



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION
ADMINISTRATIVE LAW SECTION**

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**STANDING ORDER FOR ALL CASES FILED BEFORE THE
ADMINISTRATIVE LAW SECTION**

This Standing Order will apply to all cases filed before the Administrative Law Section (“ALS”) of the Illinois Human Rights Commission on or after August 1, 2023.

Upon the filing of a complaint before the ALS, a copy of this Standing Order will be provided to all parties prior to their initial appearance before an administrative law judge. Attorneys and self-represented litigants are expected to read this order and comply with its terms at all stages of proceedings. Failure to adhere to the procedures set forth in this Standing Order may serve as grounds for an administrative law judge to issue an appropriate sanction, up to and including the entry of an order for dismissal or default. Parties who have questions about fulfilling the obligations set forth in this Standing Order are encouraged to raise their concerns with the assigned administrative law judge.

As a further supplement and aid to this Standing Order, litigants are encouraged to review the “Glossary of Terms Used in Commission Proceedings,” which is available on the website of the Illinois Human Rights Commission at the following address: <https://hrc.illinois.gov/process/glossary.html>

Litigants who continue to have questions after reading this Standing Order and after reviewing the information appearing on website of the Illinois Human Rights Commission are welcome to seek assistance by phone at (312) 814-6269 (for cases before an administrative law judge in the Chicago Office) or at (217) 785-4350 (for cases before an administrative law judge in the Springfield Office).

Table of Contents

1. NATURE OF PROCEEDINGS BEFORE THE ALS	4
1.1: ALS Cases Are Lawsuits.....	4
1.2: Ethics and Civility.....	4
2. THE ROLE OF THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS (“DHR”)	4
2.1: The DHR’s Role in Litigation.....	4
2.2: The DHR’s Investigative Report and Findings	5
3. LEGAL REPRESENTATION AND SELF-REPRESENTATION	5
3.1: Qualified Representation.....	5
3.2: Parties Appearing by Self-Representation.....	5
3.3: Corporations and Other Business Entities.....	6
3.4: Prior Appearances Before the DHR Constitute Appearances Before this Administrative Court.....	6
4. PARTICIPATION IN COURT PROCEEDINGS	6
5. JURISPRUDENCE AND GOVERNING LAW	7
6. FILING PLEADINGS IN AN ALS CASE	7
6.1: Certificates of Service.....	7
6.2: Mechanics of Filing.....	7
6.3: Courtesy Copies of Pleadings	8
7. APPEARANCES	9
8. INITIAL HEARINGS	9
9. INITIAL DISCLOSURES	10
9.1: Definition and Timing.....	10
9.2: Complainant’s Initial Disclosures	10
9.3: Respondent’s Initial Disclosures	11
10. DISCOVERY	12
11. MOTIONS	12
11.1: Purpose and Content of Motions.....	12
11.2: Service of Motions	12
11.3: Statement of Meet-and-Confer.....	13
11.4: “Noticing” Requirement of 56 Ill. Admin. Code § 5300.730(d) is Suspended	13
11.5: Timing of Response and Reply Briefs	14
11.6: Format and Length of Motions.....	14
11.7: Courtesy Copies of Motions.....	15
11.8: Motions to Compel Discovery	15
11.9: Motions for Extensions of Time.....	15
11:10: Motions to Strike.....	16
11:11: Direction to Act When Motions Become Ripe for Decision.....	17
12. REQUIREMENT TO SERVE THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS	17
13. JUDICIAL SETTLEMENT CONFERENCES	17
14. JOINT PREHEARING MEMORANDA	18

15.	OBTAINING SUBPOENAS	19
16.	WARNING AGAINST FILING PERSONAL IDENTITY INFORMATION	21
17.	WARNING AGAINST THE USE OF GENERATIVE ARTIFICIAL INTELLIGENCE.....	21
18.	VARYING FROM THIS STANDING ORDER.....	21

1. NATURE OF PROCEEDINGS BEFORE THE ALS

1.1: ALS Cases Are Lawsuits

In almost every way, appearing before an administrative law judge of the ALS is analogous to appearing before a judge in a state or federal court. ALS cases are serious matters, and the decisions made by our administrative law judges have the same force and effect as decisions rendered by the state and federal courts of Illinois. For this reason, it is imperative that litigants who appear before the ALS understand that they are participants in a lawsuit, and that this status requires them to follow the rules governing practice before this administrative court.

In order of precedence, the rules governing practice before this administrative court are established by: (a) the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*; (b) the procedural rules of the Illinois Human Rights Commission, 56 Ill. Admin. Code § 5300.10 *et seq.*; and (c) this Standing Order. Failure to comply with these rules is no different than violating a rule, order, or directive issued by a state or federal judge.

1.2: Ethics and Civility

In addition to following the technical rules of this administrative court, litigants are advised that the administrative law judges of the ALS expect all participants in pending cases to adhere to the highest standards of ethics, civility, and professionalism when interacting with this administrative court or with any opposing party. These standards are reflected in the Illinois Supreme Court Rules, of which Article VIII contains the Illinois Rules of Professional Conduct. All parties—whether they are attorneys or not—are expected to comply with the Illinois Rules of Professional Conduct in any proceeding or writing before this administrative court.

In addition, in any ALS proceeding or filing, attorneys and parties are required to address each other with mutual courtesy and respect. While this does not mean that litigants are prohibited from speaking passionately about their cases (or advocating zealously on behalf of their clients), insults and other forms of impertinent conduct are prohibited, and may result in the assigned administrative law judge issuing an appropriate sanction. In all instances, parties are encouraged to remember the words of Former Associate Justice of the United States Supreme Court Ruth Bader Ginsburg (the “Notorious R.B.G.”), who famously observed: “You can disagree without being disagreeable.”

For their part, the administrative law judges of the ALS have pledged to conduct themselves in accordance with Article XI of the Illinois Supreme Court Rules, which contains the Illinois Code of Judicial Conduct. Among other things, the Illinois Code of Judicial Conduct mandates that all judges will perform their duties in an impartial, competent, and diligent manner.

2. THE ROLE OF THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS (“DHR”)

2.1: The DHR’s Role in Litigation

Many litigants become confused regarding the role played by the DHR following the filing of a complaint. Although Section 7A-102(D)(4) of the Illinois Human Rights Act entitles a complainant to

request the DHR to file a complaint on his or her behalf before the ALS, this is typically the end of the DHR's involvement in any ALS case. Complainants are advised that the DHR does not represent them as legal counsel, nor does the filing of a complaint by the DHR suggest that a case before the ALS is presumed to have legal merit. In all instances, a complainant in an ALS case must still prove liability and damages by a preponderance of the evidence, regardless of any preliminary findings made by the DHR.

Once the DHR has filed a complaint before the ALS at the complainant's behest, the complainant immediately thereafter represents himself or herself in the resulting litigation, unless he or she elects to retain independent counsel. This is true even in cases involving real estate transactions under Article 3 of the Illinois Human Rights Act, where the DHR typically remains involved as a party. Even when the DHR stays involved in a case, the agency does not represent the individual complainant as legal counsel, nor may the litigant rely on the DHR to advance his or her unique and individualized legal claims.

2.2: The DHR's Investigative Report and Findings

Parties routinely reference and attempt to introduce the underlying investigative report compiled by the DHR as evidence in their ALS case. Complainants and respondents appearing before the ALS are cautioned that the underlying investigative report compiled by the DHR is hearsay, and as such is generally inadmissible as evidence in a proceeding or pleading before this administrative court. *See In re Mitchell v. Board of Education of the City of Chicago*, ALS No. 14-0571, 2018 ILHUM LEXIS 994, at *7-8 (Apr. 5, 2018). While certain exceptions to this rule may apply, the parties need to be aware that any statements or evidence summarized in the DHR's investigative report must be independently introduced and properly authenticated to be considered as evidence in a case pending before this administrative court.

Parties are advised that the assigned administrative law judge in an ALS case is not provided with a copy of the DHR's investigative report either before or after a complaint is filed. At the same time, parties are advised that they must seek leave of this administrative court to compel an employee of the DHR to testify regarding the contents of any files, documents, or reports (or the results of any underlying investigation). *See* 56 Ill. Admin. Code § 5300.750(b)(4).

Parties to an ALS case should also be aware that the assigned administrative law judge is not provided with a copy of any previous decision made by the Illinois Human Rights Commission in reference to an earlier request for review action that challenged an investigative determination made by the DHR.

3. LEGAL REPRESENTATION AND SELF-REPRESENTATION

3.1: Qualified Representation

Parties may be represented in an ALS case by any attorney licensed to practice law in the State of Illinois. Parties may additionally (or alternatively) be represented by any attorney that has been granted permission to practice law in the State of Illinois before the Illinois Human Rights Commission pursuant to Illinois Supreme Court Rule 707.

3.2: Parties Appearing by Self-Representation

Although individuals have a right to represent themselves in cases before the ALS, self-represented litigants (sometimes referred to as "*pro se*" litigants) are at an extreme disadvantage in ALS proceedings, and are strongly encouraged to retain an attorney to represent them before this administrative court.

Any litigant who chooses to be self-represented is reminded that Illinois law (rightly or wrongly) requires this administrative court to hold the self-represented party to the same standards as a practicing attorney. *See Ammar v. Schiller, DuCanto & Fleck, LLP*, 2017 IL App (1st) 162931, ¶ 16, 93 N.E.3d 660.

Available on the website of the Illinois Human Rights Commission are various informational materials on organizations that have previously provided low-cost or *pro bono* (*i.e.*, free) legal representation to complainants in certain civil rights matters both here at the Illinois Human Rights Commission and elsewhere. Litigants are advised that the State of Illinois in no way endorses or recommends the services of any of these entities, nor does the State of Illinois verify, guarantee, or otherwise vouch for the quality of legal representation that may be provided by any entity that agrees to provide low-cost or free legal representation: <https://hrc.illinois.gov/process/self-represented-litigants.html>

Self-represented litigants are further advised that neither this administrative court nor the staff of the Illinois Human Rights Commission can provide legal advice to any party in an ALS case.

3.3: Corporations and Other Business Entities

Corporations and other business entities are required to retain attorneys in ALS cases, as businesses cannot represent themselves or appear in court *pro se* under Illinois law. *See People ex rel. Schad v. My Pillow, Inc.*, 2017 IL App (1st) 152668, ¶ 130, 82 N.E.2d 627 (citing *Downtown Disposal Services, Inc. v. City of Chicago*, 2012 IL 112040, ¶ 22, 979 N.E.2d 50). Where a business lacks appropriate legal representation, the assigned administrative law judge will order that business to retain an attorney. Where a business entity refuses to retain an attorney notwithstanding the order of this administrative court, the business entity may be subject to an appropriate sanction, including the entry of an order of default by the assigned administrative law judge.

3.4: Prior Appearances Before the DHR Constitute Appearances Before this Administrative Court

Parties or attorneys who are served with a copy of a complaint filed in an ALS case are cautioned that under the procedural rules of the Illinois Human Rights Commission, a prior appearance by a party or attorney before the DHR constitutes an appearance before the Illinois Human Rights Commission under most circumstances. *See* 56 Ill. Admin. Code § 5300.560(a).

4. PARTICIPATION IN COURT PROCEEDINGS

Parties and/or their legal representatives must attend scheduled hearings and other proceedings as directed by this administrative court. Under the Illinois Human Rights Act, failure to appear at a court-ordered hearing is an available basis on which the assigned administrative law judge may enter an order of dismissal or default in an ALS case. *See* 775 ILCS 5/8A-102(I)(6). This authority is further incorporated into the procedural rules of the Illinois Human Rights Commission, which authorize the assigned administrative law judge to enter a sanction of dismissal or default (including attorneys' fees) where a party—through counsel or otherwise—fails to appear at a scheduled hearing or otherwise refuses to comply with an order entered by this administrative court. *See* 56 Ill. Admin. Code § 5300.750(e).

Where a party cannot attend a scheduled hearing, that party should meet and confer with the opposing party far enough in advance of the scheduled hearing to file a motion to continue the proceeding (whether this relief is contested or not). Alternatively, if appropriate, a party that cannot attend a scheduled

hearing may authorize an opposing party to appear on behalf of all parties, but only where there is no contested issue that needs to be resolved or addressed by the assigned administrative law judge.

5. JURISPRUDENCE AND GOVERNING LAW

The Illinois Human Rights Commission is created by Section 8 of the Illinois Human Rights Act. *See* 775 ILCS 5/8-101 *et seq.* As such, in addition to its own 40-year history of publicly available case law, the primary sources of guidance for the decisions rendered by the ALS are the laws and associated legal precedents of the State of Illinois. While federal laws and judicial opinions that treat analogous questions are often considered helpful, such sources are not binding on the ALS and may not be applicable where legal standards differ under state and federal law. Accordingly, the parties should be sensitive not to “federalize” the jurisprudence associated with the Illinois Human Rights Act.

Most historical decisions of the ALS are available on LEXIS-NEXIS by searching the abbreviation “ILHUM” or by typing “Illinois Human Rights Commission Decisions” on the main search screen. For litigants without access to LEXIS-NEXIS, decisions of the ALS dating back to 2006 are compiled on the website of the Illinois Human Rights Commission under the “Decision Search” tab at the following link: <https://hrc.illinois.gov/decision.html>.

6. FILING PLEADINGS IN AN ALS CASE

6.1: Certificates of Service

Any pleading filed in an ALS case must be submitted in PDF format, and must include a certificate of service showing that the pleading has been delivered to all other parties in the case. The certificate of service must show the identities of all parties to whom the pleading has been transmitted. In addition, the certificate of service must indicate the date on which the pleading was transmitted to all other parties in the case and the method by which it was sent (mail, fax, e-mail, personal service, etc.). The physical or electronic addresses of all opposing parties must be reflected.

FAILURE TO INCLUDE A CERTIFICATE OF SERVICE WITH YOUR PLEADING IN AN ALS CASE WILL RESULT IN YOUR PLEADING BEING WITHHELD FROM THE ASSIGNED ADMINISTRATIVE LAW JUDGE UNTIL A COMPLIANT FILING IS SUBMITTED.

6.2: Mechanics of Filing

Pursuant to the procedural rules of the Illinois Human Rights Commission, *see* 56 Ill. Admin Code § 5300.40, there are currently three recognized methods for filing a pleading in an ALS case.

First, parties may file documents electronically in an ALS case by e-mailing copies of their pleadings (in PDF format) to HRC.News@illinois.gov. Parties may also fax copies of their pleadings to (312) 814-6517. Electronic filing of a pleading that is either faxed or e-mailed is deemed complete on the date the pleading is electronically submitted to the Illinois Human Rights Commission.

Second, parties may file documents in an ALS case by mailing them to the Illinois Human Rights Commission at one of the following addresses:

FOR CASES BEFORE A JUDGE IN THE CHICAGO OFFICE:

Illinois Human Rights Commission
ATTN: Administrative Law Section
160 North LaSalle Street
Suite N-1000 (10th Floor)
Chicago, IL 60601

FOR CASES BEFORE A JUDGE IN THE SPRINGFIELD OFFICE:

Illinois Human Rights Commission
ATTN: Administrative Law Section
Jefferson Terrace
300 West Jefferson Street
Suite 108
Springfield, IL 62702

A pleading received by mail is considered filed on the date indicated in the certificate of service that must accompany the pleading. As noted above, a certificate of service must be filed at the same time as the pleading to which it refers. Parties are advised that service by mail is deemed complete four (4) days after a document is properly addressed and posted for delivery to the person or entity that is to be served. *See* 56 Ill. Admin Code § 5300.30(c).

Finally, a party to an ALS case may file documents in person at either of the two offices of the Illinois Human Rights Commission, the addresses of which are listed above. The hours of both offices are from 8:30 a.m. to 5:00 p.m., Monday through Friday (except for state holidays). Parties are reminded that pleadings filed in person must also include a certificate of service showing the information required in Sub-Section 6.1 above (entitled “Certificates of Service”).

6.3: Courtesy Copies of Pleadings

Attorneys and self-represented litigants who file pleadings in an ALS case should *refrain* from delivering multiple copies (or courtesy copies) of their pleadings to the Illinois Human Rights Commission.

When filing a pleading by mail or in person, please submit only one (1) original of your pleading to the offices of the Illinois Human Rights Commission. Additional copies (or courtesy copies for the assigned administrative law judge) should *not* be delivered.

When filing a pleading electronically, please do not submit or deliver corresponding paper copies of the same pleading to the offices of the Illinois Human Rights Commission.

An electronic or scanned copy of any document filed with the Illinois Human Rights Commission will automatically be provided to the assigned administrative law judge in each ALS case. Litigants who file pleadings will subsequently receive file-stamped copies of their submissions via e-mail in response.

File-stamped copies of any earlier pleadings in an ALS case are available from the Illinois Human Rights Commission upon request.

7. APPEARANCES

All individuals who intend to appear as advocates or parties in an ALS case must file a notice of their appearance at the earliest possible opportunity. *See* 56 Ill. Admin. Code § 5300.560(a). This directive applies regardless of whether a litigant is an attorney or a self-represented party. A fillable PDF entitled “Appearance Form” is available for download on the website of the Illinois Human Rights Commission under the “Rules and Forms” tab, which is immediately accessible at the following link: <https://hrc.illinois.gov/content/dam/soi/en/web/hrc/documents/appearance-form.pdf>

As indicated on the Appearance Form, any individual who will appear before an administrative law judge must have a current mailing address and e-mail address on file with this administrative court via an up-to-date Appearance Form. It is the responsibility of each litigant to ensure that both a current mailing address and a working e-mail address are on file with this administrative court in each ALS case to which the litigant is a party or a party-representative.

Where a party fails to update or change mailing or e-mail address information through the submission of an updated Appearance Form, this administrative court will continue to serve that party at the previous mailing or e-mail address that appeared on the most recent version of the Appearance Form that was filed with this administrative court. Where a party’s failure to update contact information results in an electronic order or other correspondence from this administrative court being returned as “UNDELIVERABLE,” such electronic order or other correspondence remains effective, and a subsequent failure to comply with or respond to that electronic order or correspondence may result in an adverse ruling (including dismissal or default).

8. INITIAL HEARINGS

Under the Illinois Human Rights Act, an initial hearing in an ALS case must be held between thirty (30) and ninety (90) days after the Illinois Human Rights Commission has served the respondent with a copy of the complaint. *See* 775 ILCS 5/8A-102(B). The initial hearing is conducted in accordance with the procedural rules governing the Illinois Human Rights Commission, which (as noted above) are found at 56 Ill. Admin. Code § 5300.10 *et seq.*

For good cause, any party may file a motion to continue the date of the initial hearing, although the parties are cautioned that failure to attend the initial hearing without proper excuse may result in the dismissal or default of the case (depending on which party fails to appear).

Ordinarily, the initial hearing in an ALS case is just a first-time status hearing to set a discovery schedule and address other substantive and/or procedural issues that may arise in a particular matter. However, the procedural rules of the Illinois Human Rights Commission contemplate the possibility that the parties may wish to use their initial hearing to conduct a “public hearing” (*i.e.*, a full trial) on the merits of their case. This situation is rare, and requires the agreement of all parties to the case. Nevertheless, if the parties wish to use their initial hearing as an opportunity to try their case, they must file a joint prehearing memorandum at least twenty-one (21) days before their initial hearing. The required content of the joint prehearing memorandum is set forth in Section 14 of this Standing Order (entitled “Joint Prehearing Memoranda”). Further information on prehearing memoranda is also available under 56 Ill. Admin. Code § 5300.710.

When a joint prehearing memorandum is not timely filed before the initial hearing date, the assigned administrative law judge will assume that the parties do not wish to use their initial hearing as an opportunity to conduct a full trial of their case. A subsequent determination will be made by the assigned administrative law judge—typically after the close of discovery—regarding when a trial will occur, and when any associated joint prehearing memorandum will be due.

9. INITIAL DISCLOSURES

9.1: Definition and Timing

Upon the entry of a discovery schedule in an ALS case, the assigned administrative law judge will set a date for the parties to exchange their initial disclosures. Initial disclosures include evidence and information that each party is required to provide to all opposing parties in a case. In the absence of an order from the assigned administrative law judge, the parties are required to exchange their initial disclosures no later than sixty (60) days following the filing of an answer to the complaint by the respondent. As noted below, the requirements for initial disclosures in an ALS case are different for complainants and respondents.

Initial disclosures (and the evidence produced with them) should not be filed as pleadings in any ALS case, although the parties should file a notice of service of their initial disclosures with this administrative court.

9.2: Complainant's Initial Disclosures

Within sixty (60) days of the respondent filing an answer to the complaint (or by whatever alternative schedule is directed by the assigned administrative law judge), the complainant in any ALS case must provide the respondent with the following information:

- (a) a list of all individuals that the complainant believes are responsible for the civil rights violations alleged in the complaint, and a brief description of how each individual is alleged to have violated the complainant's civil rights;
- (b) a list of any witnesses that the complainant believes will prove his or her allegations of civil rights violations;
- (c) a list of all individuals that the complainant believes are similarly-situated, but who purportedly received more favorable treatment from the respondent;
- (d) if applicable, a description of the disability claimed by the complainant and the exact dates on which the complainant both informed the respondent of this disability and requested any reasonable accommodation;
- (e) if applicable, a description of any and all protected activities in which the complainant allegedly engaged, and the time, date, and manner through which the respondent became aware of such protected activities;

- (f) if applicable, a description of the discipline or adverse housing action to which the complainant was subjected, the exact date(s) thereof, and the identity of any individual(s) responsible for imposing such discipline or adverse housing action;
- (g) a list and calculation of the damages the complainant is seeking, including numerical figures for back pay, fringe benefits, emotional distress, and any other form of recovery (other than attorneys' fees) that the complainant might seek at trial; and
- (h) complete copies of all of the complainant's tax filings—including returns, attachments, schedules, W-2s, 1099 forms, and any other supporting documents—that were previously submitted to a state, federal, or local taxing authority for any fiscal or calendar year(s) for which the complainant will seek damages from the respondent.

The complainant's obligation to update and supplement initial disclosures remains ongoing throughout the life of any ALS case.

9.3: Respondent's Initial Disclosures

Within sixty (60) days of the respondent filing an answer to the complaint (or by whatever alternative schedule is directed by the assigned administrative law judge), the respondent in any ALS case must provide the complainant with the following information:

- (a) if applicable, a complete copy of the complainant's personnel file or employee personnel record;
- (b) if applicable, a complete copy of the complainant's application for tenancy or other preliminary documents submitted to the respondent in support of a real estate or housing transaction;
- (c) if applicable, a complete copy of any policies, rules, directives, orders, bylaws, employee manuals, personnel codes, housing codes, or other governing instruments that the complainant is alleged to have violated that led to discipline or other adverse action;
- (d) if applicable, a complete copy of any non-privileged investigative report compiled by the respondent (or any agent of the respondent) that pertains to conduct by the complainant that is the subject of the complaint;
- (e) if applicable, a list of all individuals who were subjected to discipline at or near the same time as the complainant (and a description of the exact discipline to which each individual was subjected);
- (f) if applicable, a list of all other individuals who were subjected to the same adverse personnel action that impacted the complainant; and
- (g) a position description and/or organizational chart conveying the precise responsibilities and supervisory status of any individual who has been accused of sexual harassment.

The respondent's obligation to update and supplement initial disclosures remains ongoing throughout the life of any ALS case.

10. DISCOVERY

Discovery in an ALS case is governed by the procedural rules of the Illinois Human Rights Commission. *See* 56 Ill. Admin. Code § 5300.720 *et seq.* Ordinarily, the assigned administrative law judge will set an initial period of approximately 4 to 5 months for discovery, although this timeframe may be longer or shorter depending on the unique circumstances of a particular case. Prior to the time at which all respondents are required to answer the complaint, no discovery may be conducted except by agreement of the parties, or by leave of the assigned administrative law judge for good cause shown. *See* 56 Ill. Admin. Code § 5300.720(b).

Parties to an ALS case are directed to file proof of mailing and service for all discovery requests and responses with the Illinois Human Rights Commission. This ensures that the Illinois Human Rights Commission has a memorialized record of all discovery that has been served and answered in each case. However, parties should not file copies of their actual discovery requests and responses with this administrative court, unless such filings are made in the context of a motion to compel discovery. *See* Sub-Section 11.8 of this Standing Order (entitled “Motions to Compel Discovery”).

11. MOTIONS

11.1: Purpose and Content of Motions

Any party to an ALS case seeking a specific ruling or relief from this administrative court must request such ruling or relief by filing a motion. Although parties are normally required to format their motions in conformity with the guidelines set forth in Sub-Section 11.6 below (entitled “Format and Length of Motions”), a fillable PDF for creating motions is also available on the website of the Illinois Human Rights Commission at the following address:

<https://hrc.illinois.gov/content/dam/soi/en/web/hrc/documents/motion-online.pdf>

Motions filed with this administrative court should state the nature of the requested relief with particularity, and should identify the relevant legal authority on which a party is relying to persuade this administrative court to render a decision. Motions that fail to identify the legal basis on which a party is requesting relief are subject to denial.

11.2: Service of Motions

Any motion filed in an ALS case must be served on all parties of record that have filed appearances in the case. In other words, if a party files a motion with this administrative court, the party must demonstrate that all other parties to the case have received a copy of the motion at the same time as this administrative court. To ensure this occurs, any motion (or other pleading) filed in an ALS case must include a certificate of service showing that the pleading has been delivered to all other parties. As explained above in Section 6.1 (entitled “Certificates of Service”), the certificate of service must show the identities of all parties to whom the motion has been delivered. In addition, the certificate of service must indicate the date on which the motion was transmitted to all other parties in the case and the method by which it was sent (mail, e-mail, personal service, etc.).

FAILURE TO INCLUDE A CERTIFICATE OF SERVICE WITH YOUR MOTION WILL RESULT IN YOUR MOTION BEING WITHHELD FROM THE ASSIGNED ADMINISTRATIVE LAW JUDGE UNTIL A COMPLIANT FILING IS SUBMITTED.

11.3: Statement of Meet-and-Confer

With the exception of motions to dismiss and motions for summary decision, any motion filed in an ALS case must contain a statement confirming: (a) that the parties to the case discussed the relief requested by the motion in person or by telephone before the motion was filed; and (b) that after good faith attempts to resolve their differences in person or by telephone, the parties were unable to reach an agreement regarding the relief requested by the motion.

CONTESTED MOTIONS THAT NEGLECT TO PROVIDE THE REQUIRED STATEMENT OF MEET-AND-CONFER DESCRIBED ABOVE ARE SUBJECT TO PREEMPTIVE DENIAL BY THE ASSIGNED ADMINISTRATIVE LAW JUDGE.

Where the parties are able to reach an agreement regarding the relief requested by a motion, the word “UNOPPOSED” should appear in the title of any motion that is subsequently filed with this administrative court requesting the relief to which the parties have agreed. Parties are advised that the assigned administrative law judge is under no obligation to grant an “UNOPPOSED” motion merely because the parties have agreed to the requested relief.

Where a party is unable to meet and confer with an opposing party in advance of the filing of a motion, any motion that is subsequently filed must describe the reasons a meet-and-confer was not conducted, and must explain why the failure to meet and confer was not attributable to the party filing the motion.

Parties filing motions are cautioned that the failure to respond to e-mail—by itself—is not a sufficient basis on which to claim that a moving party was unable to reach an opposing party in advance of the filing of a contested motion. Evidence of attempts (plural) at in-person or telephonic communications are further required.

Similarly, parties filing motions are cautioned that their motions may be denied where this administrative court determines that an attempt at communication was either half-hearted or illusory (or in any other way incongruent with the spirit of meet-and-confer that is envisioned by this sub-section). Such disregard may occur, for example, where a moving party calls an opposing party late in the evening, only to then file a contested motion under the theory that the opposing party was “unavailable” to meet and confer. Such gamesmanship will not be tolerated in ALS cases, and may subject a party to an appropriate sanction (including attorneys’ fees) for failing to conform to the standards of professionalism that are expected of litigants who appear before this administrative court.

11.4: “Noticing” Requirement of 56 Ill. Admin. Code § 5300.730(d) is Suspended

Previously, a self-represented litigant or attorney who filed a motion in an ALS case was required to file a notice of the date on which he or she intended to appear before the assigned administrative law judge to set a briefing schedule for that motion. This practice was colloquially referred to as “Noticing” the motion, and would often require the party filing the motion to contact the Illinois Human Rights Commission to determine a date on which the assigned administrative law judge was already scheduled to

conduct status hearings in other cases. The obligations for “Noticing” a motion are currently set forth in the procedural rules of the Illinois Human Rights Commission under 56 Ill. Admin. Code § 5300.730(d).

However, these obligations consistently created confusion for many litigants—principally because the procedural rules of the Illinois Human Rights Commission appear to suggest that parties must visit the Chicago office to schedule a hearing at which the notice of a motion will be heard.

To avoid this confusion, the ALS has indefinitely suspended its prior practice of “Noticing” motions. Instead, when a party files a motion in an ALS case, a copy of that motion will immediately be provided to the assigned administrative law judge. The assigned administrative law judge will then enter an order setting a briefing schedule for the motion or enter an order directing the parties to appear at a subsequent status hearing to discuss the motion. The assigned administrative law judge may also summarily rule on the motion. The point is that once a motion is filed, only the assigned administrative law judge is required to take further action. Neither party is required to “notice” the motion or otherwise appear, and all parties will receive a copy of any associated order that is entered by the assigned administrative law judge.

For avoidance of doubt, this Sub-Section 11.4 applies only to the practice of “Noticing” motions, and does not alter or change the procedures for filing motions before the Illinois Human Rights Commission. Parties should continue to file motions in the manner prescribed by Sub-Section 6.2 of this Standing Order (entitled “Mechanics of Filing”), and should ensure that proper certificates of service are attached to their motions pursuant to Sub-Section 11.2 above (entitled “Service of Motions”).

11.5: Timing of Response and Reply Briefs

As noted above in Sub-Section 11.4, for any contested motion that is filed in an ALS case, the assigned administrative law judge will enter an order setting a schedule: (a) for the opposing party to file a response to the motion; and (b) for the moving party to file any necessary reply in support of the motion. Alternatively, the assigned administrative law judge may enter an order directing the parties to appear at a subsequent status hearing to discuss the motion. In either situation, the assigned administrative law judge will set the briefing schedule and deadlines for any response or reply briefs associated with a contested motion.

Where the assigned administrative law judge affirmatively declines to set a briefing schedule or otherwise chooses not to enter a controlling order, the default period for opposing a motion will be governed by the procedural rules of the Illinois Human Rights Commission. *See* 56 Ill. Admin. Code § 5300.730(b).

11.6: Format and Length of Motions

With the exception of any motions that are created using the fillable “Blank Motion Form” that is available on the website of the Illinois Human Rights Commission, all contested motions filed in ALS cases must be double-spaced, and must be written in 12-point font. All materials submitted to this administrative court must be legible, with the relevant portions of all exhibits specifically identified.

Unless a party requests and receives approval from this administrative court in advance, no brief filed in support of a motion may exceed fifteen (15) pages (exclusive of exhibits), nor may any brief opposing a motion exceed the identical page limit (*i.e.*, fifteen (15) pages – also exclusive of exhibits). Parties should rarely require more room to concisely explain and justify the relief they require from this administrative court.

11.7: Courtesy Copies of Motions

As explained in Sub-Section 6.3 above (entitled “Courtesy Copies of Pleadings”), attorneys and self-represented litigants who file motions in an ALS case should *refrain* from delivering multiple copies (or courtesy copies) of their pleadings to the Illinois Human Rights Commission.

When filing a motion by mail or in person, please submit only one (1) original of your motion to the offices of the Illinois Human Rights Commission. Additional copies (or courtesy copies for the assigned administrative law judge) should *not* be delivered.

When filing a motion electronically, please do not submit or deliver corresponding paper copies of the same motion to the offices of the Illinois Human Rights Commission.

An electronic or scanned copy of any motion filed with the Illinois Human Rights Commission will automatically be provided to the assigned administrative law judge in each ALS case. Litigants who file motions will subsequently receive file-stamped copies of their motions via e-mail in response.

11.8: Motions to Compel Discovery

A party seeking to compel compliance with a discovery request may file a motion to compel discovery. Attached as exhibits to the motion to compel discovery must be copies of the discovery requests at issue, as well as copies of the corresponding discovery answers that are alleged to be deficient or incomplete. Where a party seeking to compel discovery fails to attach copies of the underlying discovery requests and answers that are the subject of the motion to compel, the motion to compel discovery may be preemptively denied by the assigned administrative law judge.

In addition, any motion to compel discovery must state with particularity the specific information, documents, evidence, or answers that are being sought for production from the opposing party. A generalized argument that discovery responses are “vague” or “non-specific” is not a sufficient basis on which to demand further production, nor may any party seek to enforce discovery requests that are overly broad or unduly burdensome as a means of asserting litigation pressure on an opposing party. In all instances, parties must be aware of the precise type or variety of information they are seeking to compel, and must be prepared to explain to this administrative court why such evidence is relevant to the allegations they are required to prove at trial.

11.9: Motions for Extensions of Time

Cases filed before the ALS are civil lawsuits, meaning that most deadlines directed by our administrative law judges will afford the parties several weeks (if not multiple months) to comply with the obligations that are imposed on them by this administrative court.

To the extent a party foresees an impending difficulty conforming to a deadline, that party should communicate with the opposing party and this administrative court far enough in advance to allow the assigned administrative law judge to assess the need for any requested extension of an applicable deadline.

To be sure, emergency circumstances can (and sometimes do) arise, and this administrative court stands ready to be accommodating of parties whose ability to fulfill their professional obligations has been frustrated through no fault of their own.

Yet notwithstanding the foregoing comment, “emergency circumstances” are among the most rare and infrequent of reasons cited by parties for their requests to continue applicable deadlines. Most often, a party has procrastinated in the need for action, only to thereafter file a motion for extension under the theory that additional time will simply be granted by the assigned administrative law judge as matter of course. Parties are hereby disabused of any such notion, as this administrative court does not view a lack of diligence or initiative as a sufficient justification for the award of additional time in an ALS case.

Parties who file motions for extensions of time must identify good cause for the grant of any requested extension. In making such requests, parties are advised that where a motion for extension of time is filed on the same date as the deadline sought for extension, the assigned administrative law judge may preemptively deny any such motion as “late” in the absence of emergency circumstances. At the same time, where a motion for extension of time does not provide this administrative court with sufficient opportunity to weigh and consider the proposed good cause that serves as the basis for the requested extension, the assigned administrative law judge may similarly deny the motion without considering the underlying request.

11:10: Motions to Strike

Motions to strike are strongly disfavored by this administrative court, as parties appear to be perpetually confused regarding the proper purpose and scope of such motions.

A motion to strike seeks to preclude the assigned administrative law judge from considering the contents of a particular pleading. However, all ALS cases are bench trials, meaning that the assigned administrative law judge acts as both judge and “jury” (in the sense that he or she must make decisions regarding both liability and damages). Ironically, therefore, a motion to strike actually requires the assigned administrative law judge to focus *more* intently on the evidence that the moving party believes should be excluded from review.

And yet, setting aside the practical irony of such motions, most parties fail to identify an independent legal rationale for which a particular pleading should not be before this administrative court, opting instead to point to evidentiary objections (such as hearsay) to claim that certain information should be disregarded. Parties should be assured that the administrative law judges of the Illinois Human Rights Commission are well-versed in the law, and do not require an additional or supplemental motion to flag when a party is attempting to rely on evidence that is inadmissible.

As such, there should rarely be a reason for a party to file a motion to strike. Instead, parties who are opposing pending motions should simply make arguments regarding the admissibility of specific evidence in the body of their opposition briefs. No separate motion to strike is required, and this administrative court will construe nearly all such motions as evidentiary objections that are incorporated into a party’s opposition to a pending motion (unless an independent legal basis is asserted for the exclusion of specific evidence).

11:11: Direction to Act When Motions Become Ripe for Decision

Parties are directed to file any contested motion as soon as an issue becomes ripe for decision. Parties are further cautioned that this administrative court views litigation as a continuously narrowing process, such that the failure of a party to raise an issue at the time it becomes ripe may later preclude that party from raising the issue at a subsequent stage of proceedings (particularly where it is shown that the party had ample opportunity to raise the contested issue but failed to do so for a significant length of time).

12. REQUIREMENT TO SERVE THE ILLINOIS DEPARTMENT OF HUMAN RIGHTS

The procedural rules of the Illinois Human Rights Commission require that certain pleadings in cases before the ALS must also be served on the Illinois Department of Human Rights (or “DHR”) to be properly brought before the assigned administrative law judge. When filed with the Illinois Human Rights Commission, the following pleadings (including proof of service thereof) must be served on all parties of record and on the DHR:

- (a) Answers and Affirmative Defenses (and any Supplemental Answers or Affirmative Defenses)
- (b) Motions to Dismiss
- (c) Responses and Replies to Motions to Dismiss
- (d) Motions to Amend Pleadings
- (e) Amended Pleadings
- (f) Motions to Compel Illinois Human Rights Commission Employees to Testify
- (g) Motions to Compel Illinois Department of Human Rights Employees to Testify
- (h) Motions for Summary Decision
- (i) Responses and Replies to Motions for Summary Decision

Service on the DHR may be accomplished by delivering copies of pleadings (either electronically or physically) to the DHR at one of the following physical or electronic addresses:

Illinois Department of Human Rights
ATTN: Chief Legal Counsel
555 West Monroe
7th Floor
Chicago, IL 60661

IDHR.Legal@illinois.gov

Self-represented litigants are reminded that the DHR does not represent individuals in ALS cases before the Illinois Human Rights Commission.

13. JUDICIAL SETTLEMENT CONFERENCES

A judicial settlement conference—*i.e.*, a formal mediation conducted by an administrative law judge—is typically available in an ALS case at any time, although two or more parties must agree to attend a judicial settlement conference (and agree to participate in good faith) before any such meeting is scheduled.

The parties to any ALS case are always encouraged to pursue settlement negotiations, either between themselves or with the assistance of this administrative court. In support of these efforts, parties are invited to visit the website of the Illinois Human Rights Commission for further information on judicial settlement conferences. There, they will find both the Standing Order for Judicial Settlement Conferences and the Checklist for Judicial Settlement Conferences, both of which may be useful to the parties in determining whether a judicial settlement conference may be an effective means of resolving their dispute. Links to both documents are below:

Standing Order for Judicial Settlement Conferences:

<https://hrc.illinois.gov/content/dam/soi/en/web/hrc/documents/standing-order-for-judicial-settlement-conferences.pdf>

Checklist for Judicial Settlement Conferences:

<https://hrc.illinois.gov/content/dam/soi/en/web/hrc/documents/checklist-for-judicial-settlement-conferences.pdf>

Parties who believe that a judicial settlement conference might be beneficial in their ALS case should file a joint request for a judicial settlement conference with the assigned administrative law judge. The joint request need not be long, but must identify all parties that are jointly requesting a judicial settlement conference.

14. JOINT PREHEARING MEMORANDA

Pursuant to the procedural rules of the Illinois Human Rights Commission, *see* 56 Ill. Admin. Code § 5300.710(a), the purpose of a joint prehearing memorandum is to ascertain the positions of the parties, and to reach agreements on stipulations of fact, admissibility of documents, and other matters that may expedite the conduct of a public hearing in an ALS case. While all parties must sign any joint prehearing memorandum that is filed with this administrative court, any party may volunteer to draft the initial version of the pleading before providing a copy to all opposing parties for additions, revisions, and/or modifications.

As noted above in Section 8 (entitled “Initial Hearings”), in the rare circumstance where the parties to an ALS case agree to use their initial hearing to conduct a public hearing (*i.e.*, a full trial) on the merits of their case, they must file a joint prehearing memorandum at least three (3) weeks before their initial hearing. Alternatively, where the parties to an ALS case have proceeded through discovery and are now preparing for a public hearing that has been scheduled by the assigned administrative law judge, they must file a joint prehearing memorandum by whatever deadline has been set by the assigned administrative law judge.

Where one or both parties fail to substantially comply with the directions for preparing a joint prehearing memorandum, the assigned administrative law judge may apply any appropriate sanction, including a recommendation of dismissal or default. *See* 56 Ill. Admin. Code § 5300.710(b).

The parties to an ALS case are required to include the following content in any joint prehearing memorandum that is filed with this administrative court:

- (a) the name, address, and telephone number of counsel for each party;
- (b) a concise statement of the causes of action asserted by the complainant and the corresponding defenses that will be asserted by the respondent;
- (c) a single statement (in numbered paragraph form) of the uncontested facts in the case, including a list of any stipulations of fact into which the parties have entered;
- (d) a single statement (in number paragraph form) of the contested facts in the case;
- (e) a statement of the issues of law relating to liability;
- (f) an itemization of the damages and other relief sought by the complainant, including a summary of attorneys' fees and costs to date;
- (g) a list of the names and addresses of all witnesses: (i) who will be called to testify; and (ii) who may be called to testify;
- (h) a list of the names and addresses of all witnesses whose depositions will be used at trial in lieu of testimony;
- (i) a list of the names of any expert witnesses who will be called to testify at trial;
- (j) a summary of any party's objections to the qualifications of an opposing expert witness;
- (k) an identification (by letter, number, etc.) of any exhibits that may be introduced by either party at trial (PLEASE NOTE: documents not listed in the joint prehearing memorandum will not be admitted at trial);
- (l) a list of all exhibits to which the parties have no objection to admissibility;
- (m) a list of all exhibits to which there are objections to admissibility, including descriptions of such objections and the legal grounds upon which either party is relying to assert its objections (PLEASE NOTE: there is no right to "Reserve" objections before this administrative court);
- (n) a statement on the expected length of the public hearing; and
- (o) a statement summarizing the current status of settlement negotiations.

Parties to an ALS case are advised to follow any further instructions provided by the assigned administrative law judge in advance of the preparation of their joint prehearing memorandum.

15. OBTAINING SUBPOENAS

A "subpoena" is a legal document issued by the Illinois Human Rights Commission that directs a party (or a third party) to take a specific action in reference to an ALS case. There are three (3) types of subpoenas that can be issued by the Illinois Human Rights Commission in an ALS case:

- (a) Subpoena for Appearance – a “Subpoena for Appearance” is used to compel the appearance of a party or a witness at a hearing;
- (b) Subpoena for Documents – a “Subpoena for Documents” is used to compel the production of any necessary records or documents from a party or a third party; and
- (c) Subpoena Duces Tecum – a “Subpoena Duces Tecum” is used to compel other forms of action, such as the appearance of a party or a witness at a deposition.

Parties may request subpoenas from the Executive Director of the Illinois Human Rights Commission. See 56 Ill. Admin. Code § 5300.210. Such requests can be made in person, by correspondence, or by e-mail (at HRC.News@illinois.gov). To obtain a subpoena, a party must provide the following information:

- (a) the exact number and type(s) of subpoena(s) requested;
- (b) the identity of the party requesting the subpoena(s) (*i.e.*, complainant or respondent);
- (c) the ALS case number and the underlying charge number for that ALS case;
- (d) the full name of the complainant; and
- (e) the full name of the attorney or party requesting the subpoena(s).

Please note that while either the complainant or the respondent may request a subpoena, the Illinois Human Rights Commission is not responsible for serving that subpoena. Instead, the party requesting the subpoena is responsible for serving it on the party or third party to whom the subpoena is directed.

Subpoenas will be blank (but signed by a Commissioner of the Illinois Human Rights Commission) when they are provided to the requesting party. The requesting party is thereafter responsible for accurately and completely filling out the subpoena, including delivery information for the party to be served. The requesting party is also responsible for providing any details necessary to comply with the subpoena, such as the dates of any appearances or the description of any records that must be produced. Each subpoena should reflect the entire case name, including the ALS case number and the underlying charge number for that ALS case.

Once a subpoena is filled out accurately and completely, the party that requested the subpoena is responsible for notarizing it. Only a notarized subpoena can be served on the party or third party to whom the subpoena is directed.

Each subpoena is printed on carbon paper that includes multiple, color-coded copies. The proper recipient for each color-coded copy of the subpoena is printed at the bottom of each page. When serving a subpoena, the party that requested the subpoena is responsible for delivering the correct, color-coded copy of the subpoena to the correct recipient. The proper copy of the subpoena must also be returned to the Illinois Human Rights Commission and filed in the corresponding ALS case, along with a certificate of service showing that the subpoena was served on the individual or entity named in the subpoena and all other parties to that ALS case.

Parties are advised that the Illinois Human Rights Commission must account for every subpoena issued. Accordingly, parties to an ALS case will only be issued the exact number of subpoenas requested for each designated recipient of a subpoena. Extra subpoenas will not be provided to parties “just in case.”

16. WARNING AGAINST FILING PERSONAL IDENTITY INFORMATION

In any ALS case, parties are directed to refrain from including personal identity information in any pleading, motion, exhibit, or other document that is filed with this administrative court. Pursuant to Illinois Supreme Court Rule 138, “personal identity information” includes: (a) social security and/or individual taxpayer-identification numbers; (b) driver’s license numbers; (c) financial account numbers; or (d) debit and credit card numbers.

Any such personal identity information appearing in a pleading, motion, exhibit, or other document that needs to be filed with this administrative court should be redacted to show only the last four (4) digits of such personal identity information.

Where the submission of “viewable” personal identity information is necessary to sustain an evidentiary burden or otherwise comply with the law, a party seeking to introduce personal identity information must request and receive approval from this administrative court to file unredacted personal identity information in advance of such filing. This administrative court—upon the grant of leave to file personal identity information—will establish appropriate procedural safeguards to ensure that such personal identity information does not appear in any public record associated with an ALS case.

17. WARNING AGAINST THE USE OF GENERATIVE ARTIFICIAL INTELLIGENCE

A party to an ALS case is strongly cautioned against using generative artificial intelligence (such as ChatGPT, Harvey.AI, or Google Bard) to compose legal pleadings. In their current state, these platforms do not provide the necessary guarantees of accuracy and reliability that are required for legal writing, and have been shown to return false information when used as a substitute for traditional legal databases curated by human beings.

Parties are advised that they will be held singularly responsible for verifying the content and veracity of any pleading that is submitted to this administrative court, regardless of whether generative artificial intelligence was used to draft portions of their pleading. Where the contents of a pleading are determined to be false, exaggerated, or otherwise inaccurate as the result of the use of generative artificial intelligence, the assigned administrative law judge may impose an appropriate sanction as if the party itself had provided untruthful information to this administrative court. Stated differently, the use of a generative artificial intelligence program to compose a legal pleading will not serve as a defense to an allegation that the information provided by that program was misleading or untrue.

18. VARYING FROM THIS STANDING ORDER

Where any party wishes to depart from the regular practices set forth in this Standing Order, the party should make an appropriate request to the assigned administrative law judge at the earliest possible opportunity. Such requests must indicate whether the party has discussed the requested variance with all opposing parties and whether the opposing parties agree to the requested variance.

ILLINOIS HUMAN RIGHTS COMMISSION



BY:

A handwritten signature in black ink, appearing to read "B. Weintal".

BRIAN WEINTHAL
CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION