

STANDING ORDER
Calendar 14 – Mediation
Effective September 2023

Daniel Malone, Presiding Judge
Room 1803, Daley Center
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Chicago, IL 60602
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I. Purpose

a. In an effort to provide an expeditious and cost saving alternative to litigation, the Probate Division is offering two types of mediation: a mediation pursuant to Circuit Court of Cook County Rule 24 conducted by a private mediator with Court oversight; and a mediation done on Calendar 14 by Judge Malone. The procedures for Rule 24 mediations will not change and will remain in effect.

b. Calendar 14 is the Probate Division’s mediation calendar. Any judge may order the following matters pending in Probate to mediation by entering a Transfer Order: (1) Decedents Estates; (2) Minor Guardianship; and (3) Adult Guardianship after a finding of adjudication has been entered.

c. Calendar 14 gives the parties an opportunity to settle their case without prolonged litigation. Accordingly, it is important for attorneys to inform their clients as to the purpose and goal of mediation. This discussion can include the cost benefits and time saved by mediation as opposed to a trial.

i. To facilitate mediation, the Parties may complete discovery needed to have a meaningful session before they request mediation. Parties shall also have all pertinent documents and information available at the mediation.

ii. Mediations shall be conducted by appointment and **only upon agreement by all parties**. All parties in interest must participate in the mediation in **good faith**. Their appearance is required with authority to settle. **If any party is unwilling to compromise, they should not request mediation.**

d. Mediations shall be conducted in accordance with Illinois Uniform Mediation Act the “Mediation Act”). See generally 710 ILCS 35/1 *et seq.* Parties should review the Mediation Act prior to the session to ensure they understand the confidentiality of the proceedings, the exceptions to confidentiality, and the admissibility of disclosures during a mediation.

i. To ensure that the session(s) remain confidential, all parties are prohibited from recording the session in any medium. Court reporters are also barred from participating in the mediation.

II. Mediation Procedures

a. Cases can be sent to Calendar 14 for mediation on the court's own motion, by stipulation, or by motion of one of the parties using a Transfer Order from the original Calendar to Calendar 14.

b. Once the case is properly transferred to Calendar 14, Judge Malone or his assistant will contact the attorney(s) listed on the Transfer Order to schedule an initial conference.

c. The initial conference shall consist only of attorneys. Parties will **not** attend the initial conference unless the party is a self-represented litigant. The initial conference shall take place at 10:00 AM or at 2:00 PM. At the conclusion of the initial conference, the parties shall prepare an order setting a mediation date.

d. Both attorneys and clients shall attend the mediation in-person or may agree to a remote mediation and join Zoom on separate screens. The Court prefers in-person mediations.

i. A session may be scheduled for an afternoon or a whole day. Mediations scheduled in the afternoon will be from 2:00 PM to 4:30 PM. Sessions scheduled for whole day will generally be from 10:00 AM to 12:00 PM and 2:00 PM to 4:30PM.

e. Depending on the outcome of the mediation, Judge Malone may instruct the attorneys to prepare an order as follows: (1) schedule another mediation; (2) transfer the case back to the original Calendar judge; or (3) draft a settlement agreement and a discharge order.

III. Emergency Motions

a. Emergency petitions will be heard as add-ons in person on the 11:00 AM call. The motion marked "EMERGENCY MOTION" shall include a factual basis stating the nature of the emergency and all supporting documents must be delivered to the courtroom by hand, mail or e-mail no later than 10:00 AM on the court day preceding presentment.

IV. Courtesy Copies

a. The mediation memorandum form shall include a recitation of the: (1) facts and procedural history; (2) legal issues pending; (3) a brief argument in support of the

parties' legal position; and (4) a recommended compromise. The memorandum shall **not** be E-filed.

b. Any other documents that the parties intend to use during the mediation shall be attached as exhibits to the memorandum.

c. The parties shall send courtesy copies of the memorandum form and exhibits to all parties and the Court. If courtesy copies exceed 20 pages, they need to be hand delivered or mailed to Judge Malone's attention in room 1803 of the Daley Center and received at least one week in advance of the mediation.

i. The postage shall be labeled as follows:

Judge Daniel Malone
Probate Division, Calendar 14
50 W. Washington St., Room 1803
Chicago, IL 60602

V. Accessing the Zoom Hearing

a. If the parties agree to conduct a remote mediation, Judge Malone will utilize an individual Zoom Accountthrough which he will conduct mediation for Calendar 14.

b. The meeting ID will remain the same for Calendar 14 on each day. The meeting ID for Calendar 14 is as follows:

<u>Calendar</u>	<u>Judge Name</u>	<u>Zoom Meeting ID</u>	<u>Meeting Password</u>	<u>Zoom Link</u>
Calendar 14	Daniel B. Malone	824-9860-4014	935124	Click here

c. Participants will not be allowed to enter the meeting until the Host joins the meeting. The Host may be Judge Malone, a Probate Division staff member, or an extern. Participants can join the meeting (call) 15 minutes prior to the beginning of the court call.

d. The Zoom meeting can be accessed by computer, smartphone, or telephone:

e. To join the meeting by computer, go to www.zoom.us. At the top of the screen, click "Join a Meeting". In the pop-up box that appears, enter the meetingID number. Click Join. After clicking Join, you will be prompted to enter the meeting Password. After entering the meeting password, you will join the meeting.

i. To join the meeting by smartphone application (app), search for "zoom.us" in your smartphone's app store. From the search results, download and open the app entitled "ZOOM Cloud Meetings". Accept the Terms and Conditions. Tap the blue button entitled "Join a Meeting". Enter the meeting ID number, the session ID number, and click Join. After clicking Join, you will be prompted to enter the Password. After entering the meeting password, you will join the meeting

ii. To join the meeting via telephone, dial (312) 626-6799 and enter the meeting ID number. You will then be asked for the password, which you should enter and press pound (#). Finally, you may be asked for a “participant ID number”. There is no participant ID number, so simply press pound (#). Upon pressing pound (#), you will be allowed into the meeting.

f. Upon joining, participants will be placed in the “Waiting Room” and will remain there until they are checked in by the Host or the Co-Host.

VI. Questions or concerns

a. If you have any problems accessing the Mediation within 15 minutes of the hearing, send an email to joseph.fleming@cookcountyil.gov or probate.divatty@cookcountyil.gov with “URGENT: Mediation” in the subject line. In the body of the email, include your name, case number, phone number, and the problem you are having. You will be contacted to facilitate your access to the meeting.

b. If attorneys and self-represented litigants have questions regarding the Probate Division or this Standing Order, contact the administrative assistant, Joseph Fleming, at (312) 603-7545 or (312) 603-7546.

9/21/2023

Date

Daniel B. Malone

Daniel B. Malone
Presiding Judge
Probate Division