

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

GENERAL ORDER

By direction of the full Court met in executive session on Thursday, 27 October 1994, a proposal to amend section B of Rule 11 of the General Rules of this Court was published for comment and notice of the proposal and the availability of the text were published in the *Chicago Daily Law Bulletin*. Comments were received from Paul W. Mollica, Chairperson of the Federal Courts Committee of the Chicago Council of Lawyers.

The Advisory Committee on Rules and Procedures considered the proposal and the comments at its meeting on 14 March 1995. In its report on the proposal the Committee recommended the adoption of the proposal with some modifications. The full Court considered the recommendation of the Advisory Committee at its meeting of 22 June 1995 and agreed to adopt the proposal with the modifications recommended by the Rules Advisory Committee. Therefore,

By direction of the full Court met in executive session on Thursday, 22 June 1995,

IT IS HEREBY ORDERED That section B of Rule 11 of the General Rules of this Court is amended as follows (additions shown thus, deletions ~~thus~~):

**RULE 11 PAYMENT OF FEES IN ADVANCE; PRO SE AND IN
FORMA PAUPERIS MATTERS; SANCTIONS**

B. Any complaint in a civil action presented for filing without prepayment of the prescribed fees that is accompanied by a petition for leave to file *in forma pauperis* together with an affidavit of financial status in the form prescribed by the Executive Committee of this Court shall be accepted by the clerk. The petition for leave to file *in forma pauperis* and the accompanying affidavit of financial status shall be filed and assigned to a judge in accordance with the procedures established by these rules. The complaint shall be stamped received as of the date presented.

The clerk shall promptly forward the petition for leave to file *in forma pauperis* together with all other papers to the judge to whom it is assigned. If the judge grants plaintiff leave to file, the complaint shall be filed as of the date of the judge's order except that where the complaint must be filed within a time limit and the order granting leave to file is entered after the expiration of that time limit, the complaint shall be deemed to have been filed:

- (a) in the case of any plaintiff in custody, as of the time of the plaintiff's delivery of the complaint to the custodial authorities for transmittal to the court; or
- (b) in the case of any other plaintiff, as of the time the complaint was received by the clerk.

~~On the entry of the order granting leave to file, summons will issue forthwith.~~ If the court fails to rule within ~~fourteen~~ 60 days of the filing of the petition for leave to proceed *in forma pauperis*, the clerk shall, unless otherwise ordered by the court, enter an order on the court's behalf directing that in accordance with this Rule, the petition for leave to file *in forma pauperis* is granted and forthwith file the complaint and issue summons. In that event, the same provisions as to deemed dates of filing that have been stated earlier in this Rule's subparagraphs (a) and (b) shall apply.

COMMENT: — The proposed amendment would eliminate a portion of section B that had its origins in the interaction of 28 U.S.C. § 1915 and the earlier provision of F.R.Civ.P. 4(a) that the clerk issue summons “forthwith” on filing the complaint. The changes to F.R.Civ.P. 4 that went into effect on 1 December 1993 substantially changed the manner in which summonses are served and eliminated the requirement that they be issued “forthwith.” Accordingly, the portion of 11 B this proposal would eliminate are no longer required.

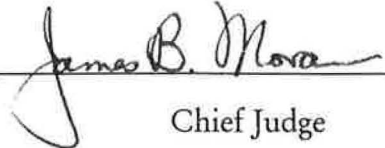
In the proposal as published the provision for the clerk to enter an order granting the petition to proceed *in forma pauperis* on behalf of the court was to be eliminated. The

Court agrees with a comment received from the Chicago Council of Lawyers that it would be better to retain this provision as a safety net. Accordingly, the provision was retained. However, the time after which the clerk is to act was expanded from 14 to 60 days and a provision was made to permit the court to direct that the clerk not enter such an order.

* * * * *

IT IS FURTHER ORDERED That this order shall become effective at 12:01 a.m. on Monday, 3 July 1995.

ENTER:
FOR THE COURT



Chief Judge

Dated at Chicago, Illinois, this 23rd day of June, 1995.