From the Judge's Side of the Bench: Early Resolution Program (ERP) for Consumer Debt Cases in the First Municipal District: Courtroom 1101 Procedures

by Judge John Michael Allegretti

This article is written to provide a general understanding of how the Early Resolution Program ("ERP") is being implemented for consumer debt cases filed in the Cook County Circuit Court's First Municipal Division. The ERP is governed by General Administrative Order 2020-09 (Amended) and General Order 2021-03. Practitioners should review said Orders for more details.

Background

The Illinois Supreme Court issued Order M.R. 30370, dated February 23, 2021, authorizing each judicial circuit to establish an Early Resolution Program. Chief Judge Timothy Evans established an Early Resolution Program in December 2020. It is anticipated that the economic impact of the COVID-19 pandemic will ultimately result in an increased number of evictions and consumer debt collection actions. The ERP provides free legal aid, mediation services, and other resources to litigants in eviction and consumer debt cases. The Program encourages the early resolution of cases.

All consumer debt cases filed on or after February 8, 2021 in the First Municipal Division are assigned to courtroom 1101 for an initial case management call 180 days after filing.

Initial ERP Case Management Call Procedures (1st ERP Call)

1. Proper Service
Proper service, under General Administrative Order 2020-09 (Amended), Section II(C)(1), requires that notice of the ERP must be included and served with the summons. This notice shall be in English, Spanish and Polish, in the form included in the General Order, attached to the summons, and filed with the Clerk of the Circuit Court.

At the Initial Case Management Call, the Court will review each case to determine if the defendant was properly served and will find as follows:

> a. Defendant has not been properly served
> If the Court determines that the defendant has not been properly served with the requisite ERP Notice, the Court will issue an alias summons. Currently, the Clerk of the Circuit Court does not automatically set future court dates after the alias summons is served. Practitioners may request and will be granted a future court date to determine the status on service. Alternatively, Practitioners may opt to motion the case up, after proper service has been effectuated.

> b. Defendant has been properly served
> First Municipal District's General Order 2021-03, Section 3, requires that self-represented litigants be afforded a minimum of two opportunities to appear in court after service of process has been effectuated. The Court will continue most cases for a follow-up status 28 days after the initial case management hearing. The Court requires that plaintiff's counsel notify defendant (with Zoom instructions) of the future court date. This notice must be filed with the Clerk of the Circuit Court. The Court will also determine if the case should be referred to the ERP Coordinator.

2. Cases That Will Be Referred to the ERP Coordinator for Access to ERP Resources
While all consumer debt cases are assigned to the ERP Case Management Call, not all cases will be assigned to the ERP Coordinator for ERP resources. Cases that will be assigned to ERP coordinator for access to legal assistance and resources are as follows:

a. Cases where the defendant has filed an appearance, even if the defendant fails to appear at the initial ERP Case Management Call.

b. Cases where the defendant has failed to file an appearance, but appears in court.

c. Cases where the parties have reached a settlement. Exception: If both parties are represented by counsel, they may agree to opt out of the ERP Program. The transfer order must state that the parties are represented by counsel and have opted out of ERP.

<u>3. Cases That Will Not Be Assigned to the ERP Coordinator for Access to ERP Resources</u>

a. Cases where there was proper service on the defendant, but the defendant has failed to file an appearance and failed to appear on the initial case management call. In such a case, the case will be assigned a future status date (2nd ERP Date), 28 days out. The plaintiff will provide defendant with Zoom notice of the status date. If Defendant then appears, after being properly noticed, the case will be assigned the ERP Coordinator and the defendant will have access to legal resources.

b. Nonsuits. The Court will enter the order.

c. Dismissals with prejudice. The Court will enter the order.

Case Status (2nd or Subsequent ERP Dates)

If the case was assigned to the ERP Coordinator, and the defendant was provided access to legal resources, the ERP Coordinator, plaintiff's counsel, and defendant will apprise the Court of the case's status. Generally, a case will be transferred to Courtroom 1301 for assignment to a trial room for further proceedings (trial, settlement, dismissal, default, etc.). Settlements are referred to the ERP Coordinator, and the defendant will be afforded the opportunity to access ERP legal resources. If the defendant appears in court for the first time on the status call, the case will be referred to the ERP Coordinator, and the defendant will have access to the ERP legal resources.

If the case was not assigned to the ERP Coordinator, the Court, after being apprised of the case's status, will determine if the case should be transferred to 1301 for a trial room assignment or remain on the ERP Call.

Drafting Orders

At the Initial Case Management Call, the ERP Coordinator will draft court orders for cases assigned to the ERP Coordinator. For cases not assigned to the ERP coordinator, the plaintiff's attorney will draft orders.

At the Status Call, for cases that were previously assigned to the ERP Coordinator, (1) the plaintiff's attorney shall draft a court order transferring to 1301 for trial room assignment, indicating that the ERP requirements have been satisfied, and (2) the ERP Coordinator shall draft a separate court order stating the results of the ERP and also indicating that case was transferred to 1301 for a trial room assignment. For cases which were not assigned to the ERP Coordinator, the plaintiff's attorney shall draft the court order, transferring the case to 1301 for assignment to a trial room, which shall include language that "ERP Requirements are satisfied."

Procedural Questions or Concerns

The Court welcomes all practitioners to observe the ERP Call via Zoom. The Court is always willing to review court procedures and answer procedural questions after the court call. In an effort to make the ERP Call more efficient and effective, the Court welcomes feedback from stakeholders.

Judge John Michael Allegretti was elected to Circuit Court of Cook County in 2014. Judge Allegretti is currently assigned to the Civil Section of the First Municipal District, located in the Richard J. Daley Center. In this assignment, he presides over consumer debt cases and is responsible for implementing the Early Resolution Program (ERP).

Prior to being elected to the judiciary, Judge Allegretti served as general counsel at the Cook County Treasurer's Office, general counsel and deputy assessor at the Cook County Assessor's Office, assistant state's attorney in the Tax Division and the Torts and Civil Rights Division, judicial hearing officer at the Illinois Property Tax Appeal Board, corporate counsel for North American Real Estate Management, and an associate attorney at the law firms of Pollack, Weis and DuBrock, Tristano and Tristano, and McDermott and McDermott. He also served as an adjunct professor at Wilbur Wright College, where he taught business management, human resource management, and business law.