

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered August 16, 2017.

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

Effective immediately, Illinois Supreme Court Rule 101 is amended, 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, tested in the name of the clerk, and signed with his name. It shall be dated on the date it is issued, shall be directed to each defendant, and shall bear the information required by Rule 131(d) for the plaintiff's attorney or the plaintiff if not represented by an attorney.

(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 on a day specified in the summons not less than 21 or more than 40 days after the issuance of the summons (see Rule 181(b)), and shall be in substantially the following form:

In the Circuit Court of the _____ Judicial Circuit, _____ County,
Illinois

(Or, In the Circuit Court of Cook County, Illinois)

A.B., C.D., *etc.*
(naming all plaintiffs),
Plaintiffs,

v.

No. _____
Amount Claimed _____

H.J., K.L. *etc.*,
(naming all defendants),
Defendants

SUMMONS

To each defendant:

FILED

AUG 16 2017

**SUPREME COURT
CLERK**

You are hereby summoned and required to appear before this court at _____ at _____ o'clock _____ M., on _____ 20__, to answer the complaint in this case, a copy of which is hereto attached. If you fail to do so, a judgment by default may be entered against you for the relief asked in the complaint.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.

Witness _____

(Seal of Court)

Clerk of Court

Plaintiff's Attorney (or plaintiff, if he is not represented by attorney)

Address _____
Telephone No. _____
Facsimile Telephone No. _____
E-mail Address _____

(If service by facsimile transmission will be accepted, the telephone number of the plaintiff or plaintiff's attorney's facsimile machine is additionally required.)

Date of service _____, 20__ (to be inserted by officer on copy left with defendant or other person).

NOTICE TO DEFENDANTS

[Here simple and specific instructions, conforming to local practice, shall be set out outlining procedure for appearance and trial of the type of case covered by the summons.]

(2) In any action for forcible detainer 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 seven 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 in substantially the following form:

In the Circuit Court of the _____ Judicial Circuit, _____ County,
Illinois (Or, In the Circuit Court of Cook County, Illinois)

A.B., C.D., *etc.*
(naming all plaintiffs),
Plaintiffs,

v.

No. _____

H.J., K.L. *etc.*,
(naming all defendants),
Defendants

SUMMONS

To each defendant:

You are summoned and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, in the office of the clerk of this court within 30 days after service of this summons, not counting the day of service. If you fail to do so, a judgment by default may be entered against you for the relief asked in the complaint.

To the officer:

This summons must be returned by the officer or other person to whom it was given for service, with indorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so indorsed.

This summons may not be served later than 30 days after its date.

Witness _____

(Seal of Court)

Clerk of Court

Plaintiff's Attorney (or plaintiff, if he is not represented by attorney)

Address _____

Telephone No. _____

Facsimile Telephone No. _____

E-mail Address _____

(If service by facsimile transmission will be accepted, the telephone number of the plaintiff or plaintiff's attorney's facsimile machine is additionally required.)

Date of service _____, 20__ (to be inserted by officer on copy left with defendant or other person).

(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. removing any minor child of either party from the State of Illinois or from concealing any such child from the other party, without the consent of the other party or an order of the court.

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 in the following form:

In the Circuit Court of the _____ Judicial Circuit, _____ County,
Illinois (Or, In the Circuit Court of Cook County, Illinois)

A.B., C.D., *etc.*
(naming all plaintiffs),
Plaintiffs,

v.

No. _____
Amount Claimed _____

H.J., K.L., *etc.*
(naming all defendants),
Defendants

Notice and Acknowledgment of Receipt of Summons and Complaint

NOTICE

To: (Insert the name and address of the person to be served)

The enclosed summons and complaint are served pursuant to section 2-213 of the Code of Civil Procedure.

You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within _____* days.

You must sign and date the acknowledgment. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return the form to the sender within _____* days, you (or the party on whose behalf you are being served) may be served a summons and complaint in any other manner permitted by law.

If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within _____** days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this notice and acknowledgment of receipt of summons and complaint will have been mailed on _____. (Insert Date)

Signature _____

Date of Signature _____

ACKNOWLEDGMENT OF RECEIPT OF
SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above-captioned matter at (inset address).

PRINT or TYPE Name _____

Relationship to Entity/Authority to Receive Service of Process

(Not Applicable if you are the named Defendant or Respondent)

Signature _____

Date of Signature _____

*(To be completed by the person sending the notice.) Date for return of waiver must be at least 30 days from the date on which the request is sent, or 60 days if the defendant is addressed outside the United States.

** (To be completed by the person sending the notice.) Date for answering complaint must be at least 60 days from the date on which the request is sent, or 90 days if the defendant is addressed outside the United States.

(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.

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).