LOCAL RULES
OF THE
RANDOLPH SUPERIOR COURT
WINCHESTER, INDIANA

Whereas, Trial Rule 81 strongly encourages the adoption of a single set of local rules for use in all courts of record in a county; and

Whereas, State statute has been amended to make the jurisdiction of the Randolph Superior Court the same jurisdiction as the Randolph Circuit Court; and

Whereas, the Judges of the Randolph Circuit Court and the Randolph Superior Court are drafting a unified set of local rules for both Courts; and

Whereas, to make local rules uniform in the interim time,

NOW THEREFORE, the Randolph Superior Court adopts as local rules for the Randolph Superior Court the local rules of the Randolph Circuit Court, including all joint rules of the Courts.

Dated this 15th day of March, 2005.

Peter D. Haviza

Judge, Randolph Superior Court

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RULES OF THE RANDOLPH CIRCUIT COURT

The following rules are adopted as the Local Rules of the Randolph Circuit Court, effective as of May 1, 1993.

Rule 1. Form and Style of Pleadings and Clerk's Custody of Originals

(A) No document shall be filed in any case or proceeding without the name of the Court, title of the case or proceeding, and cause or docket number.

(B) No document shall be filed in any case or proceeding measuring in excess of 9 inches wide or 11 inches long, without leave of Court.

(C) Only one original document is required unless a statute requires otherwise.

(D) No original document shall be removed from the custody of the Clerk or Court without leave of Court.

Rule 2. Pleadings and Process to be Furnished Clerk by Filing Parties

(A) The attorney filing a new case, or the moving party redocketing a case, shall prepare and furnish sufficient copies of the pleadings and process required by ITR 4 including applications for provisional restraining orders. In redocketed cases, copies of informations, petitions for contempt citations, and petitions to modify, shall be supplied in sufficient number to accompany process.

(B) The attorney or moving party shall also prepare and furnish all summonses or process required for service of process. The summonses or process shall include a form for return of service.

Rule 3. Waiver of Filing Fees

The applicant for leave to prosecute or defend a civil action, including dissolution of marriage actions, as a poor person, under the provisions of IC 34-1-1-3, must personally appear before the Court and satisfy the Court of the alleged indigent status. If represented by counsel, a proposed order book entry must be submitted.

Rule 4. Motions

(A) Pursuant to ITR 73, the Court designates 9:00 o'clock a.m. on Friday morning of each week for disposing of motions that require hearing.

(B) If a motion is filed with the Clerk and not brought to the attention of the Judge by the filing or moving party within 5 days, the Clerk in its discretion may defer ruling on such motion until a pre-trial conference.

(C) A Motion based on facts outside of the record must be supported by affidavits. The adverse party may file counter-affidavits.

(D) The Court may order an issue of fact arising on a motion to be determined exclusively upon the basis of affidavits, without hearing of any oral testimony. This rule is particularly applicable with respect to motions for provisional order, temporary custody, or a restraining order in dissolution of marriage cases.

Rule 5. Continuances

(A) No motion for continuance may be presented orally or by telephone, unless based upon death, illness, or other sudden and unforeseeable occurrence.

(B) A motion for continuance will not be granted ex parte. If it does not satisfactorily appear that the adverse party has consented to a continuance, the party filing a motion for continuance must bring it to the attention of the Judge and request a hearing date.

(C) A motion for continuance predicated upon a conflicting date in another case or other court or tribunal must be filed promptly upon discovery of the conflict by counsel.

(D) No continuance will be granted unless a proposed order is submitted to the Court.

Rule 6. Clerk's Service of Rulings Upon Motions, Orders and Judgments

(A) With regard to a ruling, order or judgment which the Clerk is required to serve upon a party under ITR 72 (D), if a party is represented by more than one attorney, the Clerk may make service upon local counsel or any one of the attorneys of record for such party.

(B) The Clerk shall maintain a depository in the Clerk's Office for each member of the local Bar, and may serve attorneys by placing pleadings for process in the depository maintained in the Clerk's Office for such attorney.

Rule 7. Clerk's Records and Books

(A) The Clerk shall maintain a Civil Docket as required by ITR 77. This Court takes judicial knowledge of the fact that since the effective date of the 1970 Civil Rules of Procedure, the Clerk of this Court has maintained all entries as required by ITR 77 and the Local Rules of the Court upon books in the Clerk's Office entitled "Civil Entry and Issue Docket and Fee Book" as well as bound volumes used in venued cases entitled "Change of Venue Record." By local

rule of this Court, these books constitute the Clerk's Civil Docket for purposes of ITR 77.

(B) All papers filed with or transmitted to the Clerk other than depositions or discovery papers, all process issued and returns made thereon, all appearances, orders, verdicts, judgments, enforcement proceedings, executions and returns thereon, shall be entered chronologically in such Civil Docket in the columns, spaces or folios provided for same, and such papers shall be identified with the cause number and file marked on the date filed as required by ITR 77 and placed in the proper case file.

(C) An inter-office procedure shall be formulated between the Judge and Deputy Clerk serving the Circuit Court so as to assure that a daily log is maintained between the Judge's staff and the Clerk's staff in such a manner as may be reasonably calculated to result in all pleadings, papers, rulings, orders and judgments being entered in the Clerk's Civil Docket as well as the Judge's Bench Docket.

(D) Depositions and discovery papers shall be filed and made a part of the record of the proceedings only as ordered by the Court from case to case.

(E) Every ruling, order or judgment signed by the Judge and filed with the Clerk shall be typed into the Civil order book daily for each day except for signatures and formal parts. It is unnecessary to show in the Civil Order Book any record or reference to the filing of pleadings or papers which are noted filed in the Clerk's Civil Docket. The entries in the Order Book for each day shall be examined by the Regular Judge of this Court and if found correct shall be approved and signed by the Regular Judge of this Court. Provided, however, that any Special Judge or Judge Pro Tem may examine and sign entries which have been made by such Special Judge or Judge Pro Tem.

(F) The Clerk shall stamp or mark upon every written ruling, order or judgment copied into the Civil Order Book, the book and page(s) of the Civil Order Book into which every such ruling order or judgment is copied. The Judgment Docket maintained by the Clerk shall also show the book and page in the Civil Order Book where all judgments are recorded.

(G) The Clerk shall also maintain a Criminal Order book, Probate Order Book, Juvenile Order book, and an Adoption Order Book, and all entries shall be typed into such order books on a daily basis. It shall be necessary to show in such order books all pleadings or papers which are filed and made a part of the record in any criminal case, probate, guardianship, or trust, juvenile case, or adoption proceeding. The entries in the order book for each day shall be examined, corrected, or approved by the Regular Judge of this Court except that a Special Judge or Judge Pro Tem may examine and sign entries which were made by a Special Judge or Judge Pro Tem.

(H) After a case has been closed, and the time for appeal has expired, the Clerk shall prepare the case file for microfilming. The Clerk shall remove and destroy duplicate or extra copies of papers as well as correspondence and notes which constitute no part of the official record. As nearly as possible, the papers shall be arranged in the same sequence as noted filed on the docket sheet, which docket sheet shall be microfilmed along with the case file. Depositions or discovery papers made a part of the record shall not be microfilmed but shall be retained as long as required by Administrative Rules adopted by the Indiana Supreme Court.

(I) It is ordered by the Court that the following records which the Clerk is required by law to maintain shall be kept and maintained solely on microfilm: (1) Record of Accounts; (2) Guardians Inventory Records; (3) Bonds of Personal Representatives, Guardians, and Fiduciaries; (4) Record of Criminal Informations and Indictments; (5) Registry of Foreign Support Orders and Out-Of-State Custody Decrees.

Rule 8. Clerk's Certificate of Default

Where a party against whom a judgment or affirmative relief is sought, has failed to file an appropriate defense or objection, and this fact appears to the Clerk from examination of the pleadings and records, the Clerk may prepare and file a certificate of default. The party against whom a judgment or affirmative relief is sought may be defaulted, in the manner provided by Indiana Trial Rule 55(A). This Rule shall not prevent a party from being defaulted, where the fact is made to appear by affidavit or otherwise, without such a certificate being filed by the Clerk.

Rule 9. Attorneys and Local Bar

(A) Only attorneys admitted to practice by the Indiana Supreme Court may practice in this Court. Upon application, attorneys from other states may be granted permission to appear in a particular proceedings, provided by A.D. Rule 3.

(B) The local bar consists of local attorneys whose names and addresses are enrolled on the Official Record maintained by this Court for that purpose.

Rule 10. Appearances and Withdrawals

(A) It shall be the duty of all attorneys, when entering an initial appearance in any matter, to comply with Indiana Trial Rule 3.1 (as amended), which appearance shall be signed by the attorney and served upon all other parties or counsel in the cause.

(B) If an attorney desires to withdraw from a proceeding, the attorney shall file a petition requesting leave to do so, which petition shall disclose the client's last known address. The attorney shall serve a copy of the petition and notice of hearing upon the client. This rule does not apply if the withdrawal of appearance is preceded or accompanied by the appearance of new counsel.

Rule 11. Trials

(A) Pursuant to ITR 40, actions shall be placed upon the trial calendar of this Court "without request of the parties." Criminal and juvenile cases shall have priority over civil cases, and if no other priority is provided by law, civil cases shall be set for trial in the order that they stand on the docket; the older the case, the greater the priority.

(B) Morning sessions of the Court will normally convene at 9:00 a.m. and recess at noon. Afternoon sessions will normally convene at 1:00 p.m. and recess at 4:00 p.m. All attorneys, officers of the Court, jurors, witnesses, and litigants shall be present and ready to perform their respective duties, promptly, at the time fixed for same. All participants in a hearing or trial shall conduct themselves in a respectful and courteous manner. Attorneys shall remain seated at counsel tables, during all examination of witnesses, to the extent possible. Only one attorney for the party will be permitted to examine or cross-examine a witness, unless leave of court is obtained otherwise. No shouting is permitted. Likewise, no loud or distracting private conversations will be permitted in the Court.

(C) In cases where oral voir dire examination is permitted, plaintiff (or side with the burden of proof) in a civil case, or prosecution in a criminal case, shall proceed first. After a party has two opportunities to examine a prospective juror, peremptory challenges and challenges for cause shall be exercised, and shall not be permitted to thereafter challenge a prospective juror except by leave of court.

(D) If counsel desires to question a prospective juror regarding potentially prejudicial material or publicity, counsel shall request leave to conduct such examination outside of presence of the other members of the jury panel.

Rule 12. Custody and Disposition of Exhibits; Retention of Shorthand Notes and Cassette Tapes by Court Reporter

(A) All exhibits, papers, maps, pictures and physical objects offered or admitted into evidence upon any hearing or trial shall be retained by the Court Reporter during the pendency of a case or proceeding.

(B) After and if dismissal or final judgment, no appeal is pending, and if more than six (6) months have elapsed since the case became final, the Court Reporter

may permit parties or their attorneys to pick up any items they introduced into evidence. The Court Reporter is authorized to destroy all exhibits not picked up within twelve (12) months of final judgment or final disposition. However, this rule shall not apply to exhibits in criminal or juvenile cases where there is any possibility of challenging a conviction or sentence, nor does this rule apply to matters which Indiana Criminal Rule 5, as amended January 1, 1988, requires to be retained. Disposition of property seized as evidence in criminal cases is also affected by IC 35-1-6-5.1.

(C) The Court Reporter may dispose of shorthand notes and reuse cassette tapes, in cases where the preceding rule authorizes destruction of exhibits. However, the Court Reporter shall not dispose of any notes or cassette tapes in the type of case to which the foregoing rule does not apply as in juvenile or criminal cases unless a transcript has been made in manner provided by Indiana Criminal Rule 5.

Rule 13. Pretrial Conference and Time Limit for Discovery

All discovery shall be either completed prior to the holding of a pretrial conference. In addition, parties shall exchange witness lists, prepare all stipulations or exhibits and copies of admissions. If a litigant is unable to complete discovery prior to a scheduled pretrial conference, they shall be obligated to move for a continuance of the pretrial conference. No discovery will be permitted following the pretrial conference, except by leave of Court.

Rule 14. Perfecting Change of Venue from County

In cases where a change of venue is ordered to another county, the costs of such change must be paid by the moving party within ten (10) days, unless otherwise ordered. If costs are not paid, upon application by any interested party, the Court may resume jurisdiction and deny the change of venue.

Rule 15. Hearings on Petitions to Modify Provisions of Divorce or Dissolution Decree

In modification proceedings concerning custody, visitation or support of minor children, the Court shall set the hearing before any process or notice of hearing is issued by the Clerk. The matter shall stand for hearing on the date fixed in the notice of hearing, with or without responsive pleadings, unless a continuance or adjournment is ordered by the Court. A continuance will be granted in contested cases at the request of counsel, if the application for continuance is made at least 3 days before the date fixed for hearing. In cases where the request for continuance is made within 3 days, or on the date of hearing, particularly in cases where the request comes too late to get word to the other party or his witnesses to prevent them from appearing for hearing, the Court may, in its discretion, reject the application for continuance in whole or in part, or the Court may

permit the party, or the witnesses who appear for hearing, to testify and adjourn the hearing to a later date for the hearing of additional evidence.

Rule 16. Income Verification

Upon filing a Petition for Dissolution or for Modification of Support Order, Petitioner shall file income documentation (two current pay stubs within prior 45 days and previous year's income tax return or W-2) with the Clerk within 7 days of filing the Petition. Within 10 days after serve of the Petition, Respondent shall file the same income documentation with Clerk.

Rule 17. Hours of Judge's and Clerk's Office

The Judge's Office and Clerk's Office shall be open to the public five days per week from 8:00 o'clock a.m. until 4:00 o'clock p.m.

Rule 18. Court Reporter Transcripts

The following definitions shall apply under this local rule:

(A) DEFINITIONS

a. A Court Reporter is a person specifically designated by the Court to perform official court reporting services, including preparing a transcript of the record.

b. 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 and storing, and transcribing electronic data.

c. Work space means that portion of the Court's facilities dedicated to each Court reporter, including but not limited to actual space in the Court room and any designated office space.

d. 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.

e. Recording means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

f. Regular hours worked means those hours which the Court is regularly scheduled to work during any given work week.

g. Gap hours worked means those hours worked in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

h. Overtime hours worked means hours worked in excess of forty (40) hours per work week.

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

j. Court means the Randolph Circuit Court.

k. County indigent transcript means a transcript paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a Court.

l. State indigent transcript means a transcript paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a Court.

m. Private transcript means a transcript, including but not limited to a deposition transcript, paid for by a private party.

(B) PREPARATION OF TRANSCRIPTS – INDIGENT AND PRIVATE

a. The Court Reporter shall be paid an annual salary for time spent working under the control, direction and direct supervision of the Court during regular work hours, gap hours, and overtime hours.

b. The Court Reporter shall be paid $3.50 per page for county indigent transcripts which are prepared outside of regular work hours.

c. The Court Reporter shall submit a claim for the preparation of the county indigent transcripts directly to the appropriate county officials.

d. The Court Reporter shall be paid $3.50 per page fee for state indigent transcripts which are prepared outside of regular work hours.

e. The Court Reporter shall be paid $3.50 per page fee for private transcripts.

f. The Court Reporter shall file an annual report with the Indiana Supreme Court Division of State Court Administration, on forms prescribed by the

Division, of all transcript fees (county indigent, state indigent, or private) received.

g. If the Court Reporter elects to engage in private practice, which shall be conducted outside of regular working hours, through recording of a deposition and/or preparing of a deposition transcript, and the Court Reporter desires to utilize the Court's equipment, work space or supplies, and if the Court agrees to the use of 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:

I. the reasonable market rate for the use of equipment, work space, or supplies;

II. the method by which records are to be kept for the use of equipment, work space or supplies;

III. the method by which the Court Reporter is to reimburse the Court or the county for the use of the equipment, work space or supplies; and

IV. payment for gap and overtime hours; (i.e. either monetary compensation or compensatory time off regular work hours),

which agreement shall be singed by the Court Reporter and filed in Court Reporter's personnel file.

Rule 19. Attorney's fee in Suits on Contracts and Written Instruments

In all cases where a contract, note or written instrument authorizes attorney fees, in the absence of evidence to the contrary, such fees shall be calculated as follows:

Amount of Debt	Amount of % Rate
$400.00 or less	50%
$400.00 to $1,200.00	33 1/3%
$1,200.00 to $2,500.00	25%

If the debt is over $2,500.00 the Court will require evidence on the attorney's fees.

Rule 20. Criminal Cases Bond Schedule

(A) In criminal cases, the amount of bail, except where otherwise fixed by the Court, shall be as follows:

In felony cases where Defendant is alleged

to be habitual criminal ---------- $75,000.00

Class A felony ---------- 50,000.00

Class B felony ---------- 25,000.00

Class C felony ----------10,000.00

Class D felony ---------- 4,000.00

Class A misdemeanor ---------- 2,000.00

Class B misdemeanor ----------1,000.00

Bond shall be increased to 100% for persons who are charged with a crime which cannot be suspended or for persons who are on probation, parole, or bail on a prior felony charge. The Clerk shall endorse the amount of bail upon each warrant issued by the Clerk.

(B) No bond shall be accepted by the Sheriff or Clerk unless accompanied by good and sufficient surety or case, and unless the post office mailing address of the defendant and surety or sureties entitled to notice of forfeiture are set forth in the bond. If cash bond, the terms of the bond must be evidenced by a written recognizance bond signed by the Defendant and approved by the Sheriff or Clerk.

(C) Neither the Sheriff or Clerk, nor any other person, shall accept or approve a commercial bond in a criminal case <u>after the Court has appointed an attorney to represent the Defendant at public expense</u>. Any commercial bond shall be submitted to the Judge of the Court for consideration. The purpose of this Rule is not to restrict the constitutional right to bail, but to give the Court an opportunity to consider such matter as: (1) whether or not the Defendant is still indigent and entitled to counsel at public expense; (2) whether or not to accept a personal or recognizance bond accompanied by a cash deposit equal to or not in the excess of amount of money that has been raised by or on behalf of the defendant for purchase of a commercial bond.

<u>Rule 21. Discovery in Criminal Cases</u>

(A) All plea agreements must be submitted to the Court at least twenty-one (21) days prior to a scheduled jury trial. <u>Any plea agreement filed less than twenty-one (21) days before scheduled jury trial will be rejected for filing</u>.

(B) Defendant may request discovery by filing a written motion. The motion need only specify that discovery is requested as provided by this Rule.

(C) Unless relieved by Court order, the Prosecuting Attorney, within twenty (20) days of receipt of Defendant's motion, shall furnish the attorney for Defendant with the following:

I. The name and last known address of any person whom the State may call as a witness.

II. A copy of every statement, of any type made by every potential witness. If no written or taped statement was made, then the Prosecuting Attorney shall prepare a written summary of the witness' testimony upon which the Prosecuting Attorney intends to rely.

III. Any confession or declaration against interest made by Defendant.

IV. Prior criminal convictions of any person whom the State intends to call as a witness.

V. Prior criminal record of the Defendant, including arrests not resulting in conviction.

VI. Books, papers, documents, photographs or tangible objects which the State intends to introduce into evidence upon the trial.

VII. A summary of and the location of any and all other physical evidence known to exist whit regard to the case.

(D) Unless relieved from doing so by Court order and within fifteen (15) days of receiving discovery from the Prosecuting Attorney, a Defendant who has requested discovery shall furnish the Prosecuting Attorney the following:

I. The name and last known address of any person whom the Defendant may call as a witness.

II. A copy of every statement, of any type made, by every potential witness. If no written or taped statement was made, then the Defendant shall prepare a written summary of the witness' testimony upon which the Defendant intends to rely.

III. Any affirmative defenses Defendant intends to offer upon the trial.

IV. Prior criminal convictions of any person whom the Defendant intends to call as a witness.

V. Books, papers, documents, photographs, or tangible objects which Defendant intends to introduce into evidence upon the trial.

VI. Any and all other physical evidence known to exist with regard to the case.

Rule 22. Standard Terms of Probation

STATE OF INDIANA	**)**	**IN THE RANDOLPH CIRCUIT COURT**
	)SS:	
COUNTY OF RANDOLPH	**)**	**200__ TERM**
STATE OF INDIANA		**CAUSE NO. 68C01- _____**
VS		
_____		**AGREEMENT OF PROBATION**
(Defendant)		

The Court orders the Defendant to comply with the following terms and conditions of probation:

____ 1. **YOU SHALL** behave well and you shall not commit any other criminal offense.

____ 2. **YOU SHALL** report to the Probation Department at reasonable times as directed by your Probation Officer. **YOU SHALL** permit the Probation Officer to visit you at reasonable times at your home or elsewhere, and to make reasonable inquiry into your activities while under probation supervision.

____ 3. **YOU SHALL** remain within the jurisdiction of this Court unless granted written permission to leave the State of Indiana by your Probation Officer. Written permission will only be granted for employment and/or family emergency.

____ 4. **YOU SHALL** report to your Probation Officer within twenty-four (24) hours any time you are questioned by a law enforcement officer or placed under arrest.

____ 5. **YOU SHALL** maintain suitable employment or pursue a course of study or vocational training that will equip you for suitable employment. You will support your dependents and meet family obligations, if applicable.

____ 6. **YOU SHALL** answer all reasonable inquiries by your Probation Officer truthfully and accurately.

____ 7. **YOU SHALL** inform the Probation Officer of your current address, and notify the Probation Officer within twenty-four (24) hours of any change in address in writing.

____ 8. **YOU SHALL** pay a fine of $_____ and costs of $_____ to the Clerk of the Court on or before _____.

____ 9. **YOU SHALL** pay a drug and alcohol countermeasures fee of $_____ to the Clerk of the Court on or before _____.

____ 10. **YOU SHALL** pay a drug abuse, prosecuting, interdiction, and correction fee of $_____ to the Clerk of the Court on or before _____.

____ 11. **YOU SHALL** pay a child abuse prevention fee in the sum of $50.00 to the Clerk of the Court on or before _____.

____ 12. **YOU SHALL** pay a domestic violence prevention and treatment fee in the sum of $50.00 to the Clerk of the Court on or before _____.

____ 13. **YOU SHALL** serve ____ day(s) in the County Jail, to be served in the following manner: _____
_____
_____
_____

YOU SHALL NOT report to the jail with alcohol on your breath or under the influence of any drug.

____ 14. **YOU SHALL NOT POSSESS OR USE ANY FIREARMS, DESTRUCTIVE DEVICES, OR OTHER DANGEROUS WEAPONS, AND ACKNOWLEDGE LOSS OF FIREARMS PRIVILEGE NOTIFICATION**, set forth in Exhibit "A" attached and incorporated herein.

____ 15. **YOU SHALL** submit to an evaluation within thirty (30) days following this order, as arranged by the Probation Department, for alcohol and drug abuse. **YOU SHALL** comply with any and all recommendations for follow-up therapy and treatment as directed by said agency.

____ 16. **YOU SHALL NOT** purchase, consume, or possess alcoholic beverages.

____ 17. **YOU SHALL NOT** use drugs (controlled substances) unless prescribed to you by a physician. You shall submit to tests to determine if you have violated this rule, administered at your expense. **This includes alcohol breath tests**.

____ 18. **YOU SHALL NOT** enter any bar, tavern, package liquor store, or any other establishment that offers alcoholic beverages for sale.

____ 19. **YOU SHALL** refrain from having any direct or indirect contact with the following person(s) while on probation:

_____

_____

____ 20. **YOU SHALL** pay restitution through the clerk of the court for the benefit of: _____

_____

____ (a) in the total amount of $_____ with said restitution to be paid in full on or before _____.

____ (b) in the total amount of $_____ with said restitution to be paid in _____ equal monthly installments of $_____, with payments commencing on the _____ day of _____, 20____, and until such time as the restitution is paid in full.

____ (c) in an amount and in accordance with a schedule to be established by the Randolph County Probation Department.

____ 21. **YOU SHALL WAIVE ANY AND ALL RIGHTS OF SEARCH AND SEIZURE** during your period of probation, and shall agree to submit your person, place of residence, or any vehicle under your control upon reasonable request, to search and seizure at any time, without a search warrant, by any Police Officer or any law enforcement officer that is accompanied by a Probation Officer.

____ 22. **YOU SHALL** participate in the Community Corrections Program, and execute the following documents, as may be appropriate:

____ (a) Work Release Contract, Exhibit B

____ (b) Home Detention Contract, Exhibit C

____ (c) Community Service Restitution Contract, Exhibit D

And pay all Community Corrections fees imposed.

____ 23. **YOU SHALL COMPLY** with the following additional conditions of Probation: _____

_____

_____

____ 24. **YOU SHALL** register with the local law enforcement authority (chief of police of city or county sheriff) within seven (7) days, and provide the

required information according to the Indiana law; further, you shall provide written notice to the local law enforcement agency not more than seven (7) days after any change of address.

____ 25. **YOU SHALL** pay an initial probation user's fee of $_____ to the Randolph Count Clerk within 30 days of this Order. In addition, you will pay a monthly probation user's fee of $_____, with the first such payment due within 30 days of this Order, and a like payment each month thereafter.

____ 26. Your probation shall endure for a period of _____ or until further Order of the Court.

TENTATIVE DATE OF RELEASE FROM PROBATION: _____

Dated: _____ _____
JUDGE, RANDOLPH CIRCUIT COURT

I HAVE READ THE PROBATION ORDER AND HAVE A COPY. I UNDERSTAND EVERY RULE AND I PROMISE TO OBEY. I REALIZE THAT IF I VIOLATE MY PROBATION DURING MY PROBATIONARY PERIOD, A PETITION TO REVOKE MY PRIBATION MAY BE FILED, DURING MY PROBATIONARY PERIOD OR BEFORE THE EARLIEAR OF THE FOLLOWING: (A) ONE (1) YEAR AFTER THE TERMINATION OF MY PROBATION PERIOD; OR (B) FORTY-FIVE (45) DAYS AFTER THE STATE RECEIVES NOTICE OF THE VIOLATION.

WAIVER OF EXTRADITION AGREEMENT: I agree that in the event that I am arrested in any State or jurisdiction of the United States of America, or any of its possessions for a violation of my Probation or for the commission of any other offense, I will waive extradition and will voluntarily return to the State of Indiana if so directed by this Court.

Dated: _____ _____
PROBATIONER

_____
_____
Address

The foregoing Order on Probation was reviewed with the Probationer and the Probationer was provided with a copy of the Order on Probation.

Dated: _____ _____
Signature

Exhibit “A”

LOSS OF FIREARMS PRIVILEGE NOTIFICATION

Probationer’s Name _____ Cause # _____

United States Criminal Code Title 18, Section 922(g) states:

(g) It shall be unlawful for any person --

(1) who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.D. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which as been shipped or transported in interstate or foreign commerce.

United States Criminal Code Title 18, Section 924(a)(2) sets the penalty for violation of Title 18, Section 922 as follows:

(2) Whoever knowingly violates subsection (d), (g), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

DATE: _____

_____ _____

PROATIONER’S SIGNATURE PROBATION OFFICER

Rule 23. Local Probate Rules

(A) Notices.

I. Whenever notice by publication and/or written notice by U.S. Mail is required to be given, the attorney shall prepare and ensure that such notice is properly published and/or served by ordinary mail. The notice shall comply with all statutory requirements, and the attorney shall be responsible to provide adequate proof regarding whether notice was properly served prior to bringing a matter to the Court.

II. Copies of Petitions shall be sent with all notices if the hearing involved arises from matters contained in the petition.

III. Notice of hearing on Petition to determine an Estate insolvent shall be served on all interested parties, including the local representative of the Inheritance Tax Division of the Indiana Department of Revenue.

(B) Filing of Pleadings.

I. When pleadings are filed by mail, or left with the Court for filing, a self-addressed, stamped envelope shall be included.

II. All attorneys must prepare orders for all proceedings except when expressly directed otherwise by the court.

III. Every pleading, including Inventories, Petitions, and Accountings, filed in an Estate or Guardianship shall be signed by the fiduciary and by the attorney for the fiduciary.

IV. Instructions to the Personal Representative or Guardian, must be executed and filed with the Court before Letters will be issued. A copy of the Instructions are attached as Appendix A and Appendix B to these Local Rules.

V. An affidavit of compliance with the creditors notice provisions in estate proceedings shall be timely filed with the Clerk of the Court.

(C) Bond.

I. Personal Representative shall not be required to execute and file a bond relating to the duties of his office, except as follows:

(i) Where the Will provides for the execution and filing of bond, or

(ii) Where the Court finds, on its own motion or on petition by any interested person, that a bond is necessary.

(iii) Where a bond is required, it shall be for not less than the value of the personal property to be administered, plus the probable value of annual rents and profits of all property of the estate, in such an amount as shall be set by the Court, and the bond shall be filed prior to the issuance of letters.

(iv) No bond shall be required if a corporate banking fiduciary qualified by law to serve as such is either the fiduciary or a co-fiduciary.

II. In lieu of a bond, a fiduciary may restrict transfer of all or part of estate or guardianship liquid assets by placing those assets in a federally-insured financial institution. The fiduciary shall file the following with the Court:

(i) Prior to issuance of Letters, the fiduciary's attorney shall execute an attorney's Undertaking for such assets. A copy of the Undertaking is attached as Appendix C to these Local Rules.

(ii) Within ten (10) days of the Order authorizing the creation of the account, a certification by an officer of the financial institution at which the account has been created, stating that the account is restricted as required by the Court, shall be filed with the Court. A Copy of the Restricted Account Undertaking and Obligation is attached as Appendix D to these Local Rules.

III. All petitions to open an estate or guardianship shall state the probable value of the personal property plus the estimated annual rents and profits to be derived from the property.

IV. The name and address of the corporate surety shall be on all corporate bonds in any estate or guardianship.

(D) Inventory.

I. An inventory shall be filed by the fiduciary as follows: Estates (supervised and unsupervised), within sixty (60) days; Guardianships, within ninety (90) days for permanent guardians and within thirty (30) days for temporary guardians. All times relate to the date of appointment of the fiduciary.

II. In the event a partial inventory is filed, all subsequent inventories must contain a recapitulation of prior inventories.

III. Upon written request of the fiduciary, the Court shall order the inventory sealed and not made a matter of public record.

(E) Real Estate.

I. In all supervised estates and guardianships in which real estate is to be sold, a written professional appraisal shall be filed with the Court at the time of filing the Petition for Sale, unless such appraisal was filed with the Inventory. Such written appraisal shall include as a minimum the following elements:

(i) A brief description of the property and legal description thereof.

(ii) Purpose or objection of the appraisal.

(iii) Date for which Fair Market Value is determined, which shall be made within one year of the date of the Petition for sale.

(iv) Data and reasoning supporting the Fair Market Value.

(v) Fair Market Value determined.

(vi) Statement of assumption and special or limiting conditions.

(vii) Certification or disinterest in real estate.

(viii) Signature of the appraiser.

II. All deeds submitted for approval shall be signed and notarized and submitted with the Report of Sale of Real Estate. A copy of the deed shall be filed.

III. Whenever a Final Decree vests real estate in heirs or beneficiaries, a certified Decree shall be recorded with the County Recorder of the County where any such real estate is located and evidence of the recording shall be provided in the Supplemental Report.

(F) Sale of Assets.

I. No Petition to Sell Personal Property shall be granted unless a written Fair Market Value appraisal by a competent appraiser setting forth 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

to be sold at public auction, nor 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.

II. All appraisals required by F(I) herein shall be made within one year of the Petition to Sell.

(G) Claims.

Five (5) months and fifteen (15) days after first published notice to creditors, each claim filed against the estate, shall be allowed or disallowed.

(H) Accountings.

I. Whenever an estate cannot be closed within one (1) year, the Personal Representative shall:

(i) File an intermediate account within thirty (30) days after the expiration of one (1) year and each succeeding year thereafter which shall comply with IC 29-1-16-4 and 29-1-16-6 and:

- Shall state facts showing why the estate cannot be closed and an estimated date of closing.

- Shall propose partial distribution of the estate to the extent that partial distribution can be made without prejudice to distributees and claimants; or

(ii) File a statement with the Court stating the reasons why the Estate has not been closed.

II. All guardianship accountings shall contain a certification of an officer of any financial institution in which guardianship assets are held, verifying the account balance. A copy of which is attached as Appendix E to these local rules.

III. All Social Security or Medicare benefits received on behalf of an incapacitated person shall be included and accounted in the guardianship accountings unless Court approval has been previously granted to allow direct payment to a residential or health care facility.

IV. In all supervised estate and guardianship accounts, vouchers or cancelled checks shall be filed with the accounting. No affidavits in lieu of vouchers or cancelled checks will be accepted from individual fiduciaries. An affidavit in lieu of vouchers or cancelled checks may be

accepted from a state or federally chartered financial institution who serves as a fiduciary, provided the financial institution retains the vouchers or cancelled checks on file or by electronic recording device and make same available to interested parties upon court order. The Court may require such institution to provide a Certification from its Internal Audit Department verifying the accuracy of the accounting.

V. In all supervised estate and guardianship accountings, a notation shall be placed by each expenditure indicating the date and reason for or nature of the expenditure.

VI. All accountings to the Court shall contain an itemized statement of the assets on hand. I addition, all current accounts must reconcile with the balance shown in the inventory or last accounting, and must clearly show the principal balance on hand at the end of the accounting period, and list and describe the assets on hand at the close of the accounting period, according to inventory or book value of same. Final accounts shall be prepared in the same manner and shall in addition show the facts or reasons why the guardianship is or should be terminated, and set forth the particulars of the distribution proposed. Receipts or canceled checks for all final distributions shall be filed either in the final report, or a supplemental report, before discharge will be granted by the Court.

VII. All Court costs shall be paid and all claims satisfied and released before the hearing on the Final Account.

VIII. The Federal Estate Tax Closing letter and the Indiana Inheritance Tax Closing Letter (or the counter-signed receipt) or a photocopy thereof, showing payment of all Federal Estate and/or Indiana Inheritance Tax Liability in the Estate, executed by the Internal Revenue Service or the Indiana Department of State Revenue, shall be attached to the Final Report.

IX. In all guardianships, an accounting shall be filed within thirty (30) days after the first anniversary of the date of letters were issued. Thereafter, unless a contrary order is issued by the Court, all accountings shall be filed biennially.

(I) <u>Fees of Attorneys and Fiduciary</u>.

I. No fees for fiduciaries or attorneys shall be paid out of any supervised estate or guardianship without prior Court order.

II. A guardian or guardian's attorney may petition for fees at the time of filing an inventory. Other than as provided hereafter, no further petition

for fees may be filed until a biennial, annual, or final accounting has been filed. When unusual items of substantial work occur during the proceedings, the Court may consider a petition to allow fees for such services.

III. No attorney or fiduciary fees will be determined authorized for payment by the court in any Unsupervised Administration of a Decedent's Estate.

IV. Where contracts for legal services have been entered into prior or subsequent to the opening of an estate or guardianship, the court reserves the right to approve or disapprove the fee contracts consistent with the court's fee guidelines.

V. All petitions for fees for the attorney and/or fiduciary shall conform to the fee guidelines set forth by this Court. The Court may require the Petition to specifically set forth all services performed in detail as well as the amount of the fee requested and how it has been calculated.

(J) Unsupervised Administration.

I. No petition for administration without Court supervision shall be granted unless the consent requirements of IC 29-1-7.5-2(a)(4), along with all of the other requirements of IC 29-1-7.5-2(a) are met.

II. A complete inventory of estate assets shall be filed with the Court within sixty (60) days of the appointment of the fiduciary.

III. All Court costs shall be paid and all claims satisfied and released on or before the date of the filing of the Closing Affidavit and a Clerk's Certification is filed.

IV. Every Closing Affidavit shall comply with Local Probate Rule 23 H(6).

(K) Miscellaneous.

If the Court determines that no Inheritance Tax Schedule is required to be filed, a copy of the Court's order shall be served on the local representative of the Inheritance Tax Division of the Indiana Department of Revenue.

(L) Guardianships.

I. In all guardianship matters seeking to declare an adult incapacitated for any reason, the incapacitated person shall be present at the hearing or sufficient evidence shall be presented showing that the incapacitated person is unable to appear.

II. 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 and such additional evidence as the Court shall require, shall be presented to the Court on the hearing date. No determination will be made without a Physician's Report or other testimony. A copy of a Physician's Report is attached as Appendix F of these local rules.

III. Current reports filed by a guardian of the person shall state the present residence of the incapacitated person and his general welfare. If the incapacitated person is an adult, a physician's report shall be filed with the current report, verifying that the incapacity of the person remains unchanged since the date of the guardianship was established or the date of the last current report and that the living arrangements for the incapacitated person are appropriate.

IV. In every petition for the appointment of a guardian of the person of a minor child, the following information shall be given:

(i) The child's present address.

(ii) 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.

(iii) Whether, to Petitioner's knowledge, any other litigation is pending concerning the custody of the child in this or any other state.

(iv) Whether, to Petitioner's knowledge, any person not a party to the guardianship proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(M) Waiver of Notice of Inheritance Tax Appraisal.

I. Waivers of notice of the time and place of the appraisal of each property interest of a decedent for inheritance tax purposes and for the hearing on the appraisal report shall be filed on or before the date upon which the inheritance tax return is filed.

II. Waivers of notice shall be signed by each person known to have an interest in the property interests to be appraised, and by any other person designated by the Court. A waiver filed by an entity shall state the capacity of the person who has signed for such entity.

III. A waiver signed by an attorney or another person on behalf of a person entitled to notice under IC 6-4.1-5-3 and IC 6-4.1-5-9 shall include a copy of the power of attorney, letters of guardianship or other authority to act on behalf of such person; in the event that the interested person is a minor, the waiver shall include a statement of the relationship to the minor.

IV. In the event that a waiver is not filed for each interested person the personal representative shall, at the time of filing the inheritance tax return, provide notice of the time and place of the appraisal to each interested person who has not filed a waiver. Upon the filing of the appraiser's report, the personal representative shall provide notice of the time and place of the hearing on the report to all persons known to be interested in the resident decedent's estate, including the Department of State Revenue.

Rule 24. Attorney, Guardian and Personal Representative Fees

PREAMBLE

The Randolph Circuit court has adopted these Guidelines for Fees in an effort to achieve the following objectives:

(A) Establish uniformity in determining a fair and reasonable fee for supervised estates and guardianships;

(B) Provide a guideline to assist the Court in determining fair and reasonable fees;

(C) Furnish a guideline to attorneys so they can discuss fees that may be reasonably incurred with their clients at the onset of administration and guardianship;

(D) Assist the legal profession to arrive at a fair and reasonable fee for estate and guardianship work.

The schedule is NOT a minimum fee schedule, but a maximum fee schedule. Every attorney, guardian and personal representative has an obligation to request a fee which is fair and reasonable for the work performed, taking into account the provisions of the Rules of Professional conduct applicable to attorneys admitted to practice law in the State of Indiana. Except for extraordinary circumstances, fees should not exceed the guidelines. In an uncomplicated estate, or guardianship, fees should be less than the maximum fees listed in this Schedule, and fees should always bear a reasonable relationship to the services rendered.

Although the Guidelines have been promulgated by the Court for probate and guardianship matters, it is important that your attention be directed to certain criteria as they pertain to these Guidelines.

The existence of the guidelines does not assure that all fees allowed by the Court will adhere to them. Other factors must be considered by the Attorney and his, or her, client. The same factors will also be considered by the Court in making its final determination.

The criteria to be considered including the following:

(A) the time and labor required, the novelty, complexity, or difficulty of the questions involved, the skill required to perform the services properly, and shall include a determination as to how much of the attorney's time was devoted to legal matters and how much of it was devoted to ministerial functions;

(B) The nature and extent of the responsibilities assumed by the attorney and the results obtained, and shall include the considerations of the identity of the Personal Representative or guardian and the character of the probate and non-probate transferred assets;

(C) The sufficiency of assets properly available to pay for legal services, and whether the attorney's duties are expended by the existence of non-probate transferred assets;

(D) The timeliness with which the necessary services are performed consistent with statutory requirements, the Court's Rules of Procedure and the Rules of Professional Conduct.

In considering all of these factors, all attorneys are urged to discuss their fee and that of the personal representative and guardian at the time the attorney is retained.

1. ATTORNEY'S FEES

(A) Estate Administration:

Gross estate services are considered to normally include: Opening of the estate, qualifying the personal representative, preparing and filing the Inventory, paying claims, collecting assets, preparing and filing non-extraordinary petitions, preparing and filing the Inheritance Tax Schedule, obtaining the court Order thereon, and paying the taxes, preparing and filing the Final Report, obtaining order approving same, distributing assets, obtaining discharge of the personal representative, and preparing and serving all notices on interested parties and readily ascertainable creditors throughout the proceedings. This list shall not be considered to be exclusive.

I. Gross Estate:

Up to $100,000, not to exceed 6%

Next $200,000, not to exceed 4%

Next $700,000, not to exceed 3%

Next $1,000,000, not to exceed 1%

II. Miscellaneous – extraordinary services:

Sale of real estate $500.00

Federal Estate Tax Return:

Basic Fee $600.00

Assets exceeding those indicated in Inheritance Tax Schedule 1%

Inheritance Tax Schedule

Cash, stock, bonds, other intangibles – non-probate assets 1%

other assets – non-probate assets 1.5%

Petition – ex parte $175.00

Other than as provided above . . . . . $85.00 per hour

(Attorney's expertise in probate matters will be considered by the Court in determining the applicable hourly rate.)

(B) Miscellaneous:

Probate Will Only $175.00

Small estate settlement procedure $300.00

Inheritance Tax Schedule (see above)

Federal Estate Tax Return (see above)

(C) Wrongful Death Administration:

Fees not to exceed:

Settlement prior to filing 25%

Settlement after filing and prior to trial 33 1/3%

Trial 40%

Appeal, or extra work 50%

(D) General:

I. Extraordinary Fee Requests.

Fee petitions requesting extraordinary fees must set forth services rendered with specificity. Extraordinary services may include: sale of personal property; sale of real property; partial distribution; will contest actions, contesting claims; adjusting heirship determinations; generating additional income for the estate, etc. All such petitions will be set for hearing, with notice to all interested parties. If all interested parties sign a waiver and consent stating that they have been advised the additional fee request exceeds the Court's guidelines and the services as detailed are extraordinary, the Court may, in its discretion, determine if a hearing is required.

II. Filing of Fee Petition.

Before any fee is paid, a petition for allowance of such fee shall be filed and determined by the Court. A request for fees will be considered only under the following circumstances:

(i) When the Inheritance Tax Petition is ready to be filed;

(ii) When a petition to find no tax due has been approved;

(iii) When necessary for purposes of an estate fiduciary income tax deduction; or

(iv) Under extraordinary circumstances.

III. Waiver and Consent to Allowance of Fees In Excess of Guidelines.

When an attorney reasonably believes that extraordinary circumstances exist and requests fees that exceed the Guidelines, it is

suggested that all affected parties either sign a waiver and consent, or the fees be determined only after notice to the affected parties and hearing on the petition. The waiver and consent should not be merely a pro forma waiver and consent, but should be in substantially the following form:

IMPORTANT; PLEASE READ BEFORE SIGNING!

WAIVER AND CONSENT

The undersigned, an interested party in the Estate of _____, understands that:

A. The maximum fee ordinarily allowed by the Court for legal services in this estate would amount to $_____.

B. The attorney has requested fees in the amount of $_____, alleging that extraordinary and unusual services have been performed.

The undersigned, being fully advised, now consents to the allowance of the requested fee, waives any notice of hearing on the Petition and requests that the Court allow fees in the amount of $_____.

Dated: _____ _____
Devisee/Heir

(E) Unsupervised Estates:

The Court will not determine and allow fees in an unsupervised estate.

2. GUARDIAN AND PERSONAL REPRESENTATIVE FEES

(A) Professional:

Their applicable reasonable rate shall be reviewed in light of all prevailing circumstances.

(B) Non-Professional:

In a normal guardianship, the non-professional guardian's hourly fees should not exceed: (a) double the prevailing federal minimum hourly wage and (b)

one-half (½) of the attorney's fees; in addition, reasonable out-of-pocket expenses may be reimbursed.

(C) Attorney:

When the attorney also serves as the personal representative, an additional amount not in excess of one-third (1/3) of the attorney fee may be allowed, provided:

I. Additional services have been performed which are normally done by the personal representative; and

II. Assets of the estate warrant the allowance of additional fees.

3. LIMITATION ON FEES

In all instances, the combined total of the fees allowed to the personal representative and attorney for the administration of an estate shall not exceed ten percent (10%) of the decedent's gross estate.

Rule 25. Clerk's Retention of Canceled Checks, Vouchers and Receipts

After the Court has ordered an estate closed and a personal representative, the Clerk shall return to the attorney or personal representative, all cancelled checks, vouchers or receipts, except the receipts for final distribution to heirs, legatees and devisees normally filed with the supplemental report. The same procedure shall be followed when a guardianship or trust is closed. After the time has expired for vacation and modification of final settlements, or appeal, as provided for in IC 29-1-1-21, and IC 29-1-1-22, the Clerk shall destroy all cancelled checks, vouchers and receipts in the Clerk's files that have not been requested by counsel or the discharged fiduciary.

Rule 26. Law Library

The Law Library shall be under the custody and control of the Judge of the Randolph Circuit Court, and no books shall be removed except by the permission of the Judge of the Circuit Court or the secretary to the Judge, and then only upon written receipt to be retained in the office of the secretary.

Rule 27. General Orders Continued in Effect and Repeal of Prior Rules

(A) The following general orders of the Court are continued in full force and effect: Order of January 15, 1971, in Civil Order Book 106, page 133, regarding the drawing of names for the jury box from master voter's registration lists and records; order of July 28, 1978, in Civil Order Book 113, at page 389, regarding jury service; and Order of September 3, 1976, in Civil

Order book 111, at page 583, regarding support payments and assignments in Title IV-D and AFDC cases.

(B) All other previous local rules of this Court are hereby repealed.

Rule 28. Order for Certifying Local Rules to Clerk of Supreme Court and Court of Appeals

It is ordered that the Clerk of the Court shall certify two copies of these rules to the Clerk of the Supreme Court and Court of Appeals in accordance with ITR 81.

Rule 29. Facsimile Filing

The following amendment to the Local Trial Rules of the Randolph Circuit and superior Courts has been adopted by both judges, effective October 1, 1997, as follows:

Rule 2 (C), (D) & (E)

(C) Parties and counsel may utilize electronic facsimile filing with the Clerk, under the following circumstances:

I. Filing shall not exceed ten (10) pages, including cover sheet,

II. Filing does not require payment of fees other than transcription fee,

III. Sending party creates a machine generated transmission log of the filing, and

IV. The original filing and transmission log shall be maintained by sending party for the duration of the litigation, including appeal.

(D) The transcription fee shall be $5.00 for the first four (4) pages, and $10.00 for the next six (6) pages.

(E) The time of filing shall be the date and time the duplicate document is produced in the Clerk's Office, if received during normal, posted business hours. All electronic facsimile filings received at other times shall be filed as of the next normal business day.

Rule 30. Filing of Reports

Whenever a drug and/or alcohol test report, school report card, school progress or attendance report, psychological evaluation or testing, or other evaluations (including IEPs) are requested by the Court, or administered to a juvenile or adult, the appropriate caseworker, probation officer, social worker, or mental health representative shall file the report with the Court within five (5) business days after receipt, with a copy provided

to all counsel of record. Failure to timely comply with this rule is subject to contempt sanctions or other appropriate remedy.

Joint Local Rules of the
Randolph Circuit and Randolph Superior Court
Regarding the Assignment of Criminal Cases

Rule 31. Joint Local Rules

(A) Joint Rule 1 – Case Assignment

All Murder, Class A, Class B, and Class C felony criminal cases, except those cases where the alleged felony is a violation under Title Nine of the Indiana Code, shall be assigned to the Randolph Circuit Court. All other criminal cases shall be assigned to the Randolph Superior Court.

The judges of the Randolph Circuit Court and Randolph Superior Court shall meet from time to time and may, after considering the workload of each Court and other circumstances, agree to reverse the assignment of criminal cases.

(B) Joint Rule 2 – Case Transfer

The judges of the Randolph Circuit Court and the Randolph Superior Court may order the transfer and reassignment of criminal cases to the other Court, subject to acceptance by the judge of the receiving Court.

(C) Joint Rule 3 – Refiling and Subsequent Filings

When a case has been dismissed and is refiled, the case shall be assigned to the Court from which the dismissal was taken.

In the event additional charges are filed against a criminal defendant subsequent to the initial assignment of the case, the case shall be reassigned, if necessary, to the Court in which the case would have originally been assigned at the time the case was commenced.

(D) Joint Rule 4 – Change of Judge and Reassignment

In the event a change of judge is granted or it becomes necessary to assign an alternative judge in any felony or misdemeanor proceeding, the case shall be reassigned to the judges of the following Courts in consecutive order on a rotating basis with the Randolph Circuit Court commencing this rotation with the Judge of the Delaware Circuit Court and with the Randolph Superior Court commencing this rotation with the Judge of the Henry Superior Court #2:

(1) Judge of the Delaware Circuit Court
(2) Judge of the Delaware Superior Court #1

(3) Judge of the Delaware Superior Court #2
(4) Judge of the Delaware Superior Court #3
(5) Judge of the Delaware Superior Court #4
(6) Judge of the Henry Circuit Court
(7) Judge of the Henry Superior Court #1
(8) Judge of the Henry Superior Court #2
(9) Judge of the Jay Circuit Court
(10) Judge of the Jay Superior Court
(11) Judge of the Wayne Circuit Court
(12) Judge of the Wayne Superior Court #1
(13) Judge of the Wayne Superior Court #2
(14) Judge of the Wayne Superior Court #3

Each Court shall maintain a running log showing the next judge available for reassignment.

(E) Joint Rule 5 – Appointment of Special Judges

In the event no judge is available for assignment or reassignment of a felony or misdemeanor case, the case shall be certified to the Indiana Supreme Court for the appointment of a special judge. In the event the presiding judge concludes that unique circumstances are present which require appointment of a special judge by the Indiana Supreme Court, the presiding judge may request the Indiana Supreme Court for such appointment.

(F) Joint Rule 6 – Special Judge and Trial Rule 79(h)

The following local rule primarily regarding selection of Special Judges where a Special Judge does not accept a civil case pursuant to Trial Rule 79 is now adopted by the undersigned Judges of the Randolph Circuit Court and Randolph Superior Court in concert with the other Courts of District 6 as established by Administrative Rule 3(A)(6), and submitted for approval to the Indiana Supreme Court this 25th day of October, 1995.

To make the most effective use of Judicial resources by using close proximity of the Judges, District 6 shall be divided into three subdistricts, the Judges in each subdistrict constituting the panel for assignment in the event a Special Judge fails to accept a civil case under Trial Rule 79(D), (E), or (F), except that the following juvenile Judges of the entire district shall constitute the panel for assignment in juvenile cases: Honorable Bruce C. Bade, Honorable Robert L. Barnet, Jr., Honorable Jack L. Brinkman, Honorable Steven R. Caldemeyer, Honorable Jan L. Chalfant, Honorable Richard A. Dailey, Honorable Tom D. Diller, Honorable John L. Kellam, Honorable Thomas R. McNichols, and Honorable Thomas G. Wright.

The subdistricts are: Grant and/or Blackford Counties; Madison and Henry Counties; and Delaware, Jay, and Randolph Counties.

Selection of Special Judges Pursuant to Trial Rule 79(H)

In the event a Special Judge does not accept the case under Section (D), (E), or (F) of Trial Rule 79, the Randolph County Clerk shall make an assignment under Trial Rule 79(H). The striking and Special Judge selection process shall then proceed in the same manner as delineated in Section (F) of the Rule.

In submitting panels under Trial Rule 79(F), judges in Randolph County shall name only regular or senior judges from Administrative District 6.

Any assignment required pursuant to Trial Rule 79(H), shall be made by the Randolph County Clerk on a rotating basis in consecutive order from the following individuals: Honorable Robert L. Barnet, Jr., Honorable Steven R. Caldemeyer, Honorable Jan L. Chalfant, Honorable Richard A. Dailey, Honorable Tom D. Diller, Honorable Barbara Gasper Hines, Honorable Joel D. Roberts, Honorable Robert E. Robinson, and Honorable Kenneth A. Sullivan.

The list of regular judges in the subdistrict of Delaware County, Jay County, and Randolph County may be supplemented by senior judges of the whole district.

In no event shall an individual be chosen whose name was placed on the panel submitted to the litigants under Trial Rule 79(F).

In those cases where a judge has accepted an out-of-county Special Judge appointment under Trial Rule 79(D), (E), (F), or (K), and the case has not been transferred to such Judge's Court under Trial Rule 79(M), such Judge shall notify the Randolph County Clerk, and such Clerk shall exempt such Judge from assignment for a case under Trial Rule 79(H).

This local rule shall be subject to annual review by the regular judges of this administrative district.

As envisioned under Trial Rule 79(H), a Special Judge selected under the panel provided for by this local rule must accept jurisdiction in the case unless disqualified pursuant to the Code of Judicial Conduct, ineligible for service under Trial Rule 79, or excused from service by the Indiana Supreme Court.

The list of regular Judges in the subdistrict containing Delaware, Jay, and Randolph Counties may be supplemented by senior Judges of the whole district.

This local rule shall be subject to annual review by the regular Judges of Randolph County, Indiana, and if appropriate, by the regular Judges of District 6.

In the event no Judge is eligible to serve as special Judge in a case or special circumstances warrant selection of a Special Judge by the Indiana Supreme Court, the Randolph County Clerk shall certify this fact to the Indiana Supreme Court for the appointment of a Special Judge pursuant to Trial Rule 79(K).

Judges of the Jay and Delaware Counties, Indiana, have been made aware of, and have approved of this Rule.

APPENDIX A

STATE OF INDIANA
RANDOLPH CIRCUIT COURT

Instructions to Personal Representatives of Estates

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. You are directed to 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. Though the Attorney will file all papers with the Court, the ultimate responsibility to see that reports and returns are accurately prepared and filed rests on you.

As Personal Representative You Are Required to:

1. Locate all property owned individually or otherwise by the decedent at the 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. Inventory any safety deposit box in the presence of a representative of the County Assessor.

3. Establish a separate checking account or other type of transaction account for the Estate and keep a record of all receipts and disbursements. Never co-mingle 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 to the Court.

4. Within 60 days after appointment as Personal Representative, file an Inventory with the court of all property belonging to the decedent on date of death, giving values as of the date of death.

5. Obtain Consent to Transfer forms from the County assessor to transfer accounts and securities to transfer into the Estate.

6. Collect any life insurance on the decedent payable to the Estate. Obtain Form 712 from insurance company, if needed for taxes.

7. Complete change of address forms at the Post Office and have mail forwarded to you.

8. Inspect all documents and personal papers of the decedent 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.

9. Pay all legal debts and funeral bills; however, pay only priority claims timely failed 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 of notice, unless an earlier distribution is allowed by Order of Court.

10. Prepare and file returns for both State and Federal income taxes for the tax year in which the decedent died and any prior year. If applicable, pay taxes due (or claim any refund).

11. Prepare and file Indiana Inheritance Tax Schedule and pay any tax due within one (1) year of date of death. Do Federal Estate tax return, if required, within nine (9) months after date of death.

12. Obtain a federal tax identification number for the Estate.

13. File a Final Account, with receipts for any distribution already made and send a copy to all distributees of the estate and to all creditors or other claimants whose claims are neither paid nor barred. File vouchers with the Court.

14. File a supplemental Report with the Court, if ordered to do so, with receipts for the final distribution.

15. Pay Court costs and expenses of administration when due, but do not pay your fees or your attorney's fees, until approved by the Court.

16. Make distributions and obtain receipts for distributions.

Please read carefully, then sign one copy and return to the Court within ten days. Keep a copy for your reference.

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

Cause Number: 68C01-_____ Estate of: _____

Printed: _____ By: _____
Personal Representative Personal Representative

Dated this ____ day of _____, 19____.

APPENDIX B

STATE OF INDIANA
RANDOLPH CIRCUIT COURT

Instructions to Guardian

You have been appointed the guardian of the individual who, because of some incapacity, is unable to care for their 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 Letter of Guardianship issued, you are required to post 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 your ward.

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 any 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 and returns are accurately prepared and filed rests with you.

As Guardian, You Are Required to:

1. File with the Court a verified Inventory and appraisement of all property belonging to the ward within ninety (90) days after your appointment;

2. File with the Court a verified account of all income and expenditures of the Guardianship every two (2) years after your appointment;

3. Keep all of the assets of the ward separate from your own;

4. Establish an account, in your name as Guardian, in which all of the cash assets of the ward are deposited. This account shall be used for all payments or disbursements on behalf of the Guardianship and the ward;

5. Pay bond premiums as they become due;

6. Obtain approval from the Court to use, sell or transfer Guardianship assets;

7. File a final accounting with the Court upon the termination of the guardianship, whether due to the death of the ward, or for any other reason;

8. Make distributions and obtain receipts for distribution;

9. Inspect all documents and personal papers of the ward pertinent to tax reporting, location and value of assets, debts or obligation or to the decedent, or any other items of significance to administering the final affairs of the ward.

It is the duty of the Guardian to protect and preserve the ward's property, to 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 co-mingled 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 may result in personal liability.

It is important to understand that the Guardian has the same duties and responsibilities concerning the Protected Person whether or not the Protected Person is a relative of the Guardian.

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

Please read carefully then sign one copy and return to the Court within ten days. Keep a copy for your reference.

I acknowledge receipt of a copy of the above instructions. I have read and agree to follow these instructions carefully.

Cause Number: 68C01-_____ Guardianship of: _____

Printed: _____ By: _____
Guardian Guardian

Dated this ____ day of _____, 19____.

APPENDIX C

STATE OF INDIANA
RANDOLPH CIRCUIT COURT

STATE OF INDIANA	**)**	**IN THE RANDOLPH CIRCUIT COURT**
	)SS:	
COUNTY OF RANDOLPH	**)**	**1993 TERM**
IN THE MATTER OF THE GUARDIANSHIP OF		**CAUSE NO. 68C01-**
		LAWYER'S UNDERTAKING AND <u>OBLIGATION</u>

I, the undersigned guardian, having been appointed by the Randolph Circuit Court on this date authorize my attorney, _____, to deposit all of the net guardianship assets, in the amount of $_____, in a savings account in my name as guardian with the restriction that withdrawal of principal or interest may be <u>made ONLY on written Order</u> of the Randolph Circuit Court.

Date: _____ _____

Guardianship of _____

As an officer of this Court and as attorney for the above guardian, I hereby assume and undertake personal responsibility to the above named ward and to the Randolph Circuit Court, to make the restricted deposit above designated and to file copies of the SIGNATURE CARD and PASSBOOK evidencing such restricted deposit and the amount thereof to the Court within ten (10) days from date.

Date: _____ _____

Attorney for Guardian

APPENDIX D

STATE OF INDIANA
RANDOLPH CIRCUIT COURT

STATE OF INDIANA	**)**	**IN THE RANDOLPH CIRCUIT COURT**
	)SS:	
COUNTY OF RANDOLPH	**)**	**1993 TERM**
IN THE MATTER OF THE GUARDIANSHIP OF		**CAUSE NO. 68C01-**

RESTRICTED ACCOUNT
UNDERTAKING AND OBLIGATION

The undersigned financial institution agrees to deposit the sum of _____ ($) into an account in the name of _____ which will be a restricted account and/or certificate(s) will not be subject to depletion by economic changes in the market place. Withdrawals shall be made ONLY upon written Order of the Randolph Circuit Court and must be approved by the Court.

Copies of the Signature Card and Passbook or Certificate(s) of Deposit evidencing such restricted deposits will be filed with the Randolph Circuit Court within ten (10) days from the date of the Court Order establishing the restricted account(s).

_____
NAME OF FINANACIAL INSTITUTION

DATE: _____

BY: _____

_____
Title

APPENDIX E

STATE OF INDIANA
RANDOLPH CIRCUIT COURT

STATE OF INDIANA	**)**	**IN THE RANDOLPH CIRCUIT COURT**
	)SS:	
COUNTY OF RANDOLPH	**)**	**1993 TERM**
IN THE MATTER OF THE GUARDIANSHIP OF		**CAUSE NO. 68C01-**

In order to comply with the rules of the Randolph Circuit Court, I am required to file a Certification of Account Balances. Please certify the balances and names of the accounts I have listed below:

DATED: _____

_____
Guardian

I certify that on the ____ day of _____, 199___, the last day of the period covered by this accounting, there was a deposit in this institution to the credit of the Guardian, the following balance:

Name on Account	Account Number	Balance	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Name and address of Institution:

_____
_____
_____
_____

_____
Signature of Certifying Officer

_____
Title

DATE: _____

APPENDIX F

STATE OF INDIANA
RANDOLPH CIRCUIT COURT

STATE OF INDIANA	**)**	**IN THE RANDOLPH CIRCUIT COURT**
	)SS:	
COUNTY OF RANDOLPH	**)**	**1993 TERM**
IN THE MATTER OF THE GUARDIANSHIP OF		**CAUSE NO. 68C01-**
		<u>PHYSICIAN'S REPORT</u>

COMES NOW _____, a physician licensed to practice medicine in all its branches in the State of Indiana, submits the following report on _____, alleged disabled person, based on an examination of the Respondent on the ____ day of _____, 199___.

1. Describe the nature and type of the Respondent's disability: _____
_____
_____

2. Describe the Respondent's mental and physical condition; and, when it is appropriate, describe educational condition, adaptive behavior and social skills:
_____
_____
_____

3. State whether, in your opinion, the Respondent is totally or only partially incapable of making personal and financial decisions; and, if the latter, the kinds of decisions which the Respondent can and cannot make. Include the reason for this opinion: _____
_____
_____