



STANDING ORDER  
CIVIL ASSET FORFEITURE CASES  
COUNTY DIVISION

Effective May 25, 2006, procedures in Civil Asset Forfeiture Cases shall be governed by this Standing Order. Civil Asset Forfeiture Cases include all proceedings initiated by the State's Attorney of Cook County, Illinois pursuant to 720 ILCS 5/36-1 et seq. (Article 36, Forfeiture of Vehicle).; 720 ILCS 550/12 (Cannabis Control Act) ; 720 ILCS 570/505 (Controlled Substances Act); 720 ILCS 646/85 (Methamphetamine Control and Community Protection Act) and 720 ILCS 5/29B-1 (h) (Prohibitions against money laundering and governed by the Drug Asset Procedure Act (725 ILCS 150/1).

**I. Case Initiation**

All cases shall be initiated by filing the original complaint/petition with the County Division of the Office of the Clerk of Court in Room 1202 in the Richard J. Daley Center. Upon filing the Clerk shall assign the matter randomly to Calendars 7, 9 or 10 of the County Division. The State's Attorney shall then cause proper notice of the proceeding be served on all necessary parties. All cases are returnable on the first appearance date in Room 1202 of the Richard J. Daley Center, 50 W. Washington Street, Chicago, Illinois at 9:30 a.m. The return date shall be on a Monday when the Calendar to which the case has been randomly assigned is holding Court. That day can be ascertained by reference to the County Division Case Assignment schedule effective July 10, 2006.

The Office of the State's Attorney shall then advise the deputy clerk for the calendar/court room to which the case has been assigned of the scheduling of the matter so it maybe properly scheduled. Courtesy copies of all pleadings for cases set for first appearance shall be delivered to the Chambers of the Calendar Judge no later than 3:00

p.m. on the preceding Thursday. **No default order will be entered on any matter unless the Plaintiff can establish that the certified mail notice sent to the party against whom a default is being sought was received or the notice was additionally sent by regular mail and not returned undelivered.** *Jones v. Flowers*, \_\_\_\_ U.S. \_\_\_\_ (2006 U.S. Lexis 3451, April 26, 2006). An affidavit as to Military Service must be filed in conjunction with any request for an order of default.

## **II. Return Day Call**

The Clerk of Court shall require any person or entity who appears in response to a Notice of Hearing on a Civil Asset Forfeiture Case to file an appearance and pay the appropriate fee. The Clerk shall also accept any answer or other responsive pleading the party wishes to file. The Clerk shall then advise the party that all first appearance cases are heard at 10:15 a.m. and direct the person to the court room where the Calendar to which the case is assigned is being heard.

If the individual seeks, to proceed as an indigent person, he or she shall be furnished with Form CCGN689A (Application, and Affidavit to sue or defend as an Indigent Person) together with the appropriate order (CCGN689 B), and the Form answer and directed to the Courtroom to which the case is assigned for review. In those cases where the Court determines that filing fees should be waived initially, due consideration should be given to recovering the filing fees from any bond that was posted by the claimant from personal funds.

The Clerk shall also process appearances and other filings on any day prior to the first appearance/return day. No appearances shall be accepted after the first appearance/return day absent an order of Court permitting such filing. Any person seeking a waiver of filing fees on any day other than a first appearance/return day should be provided the proper forms and directed to the Presiding Judge's Office.

## **III. Court Call Organization**

The Judges assigned to Calendars 7, 9 and 10 have agreed that all Civil Asset Forfeiture cases shall be scheduled on Mondays in accordance with Exhibit 1 at the following times:

9:30 a.m. Case Management Conferences and Case Scheduling, Status Calls.

(Note: Agreed Orders will be taken at the beginning of the call.)

Lawyers who desire the entry of an Agreed Order should be in the court room at the commencement of the call) Cases where lawyers have filed appearances will be called first. Cases will then be called in the order directed by the judge.

10:15 a.m. First Appearance Call. The Court will accommodate those cases where lawyers have filed appearances in Room 1202 prior to the commencement of the Call. The remaining cases will be called as directed by the Court. The Judge will review petitions to waive filing fees by persons asserting an inability to pay on this call. All matters continued from this call shall be set for trial or placed on the 9:30 a.m. call.

11:00 a.m. Set matters (trials, contested hearings)

1:30 p.m. Set Matters (trials, contested hearings)

The Court reserves the right to schedule any matter for any court date and time other than as stated above in order to properly hear and resolve the matter.

#### **IV. Discovery**

In all cases where the property sought to be forfeited has a value of less than \$10,000, the matter shall proceed as a small claim and be governed by Illinois Supreme Court Rule 287. Provided nevertheless, that the Plaintiff shall furnish any claimant with all discovery prepared and tendered by the State in the underlying criminal case. If no discovery was prepared or tendered in that proceeding, then the Plaintiff shall tender any claimant all police or other reports in their possession or the possession of the agency which seized the property documenting the incidents surrounding the seizure.

In all other cases, discovery shall proceed as provided by the Rules of the Supreme Court in other civil cases. **Note: Supreme Court Rule 201 (m) precludes the filing of discovery with the Clerk of the Circuit Court.** The only exception to this is found in Rule 3.1 of the Circuit Court of Cook County which requires Requests to Admit Facts under Rule 216 and responses thereto to be filed. The Clerk is hereby directed to accept for filing only requests for admission of fact under Rule 216 and responses

thereto. No other discovery materials are to be accepted for filing without leave of Court. This directive does not apply to Motions related to discovery issues.

Upon proper notice, after all discovery has been completed, the Plaintiff is given leave to take the evidence deposition of any claimant who will be incarcerated at the time of the trial or hearing.

**V. Orders of Habeas Corpus to Testify**

Parties seeking to have a party or witness who is currently incarcerated brought to court to testify in any proceeding must file a petition seeking that relief pursuant to 735 ILCS 5/10-135. The movant should be familiar with the factors that must be considered by the court before such relief is granted.<sup>1</sup> The Petition seeking the order should contain information detailing all relevant circumstances including the nature of the matter, the importance of an early determination, reasons why the resolution of the matter cannot be delayed until the person is released from custody, probability of success on the merits, the lack of any outstanding questions of law; i.e. why the matter cannot be resolved by a motion for summary judgment. (735 ILCS 5/2-1005), and why an evidence deposition of the witness/party will not suffice.

The court will then determine whether the right to be present at the hearing or trial outweighs the governmental interests of maintaining the confinement of persons serving sentences at the place and institution chosen, minimizing any risk of escape and the economical administration of justice without the imposition of unnecessary costs upon the State.

**VI. Use of Court Forms**

The Court has approved the use of certain forms. These include an answer to be filed by *pro se* litigants and orders which reflect the standard dispositions anticipated in the majority of the proceedings. The answer is attached as an exhibit to this standing order. The parties are encouraged to use these forms, available in the court rooms whenever possible.

Entered: May 23, 2006

Patrick E. McGann

Presiding Judge – County Division

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<sup>1</sup> *Moeck v. Zajackowski*, 541 F.2d 177 ( C.A. 7<sup>th</sup>, 1976); *In re the Marriage of Anderson*, 126 Ill. App. 3d 453, 459 (1984).