

Brett N. Olmstead

Associate Judge
Room 332C
Courthouse
101 East Main Street
Urbana, Illinois 61801

Sixth Judicial Circuit
Champaign County

Telephone (217) 384-1284
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Courtroom “D”
September 30, 2020
SMALL CLAIMS & NON-EVICTION LMs
Interim Protocol in Light of 30-day Summons Requirement

- I. All Small Claims (SC) and most Law Magistrate (LM) cases now must use 30-day summonses with no specific return date that would require the defendant’s appearance, except for Small Claims (SC) cases where remote appearance is an option.
 - A. On August 27, 2020, the Illinois Supreme Court entered [M.R. 30370 \(8/27/20\)](#), temporarily suspending Supreme Court Rules 101(b)(1), 283 and 286(a) to eliminate specific summons return dates and instead require 30-day summonses for all Small Claims (SC) and most Law Magistrate (LM) cases (excluding only actions for eviction, replevin and detinue).
 - B. The Supreme Court took this action in response to the COVID-19 pandemic crisis, specifically “in accordance with the efforts of th[e] Court to reduce unnecessary in-person court appearances and to promote remote court appearances.” [M.R. 30370 \(8/27/20\)](#), p. 1.
 - C. On September 23, 2020, the Illinois Supreme Court entered [M.R. 30370 \(9/23/20\)](#), modifying its earlier order to permit specific summons return dates for Small Claims (SC) cases if remote appearance is allowed “including by telephone or video conference” and this option is “made clear on the face of the summons.”
- II. Through timely action by authorities and the conscientious cooperation of residents, Champaign County is holding COVID-19 to a very low infection rate that is well within the capacity of the local healthcare system.
- III. The Champaign County Courthouse is operating with significant safety measures that ensure proper distancing and regular sanitizing. The volume of routine court calls has been reduced to minimize congestion and provide as much as possible for safe in-person attendance.
- IV. Remote court appearances avoid entirely the risk of infection from attending in-person hearings and may improve access to courts by reducing the time and expense required for appearing at the Courthouse, but they are not perfect substitutes for in-person appearances, and come with their own substantial disadvantages. See [Brennan Center for Justice, “The Impact of Video Proceedings on Fairness and Access to Justice in Court” \(9/10/20\)](#) (advising caution in expanding the use of remote hearings, especially for the presentation of evidence).
- V. With the foregoing in mind, the Court has established the following:

SC AND LM (\$ only) PROTOCOL

A. This Protocol applies to:

1. All Small Claims (SC) cases (for \$10,000 or less); and
2. All Law Magistrate (LM) cases (for \$10,001 - \$50,000) **EXCEPT** Eviction (Forcible Entry and Detainer) or Replevin/Detinue (requesting return of specific items)

B. Check the court record by:

1. Calling the Champaign County Circuit Clerk at (217) 384-3725; or
2. Clicking “View Public Court Records” at www.champaigncircuitclerk.org/

C. “Remote Appearance is Allowed” means you may attend any of the following three ways. Please review the “Remote Appearance Procedures” attached as an Appendix to this Protocol.

Zoom Video (internet)

1. Go to <https://www.zoom.us/>
2. Click “Join a Meeting”
3. Enter Meeting ID (before October 19, 2020, it will be different for each hearing, but starting October 19, 2020, it will be **950 5932 9013**)
4. Enter Passcode (starting October 19, 2020, none will be needed)

You do not need a Zoom account, but you do need a device with sound and video, and a reliable internet connection.

Sign in at least 10 minutes early, so the hearing may start on time.

Zoom Audio (telephone call-in)

1. Call (312) 626-6799 (from Midwest) or find your local number at <https://zoom.us/j/95059329013>
2. Enter Meeting ID (before October 19, 2020, it will be different for each hearing, but starting October 19, 2020, it will be **950 5932 9013**)
3. Enter Passcode (starting October 19, 2020, none will be needed)

Make sure you have a reliable connection and enough minutes on your phone.

Call in at least 10 minutes early, so the hearing may start on time.

In Person

You may attend your hearing in person at:

Courtroom “D”
Third Floor
Champaign County Courthouse
101 E. Main St.
Urbana IL 61801

To avoid being late, plan to arrive at least 10 minutes early.

D. Remote Appearance is Allowed for:

1. First Appearance/Status/Default Motion Hearings
2. Motions Call (routine “Motions” hearing on Courtroom “D” schedule)
3. Any Motion hearing that will not require sworn testimony

E. Remote Appearance is not Allowed for the following without leave of Court:

1. Citations
2. Rules to Show Cause
3. Jail Bond Out settings
4. Trials
5. Any Motion or other hearing that will require sworn testimony

F. For Plaintiffs filing a Small Claims (SC) case who choose to use a Summons that allows remote appearance and specifies a return date:

1. Plaintiffs in Small Claims (SC) cases may choose to use a summons that requires the Defendant to appear on a certain date, so long as the Defendant is given the option for remote appearance.
2. The remote appearance option and instructions for using it must be made clear on the face of the Summons, which also must provide that the Defendant may appear in person. The language in the Notice of Hearing attached in the Appendix to this Protocol, stating that “You may appear at this hearing in any one of the following ways” and describing the three appearance options, is acceptable.
3. A Small Claims (SC) Summons that provides this clear remote appearance option may require the Defendant to appear in one of the optional ways at the Appearance/Status/Default Motion hearing date, or a default judgment may be entered.
4. Remote Appearance is Allowed at that hearing for you, too.

G. For Plaintiffs filing any other case to which this Protocol applies, with a Summons requiring Defendant to file an Appearance within 30 days:

1. **Court date:** When you file your Complaint, the Circuit Clerk will give you an “Appearance/Status/Default Motion” hearing date more than 60 days after filing, and the Zoom access information.
 - a. You may pick from available dates, but it must be at least 60 days after filing.
 - b. Remote Appearance is Allowed.
2. **You must determine if Defendant was served and provide notice of the next hearing:** The Defendant’s Summons requires that he/she file a written Appearance within 30 days of being served but does not require that he/she appear in court on any certain date, so it is your responsibility to determine if the Defendant has been served or not and to send Notice of Hearing to the Defendant if a hearing is set.

3. **You may have a Notice of Hearing served with the Summons:** If the Affidavit of Service or other affidavit is filed showing that service of the Summons also included a Notice of Hearing substantially in the form attached in the Appendix to this Protocol listing the Appearance/Status/Default Motion Hearing date you were given (it can designate the hearing as an “Appearance Hearing”, “Status Hearing”, or something similar, so long as it warns of default for failing to appear), and that Hearing is at least 31 days after the date of service, the Court will entertain an oral Motion for Default Judgment if the Defendant does not appear at that Hearing and has not filed an Appearance.
4. **If Defendant is not served with Summons:**
 - a. The process-server (usually the Sheriff’s Office) will send you an “Affidavit of Non-Service”.
 - b. You may ask that a new Summons (called an “Alias Summons”) be issued by calling the Champaign County Circuit Clerk at (217) 384-3725 and providing an address where the Defendant can be found. The Circuit Clerk will cancel the Appearance/Status/Default Motion hearing date and give you a new one.
5. **If Defendant is served with Summons:**
 - a. The process-server (usually the Sheriff’s Office) will send you an “Affidavit of Service” showing the date that Defendant was served.
 - b. Check the court record (see Paragraph B above) to see if the Defendant files an appearance within 30 days from that date.
 - c. **If Defendant does not file an appearance within 30 days of being served:** You may request a Default Judgment as follows:
 - i. File the following, using forms substantially the same as those attached in the Appendix to this Protocol:
 - a. Motion for Default Judgment; and
 - b. Notice of Hearing;
 - ii. Be sure that the Notice has a hearing date at least 14 days from the date you send the Defendant copies of the Motion and Notice ([6th Circuit Rule 2.1](#) requires 14 days notice for motions), using the original Appearance/Status/Default Motion hearing date that you were given if possible, but if that date would not give at least 14 days notice then call the Champaign County Circuit Clerk at (217) 384-3725 to obtain a new date and ask that the old date be canceled;
 - iii. Send copies of the Motion and Notice by U.S. mail to the Defendant at the address where he/she was served; and
 - iv. Attend the hearing date on the Motion either in person or by Zoom (Remote Appearance is Allowed).
 - d. **If Defendant does file an Appearance within 30 days of being served:**
 - i. You may set the case for a Status Hearing as follows:
 - a. File a Notice of Hearing, using a form substantially the same as that attached in the Appendix to this Order;
 - b. Be sure that the Notice has a hearing date at least 14 days from the date you will send it, using the original Appearance/Status/

Default Motion hearing date that you were given if possible, but if that date would not give at least 14 days notice then call the Champaign County Circuit Clerk at (217) 384-3725 to obtain a new date and ask that the old date be canceled;

- c. Send a copy of the Notice by U.S. mail to the Defendant at the address in his/her filed Appearance, or by email if the Defendant's filed Appearance includes an email address; and
 - d. Attend the Status Hearing date either in person or by Zoom (Remote Appearance is Allowed).
- ii. If the Defendant does not appear at the Status Hearing after being given proper notice, a default judgment may be entered.
 - iii. No trial date will be set without first setting a Status Hearing, unless all parties agree.
6. **If you are unsure whether Defendant was served, or has filed an Appearance, or what the status is:** Just attend the Appearance/Status/Default Motion hearing in person or by Zoom (Remote Appearance is Allowed) and the Court will call the case and explain the status.
7. **If you fail to attend a hearing properly set in the case and not previously canceled, the case may be dismissed for want of prosecution.**

H. For Defendants:

1. **You may appear at the initial Appearance/Status/Default Motion Hearing instead of filing a written Appearance.** If the Summons you received informs you that you must file a written Appearance within 30 days after service of Summons, you may instead appear at the First Appearance/Status/Default Motion Hearing date for which you are served or sent a Notice of Hearing (you may receive this at the same time as the Summons), and no default judgment will be entered against you for failing to file that written Appearance. Remote Appearance is Allowed. At that first hearing, the Court may order that you file a written Appearance or Answer/Response, by some later date.
2. **Your written Appearance must be filed electronically (E-Filed) unless you file a Certification for Exemption from E-Filing, and it must be sent to the Plaintiff as well as filed with the Court. There also is a fee unless you obtain a waiver.**
 - a. Written Appearance form and instructions:
<http://illinoiscourts.gov/Forms/approved/procedures/appearance.asp>
 - b. Certification for Exemption from E-Filing and instructions:
http://illinoiscourts.gov/Forms/approved/efiling_exemption/efiling_exemption.asp
 - c. Fee Waiver Application and instructions:
http://illinoiscourts.gov/Forms/approved/procedures/Fee_Waiver.asp
 - d. Help is available by calling the Champaign County Circuit Clerk at (217) 384-2725 or here:
 - i. E-Filing: <http://illinoiscourts.gov/faq/gethelp.asp>
 - ii. Fee Waiver: <https://www.illinoislegalaid.org/>

3. **If you resolve the case, you do not need to appear at the Hearing.** The Court encourages you to contact the Plaintiff or the Plaintiff's attorney to resolve the case if that is possible on terms acceptable to you. If you resolve the case prior to the first Hearing date for which you are served or sent a Notice of Hearing, and the other side confirms this, you do not need to appear at that Hearing.

DATE: September 30, 2020

/s/ *Brett N. Olmstead*
Brett N. Olmstead, Associate Judge

APPENDIX

- 1. Remote Appearance Procedures**
- 2. Notice of Remote Hearing**
- 3. Motion for Default Judgment**

COURTROOM “D” REMOTE APPEARANCE PROCEDURES

1. **Practice Zoom.** Courtroom “D” remote appearance hearings use Zoom. You should become familiar with the Zoom application before trying to attend your hearing with it. You can obtain the application and watch demos and training videos at <https://zoom.us/>.
2. **Minimize background noise.** Please use a quiet location.
3. **Connect 10 minutes early.** This gives time to overcome initial connection glitches and to check in with the Court clerk, so the hearing can start on time for everyone. If you are not connected by the time the hearing starts, the Court may find that you have failed to attend.
4. **The Court clerk will check you in.** When you connect, you will be in a “Waiting room” and the Court clerk will check you in. You may be kept in the Waiting room until your case is called.
5. **Be prepared to “unmute” yourself when requested.** After you are checked in, you will be muted until your hearing begins. Zoom’s software will not let the Court unmute someone attending the hearing unless that person grants permission for the host to unmute, so when your case is called, the Court will request that you unmute (press “Unmute” if attending by video, press *6 if attending by phone). If you do not unmute when requested, the Court may find that you have failed to attend.
6. **Say your name first when you speak.** Every time you speak during your hearing, first say your name so it is clear for the record who is speaking.
7. **Speak slowly and clearly, and do not talk over anyone else.** Please speak more slowly and clearly than you usually do, so you can be heard, and wait your turn to speak, so everyone can be heard.
8. **Recording is prohibited.** The Court is audio recording the hearing for the official record, and the law strictly prohibits any other recording.
9. **Attending by Video:**
 - a. Make sure your internet connection is dependable and your audio is enabled.
 - b. Position yourselves so that everyone attending is visible.
 - c. Position your camera so it rests still and does not move. Please do not hold it in your hand.
 - d. Wear appropriate clothing. While this is a remote hearing and you may be in your home, it still is a court proceeding and you must dress accordingly.
 - e. Do not use a virtual background.
 - f. Use a screen name that is the same as your name in the case, to ensure that there is no delay in starting your part of the hearing. If the name on the Zoom account you are using is different, you can rename yourself after you connect, for purposes of the hearing, by clicking “Rename”.
10. **Attending by Phone:**
 - a. Make sure your phone is charged, you have a clear connection, and you have enough minutes.
 - b. Listen carefully throughout the hearing, so you do not miss when your case is called.
11. **Attorneys:**
 - a. You may share the connection information with your clients so they may attend, but they should not address the Court directly unless specifically permitted to do so.
 - b. Once unmuted, you may be left unmuted while all your cases are called.
 - c. Please send these procedures to any self-represented litigants in your case, to ensure as much as possible that the hearing proceeds smoothly.
12. **You should speak with the other side before your hearing, to avoid delays and perhaps eliminate the need for a hearing.** You will not have an opportunity to negotiate or have a private conversation with the other side during the hearing, so you should speak with the other side beforehand. **If the case is resolved and you confirm this with the other side, you do not need to appear for your hearing.**
13. **Please be patient.** Remote hearings can present challenges, but we are all trying our best to make it work so you do not need to come to the Courthouse.
14. **Technical difficulties?** Contact alusk@co.champaign.il.us or Beth Smith at (217) 239-5788.

STATE OF ILLINOIS, 6 th JUDICIAL CIRCUIT CHAMPAIGN COUNTY	<u>NOTICE OF REMOTE HEARING</u>	FOR COURT USE ONLY
<hr/> Plaintiff v. <hr/> Defendant		<hr/> Case Number

THIS MATTER is set for a hearing on the ____ day of _____, 2020, at _____ o'clock __m, in Courtroom "D", for this purpose: _____.

If you fail to appear, the case may be dismissed if you are a Plaintiff, or a default judgment may be entered against you for the relief the Complaint requests if you are a Defendant.

You may appear at this hearing in any one of the following ways:

<u>Zoom Video</u>	<u>Zoom Audio</u>	<u>In Person</u>
Go to https://www.zoom.us/ Click "Join a Meeting" Meeting ID: _____ Passcode: _____ You do <u>not</u> need a Zoom account, but you <u>do need</u> a device with sound and video, and a reliable internet connection. Sign in at least 10 minutes early.	Call (312) 626-6799 (from Midwest) or your local number at https://zoom.us/j/9123456789 Meeting ID: _____ Passcode: _____ Make sure you have a reliable connection and enough minutes on your phone. Call in at least 10 minutes early.	You may attend your hearing in person at: Courtroom "D" Third Floor Champaign County Courthouse 101 E. Main St. Urbana IL 61801 Appear at least 10 minutes early.

Proof of Service

The undersigned certifies under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure that a true and correct copy of the foregoing Notice of Remote Hearing was sent at _____, Illinois, on _____, 2020, to the person(s) listed below at the address(es) indicated, by placing in the U.S. mail, proper postage prepaid and legibly addressed, or via e-mail (if e-mail address filed with the Court) to the address(es) indicated:

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DATED: _____

SIGNED: _____

Address: _____

Telephone: _____

Email: _____

STATE OF ILLINOIS, 6th JUDICIAL CIRCUIT CHAMPAIGN COUNTY	<u>MOTION FOR DEFAULT JUDGMENT</u>	FOR COURT USE ONLY
<hr/> Plaintiff v.		
<hr/> Defendant		<hr/> Case Number

NOW COMES the Plaintiff and asks for Default Judgment against the Defendant because 30 days have passed since the Defendant was served, but the Defendant has not filed a written Appearance in this case.

Respectfully submitted,

Plaintiff

<u>Proof of Service</u>	
The undersigned certifies under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure that a true and correct copy of the foregoing Motion for Default Judgment was sent at _____, Illinois, on _____, 2020, to the person(s) listed below at the address(es) indicated, by placing in the U.S. mail, proper postage prepaid and legibly addressed, to the address(es) indicated:	
DATED: _____ SIGNED: _____	

Plaintiff:
Name: _____
Address: _____

Telephone: _____
Email: _____