

**VANDERBURGH CIRCUIT AND SUPERIOR COURT RULES
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CRIMINAL RULES OF THE VANDERBURGH CIRCUIT COURT

LR82-CR2.2-2.01

Assignment of Criminal Cases

(A) All cases in Vanderburgh County, Indiana in which the highest crime charged is a D felony and at least one charge filed is an alcohol or controlled substance crime shall be assigned to Division II of Superior Court. The remaining felony charges shall be randomly assigned (by the Clerk of Vanderburgh County) to the Circuit and Superior Courts of Vanderburgh County in the following ratio: two (2) cases are to be assigned to the Vanderburgh Circuit Court for each one (1) case assigned to Vanderburgh Superior Court. Each felony cause number shall be deemed a case within the meaning of this rule, regardless of the number of counts or defendants charged in said case.

(B) All cases assigned to the Vanderburgh Circuit Court shall be tried by the Circuit Court Judge or the Magistrate of the Court as determined in the discretion of the Court.

(C) All felony cases assigned to the Vanderburgh Superior Court shall be tried in accordance with the rules of that Court.

(D) All cases reassigned from the Circuit Court Judge of Vanderburgh County or the Magistrate of that Court shall be reassigned to the Senior Judge of the Vanderburgh Circuit Court and/or the Judges of Division I and II of the Vanderburgh Superior Court.

(E) All cases reassigned within the Vanderburgh Superior Court shall be reassigned in accordance with the rules of that Court.

(F) All criminal cases filed in the County in which the highest crime charged is a misdemeanor, shall be assigned to the Misdemeanor/Traffic Division of the Vanderburgh Superior Court.

(G) A dismissed criminal action may only be refiled in the same Court to which the case was originally assigned.

(H) The Circuit Court Judge and or the Judge of Division I or the Judge of Division II of the Vanderburgh Superior Court may by agreement, order transfer of any felony case pending in either Court to provide consolidated legal defense for those defendants facing multiple criminal charges. Such cases shall be consolidated unless efficient case disposition may be adversely affected by transfer.

LR82-CR00-2.02

Transfer of Cases between Vanderburgh Circuit and Superior Courts

If a defendant has a pending case in the Vanderburgh Superior Court prior to the filing of a case in Circuit Court, the Circuit Court case will be transferred to Superior Court. Similarly, if a defendant has a prior pending case in Circuit Court, any newer case in Superior Court will be transferred to Circuit Court. The Judges of the Vanderburgh Circuit Court and Divisions I and II of the Vanderburgh Superior Court may, by agreement, transfer a pending case out of Division II of Superior Court or Vanderburgh Circuit Court in their discretion to satisfy the requirements of these rules. The Judges of the Vanderburgh Circuit Court and Divisions I and II of the Vanderburgh Superior Court may, by agreement, transfer a pending case into Division II of the Superior Court or Vanderburgh Circuit Court in their discretion to satisfy the requirements of this rule. Judges of the Vanderburgh Circuit Court and Divisions I and II of the Vanderburgh Superior Court may, by agreement, transfer any criminal case to Division II of the Vanderburgh Superior Court if justice requires.

LR82-CR00-2.03

Bond Schedule

All persons charged by indictment or affidavit shall be held to bail in the amount set forth below:

(A) Felonies: No bonds shall be set in any felony matters except as determined by a Judicial Officer. The Court shall consider factors found in IC 35-33-8-4 in setting appropriate bond in all cases.

(B) Class A Misdemeanors: Unless otherwise specified, all Class A Misdemeanors shall have a bond of \$100.00 for Indiana residents and \$200.00 for non-residents.

Specific Exceptions for Class A Misdemeanors:

Domestic Violence Battery

First offense: \$500.00

Second offense: \$1000.00

Third offense: \$5000.00

Leaving the scene of an accident causing personal injury: \$500.00.

All OMVWI bonds shall be determined by a Judicial Officer.

(C) Class B Misdemeanors: Unless otherwise specified, all Class B Misdemeanors shall have a bond of \$50.00 for Indiana residents and \$100.00 for non-residents.

Specific Exceptions for Class B Misdemeanors:

Invasion of Privacy involving co-habiting or formerly co-habiting adults:

First offense: \$500.00

Second offense: \$1000.00

Third offense \$5000.00

(D) Class C Misdemeanors: Unless otherwise specified, all Class C Misdemeanors shall have a bond of \$50.00 for Indiana residents and 100.00 for non-residents.

Specific Exceptions for Class C Misdemeanors: Minor possession / consumption / transport: \$25.00 for Indiana resident and \$50.00 for non-residents.

(E) Garnishment of Criminal Bonds: In order for a garnishment order, lien, or assignment to be placed against a bond in a criminal case, a minute must be entered on the Chronological Case Summary for the criminal case, which minute must state the existence of a claim against the bond and setting a hearing in the criminal case to determine the priority of the claim.

If a valid claim is found to exist, it should be honored and paid after the payment of any fees or costs in the criminal matter, including but not limited to court costs, fines, attorney fee liens, restitution, retention charges, public defender fund reimbursements, community correction fees, probation user fees, treatment court fees and any other current or outstanding statutory or court-ordered fees, if any of those are ordered by the court to be paid from the bond, but before payment to the person who posted the bond. Priority of claims should be given as chronologically entered in the Chronological Case Summary.

LR82-CR00-2.04

Discovery

In each criminal case in the Vanderburgh Circuit and Superior Courts, the Vanderburgh County Prosecutor's Office and the law enforcement agencies which are involved in the case shall produce to the defense attorney the entire case file, including a list of all evidence held, within thirty (30) days of the defense attorney's first appearance in court. This is a continuing rule, and all additions to the case file shall be produced immediately upon their creation.

Except by order of court, a defense attorney receiving such a case file shall not reveal any victim's or witnesses' confidential identifying information, including Social Security number, driver's license number, and date of birth, to anyone other than an associate or employee of the

attorney. In the event the defense attorney wishes to show the case file to any other person, including the defendant, the attorney shall first redact such information from the file.

LR82-CR00-C2.05

Court Sessions

Regular court sessions are held every weekday at 9 a.m. and 1 p.m. All holding dates, progress dates, and sentencings for persons not in custody shall be scheduled for 9 a.m. court. Video Court shall take place during 1 p.m. court. All in custody video probable cause hearings, initial hearings and persons arrested on warrants, and sentencings for defendants in custody shall take place during 1 p.m. court. Out of custody probable cause hearings, initial hearings and persons arrested on warrants who have posted bond may be set at either 9 a.m. or 1 p.m. Special court sessions for petitions to revoke, motions for modification from community corrections programs, and related matters are held on Wednesday and Thursday at 11 a.m. Court sessions are held in Room 208 on the second floor of the Courts Building. If Room 208 is being used for a trial or another matter, then court sessions are held in Room 202.

LR82-CR00-C2.06

Probable Cause Hearings

If a defendant is arrested without an arrest warrant having previously been issued, a probable cause hearing will be held. The hearing will be held at the court session immediately following the arrest and booking of the defendant in the Vanderburgh County Jail. At this hearing, the Court will review the affidavit of probable cause filed by the State to decide if there is probable cause for the offense(s) alleged by the State. If the Court finds that there is not probable cause, the defendant will be discharged. If the Court finds that there is probable cause, the Court will advise the defendant of the charges and some preliminary rights and set bond. The Court will also order the defendant to appear in three business days for an initial hearing at which time the defendant should appear with an attorney if he/she intends to hire counsel and the State should file any formal charges.

LR82-CR00-C2.07

Initial Hearings

An initial hearing will be held on the third business day after the probable cause hearing unless the defendant was arrested as a result of an arrest warrant. If an arrest warrant was issued and then the defendant was arrested, an initial hearing will be held at the next regular court session immediately following the arrest and booking of the defendant in the Vanderburgh County Jail. At the initial hearing, the Court will advise the defendant of the charges, penalties, and constitutional rights; review bond; set an omnibus date and a holding date; and appoint counsel or set an appearance date for the defendant to appear with private counsel.

LR82-CR00-C2.08

Readiness Conferences

Readiness Conferences are an opportunity for the prosecutor, the defense attorney, and the Court to discuss the case and any plea offers. Only the attorneys need to appear for these conferences. (This is not an appearance date for the defendant). The date of the initial hearing controls when the readiness conferences are set. Readiness conferences for cases with initial hearings on the 1st through the 15th of the month will be set on the first consecutive Wednesday and Thursday of the next month. Readiness conferences for cases with initial hearings on the 16th through the 31st of the month will be set on the third consecutive Wednesday and Thursday of the next month. Readiness conferences for non-drug and non-sex crime cases will be held on the first and third

Wednesdays at 1:30 p.m. Readiness conferences for drug and sex crime cases will be held on the following Thursdays at 1:30 p.m. Attorneys will be advised of the readiness conference date at the time of the initial hearing. The conferences will be held in the jury or grand jury room of Circuit Court. An attorney should contact Court staff and the Prosecutor's Office if he/she is unable to appear at his/her scheduled readiness conference.

LR82-CR00-C2.09

Holding Dates

Holding dates are dates for the defendant and his/her attorney to appear so that the defendant can accept or reject any offer by the State of Indiana and/or set the matter for trial. The date of the initial hearing controls when the holding date is set. Holding dates will be set six weeks after the initial hearing on the same weekday as the initial hearing. If the scheduled holding date is a holiday, then the Court will set the holding date on the business day after the holiday if that day is in the same week. Otherwise, the holding date will be set on the business day prior to the holiday.

LR82-CR00-C2.10

Omnibus Dates

The omnibus date is not an appearance date. However, it does control several legal deadlines for pleading certain matters and filing certain documents. The omnibus date is set 75 days from the initial hearing.

LR82-CR00-C2.11

Miscellaneous Hearings

If an attorney needs a hearing for a miscellaneous matter, including but not limited to, hearings for motions to suppress, motions to sever or join offenses or defendants, and motions for bond reduction, the attorney should contact opposing counsel and then court staff to schedule such a hearing or by agreement of the parties add the case on the court's calendar during 9 a.m. regular matters.

LR82-CR00-C2.12

Adding Cases to the Court Docket

If an attorney needs to add a criminal matter to the court's calendar, the attorney should advise opposing counsel and then contact court staff. If the defendant is in custody the case must be added on at least one full day prior to the appearance date. The attorney should advise the court staff if the defendant is in custody.

LR82-CR00-C2.13

Pre-Trial Conferences

Pre-trial conferences will be held approximately two weeks prior to trial. Pre-trials should be scheduled during the regular court session when the parties agree to a trial date. At the pre-trial conference, the court and parties will discuss the issues in the case, motions that need to be taken up in advance, possible plea agreements and any other relevant matters. (This is not an appearance date for the defendant.)

LR82-CR00-C2.14

Trial Dates

When a party requests a trial date, the Court will attempt to set the date within approximately 30 days if the defendant is in custody and 60 days if the defendant is not in custody. All trials, including court and Jury trials start at 8 a.m. unless the Court advises otherwise. Questionnaires for

prospective jurors will be available approximately two days prior to the trial. If additional time is needed to review the questionnaires, the bailiff can be contacted at 812-435-5196. Preliminary instructions will be provided on the first day of trial and final instructions will be provided during the trial. If additional time is needed to review the instructions, the staff attorney can be contacted at 812-435-5312. Peremptory challenges and challenges for cause are to be in writing on a form provided by court staff on the day of trial.

LR82-CR10-C2.15

Plea and Sentencing Hearings

If a defendant and the State have entered into a plea agreement, the Court will not take a guilty plea and order a pre-sentence investigation until the agreement has been reduced to writing and executed by the parties. When a defendant pleads guilty with or without a plea agreement with the State, the Court will establish a factual basis for each offense and advise the defendant of the penalties and constitutional rights. For these cases and for cases in which the defendant has been found guilty after a jury or court trial, a judgment and sentencing date will be set. The judgment and sentencing date will usually be scheduled approximately 20 days later if the defendant is in custody and approximately 40 days later if the defendant is not in custody. After a judgment and sentencing date has been set, the defendant should immediately report to the Probation Department in Room 127 of the Administration Building so that an interview can be scheduled for the defendant's pre-sentence report. If the defendant is in custody, a member of the probation staff will interview the defendant in the jail. Subject to the Court's approval, and if both parties agree, pre-sentence investigation reports may be waived in certain Class D felonies.

LR82-CR00-C2.16

Modification Requests - Community Corrections or Probationary Sentences

Any request for modification of a community corrections or probationary sentence should be in writing and sent to the court. Hearings on such requests are set on Wednesdays and Thursdays at 11 a.m. This shall include requests for modification of driver's license suspensions.

LR82-CR00-C2.17

Petitions to Revoke - Community Corrections or Probationary Sentences

If a petition to revoke the sentence of a person on a community corrections program or on probation is filed, either a bench warrant will be issued or the defendant will be advised of an appearance date by summons. These hearings are set on Wednesdays and Thursdays at 11 a.m.

LR82-CR00-C2.18

Shock Probation Hearings - Department of Corrections Sentences

Any request for modification of a sentence being served at the Indiana Department of Corrections should be in writing and sent to the court. Once a modification request is received, court staff will request a progress report from the facility where the defendant is an inmate. Once the progress report has been received by the court, a shock probation hearing will be scheduled. (If the sentence involved a plea agreement with the State, the State must agree to have a shock probation hearing before a hearing is set.) These hearings are usually held on the last Thursday of each month. If the Court is unavailable on such date, a different date will be selected. If a defendant is represented by an attorney, the attorney will be sent a notice of the hearing date. (Defendants are not transported back to Vanderburgh County for these hearings.)

CRIMINAL RULES OF THE VANDERBURGH SUPERIOR COURT

LR82-CR2.2-2.01

Assignment of Criminal Cases

(A) All cases in Vanderburgh County, Indiana in which the highest crime charged is a D felony or a Level 6 felony and at least one charge filed is an alcohol or controlled substance crime shall be assigned to Division II of Superior Court. The remaining felony charges shall be randomly assigned (by the Clerk of Vanderburgh County) to the Circuit and Division III of Superior Court of Vanderburgh County in the following ratio: two (2) cases are to be assigned to the Vanderburgh Circuit Court for each one (1) cases assigned to Vanderburgh Superior Court. Each felony cause number shall be deemed a case within the meaning of this rule, regardless of the number of counts or defendants charged in said case.

(B) All felony cases assigned to the Vanderburgh Superior Court shall be tried in Division II or III with the rules of that Court.

(C) All cases reassigned from the Circuit Court Judge of Vanderburgh County or the Magistrate of that Court shall be reassigned to the Senior Judge of the Vanderburgh Circuit Court and/or the Judges of Division II and III of the Vanderburgh Superior Court.

(D) All cases reassigned within the Vanderburgh Superior Court shall be reassigned in accordance with these rules.

(E) All criminal cases filed in the County in which the highest crime charged is a misdemeanor, shall be assigned to the Misdemeanor/Traffic Division of the Vanderburgh Superior Court.

(F) A dismissed criminal action may only be refiled in the same Court to which the case was originally assigned.

(G) The Circuit Court Judge and the Judges of Division II and of Division III of the Vanderburgh Superior Court may by agreement, order transfer of any felony case pending in any of those Courts to the other.

LR82-CR00-2.02

Transfer of Cases between Vanderburgh Circuit and Superior Courts

If a defendant has a pending case in the Vanderburgh Superior Court prior to the filing of a felony case in Circuit Court, the Circuit Court case will be transferred to Superior Court. Similarly, if a defendant has a prior pending case in Circuit Court, any newer felony case in Superior Court will be transferred to Circuit Court. The Judges of the Vanderburgh Circuit Court and Divisions II and III of the Vanderburgh Superior Court may, by agreement, transfer a pending case out of Division II of Superior Court or Vanderburgh Circuit Court in their discretion to satisfy the requirements of these rules.

LR82-CR00-2.03

Bond Schedule

All persons charged by information or indictment shall be held to bail in the amount set forth below:

(A) **Felonies:** No bonds shall be set in any felony matters except as determined by a Judicial Officer. The Court shall consider factors found in IC 35-33-8-4 in setting appropriate bond in all cases. Bond shall be set in compliance with TR 26.

(B) **Class A Misdemeanors:** Unless otherwise specified, all Class A Misdemeanors shall have a bond of \$100.00 for Indiana residents and \$200.00 for non-residents.

Specific Exceptions for Class A Misdemeanors:

Domestic Violence Battery

First offense: \$500.00

Second offense: \$1000.00

Third offense: \$5000.00

Leaving the scene of an accident causing personal injury: \$500.00.

All OMVWI bonds shall be determined by a Judicial Officer.

(C) Class B Misdemeanors: Unless otherwise specified, all Class B Misdemeanors shall have a bond of \$50.00 for Indiana residents and \$100.00 for non-residents.

Specific Exceptions for Class B Misdemeanors:

Invasion of Privacy involving co-habiting or formerly co-habiting adults:

First offense: \$500.00

Second offense: \$1000.00

Third offense \$5000.00

(D) Class C Misdemeanors: Unless otherwise specified, all Class C Misdemeanors shall have a bond of \$50.00 for Indiana residents and 100.00 for non-residents.

Specific Exceptions for Class C Misdemeanors:

Minor possession/consumption/

transport: \$25.00 for Indiana resident and \$50.00 for non-residents.

LR82-CR00-2.03.01

Garnishment of Criminal Bonds

In order for a garnishment order, lien, or assignment to be placed against a bond in a criminal case, a minute must be entered on the Chronological Case Summary for the criminal case, which minute must state the existence of a claim against the bond and setting a hearing in the criminal case to determine the priority of the claim.

If a valid claim is found to exist, it should be honored and paid after the payment of any fees or costs in the criminal matter, including but not limited to court costs, fines, attorney fee liens, restitution, retention charges, public defender fund reimbursements, community correction fees, probation user fees, treatment court fees and any other current or outstanding statutory or court-ordered fees, if any of those are ordered by the court to be paid from the bond, but before payment to the person who posted the bond. Priority of claims should be given as chronologically entered in the Chronological Case Summary.

LR82-CR00-2.03.1

Drug and Alcohol Deferral Services (DADS) - Schedule of Fees

Operating a Motor Vehicle While Intoxicated (O.M.V.W.I.) Program

\$350.00 - Full program fee.

\$150.00 - For clients referred for transfer and/or monitoring services.

\$ 75.00 - For clients referred from Misdemeanor Court for Possession of Marijuana u/30 grams.

Youth Alcohol Program (Y.A.P.) Violation of the Indiana State Liquor Law (V.L.L.)

\$220.00 - Full program fee.

\$75.00 - Transfer and/or monitoring services.

V.C.S.A. Program - Violation of Controlled Substance Act (V.C.S.A.)

\$400.00 - For clients referred for Felony offenses related to controlled substances.

\$200.00 – For clients referred for Misdemeanor offenses related to controlled substances.

The program fee for all programs covers maintenance and operating costs of the D.A.D.S. program, and is separate from the costs of referral services for education, counseling, or other treatment costs (including urine drug screens as required). The costs of referral services will be the client's responsibility.

For multiple eligible offenses, the standard fee may be levied for each additional offense.

A fee of \$15.00 may be charged for each missed D.A.D.S. appointment.

(Amended effective September 18, 2014)

LR82-CR00-2.03.2

Vanderburgh County Day Reporting Drug Court/Forensic Diversion Program Schedule of Fees

\$50 Program fee per month beginning in 2nd month

\$100 Participant Advocate fee

Drug testing fees as applicable

The statutory Drug and Alcohol Interdiction Fee of \$200 which is paid in the Clerk's Office.

LR82-CR00-2.03.3

Vanderburgh County Mental Health Court Schedule of Fees

1. PROGRAM FEE	\$100.00
2. MONTHLY USER FEE	\$25.00
3. URINE SAMPLE TESTING	NO CHARGE
4. CONFIRMATORY SAMPLE TESTING FEE	\$25.00
5. TRANSFER FEE	\$25.00
6. PUBLIC DEFENDER FEE	\$50.00

(Effective June 1, 2017)

LR82-CR00-2.04

Discovery

In each criminal case in the Vanderburgh Circuit and Superior Courts, the Vanderburgh County Prosecutor's Office and the law enforcement agencies which are involved in the case shall produce to the defense attorney the entire case file, including a list of all evidence held, within thirty (30) days of the defense attorney's first appearance in court. This is a continuing rule, and all additions to the case file shall be produced immediately upon their creation.

Except by order of court, a defense attorney receiving such a case file shall not reveal any victim's or witnesses' confidential identifying information, including Social Security number, driver's license number and date of birth to anyone other than an associate or employee of the attorney. In the event the defense attorney wishes to show the case file to any other person, including the defendant, the attorney shall first redact such information from the file.

LR82-CR00-S2.05

Assignment of Criminal Matters

All Felony criminal matters and Misdemeanor Jury Trials are assigned to Divisions II and III.

LR82-CR00-S2.06

Initial Appearance of the Accused

All defendants in the custody of the Sheriff at the time of the filing of a request for determination of Probable Cause or an Information or Indictment, shall appear before the Court not later than the next judicial day. All defendants arrested on warrants shall appear in open court for initial hearing not later than the next judicial day following the defendant's apprehension, or upon the date the defendant is summoned to appear, if any.

LR82-CR00-S2.07

Continuance of Initial Hearing

The initial hearing may be continued for a period of time not to exceed twenty days to allow the defendant to obtain private counsel.

LR82-CR00-S2.08

Trial Scheduling

Trial shall be set not more than twelve weeks from the week in which the holding date occurs, Counsel first appears, or the defendant is granted leave to proceed Pro Se.

LR82-CR00-S2.09

Holding Dates

The Court shall set a Holding Date at 9:30am on Monday – Wednesday for Division II. For Division III the Holding Date shall be set at 1pm or 2pm on Monday – Thursday. The State shall provide the Defense with a copy of the Police file and an offer of settlement (if the State intends to make such an offer on the case) on or before the Readiness Conference. On the Holding Date, the Parties shall appear and report to the Court whether or not the State has provided the Police file to the Defense and whether or not the defendant has received and will accept or reject an offer by the State. If the defendant rejects the State's offer, the defense shall inform the Court and the State whether there is a counter-offer forthcoming. If the defendant fails to appear on the Holding Date without lawful justification or excuse, the Court shall modify the defendant's bond in accordance with Indiana Code 35-33-8-7 and 8, and issue a Bench Warrant for the defendant's arrest.

LR82-CR00-S2.10

Trial Date Selection

In Division II, cases in which the highest crime charged is a D Felony, Level 6 Felony, or Misdemeanor will be set on a Monday or Wednesday or the first business day of the week on which the Court is open following a Monday holiday. In Division III, cases in which the highest crime charged is a C felony, Level 5 felony or above shall be set on Mondays or on the first business day of the week on which the Court is open following a Monday holiday. Cases in which the highest grade of offense charged is a D felony, Level 6, or Misdemeanor, shall be set for trial on Thursdays. Private Counsel may not set more than two trials for the same trial date in any court.

LR82-CR00-S2.11

Pre-Trial Conference

A Pre-Trial Conference shall be set at 8:30am on Fridays for Division II and 8:30am on Wednesdays for Division III. The representative or representatives of the State appearing at the Pre-trial conference on a case shall have full authority to make and accept offers and counter-offers on said case.

LR82-CR00-S2.12

Progress Date

The defendant shall be ordered to appear after the Pre-trial conference to indicate intent to plead guilty or to make other progress on the case.

LR82-CR00-S2.13

Readiness Conferences

A Readiness Conference should be set within 2 weeks of Initial Hearing at which time the State should provide any discovery available. Parties ordered to discuss potential resolution of the case and/or additional discovery if in counsel's estimation.

LR82-CR00-S2.14

Assignment of Trial Weeks

Unless otherwise agreed by the Division II and/or the Division III Judges, the Division II or Division III Judge shall be the lead trial Judge for trial. The Criminal 2 Judge for that month shall be the back-up Judge.

LR82-CR00-S2.15

Trial Prioritization

Cases in which a defendant is in custody may have priority over other cases on the docket. Otherwise, the oldest cases on the docket are to be tried first, regardless of custodial status of the accused, provided however prioritization by age may be superseded by expedited trial pursuant to Criminal Rule 4(g), or for other showing of extreme necessity. For purposes of trial priority, the age of the case will be determined from the date of filing.

LR82-CR00-S2.16

Add On Matters

Pre-trial appearance dates and hearings shall be scheduled not less than twenty-four hours prior to said appearance or hearing, except for good cause shown.

LR82-CR00-S2.17

Expungement & Specialized Driving Privileges Petitions

1. Petitions to Expunge Convictions shall be filed in Vanderburgh Superior Court Division I.
2. Petitions for Specialized Driving Privileges

(a). Petitions for SDP, where the Court has ordered the suspension, shall be filed in that Court. The caption of the Petition should include the cause number of the case in which the order of the suspension was issued.

(b). Petitions for SDP, where the license has been suspended by the Bureau of Motor Vehicles, shall be filed in the Vanderburgh Circuit Court.

(c). In cases where the license is suspended by the BMV and there is a Court ordered suspension, the Petition for Specialized Driving Privileges shall be filed in the Court where the suspension was ordered. The caption of the Petition should include the cause number of the case in which the order of the suspension was issued.

(Amended effective May 14, 2018)

CIVIL RULES OF THE VANDERBURGH CIRCUIT AND SUPERIOR COURTS

LR82-TR81-1.01

Applicability, Effective Date, and Designations

These rules apply to all litigants whether or not represented by counsel. These rules shall be effective beginning January 1, 2007, and supersede all rules or parts of rules previously followed by these Courts. Each rule applies to both Circuit and Superior Courts, except where one Court's designation ("C" for Circuit and "S" for Superior) appears in the last set of characters in a rule number, in which case that rule applies only to the designated Court.

LR82-AR00-1.02

Case Allocation Plan

(A) Balance within Superior Court. The Vanderburgh Superior Court is divided into seven Divisions as follows:

1. Division I – Civil, Domestic Relations, Misdemeanor/Traffic, Small Claims
2. Division II – Criminal
3. Division III – Criminal
4. Division IV – Juvenile & Probate
5. Division V – Civil, Domestic Relations, Misdemeanor/Traffic, Small Claims
6. Division VI – Civil, Domestic Relations, Misdemeanor/Traffic, and Small Claims
7. Division VII – Civil, Domestic Relations, Misdemeanor/Traffic, and Small Claims

Each Division is presided over by a Judge.

The Division II Judge, shall handle the Class D and Level 6 Felonies as assigned in LR82-CR2.2-2.01. The Division III Judge handles the other Felonies assigned to Superior Court pursuant to LR82-CR2.2-2.01.

Division IV is presided over by a Judge. This assignment is a one year minimum assignment.

All Felony criminal cases (MR, FA, FB, FC, and FD) are assigned pursuant to LR82-CR2.2-2.01 and civil cases with exception of expungements (PL, MF, CC, CT, MI) are assigned to one of the four remaining Judges by blind lot in the order presented for filing. The MI cases are evenly divided to the four Judges with the expungement cases going to Division I. PO cases are evenly divided amongst the six Superior Court Judges not assigned to Juvenile Court. The County utilizes Odyssey which evenly distributes the cases among the Judges. This software also adjusts the new case assignments to account for recusals so that every attempt is made to evenly distribute the case load among the Judges.

All miscellaneous felony criminal matters (MC) are assigned to Division III.

The Judge serving in Division I, V, VI, or VII also serves as a backup for Division II and III.

All Domestic Relations (DR), Juvenile Paternity (JP), and Reciprocal (RS) matters are assigned to Division I, V, VI, or VII. Four Judges rotate through this Division for a one month period. Each Judge serves six non-consecutive months a year in this Division. The four Magistrates rotate through this Division. Two Judges and one Magistrate are assigned each month to this Division.

Cases over which Juvenile Court has concurrent original jurisdiction involving adults charged with the crime of contributing to delinquency (IC 35-46-1-8) or adults charged with violating the compulsory school attendance law (IC 20-8.1-3) shall be assigned to the Juvenile Division of the Vanderburgh Superior Court and presided over by the Judge assigned to Juvenile Court or the Magistrate assigned thereto. All remaining Misdemeanor and Traffic (CM, IF) cases shall be assigned to Division I, V, VI, or VII. These cases are presided over by four Magistrates subject to the supervision of one of the Judges. The Magistrates rotate through on a monthly basis. The presiding Judge in Division III supervises Misdemeanor/Traffic Court.

All Small Claims (SC) and Ordinance Violation (OV, OE) cases are assigned to Division I, V, VI, or VII. These cases are presided over by four Magistrates subject to the supervision of one of the Judges. The Magistrates rotate through on a monthly basis. There is an assignment of one Magistrate to hear all OE cases in a court set up and named "Housing Court". The presiding Judge in Division VI supervises Small Claims.

Mental Health cases are also assigned to Division I, V, VI, or VII and are heard by the presiding Judge or Magistrate presiding in Small Claims for that month.

All Probate and Juvenile matters with exception of JP cases (JS, JT, JM, AD, AH, ES, EU, GU, TR, JC, JD) are assigned to Division IV. This Court is presided over by the Judge who does not participate in the rotation schedule set out in paragraph one. There is one Magistrate assigned to Juvenile Court permanently and other Magistrates as needed. This Magistrate assignment is a one year minimum assignment.

The rotating DR schedules and the use of Odyssey creates a nearly as is possible an even distribution of the work load within Superior Court.

LR82-AR00-S1.03

Assignment of Judges within Superior Court

(A) Chief Judge and Judges of Superior Court. There shall be a Chief Judge elected on a date between January 1 and January 31 of each year by the Judges who shall begin his/her term as the Chief Judge on the following February 1st. The Chief Judge will be primarily responsible for the efficient and expeditious operation and conduct of the Court. In the absence of the Chief Judge, the Judge sitting in Division One shall act as temporary Chief Judge.

The following Courts shall have Judges elected as supervisors on a yearly basis: drug court, misdemeanor and traffic, small claims and domestic relations. Each Judge so selected shall be responsible for the efficient and expeditious operation of that Court. Each supervisor shall report periodically to the Chief Judge and all other Judges any change in the current operations of that Court. There shall be appointed each year a Supervisor of Information and Technology to oversee and assure the Court's compliance with Administrative Rule 9.

(B) Superior Court Rotation. Two (2) Superior Court Judges shall be assigned to the Criminal Division, one (1) Superior Court Judge shall be assigned to Juvenile & Probate, and the four (4) remaining Superior Court Judges shall rotate sitting in the remaining Divisions of this Court. The four (4) remaining Superior Court Judges' rotation shall commence on the first Monday of each month. The Court, by a date not later than the first day of December or the first business day thereafter, shall publish a schedule of the sessions of this Court for the following calendar year of the Court together with the names of the Judges who will be sitting in the Divisions of this Court during each session thereof similar to Appendix B as attached hereto.

(C) Superior Court Division Assignment. The assignment of the Superior Court Judges to all of the divisions of Superior Court will be determined annually based upon judicial seniority. The Judge with the most seniority chooses his/her selection first and so forth. In the event there is more than one Judge with the exact amount of seniority, a random determination will decide who has the next choice. In the event the Superior Court Bench is joined by a new Judge by appointment, a new Division assignment of the Judges shall take place based upon seniority. In the event there is more than one Judge with the exact amount of seniority, a random determination will decide who has the next choice. In the event the Superior Court Bench will be joined by a new Judge through the election process, a new Division assignment of the Judges shall take place on or before March 1st of the year the election occurs based upon judicial seniority. Actual reassignment of the divisions will occur on January 1st following the swearing in of the new Judge. In the event there is more than one Judge with the exact amount of seniority, a random determination will decide who has the next choice. This assignment section does not apply to the procedure outlined in section (A) for selecting a Chief Judge or the Supervisory Judges of the Court.

(Amended effective May 20, 2020)

LR82-AR00-S1.04

Assignment and Disposition of Civil Cases in Superior Court

All Civil cases shall, upon being filed in the office of the Clerk, be assigned in the following manner:

(A) Assignment. Each Civil Case shall be assigned to one of the four (4) rotating Judges by blind lot in the order presented for filing. The Judge assigned to each case shall have responsibility for all proceedings in that case including hearings of all motions, arguments and petitions. All emergency matters shall be heard by the assigned judge unless he/she is unable to do so, in which case he/she may refer the matter to another Judge. Where the assigned Judge is unavailable to refer the matter, such emergency matter may be heard by any other Judge.

(B) Transfer within County. Where a case originates in the Small Claims, Juvenile or Probate Divisions and is transferred to the Civil Division, the clerk shall assign such case to a specific Judge in the same manner as in other Civil Cases.

(C) Transfer from another County. All Civil cases transferred to this Court from another County shall be assigned by the Clerk as provided by the rules stated herein for the assignment of Civil Cases.

LR82-SC00-S1.05

Superior Court Small Claims

All Small Claims matters are assigned to Division Six wherein the following Rules will apply:

(A) Service. On first appearance the Court will not allow service of process to be sent to the defendant's employer. On Proceeding Supplemental the Court will consider proper service for the purpose of obtaining an order of garnishment when service is good upon the employer, even though service may not be good upon the defendant. When the employer refuses service, it can be considered sufficient service for the purpose of an order of garnishment only. Service may be obtained by a process server if an affidavit of service is filed.

(B) Attorney Fees. Attorney fees shall not be awarded unless such fees are authorized by law or contract. There shall be a rebuttable presumption that a reasonable attorney fee for a small claims matter shall be determined based upon the principal amount of the judgment as follows:

Principal Judgment Amount

Presumed Attorney Fees

\$1,000.00 or less	\$250.00
\$1,000.01 to \$2,000.00	\$450.00
\$2,000.01 to \$3,500.00	\$800.00
\$3,500.01 to \$6,000.00	\$1,200.00
\$6,000.01 or more	\$1,500.00

A party seeking attorney fees is not limited to the presumptive attorney fees set out above and may request attorney fees in excess of the presumptive amount by submitting an attorney fee affidavit which itemizes the services rendered, the actual time spent performing those services, and the hourly rate requested. A party who seeks a presumptive attorney fee award shall not be required to submit an attorney fee affidavit in support of the request unless the request is challenged by another party. If an attorney renders services in multiple cases at or near the same time, the attorney may not submit an affidavit where the same actual time spent is duplicated in multiple cases but must reasonably apportion the total time spent among the cases.

If a party challenges an award of attorney fees, the Court shall set a contested hearing on the issue. In determining the amount of attorney fees to be awarded, the Court shall consider the time reasonably and actually expended in the case at the time the request is heard or decided, the amount of the fee in relation to the principal amount of damages sought, the factors enumerated in Rule 1.5 of the Indiana Rules of Professional Conduct, and any other circumstance bearing on the reasonableness of the fee.

(C) Claim for Insufficient Funds. Upon filing of a claim for insufficient funds on bad checks where multiple statutory remedies are available, the claimant should elect which remedy is being requested and list the same on the statement of claim.

(D) Proceedings Supplemental - Judgment Entry. Parties must wait seven (7) days after obtaining a judgment before filing a Proceedings Supplemental, and the Judgment Entry must be filed with the Court prior to the Proceedings Supplemental being filed.

(E) Proceedings Supplemental - Hearings. Proceedings Supplemental hearings shall not be continued for progress after an order of garnishment or a personal order of garnishment has been obtained. A subsequent Motion for Proceedings Supplemental shall only be filed if the motion sets forth circumstances that have changed since the last hearing in regard to the defendant's financial status.

(F) All Cases to Have Future Date. No cases will be continued without date.

(G) Claims for Rent and Damages. All claims for rent and damages on leased property must be documented by a back rent and damages form and corroborating evidence. The back rent and damages form is available in the Small Claims Office, Room 220. The corroborating evidence shall include a copy of the written lease agreement, a ledger or other documentation showing all monthly charges and payments, and documentation to support the specific damages claimed. At its discretion, the Court may require additional corroborating evidence. If the Court determines that excessive late fees have been charged, the Court shall limit the possible recovery for late fees to ten percent (10%) of the monthly rent amount for each month the rent is not timely paid.

(H) Non-Parties. Non-parties may be subpoenaed for initial hearings only upon leave of court.

(Amended effective June 21, 2021)

LR82-TR63-S1.06

Superior Court Judges Pro Tempore

All appointments of Superior Court Judges Pro Tempore shall be made by the Chief Judge or by the Judge assigned to the Division wherein the pro tem will sit.

LR82-TR79-1.07

Special Judge Selection in Civil and Criminal Cases

In the event a special judge is required under Trial Rule 79(H) in civil cases or under Criminal Rule 13 in criminal cases, the procedures set forth in the District 26 Rule on Special Judge Selection, as set forth below, shall be followed.

District 26 Rule on Special Judge Selection

TR 79(H), CR 13

In any District 26 circuit or superior court: 1) upon entry of an order granting a change of judge or entry of an order of recusal or disqualification in all civil or juvenile proceedings, if the parties shall fail to timely file an agreement in writing to an eligible special judge, or the judge so selected by the parties declines acceptance of the appointment as special judge (all as provided by TR 79 (D)); or 2) upon entry of an order granting a change of judge or entry of an order of recusal or disqualification in all criminal cases (see CR 12, 13); in all such cases (civil, juvenile and criminal) the appointment of an eligible special judge shall be made pursuant to this District 26 Rule:

1. The case shall be randomly assigned to one of the other judges or full-time judicial officers in the county of origin by the same process in which the case was initially assigned. This process shall be continued until qualification of a special judge or until each judge or full-time judicial officer in the county in which the case originated has been disqualified or been excused from service by the Indiana Supreme Court. If all judges or full-time judicial officers in the county in which the case originated shall disqualify or be excused from service by the Indiana Supreme Court, the judge exercising jurisdiction pending selection of a special judge shall refer the case to the Administrator of the Vanderburgh Superior Court ("Administrator") for assignment of a special judge. The Administrator shall assign a civil case to a judge or full-time judicial officer eligible for such service pursuant to TR 79(J) and serving in a District 26 court outside the county in which the case originated, or are from a contiguous county outside District 26 and have agreed to serve as special judge in the court where the case is pending. The Administrator shall assign a criminal case to a judge or full-time judicial officer from contiguous counties and counties within District 26. The assignment shall be made as set forth in paragraph 2.
2. The Administrator shall maintain a current list of District 26 judges and full-time judicial officers eligible pursuant to TR 79(J) for appointment as special judge in civil cases, and a current list of judges and full-time judicial officers from contiguous counties and counties within District 26 for appointment as special judge in criminal cases ("Civil and Criminal Cases Special Judge Lists"). Upon referral of a case for assignment of a special judge, the Administrator shall immediately assign a judge or full-time judicial officer from either the civil or criminal Special Judge List seriatim and notify the court where the case is pending of the assignment.

The judicial officer exercising jurisdiction shall enter an order of appointment and notify the judicial officer so selected of the order of appointment. As required by TR 79 (H) or CR 13, the judicial officer appointed to serve under this paragraph 2 must

accept jurisdiction in the case unless the appointed special judge is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under TR 79 or CR 13, or excused from service by the Indiana Supreme Court. If the appointed judicial officer is disqualified, ineligible, or excused from service, the Administrator shall again assign from the Special Judge List seriatim. This process shall continue until jurisdiction vests in a special judge so selected. If no judicial officer in District 26 shall qualify, the case shall be referred to the Indiana Supreme Court for appointment of a special judge.

3. As provided by TR 79(H) or CR 13, the order of appointment made pursuant to this District 26 rule by the court in which the case is pending shall constitute acceptance. An oath or additional evidence of acceptance of jurisdiction is not required.
4. Any judicial officer assigned by the Administrator as special judge who is disqualified pursuant to the Code of Judicial Conduct, ineligible for service under TR 79(J), or excused from service by the Indiana Supreme Court, shall remain on the list in the same numeric place from which assigned. The first such judicial officer assigned who does not serve shall accordingly be the first assigned to the next case referred to the Administrator for assignment of a special judge. Unless unavoidable, all District 26 judges and full-time judicial officers eligible for service as a special judge pursuant to TR 79(J) shall serve as a special judge before the Administrator may twice assign the same person from the Special Judge List as a special judge.

LR82-AR11-1.08

Format of Filings

Pleadings, motions and other papers shall be either legibly printed or typewritten on white opaque paper of at least sixteen (16) pound weight, eight and one-half (8 ½) inches wide and eleven (11) inches in length. All copies shall likewise be on white paper of sufficient strength and durability to resist normal wear and tear. If typewritten, the lines shall be double spaced, except for quotations, which shall be indented and single spaced. Script type shall not be used. Margins shall be at least 1 inch. Type face shall be 12 or larger in body, text, and footnotes.

LR82-TR00-1.09

Filing of Pleadings, Motions and Other Papers

All pleadings, motions and other papers shall be prepared in accordance with the provisions of the Indiana Rules of Trial Procedure. For the purpose of uniformity and convenience, the following requirements shall also be observed:

- (1) All pleadings, subsequent to the original complaint, shall be filed in the office of the Judge to whom the case is assigned at any time during the office hours established by the Court. All orders submitted to the Court shall be in sufficient number and shall be accompanied by postage paid envelopes addressed to each party or counsel of record.
- (2) All appearances by attorneys shall be filed in writing, together with proof of mailing or delivery thereof on counsel of record in compliance with Indiana Rules of Procedure.
- (3) All filings shall be accompanied by a minute sheet which shall contain the number of the cause, the date, the suggested docket entry and a certificate of proof of service or copies. This minute sheet shall be signed by counsel or Pro Se Party, dated, stamped and filed with the Court. The Court may in its discretion, amend any such form of entry.

(4) All order book entries shall contain in their title the date for which said entry was made. A copy of all entries, which result from a hearing or trial, shall be submitted to the opposing counsel at least three (3) days before being presented to the Court.

(5) All pleadings filed and served upon opposing parties shall be clear and legible.

(6) No pleading other than a copy thereof shall be taken from the file. Any person taking any portion of the Court's files shall be deemed to be in contempt of Court. Upon request, the Clerk or Court shall (subject to Administrative Rule 9) furnish anyone with a copy of all or any part of such files upon payment of a reasonable charge therefore.

LR82-TR10-1.10

Form of Pleading

(A) Caption. Every pleading shall contain a caption setting forth the name of the Court, the Division and Room Number, the title of the action and the file number.

(B) Titles. Titles on all pleadings shall delineate each topic included in the pleading, where a pleading contains an Answer, a Motion to Strike or Dismiss or a Jury Request each shall be set forth in the title.

LR82-TR5-1.11

Verification of Service on Opposing Party

In all cases where any pleading or other document is required to be served upon an opposing party, proof of such service shall be made either by:

(1) A certificate of service signed by counsel of record or pro se party which specifies by name and address all counsel or parties upon whom the pleading or document was served, or

(2) An acknowledgment of service signed by the party served or counsel of record.

LR82-TR5-1.12

Verification of Trial Rule 5 Pleadings

All Court Records (pleadings or documents) filed by any party or their attorneys shall contain a verification certifying that the court records comply with the filing requirements of Trial Rule 5 (G) applicable to information excluded from the public record under Administrative Rule 9 (G). A certification in substantially the following language shall be sufficient:

I/We hereby certify that the foregoing or attached Court Record or document complies with the requirements of Trial Rule 5(G) with regard to information excluded from the public record under Administrative Rule 9(G).

(Signed by party or counsel of record)

LR82-TR6-1.13

Extensions of Time

(A) Standard Time Limits Apply. The time limits set out in these local rules, where allowable under the Indiana Rules of Trial Procedure, may be extended by order of the Court.

(B) Extensions. In all civil cases, each party required to respond to a complaint, counterclaim, or cross-claim, may obtain an automatic thirty (30) day extension of time to plead or otherwise respond to such claim by filing a Notice of Extension with the Court and serving a copy of the same upon all parties. Requests for additional extensions of time must be made by motion and hearing unless agreed to by the parties.

LR82-AR00-1.14

Attorney Promptness

Attorneys are expected to be prompt in their attendance at matters assigned for hearing. Failure to appear promptly or to notify the Court of an inability to attend a hearing at the time and place indicated may result in imposition of sanctions allowable and deemed appropriate by the Court.

LR82-TR3.1-1.15

Attorney's Withdrawal

(A) Withdrawals Must Be in Writing. All withdrawals of appearance of counsel shall be in writing and by leave of Court. Leave of Court shall be granted only upon the following circumstances:

- (1) The filing of an appearance by new counsel for said client; or
- (2) Upon notice and hearing of the Petition for Leave to Withdraw, which said notice of hearing shall be served on the client at least 10 days prior to the hearing on the Petition for Leave to Withdraw. The Notice to the client shall include a copy of the Petition for Leave to Withdraw. Notice to the client shall also inform the client that the client can obtain new counsel or the client can represent himself/herself, if permissible, and that the client is required to notify the Court within 30 days of the withdrawal of the client's decision. The Notice shall also include the name of the Judge assigned to the case and the address of the Court with information sufficient to advise the client that a failure to respond may result in the dismissal of the matter before the Court. Proof of service of the Notice shall be made by certified mail, return receipt, to be filed with the court on or before the date of the hearing.

(B) Withdrawal Petition Requirements. A Petition for Leave to Withdraw shall include the following:

- (1) The last known address and telephone number of the client;
- (2) The date the case is assigned for trial, if any;
- (3) A statement of any current motions pending before the Court and
- (4) A statement of the status of the case, including a verified statement that all entries have been filed.

LR82-TR12-1.16

Motions and Petitions

(A) Briefs for Motions and Petitions

(1) A Motion to Dismiss under Rule 12 of the Indiana Rules of Trial Procedure, for Summary Judgment, for judgment on a pleading, for more definite statement, or to strike, shall be accompanied by a separate Supporting Brief. The adverse party shall have thirty (30) days after service of the initial brief within which to serve and file an Answer Brief, and the moving party shall have fifteen (15) days after service of the Answer Brief within which to serve and file a Reply Brief. With respect to all other motions, the adverse party shall have fifteen (15) days after service thereof within which to serve and file a response thereto, and the moving party shall have seven (7) days after service of such response within which to serve and file a reply thereto. If multiple motions are within the same filing, said motions shall be separated by identity in the title.

(2) The provision of this rule requiring a separate Supporting Brief shall apply to every defense asserted pursuant to Rule 12 (b) of the Indiana Rules of Trial Procedure, whether asserted in the responsive pleading or by separate motion.

(3) Each party shall supply a proposed Order with the Brief or Reply.

(B) Motions for Summary Judgment

(1) Any Motion for Summary Judgment shall be filed no later than one hundred twenty (120) days before the trial date.

(2) In addition to a separate Supporting Brief, and a proposed Summary Judgment shall be submitted with any Motion for Summary Judgment.

LR82-TR16-1.17

Scheduling Conference

(A) Scheduling Conference Meeting. Upon the closing of the issues in civil cases, the Court may order or the parties may request a Scheduling Conference. At the Scheduling Conference, the Court shall establish deadlines and time limits to ensure the progress of the litigation and will enter a Scheduling Order similar to that contained in Appendix A. To the extent that the parties are in a position to discuss and/or apprise the Court of any of the situations set forth below they should do so.

(1) Whether there is a question of jurisdiction over the person or the subject matter of the action;

(2) Whether all parties, plaintiff or defendant, have been correctly designated;

(3) Whether there are any questions concerning the joinder of parties or claims;

(4) Whether a third party complaint or impleading petition is contemplated;

(5) Whether there is a question of appointment of a guardian ad litem, next friend, administrator, executor, receiver or trustee;

(6) The time reasonably required for the completion of discovery;

(7) Whether there are pending motions;

(8) Whether a trial by jury has been timely demanded;

(9) Whether separation of claims, defenses, or issues would be desirable, and if so, whether discovery should be limited to the claims, defenses, or issues first to be tried;

(10) Whether related actions are pending or contemplated in any Court;

(11) The estimated time required for trial;

(B) Items Included in Scheduling Order. The Scheduling Order will include, among other things, a date certain for a Pre-Trial Conference. The dates contained in the Court's Scheduling Order may be amended by the Court on its own motion or at the request of one or more of the parties.

LR82-TR16-1.18

Pre-Trial Conference

The normal Pre-Trial requirements are set forth in Rule 16 of the Indiana Rules of Civil Procedure. The counsel who will try the lawsuit shall attend the Pre-Trial Conference in person and be prepared to discuss the following:

(1) Whether the parties are prepared to proceed to trial;

(2) Whether mediation has occurred;

(3) Whether there are pending motions;

(4) The progress of each party in obtaining stipulations of fact and authenticity of exhibits;

(5) A statement as to whether the parties are willing to waive their jury request;

(6) Whether the Court may assist in the settlement of the case;

(7) Any significant evidentiary issues;

(8) Any other matters of which the Court should be advised.

LR82-TR33-1.19

Interrogatories

A party may, without leave of Court, serve upon another party up to thirty (30) interrogatories including sub-parts.

Any party desiring to serve additional interrogatories upon another party, shall first file a written motion with the Court, identifying the proposed additional interrogatories and setting forth the reasons demonstrating good cause for their use.

LR82-TR16-1.20

Trial Briefs and Motions in Limine

Unless ordered otherwise at the scheduling conference, trial briefs and motions in limine may be furnished to the Court by the parties at least two (2) weeks prior to the Pre-Trial Conference. Copies of any such trial briefs and motions in limine shall be furnished to opposing counsel and served in the same manner as other pleadings. Opposing counsel, after having been so served, shall have seven (7) days to file any response and shall serve the other party in the same manner as other pleadings.

LR82-TR51-1.21

Instructions

At the pre-trial conference, counsel for each party shall tender a proposed "issues" instruction (see Indiana Pattern Jury Instruction 1.03). They shall also be prepared to present and discuss any non-routine preliminary or final instructions. Other proposed preliminary or final instructions may be presented to the Court and shall be served upon opposing counsel on the first day of trial. Additional or amended final instructions may be presented upon a showing of good cause or in order to conform the instructions to the evidence at trial.

LR82-TR55-1.22

Default Judgments - Attorney's Fees

Application for default judgment requesting an allowance of attorney's fees shall be accompanied by an affidavit executed by the attorney requesting the fee. The affidavit shall be in a form and substance to enable the Court to determine if attorney's fees are appropriate, and if so, the reasonable amount thereof. Said affidavit shall support the request by setting forth the authority for the Court to award attorney's fees (e.g. contract, statute, etc.) and the basis upon which the proposed fees are computed, such as the number of hours employed and the number of hours anticipated that will be employed pursuing satisfaction of judgment. In the absence of an affidavit there shall be no attorney's fees allowed.

LR82-TR69-1.23

Post-Judgment Proceeding

(A) Entry of Final Decree Required. No post-judgment proceedings shall be instituted until there is a final decree or judgment entered of record with the Vanderburgh County Clerk's Office. The Court may waive this requirement where it is shown a party is being unduly harmed by its enforcement.

(B) Waiting Period. After Judgment is obtained and an entry is filed with the Court, parties may file Proceedings Supplemental. Parties must wait seven (7) days after obtaining a judgment before filing Proceedings Supplemental with the Court.

(C) Hearings on Proceedings Supplemental. Proceedings Supplemental hearings shall not be continued for progress after an order of garnishment or a personal order of garnishment has been obtained. A subsequent Motion for Proceedings Supplemental shall only be filed if the motion sets

forth circumstances that have changed since the last hearing in regard to the defendant's financial status. No cases will be continued without date.

LR82-TR69-1.24

Garnishment of Criminal Bonds

In order for a garnishment order, lien, or assignment to be placed against a bond in a criminal case, a minute must be entered on the Chronological Case Summary for the criminal case, which minute must state the existence of a claim against the bond and setting a hearing in the criminal case to determine the priority of the claim.

If a valid claim is found to exist, it should be honored and paid after the payment of any fees or costs in the criminal matter, including but not limited to court costs, fines, attorney fee liens, restitution, retention charges, public defender fund reimbursements, community correction fees, probation user fees, treatment court fees and any other current or outstanding statutory or court-ordered fees, if any of those are ordered by the court to be paid from the bond, but before payment to the person who posted the bond. Priority of claims should be given as chronologically entered in the Chronological Case Summary.

LR82-TR73-1.25

Telephonic Conference

Argument on substantive motions and attendance at final pre-trial conferences shall be held in person and not telephonically. However, for good cause shown, the Court, on its motion or at a party's request, may direct argument of any motion and attendance at any conference to be by telephone conference.

LR82-AR7-1.26

Custody, Disposition and Withdrawal of Original Records and Exhibits

(A) Governed by Local Rules. Except as provided for in Administrative Rule 7, the custody, distribution, and withdrawal of original records and exhibits shall be governed by this rule.

(B) Court Reporter Maintains Custody. After being marked for identification, models, diagrams, exhibits and materials offered or admitted into evidence in any cause pending or tried in this Court shall be placed in the custody of the Court Reporter, unless otherwise ordered by the Court, and shall not be withdrawn until after time for an appeal has run or the case is disposed of otherwise. Should an appeal be taken, such items shall not be withdrawn until the final mandate of the reviewing Court is filed in the office of the Clerk, and until the case is disposed of as to all issues unless otherwise ordered.

(C) Retrieval. Subject to provisions of subsection A, B and D hereof, unless otherwise ordered, all models, diagrams, documents, exhibits or material placed in custody of the Court shall be retrieved by the party offering them in evidence within ninety (90) days after the case is decided. In cases in which an appeal is taken, said items shall be removed within thirty (30) days after the case is disposed of as to all issues, unless otherwise ordered. At such time of removal, a detailed receipt shall be provided by the party retrieving the evidence and filed in the cause. No motion or order is required as a prerequisite to the removal of an exhibit pursuant to this subpart.

(D) Disposal of Unretrieved Items. If the parties or their attorneys shall neglect to remove models, diagrams, exhibits or material within sixty (60) days of when the case is disposed of, the Court may direct disposition of the same.

(E) Contraband. Contraband exhibits, such as controlled substances, money and weapons shall be released to the investigative agency at the conclusion of the trial and not placed in the custody of the Court Reporter. A receipt shall be issued and a photograph substituted when such contraband exhibits are released.

(F) Withdrawal. Except as otherwise herein provided, with respect to the dispositions of models and exhibits, no person shall withdraw any original paper, pleading, record, model or exhibit from the custody of the Clerk or other office of the Court having custody thereof except by order of the appropriate Judge.

LR82-AR9-1.27

Access to Court Records

(A) Information Excluded from Public Access. The following information is excluded from public access and is confidential:

- (1) Information that is excluded from public access pursuant to Federal Law,
- (2) Information that is excluded from public access pursuant to Indiana Statute or Court Rule,
- (3) All personal notes, email and deliberative material of judges, jurors and court staff, judicial agencies, and information recorded in personal data assistants (PDA's) or organizers and personal calendars,
- (4) Diaries, journals or other personal notes serving as the functional equivalent of a diary or journal, pursuant to Ind. Code 5-14-3-4(b)(7),
- (5) Advisory or deliberative material created, collected or exchanged by, between or among Judges, including journals or minutes of Judge's Meetings, and
- (6) Information excluded from public access by specific court order.

(B) Access to Information Excluded From Public. Access to information which is excluded from public access and is confidential may not be accessed without the prior written authorization of the Judge supervising that office or department which created or archived that information. In some instances, access will require authorization from all Judges of Vanderburgh County.

LR82-AR15-1.28

Court Reporters

(A) Definitions. The following definitions shall apply under this Local Rule:

- (1) A Court Reporter is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.
- (2) Equipment means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording, storing and transcribing electronic data.
- (3) Work space means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (4) Page means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (5) Recording means the electronic, mechanical, stenographic or other recording made as required by Indiana Trial Procedure 74.
- (6) Regular hours worked means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each week.
- (7) Gap hours worked means those hours worked that are in excess of the regular hours worked but not in excess of forty (40) hours per work week.
- (8) Overtime hours worked means those hours worked in excess of forty (40) hours per work week.

(9) Work week means a seven (7) consecutive day week that consistently begins and ends on the same day throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(10) Court means the particular court for which the court reporter performs services. Court may also mean all of the courts in Vanderburgh County.

(11) County indigent transcript means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(12) State indigent transcript means a transcript that is paid for from state funds and is for the use on behalf of litigant who has been declared indigent by a court.

(13) Private transcript means a transcript, including but not limited to a deposition transcript that is paid for by a private party.

(B) Salaries and per page fees.

(1) Court reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours, or overtime hours. The supervising court shall enter into a written agreement with the court reporters which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.

(2) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be Five Dollars and Seventy-five Cents (\$5.75) for appellate transcripts and Five Dollars and Twenty-five Cents (\$5.25) for all other transcripts. The Court Reporter shall, after approval by the Court, submit a claim directly to the county for the preparation of any county indigent transcripts. All transcripts will be subject to a minimum fee of Thirty-five Dollars (\$35.00).

(3) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be Five Dollars and Seventy-five Cents (\$5.75) for appellate transcripts and Five Dollars and Twenty-five Cents (\$5.25) for all other transcripts. All transcripts will be subject to a minimum fee of Thirty-five Dollars (\$35.00).

(4) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Five Dollars and Seventy-five Cents (\$5.75) for appellate transcripts and Four Dollars and Twenty-five Cents (\$5.25) for all other transcripts. All transcripts will be subject to a minimum fee of Thirty-five Dollars (\$35.00).

(5) The maximum per page fee a court reporter may charge for the preparation of copies of a transcript shall be One Dollar and Fifty Cents (\$1.50).

(6) An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for the time spent binding the transcript and exhibit binders.

(7) An additional \$2.00 per page fee may be charged for the preparation of an expedited transcript (one which is to be completed within 10 calendar days).

(8) Each court reporter shall report, at least on annual basis all transcripts to the Indiana Supreme Court Office of Judicial Administration. The reporting shall be made on forms prescribed by the Office of Judicial Administration.

(C) Private Practice

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- (a) The reasonable market rate for the use of equipment, work space and supplies,
- (b) The method by which records are to be kept for the use of equipment, work space and supplies, and
- (c) The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

(2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

(Amended effective December 1, 2022)

LR82-AR00-1.29

Conduct, Dress, and Courthouse Policies

127.A. Professional Conduct. It is intended that the business of the Courts of the 1st Judicial Circuit will be conducted by the Judges in an atmosphere that is safe and secure, with a decorum that is appropriate to the fair and just resolution of the legal conflicts the Court is called upon to decide.

127.B. Behavior in the Courthouse. While in the courthouse within Vanderburgh County, the following behavior is required:

- (1) All persons within the courthouse shall refrain from loud, vulgar, disruptive, or abusive behavior;
- (2) Lawyers, litigants, and spectators shall refrain from unnecessary conversation in the courtroom that would disturb the proceedings. Any necessary conversation in the courthouse or in the courtroom shall be conducted at a sufficiently low voice level as not to interfere with the conduct of trials, hearings, or other proceedings before the court;
- (3) Lawyers, litigants, and spectators shall not enter the courtroom with food or beverages without prior approval of the Court;
- (4) Lawyers, litigants, or any other person within the courthouse shall not smoke or chew tobacco while in the courthouse. Chewing gum is not permitted in the courtrooms.

127.C. Appearance and Dress. Every person who enters a courtroom in Vanderburgh County should be appropriately dressed. Lawyers should appear for court proceedings in professional attire. Litigants, witnesses, and spectators to court proceedings should appear in appropriate attire.

127.D Prohibited Items. To ensure compliance with state law and to promote public safety, the following rules apply to the presence or use of specific items in and around the courthouse within Vanderburgh County:

127.D.1. Weapons No person may possess firearms, knives, or other deadly weapons while in or around the courthouse within Vanderburgh County without the prior written authorization of the Judge of the Circuit Court or the Chief Judge of the Superior Court. However, a law enforcement officer who is not a litigant in a pending matter and who is appearing as a witness or for other official purposes, may retain possession of his or her issued firearm while in the courthouse, so long as he or she advises and receives the permission of the supervisor of the courthouse security staff upon entering the courthouse.

127.D.2 Cameras, Telephones, and Other Items

- (1) To avoid disruption during court proceedings, the following items are prohibited in the courtrooms, unless explicitly permitted by the presiding judge: cameras, video cameras, or any devices capable of audio and/or video recording, that are not listed in paragraph (2) of this section.
- (2) Personal Digital Assistants, electronic books, laptops, tablets, cellular telephones, beepers, or similar electronic devices capable of making an audible noise are permitted so long as they are disabled or switched to vibrate mode prior to entering a courtroom, and so long as they are not used to take audio and/or video recordings of court proceedings.
- (3) Any other item(s) the Presiding Judge deems disruptive to the court proceedings are prohibited.

127.E Enforcement. The Sheriff of Vanderburgh County (hereinafter “Sheriff”) and his appointed deputies have been authorized to monitor and enforce compliance with these Rules. Any person violating the rules regarding weapons, cameras, cellular telephones, or other electronic devices shall be subject to immediate confiscation of the same and/or a fine of up to and including \$1,500.00.

127.F. Consent to Search. All persons entering the courthouse within Vanderburgh County, except those previously exempted by the Judges thereof, are required to pass through a magnetometer/x-ray screening point and to comply with all reasonable requests of courthouse security personnel. The Sheriff, law enforcement officers, or court security personnel may detain any person who they have reason to believe possesses any weapon or other prohibited item in violation of this Rule for a period of time sufficient to obtain name, address, date of birth, social security number, and/or to seize any weapon or other prohibited item and to take any other action authorized by law.

(Adopted July 1, 2015)

APPENDIX A SCHEDULING CONFERENCE ORDER

The parties, by their respective attorneys, reviewed the issues of the cause with the Court at a scheduling conference, and it appearing that the above litigation is at issue, the Court enters the following Order.

1. _____ shall be the date by which all parties shall have completed discovery of the issues in this cause or shall have filed their Motion to Compel Discovery.

2. _____ shall be the date when plaintiff shall have filed with the Court, and served upon opposing counsel, the specific acts of alleged negligence and/or other specific acts of breach or otherwise that the plaintiff intends to produce evidence upon at the trial.

3. _____ shall be the date by when the plaintiff shall file with the Court and serve on opposing counsel a list of plaintiff's prospective witnesses and exhibits together with an itemization of damages the plaintiff intends to produce evidence upon at the time of trial.

4. _____ shall be the date by when the defendant shall file with the Court and serve upon opposing counsel the specific acts constituting defenses alleged by the defendant that the defendant intends to produce evidence upon at the time of trial.

5. _____ shall be the date by when the defendant shall file with the Court and serve upon opposing counsel a list of defendant's prospective witnesses and exhibits together with an itemization of damages, if any, upon any Counterclaim which the defendant intends to produce evidence upon at the time of trial.

6. _____ shall be the date by when the plaintiff supplements or amends any data furnished as required above.

7. _____ shall be the date when any party may file a Motion for Summary Judgment upon pleadings and issues for trial.

8. _____ shall be the date when each party shall notify the Court that a settlement of issues is not successful and the trial date is confirmed.

9. _____ shall be the date when any party is to update their itemization of damages they intend to present evidence upon at the time of trial and for the filing of any Motions in Limine.

10. _____ shall be the date by when each party shall submit to the Courts its Proposed Preliminary, if any, and its Final Instructions for the Jury.

11. _____ shall be the date on which this cause shall be submitted to trial by jury or by Court.

12. _____ shall be the alternate date which this cause may be tried by jury.

13. _____ shall be the date on which the counsel for the parties attend a conference of attorneys as contemplated by Indiana Rules of Trial Procedure.

14. _____ shall be the date on which the Court will hold its Pre-Trial conference pursuant to Trial Rule 16 of the Indiana Rules of Trial Procedure.

15. _____ shall be the date to give Statement of Facts to Court.

APPENDIX B SCHEDULE OF ASSIGNMENT

For the current Schedule of Assignment please visit:

www.evansvillegov.org/county/departments/index.php?structureid=269

(Amended effective March 10, 2020)

FAMILY COURT RULES

LR-82-FL-00-4.01

Scope, Title and Effective Date

A. Scope. These rules are adopted pursuant to the authority of T.R. 81 of the Indiana Rules of Trial Procedure, and are intended to supplement those rules. These rules shall govern the practice and procedure in all domestic relations and juvenile paternity cases in the Vanderburgh Superior Courts.

B. Title. These rules will be known as the “Vanderburgh Superior Family Rules.”

C. Effective Date. The effective date of these rules is August 1, 2016.

LR-82-FL-00-4.02

Notice

In all relevant family law matters, the moving party shall give notice of the time and place of a hearing or of a trial, by order to appear or notice of hearing, served upon the adverse party at least five (5) business days prior to the hearing or trial and file a copy of the notice with the Court.

LR-82-FL-00-4.03

Pauper Affidavits

If a pauper affidavit is filed in lieu of Court costs, the attorney representing the party seeking pauper status shall attest on the affidavit that the attorney has made sufficient inquiry and that the attorney is of the opinion that the party requesting pauper status does qualify. In each case where a pauper affidavit has been filed and granted, the parties shall address the payment of costs in the provisional order. In a dissolution matter where one of the parties has the means to pay Court costs, the Court may require the non-pauper party to pay costs within sixty (60) days of the filing date or prior to the final hearing, whichever occurs earlier.

LR-82-FL-00-4.04

Scheduling

A. Initial Hearing. All domestic relations matters to be heard shall be initially set by the Clerk’s Office for 8:00 A.M. Monday through Friday. All juvenile paternity matters to be heard shall be initially set by the Clerk’s Office for 9:30 A.M. Monday through Friday. All attorneys of record shall contact any other attorney of record prior to setting any matter for hearing to endeavor to set the matter on an agreeable date. If a matter is set for an initial meeting, the parties and counsel are required to attend unless excused by agreement of all counsel of record. No attorney may unilaterally excuse his/her client from the initial meeting. At that meeting, the parties and counsel shall discuss in good faith a resolution of the issues. If an agreement cannot be reached, however, a contested hearing shall be scheduled. The Court Administrator, a Magistrate or a Judge will hear uncontested domestic relations matters beginning at 8:00 A.M. until 9:30 A.M. in court room 126B. The Court Administrator, a Magistrate or a Judge will hear uncontested juvenile paternity matters beginning at 9:30 A.M. until 11:30 A.M. in court room 126B. Contested issues shall not be heard by the Court at the initial hearing.

B. Contested Hearings. Contested hearings for domestic relations and juvenile paternity cases no longer than half (1/2) a day will be scheduled Mondays through Thursdays beginning at 9:00 A.M. or 1:30 P.M. before one (1) of two (2) scheduled Family Court Judges assigned to the Family Court in that particular month (See Appendix C) or 1:30 P.M. before a Magistrate and may only be set on the Family Court calendar with the consent of the Court Administrator, Magistrate or Family Court Judge, and only after the matter has been set for either an initial hearing set forth in paragraph A above or the parties each verify that they have met and consulted in a good faith effort to reach a

settlement. The parties shall verify the settlement conference, either in person on the record, or by a verified statement filed with the Court signed by the party, personally. Verification of Settlement Conference forms can be obtained from the office of any hearing officer exercising jurisdiction in Family Court. (See Appendix A) The requirement for a settlement meeting may be waived or modified for good cause shown by the judicial officer scheduled to hear the matter. Additionally, summary hearings can be scheduled for Friday mornings between 8:30 A.M. and 11:30 A.M., and 1:00 P.M. and 2:30 P. M. as set forth in Subpart “E” of this Rule and in Rule 4.05. Contested hearing for domestic relations and juvenile paternity cases lasting more than a half (1/2) day will be scheduled Mondays through Thursdays beginning at 9:00 A.M. before one (1) of the two (2) scheduled Family Court Judges. No contested hearing reserving more than a half (1/2) day shall be set unless the parties either have mediated the matter or have entered into a mediation agreement that provides that the matter must be mediated at least thirty (30) days prior to any trial setting. The mediator shall submit his/her report to the Court within five (5) days of the scheduled mediation. The Court, in its discretion, may order parties to mediate their matter regardless of the time reserved for a contested hearing or trial. This mediation requirement may only be waived by the Family Court Judge or Magistrate scheduled to hear the matter and the waiver shall be documented in the Chronological Case Summary.

C. Second Settings. Parties may schedule a contested hearing as a second setting in the same manner as described in section B above. After the matter is scheduled as a second setting in open Court, counsel and/or the party/parties if proceeding pro se, shall immediately appear in the chambers of the Family Court Judge assigned to hear the matter to schedule a pre-trial for the second setting matter on that particular Family Court Judge’s calendar.

D. Reporting to Hearing. Parties and their attorneys are ordered to report to the Court no later than thirty (30) minutes prior to the time of a contested matter and shall be present at the time set for the hearing. Failure to so comply may subject any noncomplying party and/or attorney to Court sanctions. After presiding over an evidentiary hearing, the Family Court Judge shall retain jurisdiction of the matter for future proceedings. Once a Family Court Judge retains jurisdiction, the parties may also utilize Magistrates for contested hearings with the prior approval of the Judge retaining jurisdiction, or may utilize summary hearings for future proceedings, however said Magistrate’s rulings shall be subject to the approval of the Family Court Judge who retained jurisdiction in the matter. Upon agreement of all parties, a Magistrate may retain jurisdiction of the matter.

E. Reporting of Settlements. When the parties have settled any matter which has been set for contested hearing, the parties shall immediately inform the Court that the matter has been settled so that the Court may make that time available to other parties, if possible.

F. Docket Priority. Emergency matters involving imminent threats to the health and welfare of a party, children, or the preservation of assets will be given docket priority.

1. Contested hearing times for Fridays on the Magistrate’s or Judge’s calendars shall be reserved for emergency matters, and provisional hearings. A Friday contested hearing will only be scheduled with the prior consent of the Judicial Officer who shall hear the matter.

2. Emergency matters and provisional hearings may also be heard in Summary fashion before the Magistrate scheduled to hear Friday Summary Hearings. These Summary Hearings shall be set in one-half (1/2) hour increments beginning at 8:30 A.M. until 11:30 A.M., and beginning at 1:00 P.M. and ending at 2:30 P.M. A one-half (1/2) hour summary hearing may be scheduled by the parties in the same manner as other hearings are set. If more than one-half (1/2) hour is needed,

permission must be obtained by the judicial officer scheduled to hear the matter before scheduling same, but in no event shall a summary hearing be scheduled for more than one (1) hour.

LR-82-FL-00-4.05

Summary Hearings

- A. Purpose.** By agreement of the parties all issues and evidence relevant to a domestic relations case may be presented in summary fashion. This method allows parties' access to the Court relatively quickly and with less expense. While summary hearings are not appropriate for all cases, it is believed these hearings will reduce the time most cases have to wait to be heard.
- B. Scheduling of Summary Hearings.** Summary hearings shall be heard in increments of one half (1/2) hour every Friday morning before a Magistrate beginning at 8:30 A.M. to 11:30 A.M., and from 1:00 P.M. and to 2:30 P.M. A summary hearing may be scheduled by the parties in the same manner as other hearings are set.
- C. Agreement of Parties.** All parties of record must agree to set the hearing in a summary fashion and must agree to the method of conducting the same. Testimony and evidence shall be presented in a summary fashion or by such other method agreeable to the parties. At a summary hearing, each party shall be allocated equal presentation time. Time limits at summary hearings will be strictly enforced.
- D. Exhibits.** Any exhibits to be presented at a summary hearing shall have been exchanged prior to that hearing and stipulated to in terms of admissibility. Child support guideline worksheets shall be completed and signed by the submitting party.
- E. Statement of Issues.** The Court may exercise discretion at a summary hearing in approving the method of conducting the hearing and approving the means of presenting evidence and testimony. At a summary hearing, the parties will submit to the Court, preferably in writing, or in opening statements, the issues before the Court.

LR-82-TR-65-4.06

Orders without Notice

All requests for orders without notice must comply with Ind. Trial Rule 65 and be set with the Court in accordance with local rule 4.04(F) above.

LR-82-FL-00-4.07

Agreed Matters

- A. Written Settlement.** No agreed matter shall be submitted unless accompanied with a signed agreement stating "Agreed as to Form and Substance," and other appropriate documents, such as a decree, duly executed Indiana Child Support Guidelines Worksheet, a Wage-Withholding Order, or a Qualified Domestic Relations Order. However, if the parties reach a settlement "on the Courthouse steps," then the parties shall recite the entire agreement for the record, and enter the appropriate order upon preparation and filing by counsel within thirty (30) days of reciting said agreement. The Order documenting the agreement recited in open Court shall be filed in the chambers of one (1) of the two (2) Family Court Judges assigned to Family Court during the particular month that the agreement was recited in open Court. (See Appendix C).
- B. Modifying Custody.** No change of custody agreement will be approved by the Court unless the party relinquishing custody either appears in open Court or fails to appear after proper notice of an uncontested Court setting.

LR-82-TR-58-4.08
Preparation of Orders

- A. Exchange.** It shall be the duty of the parties' attorneys to prepare decrees and other orders as directed by the Court. The attorney so directed shall first submit them to all other attorneys of record, to enable them to challenge any provision thereof, before submission to the Court for entry.
- B. Additions.** If a party is withholding approval as to form or is making additions not addressed by the Court, the matter may be set for conference before the judicial officer having jurisdiction concerning the same. The party setting the conference shall provide to the Court and to the opposing party a proposed order with the notice of the scheduled conference. The Court may enter sanctions against a party who has unreasonably withheld approval or attempted to make additions not addressed by the Court.
- C. Signatures.** The signature line for each counsel or pro se litigant on orders arising from contested matters shall indicate "Approved As to Form Only". Such signature indicates that the order correctly reflects the Court's ruling. It does not necessarily signify that the signing party or attorney agrees with that ruling.

LR-82-FL-00-4.09
Standing Order for Parental Education Workshop

The Judges of the Vanderburgh Superior Courts find that it is in the best interests of society, of children and of the Courts to encourage cooperation and mediation between separating and divorcing parents. We further find that a mandatory parental education workshop will:

Aid the children of divorcing parents;
Aid the parents in post separation parenting;
Encourage agreements between litigating parents in the best interest of their children; and Conserve the court time by reducing repetitive petitions over child custody, parenting time and support.

Therefore the Judge orders both parties to any dissolution of marriage or separation action filed in the Vanderburgh Superior Courts to attend a parental education program if the parties have a minor child or children less than the age of 17 years, 6 months at the date of filing.

The parties are responsible for paying the cost of attending the program. All or a portion of the attendance fee may be waived upon the showing of indigence.

The Lampion Center is an approved provider of a parental education program for the Vanderburgh Superior Courts. The Lampion Center's program brochures shall be provided by the Clerk of the Court to petitioners and served with the summons upon each respondent by Sheriff (See Appendix B). Other program providers are subject to approval by the Court.

The Court may waive attendance upon a showing that a party has completed a similar program, has been in individual counseling, or for other good cause in an individual case.

The workshop provider will furnish each participant and the Court with a certificate of completion of the program.

If a party fails to complete the program within seventy (70) days of service on the respondent, the Court will take appropriate action, which action may include punishment for contempt of Court.

LR-82-FL-00-4.10

Child Support Guidelines

A. Worksheet Required. In all proceedings involving child support, each party shall file with any settlement, or submit to the Court at any hearing or trial, duly executed Indiana Child Support Guidelines worksheets – one or more depending upon the facts.

B. Support Settlement Agreements. If an agreement concerning support provides any deviation from the Guidelines, the parties shall present to the Court a written explanation.

C. Income Withholding Order Required. In all proceedings involving child support, an Income Withholding Order shall be submitted with any Settlement Agreement, Final Decree, or support order in a paternity matter pursuant to Ind. Code § 31-16-15-0.5.

LR-82-FL-00-4.11

Hearings

Hearings will be limited to the time scheduled on the calendar and it shall be the responsibility of the parties to ensure adequate time for completion of a hearing. Should the parties be unable to complete the presentation within that time, the matter will be continued and reset on the calendar in the usual manner.

LR-82-TR-53.2-4.12

Continuances

Motions for Continuances of a final hearing, unless made during trial, shall be in writing, shall state with particularity the grounds, and shall be verified, with copies of such request served upon opposing counsel. Unless such Motion is accompanied by a stipulation signed by both counsels, the Motion must be scheduled on the calendar by the moving party for argument before a ruling is made. Interlocutory or post decree matters may be continued by the petitioning party, without argument or stipulation, only on the condition that no attorney has appeared of record for the nonmoving party.

LR-82-FL-00-4.13

Support Arrearage

In all information for contempt based upon nonpayment of support, where a party was ordered to make payments through the Clerk's Office, the party claiming an arrearage shall support the testimony on that issue by filing with the Court a current support printout from the Clerk's Office at the time of the hearing.

LR-82-FL-00-4.14

Attorney Fees

A. Preliminary Attorney Fees. Attorney fees may be awarded based on evidence presented by affidavit or oral testimony at a preliminary hearing. Affidavits shall be admissible subject to cross examination. The following factors will be considered:

1. The number and complexity of the issues. (e.g., custody dispute, complex asset evaluation).
2. The nature and extent of discovery.
3. The time reasonably necessary for the preparation for or the conduct of contested *pendente lite* matters or final hearings.
4. Other matters requiring substantial expenditure of attorney's time.
5. The attorney's hourly rate.
6. The amount counsel has received from all sources.

B. Preliminary Appraisal and Accountant Fees. Appraisal or accounting fees may be awarded based on evidence presented by affidavit or oral testimony at a preliminary hearing. The following factors will be considered:

1. An itemized list of property to be appraised or valued (e.g., Defined Benefit Pension, Business Real Estate, Furnishings, Vehicles, etc.).
2. An estimate of the cost of the appraisals and the basis therefore.
3. The amount of a retainer required and the reason an expert is necessary.

C. Contempt Citation Attorney Fees. An attorney may submit an affidavit, or oral testimony, along with an itemized statement of his or her requested fee. Affidavits shall be admissible into evidence by the Court.

LR-82-FL-00-4.15

Appellate Records

When an appeal is initiated by the filing of a Notice of Appeal pursuant to Ind. Appellate Rule 9 and a transcript of all or any part of the evidence is sought for the record on appeal, the counsel filing the Notice of Appeal shall contemporaneously serve a copy of the Notice of Appeal to the Court Reporter expected to prepare the transcript of the evidence, pursuant to Ind. Appellate Rule 24, and shall arrange to pay the Reporter for the preparation of the transcript as dictated by Ind. Appellate Rule 9(H).

LR-82-FL-00-4.16

Termination of Representation

A. Termination of Representation. Upon the entry of a Final Decree of Dissolution of Marriage, Legal Separation, Paternity, or an Order of modification of any custody, parenting time and/or child support, the representative capacity of all attorneys appearing on behalf of any party shall be deemed terminated:

1. After the filing of all entries due during the period of time the attorney provided representation; And upon:
2. An Order of withdrawal granted by the Court; or
3. The expirations of time within an appeal of such Order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure; or
4. The conclusion of any appeal of such Order commenced pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure.

B. Post Dissolution Service. The service of any post dissolution pleadings upon any party not represented by counsel pursuant to paragraph A above, shall be made upon that person pursuant to the Indiana Rules of Trial Procedure.

C. Professional Courtesy. Any copy served upon original counsel will be deemed to be a matter of professional courtesy only.

APPENDIX A

STATE OF INDIANA

)

) **SS:**

COUNTY OF VANDERBURGH

)

IN THE VANDERBURGH SUPERIOR COURT

IN RE THE MARRIAGE OF:

)

)

Petitioner, ,

)

)

And

)

) **CAUSE NO. 82D04__ - -DR/JP-**

)

)

Respondent, ,

)

VERIFICATION OF SETTLEMENT CONFERENCE FORM

Comes now the Petitioner/Respondent, in person, and by counsel/*pro se*, and hereby verifies and states to the Court that the parties in this case have met and consulted with each other in a good faith effort to reach a settlement in this matter.

Furthermore, Petitioner/Respondent verifies and states that the parties were unable to reach an agreement in this matter and requests that the Court schedule the above matter for a contested hearing on the Family Court calendar.

I hereby affirm under the penalties of perjury that the above representations are true and correct to the best of my knowledge, information and belief.

APPENDIX B

LAMPION CENTER *Counseling for Individuals & Families*

“TRANSPARENTING PROGRAM” SEMINAR FOR DIVORCING PARENTS

Divorce is a very stressful experience for parents and children. This four (4) hour educational program focuses on ways to help your children cope with your divorce. ATTENDANCE IS REQUIRED by Order of the Courts of Vanderburgh County. The seminars are presented by qualified professionals at Lampion Center (formerly Family & Children's Service), a United Way Agency.

REGISTRATION:

Arrangements are to be made directly with Lampion Center. To register, call the agency at (812) 471-1776 and ask to register for the TransParenting program. Your cause number from the divorce papers is required upon registration. You will also be asked to provide your name, phone number, and information about any restraining orders you may have pending with your spouse/former spouse.

PAYMENT:

The cost of the seminar is (forty-five dollars) \$45.00 per parent payable by cash, check, or money order to Lampion Center. Payment is requested upon arrival. This fee may only be waived by way of Pauper's Orders, Legal Aid referrals, and for persons receiving TANF. Documentation for any of these situations must be provided upon arrival.

TIME:

Morning Program: Generally scheduled the 1st Thursday of every month from 8:30 a.m. to 12:30 a.m. *Evening Program:* Generally scheduled the 2nd and 3rd Tuesday of every month from 6:00 p.m. to 8:00 p.m. (Must attend *both* evening sessions to complete)

Sign-in begins one-half (1/2) hour prior to class. **No one will be allowed in late.** For holidays and other reasons, the above schedule may vary. Please verify dates of classes upon registration.

LOCATION:

Lampion Center (formerly Family & Children's Service, Inc.)
655 S. Hebron Avenue
Evansville, IN 47714
(One block west of Green River Road on Hebron between Lincoln and Bellemeade Avenue)

QUESTIONS:

Call (812) 471-1776 and ask about the Seminar for Divorcing Parents.

PLEASE NOTE: No child care is provided. Please make other arrangements for the care of your children.

655 South Hebron Avenue Evansville, Indiana 47714
Phone 812-471-1776 Fax 812-469-2000
www.lampioncenter.com
A United Way Agency

APPENDIX C

For the current Schedule of Assignment please visit:

www.evansvillegov.org/county/departments/index.php?structureid=269

APPENDIX D

For the current Schedule of Assignment please visit:

www.evansvillegov.org/county/departments/index.php?structureid=269

(Amended effective March 10, 2020)

LOCAL PROBATE RULE LR82-PR-1

NOTICE

- 1.1 Whenever notice is required to be given to interested persons pursuant to I.C. 29-1-1-11 through I. C. 29-1-1-18, it shall be the duty of the attorney for the person invoking the jurisdiction of the Court to prepare and give the required notice, and to provide the Court with proof thereof.
- 1.2 Copies of pleadings shall be served with the notice of hearing thereon.

LOCAL PROBATE RULE LR82-PR-2

FILING OF PLEADINGS

- 2.1 When pleadings are filed by mail or left with the Court for filing, a self-addressed, stamped envelope shall be included for return of documents to the attorney.
- 2.2 All pleadings invoking the jurisdiction of the Court in probate matters and all proceedings thereafter shall be filed in the offices of the Probate Division of the Vanderburgh Superior Court.
- 2.3 Unless specifically authorized by the court, until approved by the Vanderburgh Superior court pursuant to Indiana Trial Rule 5(E) (2) and Administrative Rule 12, no pleadings will be accepted as filed by facsimile, email, or other electronic transmission.
- 2.4 All attorneys are required to prepare orders for all proceedings except when expressly directed otherwise by the Court.
- 2.5 Every pleading filed by or on behalf of a fiduciary in an Estate or Guardianship proceeding, including but not limited to Inventories, Petitions, and Accountings, shall be signed and verified by the fiduciary. Status Reports may be signed by the attorney for the estate with the representation that the fiduciary has been provided a copy of the Status Report.
- 2.6 All pleadings filed shall contain the attorney's name, address, telephone number and registration number.
- 2.7 The initial Petition to open an Estate or Guardianship shall contain the name, address, year of birth and telephone number of the Personal Representative or Guardian. In the event of a change in address, the individual Personal Representative or Guardian shall immediately advise the court of the new address.
- 2.8 The Instructions to the Personal Representative or Guardian, executed by the fiduciary, must be filed with the court at the time letters are ordered issued in the proceeding. (See attached Instruction forms.)

LOCAL PROBATE RULE LR82-P-3

ATTENDANCE OF PROPOSED FIDUCIARIES

- 3.1 Unless waived by the court, all proposed personal representatives and guardians who are residents of Indiana shall appear before the Vanderburgh County Clerk to qualify.
- 3.2 Unless waived by the court, non-resident personal representatives and guardians shall appear in person before a County Clerk to take their oath.
- 3.3 Such personal representative or guardian is under a continuing order of the Court to personally advise the Court and the attorney of record in writing as to any change of required information.

LOCAL PROBATE RULE LR82-PR-4

REPRESENTATION OF FIDUCIARIES BY COUNSEL

- 4.1 No personal representative or guardian of an estate may proceed without counsel without Court approval.

LOCAL PROBATE RULE LR82-PR-5

BOND

5.1 In every estate, the Court shall apply the provisions of I.C. 29-1-11 for fixing or waiving bond of the Indiana resident individual to serve as a personal representative, and shall apply the provisions of I.C. 29-1-10-1(d) to qualification of a non-resident individual to serve as a personal representative.

5.2 In every guardianship, the Court shall apply the provisions of I.C. 29-3-7-1 and 2 for establishing bond.

5.3 In the event the Court imposes restrictions upon access to property without a court order in a guardianship pursuant to I.C. 29-3-7-1 (c) (2), or access to property in an estate without a court order pursuant to I.C. 29-1-11-2, the fiduciary shall thereafter file with the Court within ten (10) days of the Order authorizing the creation of the restricted account or investment, evidence satisfactory to the court that the account or investment has been created, and that the account or investment is restricted as required by the Court's order.

LOCAL PROBATE RULE LR82-PR-6

INVENTORY

6.1 Unless otherwise ordered by the court, an inventory shall be prepared by the fiduciary in all estates and guardianships of the estate. Such inventory shall be filed in supervised estates and guardianships as follows: Supervised estates, within sixty (60) days; Guardianships of the estate, within ninety (90) days for permanent guardian and within thirty (30) days for temporary guardian. All times relate to the date of appointment of the fiduciary. The attorney for the fiduciary shall retain in his or her file the original of the inventory, or any supplement or amendment to it.

In lieu of an inventory being filed in Unsupervised Estates, a personal representative may certify to the Court that an Inventory has been prepared, under the provisions of I.C. 29-1-7.5-3.2(a) and that the same, and any supplement or amendment thereto, is available. The attorney for the personal representative shall retain in his or her file the original of the inventory, and any supplement or amendment to it. (Form: Certification of Inventory Preparation is attached).

Upon application by the personal representative, the Court may, in its sole discretion, order an inventory, or any supplement or amendment to it, to be sealed. If so ordered, it may not be opened without an order of the Court, after notice to the personal representative and an opportunity for hearing.

6.2 In the event a supplement or an amendment to an inventory is filed, all such subsequent inventories must contain a recapitulation of prior inventories.

LOCAL PROBATE RULE LR82-PR-7

REAL ESTATE

7.1 In all supervised estates and guardianships in which real estate is to be sold, a written opinion of the fair market value of such real estate shall be filed with the Court at the time of filing the Petition for Sale, unless such written opinion was filed with the inventory. A written opinion of the fair market value of such real estate may be prepared by a real estate appraiser or real estate broker licensed by the Indiana Real Estate Commission.

7.2 All written opinions of fair market value required by Rule 7.1 shall be made within one (1) year of the date of the Petition for Sale.

7.3 A copy of the deed shall be submitted with the Report of Sale of Real Estate or at the time of the hearing on the Final Account. Copies of such deeds shall be filed with the Court for its records.

7.4 Whenever a Final Decree reflects that real estate has vested in heirs or beneficiaries, evidence of recording, at the expense of the estate, a certified copy of the Final Decree in every county of this

state in which any real property distributed by the decree is situated (except Vanderburgh County) shall be provided to the court with the Supplemental Report.

LOCAL PROBATE RULE LR82-PR-8

SALE OF ASSETS

8.1 In all supervised estates and guardianships, no Petition to Sell Personal Property shall be granted unless a written appraisal prepared by a person competent to appraise such property and setting forth the Fair Market Value thereof, is filed with the Court at the time of the filing of the Petition to Sell, unless such appraisal was filed with the Inventory. This rule shall not apply to personal property that is sold at public auction.

8.2 Unless otherwise ordered by the court, all appraisals required by Rule 8.1 shall be made within one year of the date of the Petition to Sell.

8.3 No written appraisal shall be required for the sale of assets which are traded in a market and the value of which is readily ascertainable. Such assets include, but are not limited to, stocks, bonds, mutual funds, commodities, and precious metals.

LOCATE PROBATE RULE LR82-PR-9

ACCOUNTING

9.1 Whenever an estate is not closed within one (1) year, the Personal Representative shall:

- A. In a supervised estate, file an intermediate account with the Court within thirty days (30) after the expiration of one (1) year and each succeeding six (6) months thereafter. The accounting shall comply with the provisions of I.C. 29-1-16-4 and 29-1-16-6 and,
- B. Shall state the facts showing why the estate cannot be closed and an estimated date of closing;
- C. Shall propose partial distribution of the estate to the extent that partial distribution can be made without prejudice to distributees and claimants; or,
- D. In an unsupervised estate, file a statement with the Court stating the reasons why the estate has not been closed.

9.2 All accountings concerning restricted guardianship bank accounts shall contain a verification of those account balances by an officer of the financial institution in which such guardianship bank accounts are held.

9.3 All Social Security, Veterans, Retirement, or Medicare benefits received on behalf of an incapacitated person or minor shall be included and accounted for in the guardianship accountings unless Court approval has been previously granted to allow said funds to be paid directly to a residential or health care facility.

9.4 In all supervised estate and guardianship accountings, a notation shall be placed by each expenditure indicating the reason for or nature of the expenditure unless the payee name indicates the name of the expenditure.

EXAMPLE: XYZ Drug Store- Prescription Drugs for Incapacitated Person
Dr. Johnathon Doe- Doctor's Appointment
ABC Plumbing- Plumbing repairs to ward's home
Sunrise Nursing Home - January Nursing Home Care
LMN Clothing- Clothing for ward

9.5 All accountings shall follow the prescribed statutory format. Informal, handwritten, or transactional accountings will not be accepted.

9.6 In a supervised estate, all Court Costs shall be paid and all claims satisfied and released and proof presented to the Court before the hearing on the Final Account.

9.7 The Federal Estate Tax Closing Letter, or a photocopy thereof, showing payment of all Federal Estate Tax liability shall be filed prior to entry of an order on the Final Accounting.

LOCAL PROBATE RULE LR82-PR-10
FEES OF ATTORNEYS AND FIDUCIARY

10.1 No fees for personal representative, guardians or attorneys shall be paid from any guardianship or supervised estate without prior written order of the Court.

10.2 A petition for fees must be signed or approved in writing by the personal representative or guardian.

10.3 Unless otherwise ordered by the court, payment of fees in a supervised estate shall be authorized as provided in the Maximum Fee Guidelines adopted by the court.

10.4 In a guardianship an initial petition for fees may be filed upon, or after the filing of the inventory. Except as provided in paragraph 10.5, no further petition for fees will be approved until an annual, biennial or final account is approved.

10.5 When unusual circumstances require substantial work in a guardianship, the Court may award fees prior to the approval of an account.

10.6 Attorney fees for representing a minor in settlement of a claim for personal injuries are subject to Court approval. If the entire attorney fee is to be paid at the time a structured settlement is approved, the amount of the fee must be based on the present value of the settlement.

10.7 Unjustified delays in carrying out duties by the fiduciary and/or attorney may result in a reduction of fees.

LOCAL PROBATE RULE LR82-PR-11
GUARDIANSHIP

11.1 A Guardian Ad Litem appointed pursuant to I.C.29-3-2-3 will be paid reasonable compensation, considering the needs of the alleged incompetent respondent, the nature and relative difficulty of the services provided, local custom, the availability or limitations of resources of the Ward's Estate, and, in the discretion of the Court, any other considerations deemed relevant under the circumstances of the case.

11.2 In all guardianship matters seeking to declare an adult incapacitated for any reason, a Physician's Report by the doctor treating the alleged incapacitated person or such additional evidence as the court shall require, shall be presented to the Court at the time the petition is filed or on the hearing date to support the findings required by I.C. 29-3-4-1 (d). The Physician's Report shall be in a form substantially similar to the form provided by these Rules.

11.3 In every petition for the appointment of a guardian of the person of a minor child, in addition to the statements required by I.C. 29-3-5-1 (a), the following information shall also be given.

- A. The places where the child has lived within the past two years and the names and present addresses of persons with whom the child has lived during that period.
- B. Information relevant to the child's health, education and welfare.
- C. Whether, to Petitioner's knowledge, any other litigation public or private is pending or threatened concerning the custody of the child in this or any other state.
- D. Any other matters relevant to the determination of the best interests of the person or property of the incapacitated person or minor.
- E. The Court may in its discretion initiate such further investigation, and obtain a report by the division of family and children or county office of family and children as the Court deems appropriate, pursuant to I. C. 29-3-9-11.

11.4 Current reports filed by a guardian of the person pursuant to I.C. 29-3-9-6(c) shall include the present residence of the incapacitated person and his or her general welfare; if the incapacitated person is an adult, a report of a treating physician concerning in then-current health of the adult; a statement of any changes affecting the findings of the court establishing the guardianship (including

but not limited to economic changes); and the then-current living arrangements for the incapacitated person.

11.5 Guardianships for multiple minors shall not be consolidated. Each minor shall require a separate guardianship proceeding with a separate cause number.

LOCAL PROBATE RULE LR82-PR-12

MISCELLANEOUS

12.1 Scheduled court hearings shall be taken at the time scheduled, if all parties are present and ready for hearing. Parties are to notify the bailiff of their readiness status. Those matters not ready on time shall be subject to stand-by availability after the conclusion of all hearings at which parties were ready at the scheduled time.

12.2 When opening a new cause of action in the Probate Division for an estate or newborn adoption, an attorney must file the initial pleadings. Otherwise, any probate filing may be filed by an attorney or a member of the attorney's office staff.

12.3 The Court may cause a pleading to be scheduled to come before the court at a time when a contested evidentiary hearing is not possible. If so, the attorney or party filing the pleading shall serve Notice That Pleading Is Not Scheduled for Full Evidentiary Hearing (Form: Notice that Pleading is not Scheduled for Full Evidentiary Hearing is attached.) to the person or persons required by Indiana Statute or these Rules to receive notice of hearing on the pleading. The Notice That Pleading Is Not Scheduled For Full Evidentiary Hearing shall be served in addition to and in the same manner as any other notice of hearing required by Indiana statute or these Rules. However, the Notice That Pleading Is Not Scheduled For Full Evidentiary Hearing may be a separate document or may be incorporated into, and conspicuously stated as part of, any other notice required by Indiana statute or these Rules. The Court, upon application of a party and good cause shown, may grant an exception to the requirements of this Rule for a particular hearing. 12.4 The Court may adapt proceedings by standing order to effectuate the implementation of these rules, and may deviate from these rules when justice requires, but only upon showing of severe prejudice or hardship.

LOCAL PROBATE RULE LR82-PR-13

PRIVATE ADOPTIONS

13.1 Prior to filing the Petition for Adoption, if the Petitioner wants temporary custody of the child, they must complete a pre-placement adoption investigation with a licensed agency that complies with the requirements of the IN Department of Child Services, Child Welfare Manual, Resource Family Preparation Assessment. If the Petitioners have met the requirements of the Court on filing the necessary documentation for a Private Adoption the court may issue an order authorizing the Petitioners to have temporary custody of the child. If the Petitioners have not met the requirements of the Court, then they may not take physical custody of the child prior to an Order of this Court authorizing such placement. Such unauthorized custody may be grounds for (a) removal of the child from the Petitioners' custody and (b) denial of the Petition for Adoption.

13.2 A final hearing will not be scheduled without the following documents being filed with the Court.

- A. Consent of the birth mother and consent of the birth father if known. If there is a named birth father and his consent is unobtainable, then notice of the 30 Day Consent Hearing must be provided to him. All Consents must be dated, notarized or duly verified.
- B. Results of the putative father search.
- C. Written acknowledgment by birth mother of availability of up to three (3) hours of counseling at adoptive parents' expense within six (6) months following the birth of the child. This may be contained within the Consent of the birth mother.

D. Financial disclosure of paid expenses and expected expenses by Petitioners to the birth mother. This may be contained within the Consent of the birth mother.

13.3 All birth mothers under the age of eighteen (18) years or otherwise incapable of consenting to an adoption must be represented by independent legal counsel. The Court also highly recommends that all birth mothers over the age of eighteen (18) years be represented by independent counsel. Counsel for the birth mother is responsible for (a) advising birth mother as to her rights in consenting to the adoption, (b) assisting birth mother in executing a voluntary waiver of parental rights, and (c) representing birth mother at the 30 Day Consent Hearing.

All named birth fathers under the age of eighteen (18) years or otherwise incapable of consenting to an adoption must be represented by independent legal counsel.

The payment of birth mother and birth father's attorney fees shall be the responsibility of the adoptive parents, regardless of whether the adoption is approved.

13.4 A consent hearing will be set within thirty (30) days of the filing of the Petition for Adoption. If the birth mother is represented by legal counsel, but is under the age of eighteen (18) years or is otherwise incapable of consenting to an adoption, then her attendance at the 30 Day Consent Hearing is required. If the birth mother is represented by legal counsel, is over the age of eighteen (18) years, and is otherwise capable of consenting to the adoption, then her attendance at the 30 Day Consent Hearing is not required. If birth mother is not represented by legal counsel, then she must be given notice of the 30 Day Consent Hearing. The Petitioners shall not be allowed to attend any 30 Day Consent hearing in which the birth mother is under the age of eighteen (18) years or otherwise incapable of consenting to an adoption; however, counsel for the Petitioners may attend. If a named birth father is under the age of eighteen (18) years, then his attendance at the 30 Day Consent Hearing is required. The Petitioners shall not be allowed to attend any 30 Day Consent Hearing in which the named birth father is under the age of eighteen (18) years or otherwise incapable of consenting to an adoption; however, counsel for the Petitioners may attend.

13.5 No adoption can be finalized until at least one (1) post placement report is filed with the Court. The post placement report must be based on a visit by a licensed agency or the DCS no sooner than thirty (30) days after the Court has granted temporary custody to the Petitioners. The Court presumes that there will be a one (1) year supervisory period on most adoptions, but this requirement can be waived for good cause. When a waiver is sought the pleading should state the reasons why the petitioner believes the one year is not necessary. In the event that the waiver request is denied, the petitioner can request a hearing on the matter.

LOCAL PROBATE RULE LR82-PR-14 **PROBATE CLERKS**

14.1 The Vanderburgh County Clerk authorizes the deputizing of three (3) employees of the Vanderburgh Superior Court, Probate Division, to perform the duties in accordance with the Constitution of the United States of America and the Constitution of the State of Indiana with regard to any and all documents requiring the signature of a deputy clerk filed on behalf of Estates, Will Contests, Guardianships, Trusts, Adoptions, and any other documents in which the presiding Judge of the Vanderburgh Superior Court, Probate Division, authorizes said deputies to sign. The Vanderburgh County Clerk further authorizes said deputies to administer oaths, and two of the deputies are authorized to issue receipts for court costs and miscellaneous copies for all estates, trusts, guardianships, and adoptions filed in the Vanderburgh Superior Court, Probate Division.

14.2 Probate filings will be reviewed by a clerk or other staff of the Vanderburgh Superior Court, Probate Division, for completeness and compliance with these rules. Any filing which is incomplete or which is not in compliance with these rules shall not be filed and shall be returned to the filing attorney with an explanation of the reason for refusal. If an attorney believes a clerk or other staff member is misinterpreting the statutes, these rules, or any other law, or is being unreasonably particular concerning the proposed filing, said attorney shall provide a copy of the proposed filing and a *concise* explanation of the issue to the probate magistrate or judge for resolution.

LOCAL PROBATE RULE LR82-PR-15
INSOLVENT ESTATES

15.1 If an estate is believed to be insolvent, such estate shall be opened as a supervised estate. If, during the administration of an unsupervised estate, it is determined that the estate is insolvent, a petition shall be filed by the personal representative informing the court of that fact, and said estate shall be converted

15.2 Notice of hearing to be held on Petition to Determine an Estate Insolvent shall be served on all interested parties, including the Vanderburgh County Assessor, all claimants, and all reasonably ascertainable creditors.

LOCAL PROBATE RULE LR82-PR-16
EMERGENCY PETITIONS AND MOTIONS

16.1 In the event of an emergency, a pleading detailing the emergency circumstances can be filed with the Court at which time the probate magistrate or judge will determine whether an expedited hearing is necessary. In the event that neither probate officer is available to review the request or hear the matter, the party may seek assistance through the Family Division of the Vanderburgh Superior Court.

INSTRUCTIONS TO PERSONAL REPRESENTATIVE OF SUPERVISED ESTATE

Read the following carefully; then, date and sign one copy and return it to the Court. Keep a copy for your reference.

You have been appointed PERSONAL REPRESENTATIVE of the Estate of a deceased person. It is important that you understand the significance of the appointment and your responsibilities. This makes you what is known in law as a fiduciary charged with the duty to act responsibly in the best interests of the estate and impartially for the benefit and protection of creditors and beneficiaries. You may be held personally liable if you breach this trust.

This is a SUPERVISED ADMINISTRATION. This means that your actions are supervised almost entirely by the Court; therefore, before you take any action of importance to the Estate, such as the transfer or sale of assets, you must first seek the permission of the Court. If you have any questions as to whether to seek court permission, you should discuss this with your attorney before taking any action.

Listed below are some of your duties but not necessarily all of them. Ask the attorney for the Estate to fully explain to you each of the items below and to tell you about any other duties you have in your particular circumstances. Although the attorney will assist you, the ultimate responsibility to see that the estate is properly handled rests with you.

INVESTIGATE, COLLECT AND PROTECT THE PROPERTY OF THE DECEDENT

1. Inspect all document and personal papers of the decedent and retain anything pertinent to tax reporting, location and value of assets, debts or obligations of or to the decedent or any other items of significance to the administration of the estate of the decedent.
2. Complete change of address form at Post Office to have mail forwarded to you.
3. Keep a separate checking account or other type of transaction account for the Estate and keep a record of all receipts and disbursements. Never commingle Estate funds with any other funds or use them for other than Estate purposes. Accounts and securities which are registered to the Estate should be in your name as Personal Representative for the Estate of (name of Decedent). Retain all paid bills and canceled checks or other evidence of disbursement or distribution of any funds or assets of the Estate for the Final Report of the Court.
4. Locate and secure all property in which the decedent had any interest, separately or jointly. Maintain adequate insurance coverage.
5. Determine the values of all assets on the date of death, obtaining appraisals or market analyses if needed.

6. Collect any proceeds of life insurance on the life of the decedent which is payable to the Estate. Obtain Form 712 from the insurance company, if needed for taxes.
7. Sign your name as Personal Representative for the Estate of (name of decedent) on accounts and securities which are registered to the estate.
8. Within two (2) months after you qualify and receive Letters of Personal Representative, you must file with the Court an inventory of all property found belonging to the decedent on the date of death and giving values as of the date of death.

PAY VALID CLAIMS AND KEEP RECORDS OF ALL DISBURSEMENTS

9. Personally notify decedent's creditors whom you can reasonably ascertain. Others are notified by publication in the newspaper. Generally, creditors have three (3) months after the date of first publication to submit their claims.
10. Pay legal debts and funeral bills and keep notations indicating the reason for each payment.
 - A. Pay only priority claims timely filed if there is a question of solvency of the estate.
 - B. Do not pay bills which are doubtful but refer them for Court determination.
11. Prepare and file the appropriate state and federal income, estate and inheritance tax forms in a timely manner. Pay taxes due or claim applicable refunds.
12. Pay court costs when due; however, attorney fees and fiduciary fees are only paid after written Court order.
13. Keep records of all receipts and all paid bills and canceled checks or other evidence of distribution of any funds or assets of the estate for the Final Report to the Court.

DISTRIBUTE THE ASSETS OF THE ESTATE AND CLOSE THE ESTATE

14. File a Final Account with this court (with vouchers or canceled checks) within one year from the date you received your Letters from this Court. If you cannot meet this deadline, you must show good cause for an extension.
15. After Court authorization, make distributions to the proper heirs of beneficiaries and obtain receipts for these.
16. File a supplemental report to the Court (with vouchers or canceled checks) and obtain an order for closure of the estate.

I authorize my attorney to notify the Court in the event that he or she has reason to believe that I am not timely performing or improperly performing my fiduciary duties to the beneficiaries and creditors of the estate even if such information would be otherwise confidential.

BRETT J. NIEMEIER, JUDGE
VANDERBURGH SUPERIOR COURT
PROBATE DIVISION

I acknowledge receipt of a copy of the above instructions and have read said instructions carefully.

Dated:

Cause Number 82D04 - ____ - ES- ____

ESTATE OF:

BY:

PERSONAL REPRESENTATIVE

I hereby certify that the foregoing Court Record or document complies with the requirements of Trial Rule 5(G) with regard to information excluded from the public record under Administrative 9(G).

Counsel of Record

INSTRUCTIONS TO PERSONAL REPRESENTATIVE OF UNSUPERVISED ESTATE

Read the following carefully; then, date and sign one copy and return it to the Court. Keep a copy for your reference.

You have been appointed PERSONAL REPRESENTATIVE of the Estate of a deceased person. It is important that you understand the significance of the appointment and your responsibilities.

Listed below are some of your duties but not necessarily all of them. These duties are not listed in any order of priority. Ask the attorney for the Estate to fully explain to you each of the items below and to tell you about any other duties you have in your particular circumstances. Although the attorney will probably file all papers with the Court, the ultimate responsibility to see that reports and returns are accurately prepared and filed rests with you. As PERSONAL REPRESENTATIVE, you are required to:

1. Locate all property owned individually or otherwise by the decedent at the date of death; and ascertain the value of such assets as of date of death. Secure all property in safekeeping and maintain adequate insurance coverage; keep records of the assets. If applicable, obtain an appraisal of the property.
2. Keep a separate checking account or other type of transaction account for the Estate and keep a record of all receipts and disbursements. Never commingle Estate funds with any other funds or use them for other than Estate purposes. Accounts and securities which are registered to the Estate should be in your name as Personal Representative for the Estate of (name of Decedent). Retain all paid bills and canceled checks or other evidence of disbursement or distribution of any funds or assets of the Estate for the Closing Statement to be filed with the Court.
3. Within two (2) months after you qualify and receive Letters of Personal Representative, you must file with the Court an inventory of all property found belonging to the decedent on the date of death and giving values as of the date of death. In lieu of an inventory being filed a personal representative may certify to the Court that an Inventory has been prepared and the same distributed to each distributee. (Form available in the Probate Division)
4. You may need to obtain Consent to Transfer forms from the county Assessor for accounts and securities in order to transfer such assets.
5. Collect any proceeds of life insurance on the life of the decedent which is payable to the Estate. Obtain Form 712 from the insurance company, if needed for taxes.
6. Have mail forwarded; complete change of address forms at the Post Office.

7. Inspect all documents and personal papers of the decedent and retain anything pertinent to tax reporting, location and value of assets, debts or obligations of or to the decedent, or any other items of significance to administering the final affairs of decedent.
8. Pay all legal debts and funeral bills; however, pay only priority claims timely filed if there is any question of solvency of the Estate. Do not pay bills which are doubtful but refer them for Court determination. Do not make any distribution to any heir or beneficiary until at least five (5) months after the date of first publication by notice.
9. Prepare and file returns and pay taxes due (or claim any refund) for both State and Federal income taxes for the tax year in which the decedent died and any prior years, if applicable.
10. Prepare and file any required Federal Estate and Federal Gift Tax Returns and pay any such taxes owed.
11. Unless subject to an exception, obtain a federal tax identification number for the Estate. Choose a tax year for the Estate; file Estate income tax returns and pay any tax due for both State and Federal income tax.
12. Make distribution and obtain receipts for distributions.
13. File a Closing Statement, with receipts for distribution if already made; send a copy thereof to all distributees of the estate and to all creditors or other claimants whose claims are neither paid nor barred; furnish a full account in writing of the administration to the distributees. File original vouchers with the court.
14. Pay Court costs and expenses of administration when due.
15. Make payments and distributions to the right persons. You are responsible for incorrect payments or distribution.

BRETT J. NIEMEIER, JUDGE
VANDERBURGH SUPERIOR COURT
PROBATE DIVISION

I acknowledge receipt of a copy of the above instructions and have read and will follow said instructions carefully.

Dated:

Cause Number 82D04-____ - EU-____

ESTATE OF:

BY:

PERSONAL REPRESENTATIVE

I hereby certify that the foregoing Court Record or document complies with the requirements of Trial Rule 5(G) with regard to information excluded from the public record under Administrative 9(G).

Counsel of Record

INSTRUCTIONS TO GUARDIAN

Read carefully; date and sign one copy and return it to this Court within ten days. Keep a copy for your reference.

You have been appointed the Guardian of an individual, Protected Person, who, because of some incapacity, is unable to care for his/her own financial and/or personal affairs. It is important that you understand the significance of this appointment and your responsibility as Guardian.

In order to qualify and have your Letters issued to you, you may be required to post a bond in the amount set by the Court and to take an oath to faithfully discharge your duties as Guardian. The Bond assures the Court that you will properly protect the assets of the Protected Person.

Listed below are some of your duties, but not necessarily all of them. You are directed to ask the Attorney for the Guardianship to fully explain to you each of the items below and to tell you about the other duties you have in your particular circumstances. Though the Attorney will file all papers with the court, the ultimate responsibility to see that all reports, etc., are accurately and timely prepared and filed, rests with you.

As GUARDIAN of the financial affairs of the Protected Person, you are required to:

1. File with the court, within ninety (90) days after your appointment, a verified Inventory and appraisal of all the property belonging to the Protected Person;
2. File with the court a verified account of all the income and expenditures of the Guardianship every two (2) years after your appointment;
3. If assets were placed in a restricted account you are to file an accounting every two (2) years, together with a statement from the financial institution showing the current balance of the funds and that the same remain in an account that is restricted;
4. Pay bond premiums as they become due;
5. File Federal and State Tax Returns for Protected Person and pay taxes;
6. File a final accounting, detailing all property and income received and all expenses paid with receipts to verify each expenditure with the Court upon the termination of the guardianship or upon the death of the Protected Person;
7. Keep all of the assets of the Protected Person separate from your own;
8. Open an account where the canceled checks are returned to you, in your name as Guardian, in which all of the cash assets of the Protected Person are deposited. This account must be used for all payments or disbursements on behalf of the Guardianship and the Protected Person;
9. Obtain approval from the Court to use Guardianship assets.

It is your duty to protect and preserve the Protected Person's property, to the account for the use of the property faithfully and to perform all the duties required by law of a Guardian.

You may NOT make expenditures or investments from the Guardianship funds without court authorization.

Guardianship funds must never be commingled with personal funds. A separate account for all Guardianship assets must be kept in your name as Guardian. Accurate accounts must be kept and accurate reports made. Unauthorized use of Guardianship funds can result in your being personally liable for the misuse of those sums.

As GUARDIAN of the personal affairs of the Protected Person, you are required to:

- A. Make certain that the physical and mental needs of the Protected Person (food, clothing, shelter, medical attention, education, etc.) are properly and adequately provided for;
- B. File with the Court a status report as to the physical condition and general welfare of the Protected Person every two (2) years after your appointment if said Protected Person is over the age of eighteen (18).
- C. File with the Court a status report as to the physical condition and general welfare of the Protected Person yearly after your appointment of said Protected Person is a minor.

It is important to understand that you have the same duties and responsibilities concerning the Protected Person whether or not the Protected Person is your relative.

If at any time you have a change of address, please notify the Court immediately so that we may make that change to the Court file.

If any questions arise during the Guardianship, you should consult with your Attorney immediately.

I acknowledge I have read and understand the above instructions and agree to follow them carefully, and further that I have kept a copy for my continued use and review.

Dated:

Cause Number:

The Guardianship of:

By: _____, Guardian

I hereby certify that the foregoing Court Record or document complies with the requirements of Trial Rule 5(G) with regard to information excluded from the public record under Administrative 9(G).

Counsel of Record

82D04- - EU-
IN THE MATTER OF THE UNSUPERVISED
ESTATE OF _____,
DECEASED _____,

Date:
Time:
Probate Division
Administration Building
Room 129
One N.W. Martin Luther King Jr. Blvd.
Evansville IN 47708

**NOTICE THAT PLEADING IS NOT
SCHEDULED FOR FULL EVIDENTIARY HEARING**

The pleading attached to this Notice is scheduled to come before the court on a day and time when it will not be possible to conduct a full evidentiary hearing; only a brief hearing is scheduled. A full evidentiary hearing involves questioning and cross-examination of opposing witnesses, presentation of exhibits supporting positions of two (2) or more opposing parties, and more than brief legal arguments to the Court. Therefore, you should not expect the Court to conduct a full evidentiary hearing on the date of which you are being notified.

If you oppose the action requested in the attached pleading and want the Court to conduct a full evidentiary hearing on whether the pleading should be granted, you must respond to the pleading and request a full evidentiary hearing in one (1) of the following ways. First, you may appear in person or by your attorney at the date and time of which you are now being notified and object to the pleading and request a full evidentiary hearing. Or you may state your opposition and request for a full evidentiary hearing in writing by serving it **BEFORE** the date of which you are now being notified on the Court and the party which filed the attached pleading; the writing must be signed by you or your attorney and must contain the address which you stipulate as adequate for further notice to you. In addition, statutes or court rules of Indiana or these Rules require a specific responsive pleading or specific contents in a response to the pleading attached, and the responding party shall comply therewith.

The court has the authority to order a prehearing conference, additional pleadings or responses, legal briefs, or alternate dispute resolution prior to scheduling a full evidentiary hearing.

Vanderburgh Superior Court
Probate Division
Administration Building
Room 129
One N.W. Martin Luther King Jr. Blvd.
Evansville IN 47708

I hereby certify that the foregoing Court Record or document complies with the requirements of Trial Rule 5(G) with regard to information excluded from the public record under Administrative 9(G).

Counsel of Record