RULES OF THE ILLINOIS APPELLATE COURT, SECOND DISTRICT
October 4, 2011

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Explanatory Notes

Supreme Court Rule 22(h) authorizes this court to adopt rules that are consistent with the Illinois Supreme Court Rules and Illinois statutes. The Uniform Administrative and Procedural Rules Appellate Courts Second, Third, Fourth, and Fifth Districts (the Uniform Administrative Rules) also provide rules for this court. To facilitate the administration of justice, the Illinois Appellate Court, Second District (the Court), hereby enacts the following rules (the Local Rules) in addition to the Supreme Court Rules and the Uniform Administrative Rules. All prior rules issued by the Court are hereby rescinded.

Preamble

These Local Rules are set forth to facilitate the administration of justice in the Court. The Court may at its discretion alter, suspend, rescind, or waive these Local Rules, in whole or in part, as the ends of justice require.

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Article I. General Rules

Rule 101 **Filing materials with the Court**

(a) Materials (including but not limited to records, exhibits, briefs, motions, and memoranda) to be filed with the Court must be directed to the Clerk's Office either by personal delivery, or by U.S. Mail or similar courier, at the following address:

Clerk of the Illinois Appellate Court, Second District
55 Symphony Way
Elgin, Illinois 60120

(b) Except as provided in Local Rule 111, the Court does not accept electronic filings.

(c) The Clerk's Office will not correct any filings on any party's behalf.

(1) If a party seeks to make typographical corrections to a filing, then the party seeking to make the corrections must file a motion in the Clerk's Office identifying the changes to be made. If the motion is granted, the Clerk's Office will notify the party seeking to make the corrections of a time when the filing will be available for that party to come to the Clerk's Office to effectuate the corrections outlined in the motion.

(2) If a party seeks to make substantive changes to a filing, then the party seeking to make the changes must file a motion seeking leave to withdraw the filing and to file a substitute.

Rule 102 **Requirements for documents filed with the Court**

(a) All documents filed with the Court, including motions, must comply with the formatting guidelines of Supreme Court Rules 341(a), (f), and (g).

(b) Every document filed in the Court shall be personally signed by at least one attorney of record and shall list that person's professional address. Parties who are not represented by an attorney shall sign their names and provide their addresses.

Rule 103 **Motions for extension of time**

(a) A party moving for an extension of time must comply with Supreme Court Rules 361(a) and (f) and, where applicable, 610. In addition to the information required by those rules, the movant's affidavit must provide:

(1) The number of days requested and the number of days granted on each of the previous motions for extension of time filed by the movant, and the total number of days granted on all of those previous motions;

(2) The total number of days requested and the total number of days granted on all of the previous motions for extension of time filed by other parties;

(3) The number of days that will have elapsed from the date of filing of the notice of appeal to the date that the case will be ready for disposition, pursuant to Local Rule 105 or 107, if the present extension and no further extension is granted; and

(4) In a criminal case, the status of the defendant's sentence (where applicable) or, in any case that may become moot due to the passage of time on appeal, the date on which the appeal may become moot.

(b) A motion for an extension of time should be filed, where practicable, at least 10 days prior to the date to be extended if served by mail or at least 5 days prior to the date to be extended if served personally or by facsimile.

(c) Motions for extension of time in cases accelerated pursuant to Supreme Court Rule 311(a) and/or Local Rule 106 must comply with subsection (a) of this Local Rule and Local Rule 106(d).

Rule 104 **Records on appeal not to include physical evidence or photostatic copies**

(a) The circuit clerks of the respective counties within the Second District of the Illinois Appellate Court are not to send to the Court any physical evidence included in the record. Examples of such evidence that should not be sent are: weapons, narcotics or drug paraphernalia, materials marked as "biohazard," x-rays, maps, plats, and blueprints. Evidence of a descriptive or documentary nature, including video recordings, audio recordings, and photographs, should be included in the record on appeal.

If physical evidence is required for consideration of an appeal, the Court, sua sponte or upon motion of a party, will direct the circuit court to transfer such evidence.

(b) In preparing the record on appeal, the circuit clerks are to submit records containing the original documents from the circuit court's file, and not photostatic copies. However, photostatic copies may be submitted if:

(1) The original papers of the record do not exist; or

(2) The Chief Judge of the circuit from which the appeal originates files a letter with the Court stating good cause why the original is not available and why a photostatic copy of the record should be filed in its stead. Whether the letter filed by the Chief Judge states good cause shall be determined by the Court.

Rule 105 **Disposition of cases**

(a) Where no appellee's brief is timely filed, a case will be considered ready for disposition two weeks after the day the brief is due to be filed, unless a timely motion for extension of time to file the appellee's brief is filed. If a timely motion or timely motions for extension of time are filed but no brief is subsequently timely filed, the case will be considered ready for disposition

two weeks after the due date determined by the resolution of the motion or motions for extension.

(b) All other cases will be considered ready for disposition upon the timely filing of the appellant's reply brief (or cross-reply brief, if applicable). Where no reply brief (or cross-reply brief) is timely filed, a case will be considered ready for disposition on the day the reply brief (or cross-reply brief) is due to be filed, unless a timely motion for extension of time to file the reply brief (or cross-reply brief) is filed. If a timely motion or timely motions for extension are filed but no reply brief (or cross-reply brief) is subsequently timely filed, the case will be considered ready for disposition as of the due date determined by the resolution of the motion or motions for extension.

Rule 106 **Certain cases accelerated**

(a) In addition to the categories of cases listed in Supreme Court Rule 311(a), the Court will also accelerate appeals from orders granting or denying petitions for removal.

(b) In order to expedite appeals under Supreme Court Rule 311(a) and this Local Rule, parties may file memoranda in lieu of formal briefs. Such memoranda need not comply with all the requirements applicable to formal briefs but must comply with the requirements of Supreme Court Rules 341(a), (b), (d), (e), (f), (g), and (j), and Local Rule 102.

(c) All accelerated cases shall adhere to the following schedule:

(1) The record on appeal (or certificate in lieu of record) and the transcript of proceedings shall be filed no later than 35 days after the filing of the notice of appeal. Any request for extension of the time for filing shall be accompanied by an affidavit of the court clerk or court reporter stating the reason for the delay, and shall be served on the trial judge and the chief judge of the circuit. Lack of advance payment shall not be a reason for noncompliance with filing deadlines for the record or transcript.

(2) The appellant's brief or memorandum in lieu of a formal brief must be filed within 21 days of the filing of the record or certificate in the appellate court.

(3) The appellee's brief or memorandum in lieu of a formal brief must be filed within 21 days thereafter.

(4) Any reply brief or memorandum in lieu of a formal brief must be filed within 7 days thereafter.

(5) In the case of a cross-appeal, the cross-reply brief or memorandum in lieu of a formal brief must be filed within 7 days thereafter.

(d) Motions for extension of time are disfavored and shall be granted only for compelling circumstances.

(1) A motion for an extension must comply with Local Rule 103(a).

(2) When a motion for an extension is based on a delay in the preparation of the record, the motion shall detail the proceedings at the status hearing required by Supreme Court Rule 311(a)(3), including the trial

court's determination of the status of the case, the trial judge's actions to expedite the preparation of the record, and whether the trial judge has requested the chief judge's assistance in resolving any filing delays. The motion shall also attach a file-stamped copy of any order entered at the status hearing and an affidavit of the clerk or court reporter stating the reason for the delay.

(3) A motion for an extension must be filed at least 10 days prior to the date to be extended if served by mail or at least 5 days prior to the date to be extended if served personally or by facsimile.

(e) Motions should be served personally or by facsimile whenever possible.

(f) Before filing any motion, a party shall confer with opposing counsel and inquire as to whether opposing counsel intends to file an objection. The results of that inquiry shall be stated in the motion.

Rule 107 **Disposition of accelerated cases**

(a) Where no appellee's brief is timely filed, a case accelerated pursuant to Supreme Court Rule 311(a) and/or Local Rule 106 will be considered ready for disposition three days after the day that the brief is due to be filed, unless a timely motion for extension of time to file the appellee's brief is filed. If a timely motion or timely motions for extension of time are filed but no appellee's brief is subsequently timely filed, the case will be considered ready for disposition three days after the due date determined by the resolution of the motion or motions for extension.

(b) All other accelerated cases will be considered ready for disposition upon the timely filing of the appellant's reply brief (or cross-reply brief, if applicable). Where no reply brief (or cross-reply brief) is timely filed, a case will be considered ready for disposition on the due date for the reply brief (or cross-reply brief), unless a timely motion for extension of time is filed. If a timely motion or timely motions for extension are filed but no reply brief (or cross-reply brief) is subsequently timely filed, the case will be considered ready for disposition as of the due date determined by the resolution of the motion or motions for extension.

Rule 108 **Emergency motions**

Pursuant to Supreme Court Rule 361(g), emergency motions shall be filed and disposed of as follows:

(a) An emergency motion may be filed only if an appeal has been docketed. The title of the motion shall include the words "Emergency Motion." If the motion requires the Court to act within a specific time, that information shall be set out in the first paragraph of the motion. The motion shall specify the nature of the emergency and the grounds for the specific relief requested. The motion shall also state what relief was sought in the circuit court or why no relief was sought in that court. The movant shall attach to the motion a copy of every circuit court and appellate court document relevant to the

motion. An emergency motion should be filed only when it involves a genuine emergency.

(b) The movant shall immediately serve the motion on every other party personally or by facsimile. The type of service made shall be specifically noted on the proof of service filed with the motion.

(c) Except in extraordinary circumstances necessitating an earlier ruling on the motion, or unless opposing counsel has indicated no objection to the motion, the Court will allow any non-moving party 3 days to respond to an emergency motion.

Rule 109 **Length and substance of oral arguments**

(a) Each side will receive a total of 15 minutes to present its main argument, and the appellant or appellants will receive a total of 5 additional minutes to present rebuttal.

(b) Oral arguments shall omit the recitation of the facts and the procedural history of the case except to the extent necessary to frame the issues that are presented on appeal.

Rule 110 **Availability and copying of materials**

(a) The Clerk's Office will not photocopy bound and certified records for any party or non-party. The Clerk's Office will photocopy other documents filed with the Clerk's Office at the cost of $.25 per page. These restrictions may be waived by the Court on motion.

(b) Copies of decisions will be made available at the Clerk's Office at no charge to the attorneys or parties of record in a given appeal. Non-parties may obtain copies of decisions in the Clerk's Office at a cost of $.25 per page.

(c) Any filed materials, including those materials that may not be photocopied under Part (a) of this Local Rule, but not including those filed under seal, will be made available for review upon request by any party or non-party. The Court may monitor any review of materials under this Local Rule in order to ensure the privacy of sensitive personal identifying information, such as social security numbers and the like, appearing on materials filed with the Court.

(d) The Court's computer system and the information contained in that system, including but not limited to internal electronic communications and internal administrative documents, will not be printed out or provided to any party or his or her attorney, or to the general public.

Rule 111 **Electronic records on appeal**

Effective October 1, 2011, upon the preparation and certification of a physical record on appeal pursuant to Supreme Court Rule 324, any party to an appeal from a county where submission of an electronic record on appeal is authorized* may seek to access an electronic copy of the record on appeal. This Local Rule is in addition to all existing Supreme Court Rules governing the appellate process. ***Ogle and Du Page Counties effective October 1,**

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(a) Any party who wishes to access an electronic copy of the record on appeal must have registered for a user name and a password and provided a valid e-mail address at I2File.net.

(b) If an appellant wishes access to an electronic copy of the record on appeal, he or she must make a written request to the Appellate Court through I2File.net in the standard PDF document format. The Appellate Court Clerk will acknowledge receipt of the request.

The physical record on appeal or a certificate in lieu thereof still shall be filed pursuant to Supreme Court Rules 325 and 326 and Local Rule 104. If any other party wishes to access the electronic copy, he or she must provide the Court with a written request through I2File.net in the standard PDF document format, and may do so at any time during the pendency of the appeal. The Appellate Court Clerk will acknowledge receipt of the request.

All parties may choose access to both the electronic record on appeal and/or the physical record on appeal.

(c) Upon receipt of the written request for access to the electronic record on appeal, the Court shall grant or deny, in its sole discretion, authorization to access the electronic record on appeal as distributed by the Appellate Court Clerk using I2File.net.

(d) In its sole discretion, the Court may revoke access to an electronic copy of a record on appeal, or any portion thereof.

(e) If the physical record on appeal includes an impounded document, protected document, document filed under seal, or otherwise restricted document, those documents will be listed in an Impounded Table of Contents, which will list all such documents according to the date they were filed in the Office of the Circuit Clerk. During preparation of the record on appeal, impounded documents will be prepared as separate volume(s) entitled Impounded Common Law Record and Impounded Report of Proceedings. The impounded documents shall be referenced by a copy of the envelope containing the document(s), the date the contents were filed, and a title of the impounded document(s). The Impounded Common Law Record shall be paginated with an 'IC' preceding a sequence starting at number one followed by consecutive page numbers. The Impounded Common Law Record shall retain the same limitation of 250 pages per volume.

The Impounded Reports of Proceedings shall follow the same requirements as the Impounded Common Law Record with the exception that an 'IR' shall appear preceding the pagination sequence.

A party wishing to access those documents in the electronic record on appeal must move to unseal or view those documents. Upon proper motion, the

Court shall grant or deny, in its sole discretion, authorization to access any such document.

(f) Upon the grant of a motion to supplement the record on appeal, the supplement shall be prepared as a separate volume. The first page number shall be the next sequential number following the last number in the preceding volume.

(g) Local Rule 104(a) directs the Circuit Clerk that video and audio recordings as well as photographs should be included in the physical record on appeal, but these items will not be included as part of the electronic record on appeal.

(h) In the event of a discrepancy between the contents of the physical record and the electronic record on appeal, the contents of the physical record on appeal shall control.

(i) Any copy of the electronic record on appeal need not be returned to the Court.

Article II. Building Rules

Rule 201 Clerk's Office hours of operation

The Clerk's Office will be open for the transaction of public business from 8:30 a.m. to 4:30 p.m. each day, except Saturdays, Sundays, and those legal holidays determined by the Illinois Supreme Court.

Rule 202 No smoking in the courthouse

Smoking is not allowed in the courthouse.

Article III. Personnel Rules

Rule 301 Restrictions on communication with Court staff

The members of the Court's staff will not render legal opinions or advice to litigants or potential litigants before the Court, or their counsel. All litigants and potential litigants before the Court, and their counsel, shall be cognizant of these restrictions if they have occasion to communicate with the Court's staff.