach proof of service for the wage deduction summons or wage citation. A motion for final judgment (confirmation after conditional judgment) shall 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.
- (b) Where a third party files an answer in response to a summons after conditional judgment or otherwise files an answer after the original return date, a wage deduction order shall be considered only on notice to the judgment debtor of the return date on the summons after conditional judgment or the continued wage deduction hearing date.
- (c) Service of summons after conditional judgment on an entity must be made pursuant to Section 2-204, 205, 205.1 or 2-211 of the Illinois Code of Civil Procedure.
- (d) A motion for conditional judgment against an employer that has stopped sending money shall be either verified or attach an affidavit stating (i) that the employer is without lawful excuse and (ii) describing with specificity the movant's inquiry into the basis for the interruption of wage payments. 735 ILCS 5/12-808(f).
16. In both wage citation and wage deduction proceeding, whenever the employer's interrogatories/answers miscalculate the amount to be deducted by law, the judgment creditor must submit the Supplementary Wage Deduction Order.

Non-Wage Garnishments and Third-Party Citations to Discover Assets

17. (a) The answers/interrogatories sent to garnishee/respondent must be on the court approved form, which among other things requires the respondent to identify any adverse claimants and exempt funds. Cf. Cook County Circuit Court Rule 6.1(g); 735 ILCS 5/12-707.
- (b) Motions for turnover orders must include the answer/interrogatory. If adverse claimants are indicated in the answer, the motion must include proof of service on any adverse claimants. 735 ILCS 5/12-710.
- (c) The garnishee/respondent shall answer interrogatories regarding whether they hold exempt funds. Known exempt funds must not be frozen. At the time the garnishee/respondent answers, if (i) only exempt funds have been deposited into the account during the past 90 days and (ii) account balance is the same or less than sum of those exempt deposits into the account during that days, all funds in the account are deemed exempt. See In re Estate of Merritt, 272 Ill. App. 3d 1017, 1020-21 (1st Dist. 1995). The garnishee/respondent shall freeze no funds. 735 ILCS 5/12-707(a) (garnishee shall not freeze exempt funds); 735 ILCS 5/2-1402(f)(2) (citation respondent shall not freeze exempt funds).

(d) Whenever a "turnover order" is entered, the non-wage garnishment or third party citation shall be deemed concluded (except as otherwise ordered by the Court).

(e) Costs under 205 ILCS 48.1, 205 ILCS 105/3-8, 205 ILCS 205/4013 and 205 ILCS 305/10 shall be awarded only on motion of the institution setting forth an itemization of the costs incurred.

(f) No turnover order shall be entered unless the creditor tenders simultaneously a signed certification that it has mailed the required documents to judgment debtor. See 735 ILCS 5/12-711(e); 735 ILCS 5/2-1402(d); cf. Collection Professionals v. Logan, Inc. 296 Ill. App. 3d 959, 968 (1998)(due process requires notice to debtor).

18. Motions for final judgment against a third party respondent in a non-wage garnishment based on a failure to turnover property other than money after entry of a turnover order must attach the answer and turnover order and shall be either verified or attach an affidavit that the third party respondent was sent a copy of the order and refused or neglected to deliver the property, and identify the inquiries the judgment creditor made of the third party respondent regarding the failure to turn over the property. See 735 ILCS 5/12-715 (2006).

Contempt and Body Attachment

19. (a) When the judgment debtor fails to appear on the citation return date or fails to bring documents specifically requested in the rider attached to the citation, the judgment creditor may orally request a Rule to Show Cause on the return date.
- (b) In all other cases the judgment creditor must file a written verified petition stating facts that establish both jurisdiction and prima facie evidence of contempt, such as failure to appear, failure to produce documents 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.
- (c) For an *alias* Rule to Show Cause, the clerk in Courtroom 1401 will give up to two additional *alias* dates before a judgment creditor need move the court for issuance of an *alias* rule.
- (d) 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 attach a copy of the installment order. The caption should indicate the 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. (a) When a defendant appears in court in response to a body attachment order, if neither creditor nor creditor's counsel is present, then the clerk shall by telephone advise the creditor or creditor's counsel that the defendant is in court.
- (b) 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.
- (c) 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 request to be included in the registry.
22. (a) 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.
- (b) The motion for an *alias* attachment must include the prior court order allowing the attachment and why an *alias* is sought.
- (c) The judgment creditor shall serve on 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. (a) A judgment creditor who seeks a rule to show cause based on the failure of an entity other than a natural person to comply with a citation or other court order 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). 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 the verified petition must state that the respondent is the corporate president and the basis for the statement.
- (b) The motion for an attachment against a natural person not a party to the action shall specify the natural person's relationship to the entity.

Replevin and Detinue

24. 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 on which relief is sought. 735 ILCS 2-1301(d) (2006). Affidavits based on information and belief do not suffice.
25. No wrongful detention damages or damages for the fair market value of the property shall be awarded in replevin and detinue actions except on specific proof.
26. Forcible repossession may be obtained lawfully only with a replevin order. No language authorizing forcible repossession of personal property may be included in a draft order for judgment in detinue.
27. Unless excused by the court for good cause shown, a petitioner shall bring a witness to the hearing to testify on behalf of a request for an order for replevin without notice. 735 ILCS 5/19-106 (2006).

Routine Motions

28. 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: (i) appointment of special process server (735 ILCS 5/2-202); (ii) alternative service; (iii) rules to show cause; (iv) 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); (v) judgment on the answer of the third party or turnover orders; (vi) vacating installment agreements; (vii) voluntary dismissals; (viii) satisfaction and release of judgment; (ix) conditional judgment; (x) final judgment; (xi) memorandum of judgment; and (xii) revival of judgment. All motions of course must attach a proposed order indicating at the bottom of the draft order: “GRANTED/DENIED.”

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

29. 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 on “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 under Department of Administrative Hearings rules.

30. (a) Attorneys must appear promptly at 1:30 p.m. and commence their citation examinations. Failure to commence a citation examination by 3:00 p.m. may result in dismissal of the citation.
- (b) 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

31. 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

32. Property to be sold other than by sheriff sales pursuant to 735 ILCS 5/2-1402(e) shall be under the Uniform Commercial Code unless the Court orders otherwise.
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 shall be set for hearing between 14 and 21 days later. No brief in excess of 10 pages may be filed without leave of court. The movant shall provide courtesy copies of all papers to the Court seven days before the hearing.
34. Pursuant to Cook County Circuit Rule 17.1, no lawyer may engage in an *ex parte* communication regarding any matter pending before a 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 only shall 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 in this order limits the discretionary authority conferred on the Court under otherwise applicable law.

This Order supersedes General Orders 99-16(M), 90-1(M), 89-8(M), 88-23(M), 2001-4(M), 2003-1(M), 2003-2(M), 2006-05(M) and all other General Orders and the Standing Order for Room 1401 (entered 4/22/04).

This Order shall be spread on the records of this court and be effective as of 08-04, 2008.

DATED at Chicago, Illinois, this 07 day of July, 2008.

ENTER

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

ENTERED
Judge E. Kenneth Wright, Jr.
JUL 07 2008
Circuit Court 1624