

M.R. 3140

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered April 20, 2023.

(Deleted material is struck through, and new material is underscored.)

Effective immediately, Illinois Supreme Court Rules 101, 102, 283, and 284 are amended, and new Rules 102.1 and 242 are adopted, as follows.

Amended Rule 101

Rule 101. Summons and Original Process—Form and Issuance

(a) **General.** The summons shall be issued under the seal of the court, identifying the name of the clerk. The summons shall clearly identify the date it is issued, shall be directed to each defendant, and shall bear the information required by Rule 45 for remote appearances and Rule 131(d) for the plaintiff's attorney or the plaintiff if not represented by an attorney. All summons issued in civil cases in Illinois shall include substantially~~must contain~~ the following language:

You have been sued. Read all documents attached to this Summons. To participate in the case, you MUST file an official document with the court within the time stated on this Summons called an "Appearance" and a document called an "Answer/Response". The Answer/Response is not required in small claims or eviction cases unless ordered by the court. If you do not file an Appearance and Answer/Response on time, the court may decide the case without hearing from you, and you could be held in default and lose the case.

After you fill out the necessary documents, you need to electronically file (e-file) them with the court. To e-file, you must create an account with an e-filing service provider. For more information, go to ilcourts.info/efiling. If you cannot e-file, you can get an exemption that allows you to file in-person or by mail.

You may be charged filing fees, but if you cannot pay them, you can file an Application for Waiver of Court Fees.

It is possible that the court will allow you to attend the first court date in this case in-person or remotely by video or phone. Contact the Circuit Court Clerk's office or visit the Court's website to find out whether this is possible and, if so, how to do this.

Need help? Call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov for information about going to court, including how to fill out and file documents. You can also get free legal information and legal referrals at illinoislegalaid.org. All documents referred to in this Summons can be found at ilcourts.info/forms. Other documents may be available from

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SUPREME COURT
CLERK

your local Circuit Court Clerk's office or website.

¿Necesita ayuda? Llame o envíe un mensaje de texto a Illinois Court Help al 833-411-1121, o visite ilcourthelp.gov para obtener información sobre los casos de la corte y cómo completar y presentar formularios.

~~E-filing is now mandatory for documents in civil cases with limited exemptions. To e-file, you must first create an account with an e-filing service provider. Visit <http://efile.illinoiscourts.gov/service-providers.htm> to learn more and to select a service provider. If you need additional help or have trouble e-filing, visit <http://www.illinoiscourts.gov/FAQ/gethelp.asp>, or talk with your local circuit clerk's office.~~

(b) Summons Requiring Appearance on Specified Day.

(1) In an action for money not in excess of \$50,000, exclusive of interest and costs, or in any action subject to mandatory arbitration where local rule prescribes a specific date for appearance, the summons shall require each defendant to appear, either in person or remotely, on a day specified in the summons not less than ~~40~~²¹ or more than ~~61~~⁴⁰ days after the issuance of the summons (see Rule 181(b)), and shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article II Forms Appendix. The court shall make every reasonable effort to accommodate the defendant appearing by telephone or video conference.

(2) In any action for eviction or for recovery of possession of tangible personal property, the summons shall be in the same form, but shall require each defendant to appear on a day specified in the summons not less than 7 or more than 40 days after the issuance of summons.

(3) If service is to be made under section 2-208 of the Code of Civil Procedure the return day shall be not less than 40 days or more than 60 days after the issuance of summons, and no default shall be taken until the expiration of 30 days after service.

(c) Summons in Certain Other Cases in Which Specific Date for Appearance is Required.

In all proceedings in which the form of process is not otherwise prescribed and in which a specific date for appearance is required by statute or by rules of court, the form of summons shall conform as nearly as may be to the form set forth in paragraph (b) hereof.

(d) Summons Requiring Appearance Within 30 Days After Service. In all other cases the summons shall require each defendant to file his answer or otherwise file his appearance within 30 days after service, exclusive of the day of service (see Rule 181(a)), and shall be prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article II Forms Appendix.

(e) Summons in Cases under the Illinois Marriage and Dissolution of Marriage Act. In all proceedings under the Illinois Marriage and Dissolution of Marriage Act, the summons shall include a notice on its reverse side referring to a dissolution action stay being in effect on service of summons, and shall state that any person who fails to obey a dissolution action stay may be subject to punishment for contempt, and shall include language:

- (1) restraining both parties from physically abusing, harassing, intimidating, striking, or interfering with the personal liberty of the other party or the minor children of either party; and
- (2) restraining both parties from concealing a minor child of either party from the child's

other parent. The restraint provided in this subsection (e) does not operate to make unavailable any of the remedies provided in the Illinois Domestic Violence Act of 1986.

(f) Waiver of Service of Summons. In all cases in which a plaintiff notifies a defendant of the commencement of an action and requests that the defendant waive service of summons under section 2-213 of the Code of Civil Procedure, the request shall be in writing prepared by utilizing, or substantially adopting the appearance and content of, the form provided in the Article II Forms Appendix.

(g) Use of Wrong Form of Summons. The use of the wrong form of summons shall not affect the jurisdiction of the court.

Amended effective August 3, 1970, July 1, 1971, and September 1, 1974; amended May 28, 1982, effective July 1, 1982; amended October 30, 1992, effective November 15, 1992; amended January 20, 1993, effective immediately; amended December 30, 1993, effective January 1, 1994; amended February 1, 1996, effective immediately; amended May 30, 2008, effective immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended Aug. 16, 2017, eff. immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended June 26, 2018, eff. July 1, 2018; amended July 19, 2018, eff. immediately; amended Aug. 22, 2018, eff. immediately; amended July 17, 2020, eff. immediately; amended Feb. 2, 2023, eff. immediately; amended Apr. 20, 2023, eff. immediately.

Committee Comments
(Revised September 1, 1974)

As adopted in 1967, Rule 101 was derived from former Rule 2, with changes in paragraph (b). Paragraph (b) was inserted in former Rule 2, effective January 1, 1964, to provide, for relatively small cases, the form of summons that had been in use in the Municipal Court of Chicago prior to that date. In cases up to \$10,000, the time was changed to not less than 21 or more than 40 days. Effective August 3, 1970, the \$10,000 limit was changed to \$15,000. The appearance day in small claims is covered by Rule 283.

The appearance day in forcible entry and detainer cases was left at not less than seven or more than 40 days. To conform the practice to the requirements of notice in actions seeking restoration of property wrongfully detained, set forth by the Supreme Court of the United States in *Fuentes v. Shevin* (1972), 407 U.S. 67, subparagraph (b)(2) of the rule was amended in 1974 to provide for a summons in such cases returnable on a day specified in the summons, not less than seven or more than 40 days from issuance, as in forcible entry and detainer cases. Under the rule as amended, independent of the statutory remedy of replevin, a party seeking return of personal property may proceed in an action in the nature of an action in detinue at common law, and serve process in the manner provided.

Subparagraph (b)(3), added to former Rule 2 in 1964 and carried forward into Rule 101 in 1967, set 40 days as the return day on service made under section 16 of the Civil Practice Act. Effective July 1, 1971, this provision was amended to substitute for “40 days” the somewhat more flexible provision “not less than 40 days or more than 60 days.”

The provision of paragraph (b) of this rule permitting specific instructions under the heading

“Notice to Defendant” has probably not been adequately implemented by the judges of the trial courts. It is the committee’s view that the summons should give as much specific information to the defendant as possible. For instance, the particular court room number and place of holding court ought to be given. Instructions regarding the method of entering an appearance and a statement whether an answer must be filed with the appearance, or the date for filing an answer after an appearance, can be stated in the “Notice to Defendant.” Rule 181, relating to appearance, expressly recognizes that the “Notice to Defendant” under Rule 101(b) is controlling.

In 1974, paragraph (d) was amended to insert in the specimen summons reference to the fact that a copy of the complaint is attached, thus conforming the language of the summons under paragraph (d) in this respect to the language in the summons under paragraph (b).

Amended Rule 102

Rule 102. Service of Summons and Complaint; Return

(a) Placement for Service. Promptly upon issuance, summons (together with copies of the complaint as required by Rule 104) shall be placed for service with the sheriff or other officer or person authorized to serve process.

(b) When Service Must Be Made. No summons in the form provided in paragraph (d) of Rule 101 may be served later than 30 days after its date. A summons in the form provided in paragraph (b)(1) of Rule 101 may not be served later than 21~~three~~ days before the day for appearance. A summons in the form provided in paragraph (b)(2) or (b)(3) of Rule 101 may not be served later than three days before the day of appearance.

(c) Indorsement Showing Date of Service. The officer or other person making service of summons shall indorse the date of service upon the copy left with the defendant or other person. Failure to indorse the date of service does not affect the validity of service.

(d) Return. The officer or person making service shall make a return by filing proof of service immediately after service on all defendants has been had, and, in any event, shall make a return: (1) in the case of a summons in the form provided in Rule 101(b)(1), not less than 21 days before the day of appearance; (2) in the case of a summons in the form provided in Rule 101(b)(2) or (b)(3), bearing a specific return day or day for appearance, not less than 3 days before that day; ~~(3)(2)~~ (3) in other cases, immediately after the last day fixed for service. If there is more than one defendant, the proof of service may be filed immediately after service on each defendant. The proof of service need not state whether a copy of the complaint was served. A party who has placed a summons with an officer or other person who is authorized to serve process, but who does not have access to the court filing system, shall file the proof of service obtained from the officer. Failure to return the summons or file proof of service does not invalidate the summons or the service thereof, if had.

(e) Post Card Notification to Plaintiff. If the plaintiff furnishes a post card, the officer or other person making service of the summons, immediately upon return of the summons, shall mail to the plaintiff or his attorney the post card indicating whether or not service has been had, and if so on what date.

Amended Dec. 29, 2017, eff. Jan. 1, 2018; amended Apr. 20, 2023, eff. immediately.

Committee Comments
(Revised July 1, 1971)

This is former Rule 3, as it existed prior to January 1, 1964, without change of substance, except for the deletion of the last paragraph, which provided for writs made returnable to justices of the peace, *etc.*, during the transition into practice under the 1964 judicial article and is no longer necessary.

New Rule 102.1

Rule 102.1. Service of Summons and Orders in Protective Order Proceedings.

(a) Service of process of protective orders in any court proceeding. Where respondent in a protective order case (defined as a proceeding arising under the Illinois Domestic Violence Act of 1986 (750 ILCS 60/101 *et seq.*), Code of Criminal Procedure (725 ILCS 5/112a-1.5 to 112a-31), Civil No Contact Order Act (740 ILCS 22/101 to 302), or Stalking No Contact Order Act (740 ILCS 21/1 to 135)) appears in any court proceeding by telephone or video conference, respondent shall be considered personally served, and no further service of process shall be required, provided the operative terms of the protective order are read to respondent in open court during the remote court appearance. Consistent with section 222.10 of the Illinois Domestic Violence Act of 1986 (750 ILCS 60/222.10), the operative terms are:

- (1) The respondent's name
- (2) The respondent's date of birth, if known,
- (3) The petitioner's name,
- (4) The names of other protected parties,
- (5) The date and county in which the order of protection was filed,
- (6) The court file number,
- (7) The hearing date and time, if known, and
- (8) The conditions that apply to the respondent.

The Clerk of the Circuit Court is directed to update the record to reflect service on respondent in open court immediately after the court appearance.

(b) Service of orders in protective order proceedings. Where respondent appears in court by telephone or video conference in a protective order case, respondent shall be considered "present in court when the order was issued" for purposes of the Illinois Domestic Violence Act of 1986 (750 ILCS 60/222(c)), the Code of Criminal Procedure (725 ILCS 5/112a-5.5(c) and 112a-22(c)), the Civil No Contact Order Act (740 ILCS 22/218(c)), and the Stalking No Contact Order Act (740 ILCS 21/115(c)), and no further personal service of the order shall be required, provided the operative terms of the order are read to respondent in open court during the remote court appearance.

The Clerk of the Circuit Court is directed to stamp, or otherwise mark, the order to reflect respondent having been personally served in open court. The court shall direct the Clerk to send a

copy of the order to respondent or respondent's counsel of record via e-mail, regular mail, or personal delivery immediately after the court appearance. Failure to complete service via e-mail, regular mail, or personal delivery does not invalidate personal service on respondent in open court.

Adopted Apr. 20, 2023, eff. immediately.

New Rule 242

Rule 242. Use of Remote Jury Selection in Civil Cases.

The court may permit remote jury selection by video conference with the consent of all parties.

The court may proceed absent parties' consent if the judge presiding over the matter finds that the case presents a compelling circumstance to proceed with remote jury selection.

Any remote jury selection must be conducted consistent with the constitutional rights of the parties and preserve constitutional public access.

Adopted Apr. 20, 2023, eff. immediately.

Committee Comments (April 20, 2023)

Circuits may choose to utilize remote jury selection consistent with the guidelines established by the Court Operations During COVID-19 Task Force and adopted by the Supreme Court on October 27, 2020, available at illinoiscourts.gov/CircuitCourt/Remote_Jury_Information.asp.

Amended Rule 283

Rule 283. Form of Summons

Summons in small claims shall require each defendant to appear on a day specified in the summons not less than 40~~44~~ or more than 61~~40~~ days after issuance of the summons (see Rule 181(b)) and shall be in the form provided for in Rule 101(b) in actions for money not in excess of \$50,000.

Amended effective August 3, 1970; amended December 3, 1996, effective immediately; amended Apr. 20, 2023, eff. immediately.

Committee Comments

This is derived from paragraph C of former Rule 9-1, effective January 1, 1964. The earliest return day is increased from 7 to 14. See also the comments to Rules 101(b) and 286, which deal with the right of the court to control the return day, manner of appearance, and related matters.

Amended Rule 284

Rule 284. Service by Certified or Registered Mail

Unless otherwise provided by circuit court rule, at the request of the plaintiff and in lieu of personal service, service in small claims may be made within the state as follows:

(a) For each defendant to be served the plaintiff shall pay to the clerk of the court a fee of \$2, plus the cost of mailing, and file a summons containing an affidavit setting forth the defendant's last known mailing address.

(b) The clerk forthwith shall mail to the defendant, at the address appearing in the affidavit, the copy of the summons and complaint, certified or registered mail, return receipt requested, showing to whom delivered and the date and address of delivery. United States Postal Service electronic return receipt may be utilized in lieu of paper receipts. The summons and complaint shall be mailed on a "restricted delivery" basis when service is directed to a natural person. The envelope and return receipt shall bear the return address of the clerk, and the return receipt shall include the docket number of the case. The receipt for certified or registered mail shall state the name and address of the addressee, and the date of mailing, and shall be filed by the clerk.

(c) The return receipt, when returned to the clerk, shall be filed by the clerk. If the receipt shows delivery at least 21~~3~~ days before the day for appearance, the receipt shall constitute proof of service.

(d) The clerk shall note the fact of service in a permanent record.

Amended October 1, 1976, effective November 15, 1976; amended September 29, 1978, effective November 1, 1978; amended February 15, 1979, effective March 1, 1979; amended July 1, 1985, effective August 1, 1985; amended November 21, 1988, effective January 1, 1989; amended April 11, 2001, effective immediately; amended Dec. 29, 2017, eff. Jan. 1, 2018; amended Apr. 20, 2023, eff. immediately.

Committee Comments

(Revised July 1, 1985)

This is paragraphs D(1), (2), (3), and (4) of former Rule 9-1, effective January 1, 1964. Paragraph (b) was amended in 1978 to require mailing by certified or registered mail, "restricted delivery, return receipt requested, showing to whom, date and address of delivery." Prior to 1978, this subparagraph required that process be mailed "certified mail, return receipt requested." In this respect it differed from Rules 105, 204, and 237, which required mailing "addressee only." In 1978, this class of delivery having been discontinued by the Postal Service, Rules 105, 204, and 237 were amended to require mailing "restricted delivery, return receipt requested, showing to whom, date and address of delivery," the most restricted delivery provided for in current postal regulations. At the same time Rule 284(b) was amended to require the same class delivery, thus making the requirement uniform. See Committee Comment to Rule 105.

The amendment effective August 1, 1985, changed the fee for mailing from \$3 to \$2 plus the cost of mailing. This amendment insulates the rule from further change by making the "cost of mailing" an element of the fee charged by the clerk.