

**The Governor's Council for Judicial Appointments**

**State of Tennessee**

***Application for Nomination to Judicial Office***

Name: Thomas J. Dancison, Jr.

Office Address: PO Box 63  
(including county) Lawrenceburg, TN 38464

Office Phone: 931-363-0407

Facsimile: \_\_\_\_\_

**INTRODUCTION**

The State of Tennessee Executive Order No. 41 hereby charges the Governor's Council for Judicial Appointments with assisting the Governor and the people of Tennessee in finding and appointing the best and most qualified candidates for judicial offices in this State. Please consider the Council's responsibility in answering the questions in this application questionnaire. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question, and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Council needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in word processing format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website [www.tncourts.gov](http://www.tncourts.gov)). The Council requests that applicants obtain the word processing form and respond directly on the form. Please respond in the box provided below each question. (The box will expand as you type in the document.) Please read the separate instruction sheet prior to completing this document. Please submit original (unbound) completed application (*with ink signature*) and any attachments to the Administrative Office of the Courts. In addition, submit a digital copy with electronic or scanned signature via email to [debra.hayes@tncourts.gov](mailto:debra.hayes@tncourts.gov), or via another digital storage device such as flash drive or CD.

THIS APPLICATION IS OPEN TO PUBLIC INSPECTION AFTER YOU SUBMIT IT.

**PROFESSIONAL BACKGROUND AND WORK EXPERIENCE**

1. State your present employment.

Self-employed.

“Of Counsel” with Harwell and Plant Attorneys at Law, Lawrenceburg, TN

2. State the year you were licensed to practice law in Tennessee and give your Tennessee Board of Professional Responsibility number.

2007. BPR 026100

3. List all states in which you have been licensed to practice law and include your bar number or identifying number for each state of admission. Indicate the date of licensure and whether the license is currently active. If not active, explain.

Commonwealth of Pennsylvania 1995 PA 75984

4. Have you ever been denied admission to, suspended or placed on inactive status by the Bar of any state? If so, explain. (This applies even if the denial was temporary).

No.

5. List your professional or business employment/experience since the completion of your legal education. Also include here a description of any occupation, business, or profession other than the practice of law in which you have ever been engaged (excluding military service, which is covered by a separate question).

OFFICE OF THE DISTRICT ATTORNEY GENERAL FOR THE 22ND JUDICIAL DISTRICT, CHILD SUPPORT DIVISION, Assistant District Attorney General (January 2011 through September 2014)

- I created the F.R.I.E.N.D.S. Program (Focus Resources on Intervention and Employment Needs to Develop Success) for the Child Support Division. This Program had a 66% success rate in helping parents obtain employment to pay their child support obligations. With ZERO (\$0.00) TAXPAYER DOLLARS, the Program utilized existing community resources to achieve success for parents.

- In 2013, I was elected by the members of the Child Support Division of the District Attorney Generals Conference to serve as Vice-President of the Steering Committee of the Child Support Section.

- Between January 2011 and July 31, 2014 (first month to ever break 92%), I increased the IV-D Performance Measure for “Cases With Orders” from a low of 74% as of December 31, 2010 to an all-time high measure of 92.05% for the period ending July 31, 2014. This increase of nearly 20 percentage points was obtained in a little over three and a half years. (NOTE: for the 3 year period prior to my appointment, from 2008 through 2010, the average IV-D Performance Measure for “Cases With Orders” for the preceding 30 months before I took charge was 74.50%)

- By utilizing existing laws--that prior to my appointment went completely ignored and unused by prior assistant district attorney generals—I collected over NINETY-FIVE THOUSAND (\$95,000.00) Dollars in partial purge payments over an 11 month period between 2013 and 2014 by issuing 115 Attachments pursuant to §36-5-101(f)(2) of the Code.

- In addition to increasing the IV-D Performance Measure of “Cases With Orders,” I was directly involved and instrumental in increasing the “Collections on Current Support” to nearly 59% as of July 31, 2014.

- I more than DOUBLED the Performance Measure for “Collections on Arrears” from 25.39% in June 2011 to a high of 59.61% as of July 31, 2014 – an increase of 134% or \$919,691.00!

- My standard duties as Assistant District Attorney General included the preparation, approval, presentation, and trial of all paternity establishment, initial support establishment, support modification, and civil and criminal contempt proceedings in the counties of Giles, Lawrence and Wayne. In addition, I was responsible for the Maury County office in the event of any attorney conflicts or scheduling issues.

- The elected District Attorney General chose me to serve as the designated “Conflict Attorney” for the 17th Judicial District that is comprised of the counties of Marshall, Bedford, Lincoln and Moore Counties.

- As the senior child support District Attorney General for the 22nd Judicial District, I was ultimately responsible for the management of a child support open caseload that was in excess of EIGHT THOUSAND SEVEN HUNDRED (8,700) CASES as of July 31, 2014.

- In addition to serving on the Steering Committee for Child Support, I presented a Continuing Legal Education (CLE) course entitled “A.D.A. Best Practices” at the 2013 District Attorney Generals Conference in Chattanooga, Tennessee.

SOLO PRACTITIONER (1995 through January 2011; September 1, 2014 to present)

- My legal career began in Pittsburgh, Pennsylvania where I established a small law practice immediately upon receipt of my license.
- For the period of 1995 until the latter half of 2007, I practiced primarily in Pennsylvania as a sole practitioner.
- I was appointed by The Court of Common Pleas of Allegheny County, Pennsylvania to serve as the chairman of a three (3) member boundary dispute commission that was tasked with investigating and making a recommendation to the Court regarding the legal land boundary between the Municipality of Penn Hills and Wilkins Township. As chairman, I was responsible for scheduling and conducting public hearings in both municipalities to take evidence regarding each municipality's respective position. Then, along with the other members of the commission who were not attorneys, but rather engineers, I engaged in additional discovery so as to be able to render a thorough opinion on the issue. Finally, I authored the formal report that was presented to the presiding judge of the trial court that was adopted by the trial court, and affirmed on appeal, as the legal physical land boundary between the two respective communities.
- From approximately 1995 until coming to Tennessee, I served regularly as an arbitrator in the Arbitration Section of the Civil Division of the Court of Common Pleas of Allegheny County, Pennsylvania. For the first five years of participation on the panels, I served as one of the three members of a given panel and would jointly hear, question, and render a verdict on a variety of civil actions ranging from landlord-tenant de novo appeals from the Magisterial District Courts to tort claims and contract actions in which the amount in controversy was under \$25,000.00. On occasion, as a "member" of the panel, I would dissent to the proposed recommendation of the board, and my dissent would be noted on the record. After five (5) years of practice, I was regularly appointed to serve as the "Chairman" of the three member panels and in that capacity, I was the attorney who ruled on all evidentiary issues during the hearings and presided over the course and conduct of the trial.
- Because much of my practice was domestic in nature, and because I was most often in the courthouse, I was regularly asked by the presiding judge on any given day to "fill in" and assist with the representation of indigent parties during contempt proceedings.
- I volunteered and actively participated in both the Protection From Abuse (PFA) pro bono program, and the Pro Se Motions program administered through the Family Division of the Court of Common Pleas of Allegheny County, Pennsylvania. During the course of my tenure, I represented both plaintiffs and defendants in PFA actions, and helped numerous parties with the preparation of pro se motions that were presented in Family Division for issues pertaining to divorce, custody, and child support.
- On at least one occasion, I was appointed by the trial judge to serve as a guardian ad litem for a minor child in a custody case that was particularly controversial.
- As a general practitioner, I handled a wide variety of civil cases and minor criminal cases. My civil caseload consisted of domestic, landlord-tenant, wills and estates, contracts, and real estate cases. On the criminal side, I mainly focused on D.U.I., misdemeanor and summary offenses.
- In late 2007, I began the transition of my practice from Pennsylvania to Tennessee.
- Because I relocated to a more rural area, and because I was starting my practice from

scratch, I found that my caseload consisted mainly of domestic, landlord-tenant, wills and estates, contracts, and real estate cases.

**DANCISON PROPERTIES, LLC.**

I serve in the capacity of the Vice President and Chief Counsel for this business which is engaged in primarily residential apartment units, but with a few commercial units as well. At one time, the company owned 4 properties with 15 units.

For nearly 16 years, I have been responsible for creating and executing all lease agreements for the company. In addition, I have prosecuted all eviction proceedings for the company that were conducted before the Magisterial District Courts and the Courts of Common Pleas. All contracts between renovation and service contractors are negotiated by me personally.

In addition to the legal side of the business, I coordinated the advertising and marketing strategy for the company. I have experience with on-line, print, and personal marketing and advertising practices for the rental business.

While many would think that the title of vice president and chief counsel sound “white collar” in nature, the truth of the matter be told is that the vice president title is more of a “sweat equity” position. The vice presidency at Dancison Properties is more akin to that of the proverbial “chief clerk and bottle washer” – or in our company’s case: carpenter, electrician, plumber, custodian, roofer, window washer, snow crewman, laborer and maintenance man. I have painted walls and removed trash, collected rent and hung dry wall, cleaned carpets and tarred roofs, and can truthfully say that I know the property rental business from all aspects.

However, as seemingly un-glamorous as my duties may be, this company helps to provide food for my family, and reminds me on a daily basis to appreciate my legal education, and to respect those who toil daily to keep buildings like mine operating, and companies moving forward. Most people in the 22nd Judicial District are hard-working, salt-of-the-earth people, who need to have a judge who can identify with their needs and concerns. A judge who personally knows the tire of physical labor, and who can distinguish between those who willfully fail to comply with orders because they are lazy, and those who cannot satisfy certain financial penalties in a specified period simply because the money is not yet available. As a chancellor in equity, I will be a judge who will take into consideration the whole person in rendering any decision, as permitted under the law.

6. If you have not been employed continuously since completion of your legal education, describe what you did during periods of unemployment in excess of six months.

Not applicable.

7. Describe the nature of your present law practice, listing the major areas of law in which you practice and the percentage each constitutes of your total practice.

Because I have only recently returned to private practice, I cannot give a precise percentage as to the nature or extent of the areas of law that comprise my practice. Indeed, I am still in the process of obtaining a full-time position. Of the few cases that I have done since my tenure with the District Attorney ended, I have accepted court appointment cases in both the civil and criminal courts handling matters such as termination of parental rights in civil court, and criminal defense cases involving the filing of false police reports, probation violation, failure to report, and drug possession. Additionally, I have handled a couple of domestic cases involving support and child custody.

8. Describe generally your experience (over your entire time as a licensed attorney) in trial courts, appellate courts, administrative bodies, legislative or regulatory bodies, other forums, and/or transactional matters. In making your description, include information about the types of matters in which you have represented clients (e.g., information about whether you have handled criminal matters, civil matters, transactional matters, regulatory matters, etc.) and your own personal involvement and activities in the matters where you have been involved. In responding to this question, please be guided by the fact that in order to properly evaluate your application, the Council needs information about your range of experience, your own personal work and work habits, and your work background, as your legal experience is a very important component of the evaluation required of the Council. Please provide detailed information that will allow the Council to evaluate your qualification for the judicial office for which you have applied. The failure to provide detailed information, especially in this question, will hamper the evaluation of your application.

Quite literally from the first day that I was sworn in as an attorney, I have been in the courtroom. Most often, the nature of the proceedings has been directly before the trial court judges of the Chancery, Juvenile, and Circuit Courts in Tennessee, and the Civil, Criminal, Family and Orphans' Court Divisions in Pennsylvania. Because I was a solo practitioner, I was responsible for EVERY aspect of the cases that I was handling. I met individually with each client to evaluate the case, researched the applicable law, drafted and typed every pleading, filed and served every action, conducted negotiations with the opposing parties, and--depending upon the results of my discussions with opposing counsel--either drafted settlement agreements or moved the case to trial. Whenever a case was set for trial, I prepared all discovery motions and conducted all depositions. Because I was a solo practitioner, I did not have the luxury of a paralegal or clerk or secretary to conduct research or type for me, and there was never a "second chair" at any of my trials. I regularly appeared in court to argue motions before the trial judges--sometimes on a daily basis because in Pennsylvania, motions' court was conducted daily--not monthly.

Due largely to the volume of cases in Allegheny County, I was exposed to a court system that was at times--overwhelmed; at other times--efficient and expeditious; and at other times--

innovative and visionary. In all instances, the courts to which I was exposed early on were very rule oriented and time-sensitive by necessity so as to be able to maintain some semblance of order in a hectic and potentially chaotic environment. I learned quickly through the pre-trial process with which I had to navigate, how to present a case to a judge in a very succinct manner and how to quickly summarize the issues in controversy during mandatory pre-trial conferences and judicial conciliations. The importance of fair and accurate discovery, narrowing of issues, timely submission of pre-trial documents, and adherence to courtroom etiquette were--and remain--essential to have a well-run court, and parameters upon which I will rely to conduct court.

In my domestic relations practice (which was the largest part of my private practice) I quickly came to realize that there needed to be more to law than simply a memorization of the Divorce Code if families were to be treated in a fair and compassionate manner, and their problems were to be resolved in an equitable and humane way. I saw my role as not only an advocate, but also, and sometimes more importantly, as a referee or the voice of reason. More important than the billable hour that I charged was what I told each client was their own "personal and emotional billable hour." As a client's attorney I always sought to help them find the most cost-effective and expeditious manner to get through their domestic issues, while at the same time protecting and safeguarding their emotional well-being. I have prepared divorce and custody complaints, motions for contempt and special relief, equitable distribution orders and parenting plans, negotiated settlements and tried cases before the court. From the filing of pleadings with the clerks, to ultimately arguing cases before the appellate court, I have been exposed to every facet of domestic and civil law.

Along with my domestic practice, I had a healthy amount of exposure to real estate matters, including the preparation of deeds and sales agreements, title searches, and property tax assessment appeals. I worked closely with property appraisal specialists and homeowners to argue many cases before both the Allegheny County Board of Property Tax Assessment and Appeals, and the Court of Common Pleas of Allegheny County to secure for homeowners a fair and just valuation of their properties.

I believe that I can bring an innovative approach to the domestic and civil trial processes that will lead to more cases being resolved without the need for a trial, and for those that do go to trial, to have them heard in a manner that is both fair and expeditious. For nearly four (4) years I have worked in what can be termed the largest firm in the 22nd Judicial District, having a total caseload of over 8,700 open cases. I personally managed the day-to-day caseload for the majority of the counties of the District, and have been successful in that I improved the efficiency of the office, increased the office's IV-D Performance Measures, shortened wait times for hearings, and instituted courtroom practices and schedules that have assisted attorneys and their clients. As an assistant district attorney general who prosecuted literally hundreds of contempt cases, my motto was that I was "Firm but Fair."

On a daily basis over the past four (4) years, I have served throughout the 22nd Judicial District and worked closely with the elected and appointed clerks and masters, as well as with the office staffs, to promote a child support system that is well-run and efficient. I have worked with the



various offices within the courthouses--from the clerks' offices to the sheriffs' departments—to enact courtroom procedures that best utilize the available staff, recognize the limitations imposed by certain personnel policies, and keep the courtrooms running smoothly. The importance of the size of the daily docket has been addressed by me since taking my post, with a constant emphasis and attention being placed upon the size of dockets so that the greatest number of citizens can be served on any given date and time, while at the same time ensuring that all people have adequate time for their concerns to be heard.

I was the first Assistant District Attorney General to regularly and routinely schedule “no judge” days for the consideration of new petitions to establish paternity and petitions to set support, as well as for modification petitions. By having morning and afternoon time slots that were limited to a set number of cases in the morning and afternoon, I was able to give every family the time needed to explain to them their rights under the law, the state’s role and expectations throughout the proceedings, and to discuss their concerns so that they could truly believe that justice was served. My methods were particularly successful in obtaining consent orders that were fair and reasonable under the law. To the extent that consent orders were not reached, judicial efficiency was maintained in that I was able to use the “no judge” days in an effort to narrow the issues, and thereby schedule hearings before a trial judge or magistrate on the earliest available dates and times. I can say with complete honesty and certainty that the Child Support Division of the 22nd Judicial District has never run as effectively and efficiently as it did under my control.

9. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

In the case of *Marcucci v. Miller*, PA Superior Court 1570 WDA 2000, I successfully argued before the Pennsylvania Superior Court that the appointment of independent counsel to represent a child’s interests in a custody dispute was not necessary. This ruling successfully reversed a trial court order that appointed a guardian ad litem and sought to have my client in contempt for failing to pay the guardian’s fees.

10. If you have served as a mediator, an arbitrator or a judicial officer, describe your experience (including dates and details of the position, the courts or agencies involved, whether elected or appointed, and a description of your duties). Include here detailed description(s) of any noteworthy cases over which you presided or which you heard as a judge, mediator or arbitrator. Please state, as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) a summary of the substance of each case; and (4) a statement of the significance of the case.

From 1995 until coming to Tennessee full time in 2007, I actively participated as an arbitration board member, and later as a Chairman of various arbitration panels in the Arbitration Section of

the Civil Division of the Court of Common Pleas of Allegheny County, Pennsylvania at Pittsburgh. For the first 5 years of practice, I was permitted to serve as one of the three (3) member boards of arbitration. An arbitration panel conducted hearings and rendered recommendations on all types of civil cases including: contract disputes, personal injury claims, landlord-tenant matters (evictions and damage claims), tort claims, etc. The boards heard both de novo appeals from the magisterial district courts, and original causes of action in the civil division in which the amount in controversy was under \$25,000.00 and later \$35,000.00. The decisions that were rendered by the board were recommendations that would become final in a statutory number of days, unless a de novo appeal was filed to the trial court of the Civil Division. If no appeal was taken, the majority decision of the arbitration panel was final and binding upon the parties. As a board member, I had equal standing in any decision, and could dissent from a panel's decision if I so chose. Also, as a board member, I could be responsible for administering oaths and writing the final order/recommendation. Once I had five (5) years of experience as an attorney, I was regularly appointed to serve as the Chairman of the Board of Arbitrators. In the role of chairman, I was the board member who made evidentiary rulings that were binding on the parties. Evidentiary rulings were not subject to the majority rule of the board, but rather were made basically in the chairman's capacity as a sort of "presiding judge" of the arbitration panel.

11. Describe generally any experience you have of serving in a fiduciary capacity such as guardian ad litem, conservator, or trustee other than as a lawyer representing clients.

While an attorney in Pennsylvania, I was chosen by a judge of the Court of Common Pleas of Allegheny County Family Division to serve as a guardian ad litem in a very contentious child custody matter. It was my job to represent a child whose parents were more interested in using their child as a weapon in their personal wars between themselves, than in doing what was in the best interests of the child. I attended court hearings on custody and prepared legal pleadings as required. The child's school requested my assistance and intervention on the child's behalf in order to be able to develop an appropriate IEP for the child, and to when necessary, keep the parents under control during meetings at the school. I was relied upon I believe because I had the ability to calm certain volatile situations, both by gentle persuasion and by the assurance of swift and definitive action that would result in repercussions if meaningful cooperation was not forthcoming. While my position was trying and emotional at times, it was ultimately a very rewarding experience that resulted in what I believe to be a just result for all involved.

12. Describe any other legal experience, not stated above, that you would like to bring to the attention of the Council.

Penn Hills-Wilkins Township Boundary Dispute Chairman:

After only a few years of practice before the court, I was selected from among several attorney candidates to serve as the chairman of a three person committee who would ultimately make a

recommendation to the trial court as to the proper legal boundary between the Municipality of Penn Hills and Wilkins Township in Allegheny County. The decision that was rendered potentially affected hundreds of families and businesses, and directly impacted the financial tax status of each municipality.

Over the course of several months, I along with two (2) engineers held public hearings, conducted independent investigations, reviewed the historic record, evaluated the opinions and testimony of dozens of witnesses, and even ventured down steep ravines and along flowing streams to arrive at a unanimous recommendation to present to the trial judge for consideration. As the attorney and chairman of the boundary dispute commission, I scheduled the public hearings, made arrangements for court reporters and the transcription of the record, presided over the public hearings themselves, rendered evidentiary rulings, examined witnesses, coordinated with the solicitors from the various interested municipal authorities, catalogued all evidence, maintained the official record, and ultimately, wrote the recommendation of the commission.

Working with my two colleagues on the commission, we were able to reach a unanimous decision as to the proper municipal boundary that was—by some accounts—in dispute for over 100 years. I formally presented the recommendation of the boundary dispute commission to the trial court and our decision and recommendation was accepted and approved by the Honorable S. Louis Farino as the legal boundary between the Municipality of Penn Hills and Wilkins Township. As expected the case was taken up on appeal, and after several years, the recommendation that I authored was upheld by the Pennsylvania appellate courts.

#### FRIENDS Program (Focus Resources on Intervention and Employment Needs to Develop Success)

As the senior Assistant District Attorney General for Child Support in the 22nd Judicial District, and as a veteran of 16 years of dealing with the issue of child support contempt in the private sector, I recognized that there is a very real problem facing the judicial system as a whole in regards to parents who fail or refuse to pay their child support obligations. While in private practice, I did not have the exposure to the great number of child support clients that I did as an Assistant District Attorney General. I quickly came to recognize that as the “general” in charge of child support, I had not only an opportunity to confront this problem head on, but a legal and ethical duty to do all in my power to attempt to resolve this problem in a legal and just way that served not only the interests of the State of Tennessee, but more importantly, the best interests of the children of our great country. I therefore set out to develop a program that would first define and address the issues and impediments that prevented a parent from paying child support. Then, once the common problems were determined, my plan would set forth a roadmap that any person could follow to solve their unique personal challenges, and to ultimately pay and fulfill their child support obligations.

Due to many years of experience, through research, and with insight that only a domestic practitioner can have, I identified three (3) distinct issues as the leading impediments to

individuals being able to attain and sustain gainful employment: lack of employment development skills, drug and alcohol dependency, and the non-existence of a secondary education diploma.

Once I was satisfied that I had identified the major causes leading a parent to fail to pay child support as ordered, the next step was to find a way to legally--and through the power and influence of the Office of the District Attorney General--establish a plan or "program" that could begin to cure the devastating illness of chronic contempt and unemployment. As I had no budget or funding from any source for my plan, I decided from the outset that any program that I developed would need to be self-sustaining and would need to rely solely on existing resources that were both reliable and free. I was also guided by the principle that if any money were to be spent, it should be on the children, and I never wanted it to be said that money that could have been spent on a child was instead being spent on "just another government program" and on a person who wasn't even paying. I therefore went out into the community, researched the public record and even looked in the phone book to find the names of individuals and organizations both public and private that could fulfill my needs. After only a few days, my search proved successful and I began to move forward with my plan.

FRIENDS utilizes first and foremost, the existing state resources offered through the Tennessee Career Centers to address the issue of Employment Development. This unofficial partnership is a win-win-win scenario for the Career Centers and for the State, and ultimately for the parties as well. The Career Centers are located in all of the counties in the 22nd Judicial District (and most, if not all, other counties throughout the state as well) and offer their services free of charge to all who apply. An important factor is that the centers also offer services to convicted felons, and to those who are awaiting trial. A day-by-day schedule is set forth in the FRIENDS Program consent order that literally walks a parent through each step of the employment development process. Within 30 days of the entry of the consent order, each participant will have completed the following objectives:

- obtained a password to the Tennessee state job search website;
- learned how to conduct an on-line job search;
- met with a professional employment counselor from the center;
- participated in a "Career Scope" to identify that individual's strengths (NOTE WELL: the word "weakness" is never uttered during any explanation of the Program);
- completed an "Interview Stream" to learn how to present themselves at any job interview;
- attended a seminar or webinar called a "Resume clinic" to learn how to prepare a resume;
- worked with a center professional to actually have both a written and on-line resume;
- finished a seminar or webinar on "Job Applications" and how to present themselves to potential employers; and
- conducted on-line job searches and job book searches for employment.

In addition to enrolling with and participating in the programs offered through the Tennessee

Career Center, parents must also seek services through the Goodwill Career Solutions Center(s). Provided that a parent is not a registered sex offender, and/or does not have pending a legal trial, he/she is eligible for the full range of employment development services offered through Goodwill—all at no charge to the parent. At Goodwill, the parent enrolls for “Complete Job Services” and as such, completes the following requirements:

- completes two (2) separate computer evaluations on “job readiness training” and “transitional programs;”
- performs a “Career Scope;”
- participates in a phone interview with a Goodwill job counselor;
- conducts job searches; and
- attends a “Job Readiness Training” class.

Next, in addition to the Tennessee Career Center and Goodwill Career Solutions Center experience, the parent is given the names and addresses of local private staffing companies with which he/she must enroll, and from whom they must accept any employment for which they are qualified. Private employment companies include names such as Staffmark, Randstad, Kelly Services, Wise Staffing, and Trojan Labor to name a few.

The result in terms of the Employment Development component of the Program is that within 30 days of the date of the initial order, every parent shall have the fundamental employment search skills, including resumes, and sometimes--through the generosity of Goodwill—even interview clothing for their job search. Where before, a parent may never have known of the existence, much less the available services provided free of charge by the Career Center, Goodwill and the employment companies, each now knows of where and how to move forward on a career path. In keeping with the old adage: “Give a man a fish and he eats for a day; Teach a man to fish and he eats for life.” The employment development component of the Program teaches parents how to fish—and to “feed” their children for life.

An inextricable component of the Program itself, and the employment development section in particular, is the verification element. Unlike simple job search forms that have been given to parents for years, every aspect, every class, every seminar, every job search, every evaluation, is independently verified by the providers at the specific organizations mentioned hereinabove. No longer can a parent simply wait until the day before a hearing and concoct a completed job search form. Under my Program, nearly 30 days were required to complete all aspects of the plan, and fulfillment of its objectives could never be fulfilled in a single day. If a parent fails to provide the completed verifications, the case can proceed directly to a civil contempt hearing.

The next area that FRIENDS addresses is the issue of education—or more unfortunately, lack thereof. Utilizing the adult education centers located within the District, any parent who does not either have a high school diploma or a GED, must agree to enroll in education classes to

begin the process of enrolling in school and eventually obtaining a GED. The educational component is crucial to the success of the ultimate goal of the Program which is to solve chronic unemployment that leads to support contempt. Parents participate in evaluations by the educational center to determine their approximate grade level at entry, and to thereby chart a course of action through appropriate classes to obtain their diploma. The statistics all show that long-term success in employment and earning capacity is directly related to an individual's educational achievements and degree of educational attainment. By directing an individual to participate in an adult education program as part of the consent order, the Program ensures that it addresses and attains the goal of eliminating a major impediment to an individual's long-term success.

Like the employment development component, all aspects regarding the educational element of the Program are verified independently by the teachers at the educational centers. While a GED may not be obtained within 30 days, what is accomplished in all cases requiring the educational component, is an educational evaluation and assessment that leads to the formulation of an educational plan to obtain the goal of a GED. With all parents who require this service, I have told them that "no judge or attorney earned their law degree in 30 days, but we all started out somewhere. So long as you continue to work with me, I will work with you."

The final issue that the Program addresses is the issue of drug and alcohol dependency. Because community resources are scarce, the policy in regards to this component may be termed what some would call "tough love." The rule that is followed is simple: If you have a drug or alcohol problem that prevents you from paying your child support STOP NOW and go "cold turkey." No bartender and no drug dealer gives free samples. As such, the only explanation for returning on the next court date with a "dirty" drug screen, is that the parent spent money on drugs and not on child support. The offer to all is this: "If you stay clean I will work with you. If you are dirty, you are out of the Program and I will move forward with contempt." There is no grey area in this regard. In addition to drug screenings both at the time of enrollment and again 2 days prior to the next court date, the parent is also required to attend NA and/or AA classes that are held throughout the community.

As with the prior two components of the Program, verification is key. Through utilization of the local probation offices for the drug screens, and local chapters of NA and AA, individuals must provide proof of being clean and of attending treatment. While stronger and verifiable treatment facilities and options are on the Program's "wish list" they are not available at the present time as a component of the plan.

Over the course of approximately one year, the unofficial results are that the FRIENDS Program is a glowing success. By my records, 66% of parents who enrolled with the Program are either paying on their child support orders, or they are still actively participating in the Program through one or all of its components. The remaining third of parents who enrolled in the Program are either incarcerated on child support contempt charges or on other unrelated criminal

matters, or they are fugitives with outstanding attachments for their arrest.

For the first time in any jurisdiction of this state, or anywhere else in the United States for that matter, a plan has been set forth, and a program has been offered to parents that addresses the fundamental problems facing them in terms of child support. FRIENDS strives for justice for all interested parties in that it offers an alternative to a jail sentence for parents who truly have been unable to find a way to pay child support because of real and verifiable impediments but who are willing to take all necessary, and sometimes difficult steps to fulfill their support obligations; it illustrates a commitment on the part of the State to the dependent parent to ensure that child support is either paid or that the willfully breaching party is brought to justice.

At the conclusion of my tenure as Assistant District Attorney General for the Child Support Division, and indeed at this point in my professional legal career, I look upon the

FRIENDS Program as my greatest achievement. It is my fervent hope and prayer that the Program shall not disappear. To that end, as either a sitting judge or private citizen, I shall do all in my power to offer hope and a helping hand to those in need of the services offered through my Program.

As the old saying goes: “Better to light one candle than to curse the darkness.” I know that a flame has been lit through this Program, a flame that has grown, and flickered, but has not been extinguished. A flame that can serve as a beacon of hope to parents who have truly either lost their way, or who have never had a guiding light to follow. A light for parents and children to see that success can be achieved, not through government handouts or entitlements spending, but rather through the sweat of their brow and a devotion to the duty to support one’s children.

13. List all prior occasions on which you have submitted an application for judgeship to the Governor’s Council for Judicial Appointments or any predecessor commission or body. Include the specific position applied for, the date of the meeting at which the body considered your application, and whether or not the body submitted your name to the Governor as a nominee.

Circuit Court of the 22<sup>nd</sup> Judicial District of Tennessee; State of Tennessee Executive Order No. 34. Governor’s Commission for Judicial Appointments 2014. Interviewed on October 15, 2014. Not chosen for submission to the governor at that time.

### EDUCATION

14. List each college, law school, and other graduate school that you have attended, including dates of attendance, degree awarded, major, any form of recognition or other aspects of your education you believe are relevant, and your reason for leaving each school if no degree was awarded.

DUQUESNE UNIVERSITY, SCHOOL OF LAW, Pittsburgh, Pennsylvania, Day Division,  
(1994) Juris Doctor

- Interned as the law clerk for the City of Pittsburgh Zoning Hearing Board
- Chosen as Teaching Assistant for 1st Year Legal Research and Writing Course
- Served as Student Assistant to the Associate Dean of the Law School
- Participated in the Trial Moot Court program
- Shalom Trial Moot Court Honor Society
- Elected as Student Senator
- Worked as a Student Assistant at the law library

St. FRANCIS UNIVERSITY, Loretto, Pennsylvania (1991) Bachelor of Arts

Cum Laude Graduate of Honors Program, 3.6 QPA; Departmental Honors in English Literature;  
Business Management Minor.

- Appointed as the First and Only Teaching Assistant to the Dean of Academic Affairs and of the St. Francis College Honors Program
- Elected as Student Senator
- Served as Advertising Chair of the Student Activities Organization
- Elected as the First Student Chairman of Student Affairs Committee of Faculty Senate
- Taught as a peer tutor for English Literature
- Acted in various stage productions
- Participated as a “Shakertown Conversationalist” with the Academic Vice President

**PERSONAL INFORMATION**

15. State your age and date of birth.

45. July 28, 1969.

16. How long have you lived continuously in the State of Tennessee?

Approximately 7 years. I purchased my home in Tennessee in November 2007.



17. How long have you lived continuously in the county where you are now living?

Since November 2007.

18. State the county in which you are registered to vote.

Giles County, TN.

19. Describe your military service, if applicable, including branch of service, dates of active duty, rank at separation, and decorations, honors, or achievements. Please also state whether you received an honorable discharge and, if not, describe why not.

Not applicable.

20. Have you ever pled guilty or been convicted or are you now on diversion for violation of any law, regulation or ordinance? Give date, court, charge and disposition.

Never.

21. To your knowledge, are you now under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule? If so, give details.

No.

22. Please state and provide relevant details regarding any formal complaints filed against you with any supervisory authority including, but not limited to, a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you.

None.

23. Has a tax lien or other collection procedure been instituted against you by federal, state, or local authorities or creditors within the last five (5) years? If so, give details.

No and not ever.

24. Have you ever filed bankruptcy (including personally or as part of any partnership, LLC,

corporation, or other business organization)?

No.

25. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

No.

26. List all organizations other than professional associations to which you have belonged within the last five (5) years, including civic, charitable, religious, educational, social and fraternal organizations. Give the titles and dates of any offices that you have held in such organizations.

Kiwanis International, Lawrenceburg Chapter. (2011 to present)

Sacred heart Home and School Association (2010 to present; secretary since 2011)

27. Have you ever belonged to any organization, association, club or society that limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.
- If so, list such organizations and describe the basis of the membership limitation.
  - If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

No.

### **ACHIEVEMENTS**

28. List all bar associations and professional societies of which you have been a member within the last ten years, including dates. Give the titles and dates of any offices that you have held in such groups. List memberships and responsibilities on any committee of professional associations that you consider significant.

Steering Committee of the Child Support Division, District Attorney Generals Conference. Vice President. (2013-2014)

Lawrence County Bar Association. (2012 to present)

Giles County Bar Association (2008 to present)

Allegheny County Bar Association. (1995 to 2007)

Matrimonial Inns of Court (Allegheny County chapter approx. 2002 to 2007)

29. List honors, prizes, awards or other forms of recognition which you have received since your graduation from law school that are directly related to professional accomplishments.

None. However, the Office of the District Attorney General for the 22<sup>nd</sup> Judicial District Child Support Division did receive a number of performance related recommendations and honors while I served as Assistant District Attorney General. The awards themselves were either in the name of the elected District Attorney General or the Office itself, and not in my name per se.

30. List the citations of any legal articles or books you have published.

None.

31. List law school courses, CLE seminars, or other law related courses for which credit is given that you have taught within the last five (5) years.

Assistant District Attorneys Best Practices Seminar (2013 Tennessee District Attorney Generals Fall Conference)

Streamlining the Child Support Contempt Process in TN (CLE October 2014)

32. List any public office you have held or for which you have been candidate or applicant. Include the date, the position, and whether the position was elective or appointive.

2001 Special Election for the Pennsylvania State House. Not elected. It must be noted that the special election time period only allowed this candidate less than 6 weeks to campaign for the post between the date that the position became available to the date of the election.

33. Have you ever been a registered lobbyist? If yes, please describe your service fully.

No.

34. Attach to this questionnaire at least two examples of legal articles, books, briefs, or other legal writings that reflect your personal work. Indicate the degree to which each example reflects your own personal effort.

See attached Superior Court of Pennsylvania brief in the case of Paula Kearney v. Curtis Randolph, PA Super. 2240 WDA 2003; FRIENDS Program procedures and orders.

**ESSAYS/PERSONAL STATEMENTS**

35. What are your reasons for seeking this position? *(150 words or less)*

After being in private practice for sixteen (16) years, plus nearly four (4) years of governmental service with the Office of the District Attorney General, for a total of twenty (20) years in the law, I believe that taking my talents, training, and ideas to the bench is a natural progression in my legal career. BUT MOST IMPORTANT, besides being the highest honor that I could receive, serving on the bench is a DUTY FROM WHICH I CANNOT SHRINK. I believe that Providence took me into the Office of the District Attorney General, and while there I have learned that there are people who I can serve and assist with my experience and training. There are new and novel approaches to the administration of justice that I alone can share with this District, and from which judges and litigants alike shall benefit.

36. State any achievements or activities in which you have been involved that demonstrate your commitment to equal justice under the law; include here a discussion of your pro bono service throughout your time as a licensed attorney. *(150 words or less)*

I believe that my greatest achievement to date in terms of equal justice under the law is the FRIENDS Program. However, in addition, I served for nearly 12 years as a pro bono attorney with the Protection From Abuse program in Pennsylvania and represented victims of domestic violence. When a new program called the "Pro Se Motions" program was created through the Family Division of Allegheny County, I was one of the first volunteers to answer the call. Through the "Pro Se Motions" program, I assisted indigent parties with the preparation of various domestic pleadings on matters concerning child custody, equitable distribution, divorce, child support, etc. With my assistance, parties were able to seek relief from the court for many serious matters that otherwise would have gone unresolved because they simply did not have money to hire a lawyer. It is my belief that such a program could and should be implemented in this jurisdiction.

37. Describe the judgeship you seek (i.e. geographic area, types of cases, number of judges, etc. and explain how your selection would impact the court. *(150 words or less)*

Circuit Court Judge for the 22nd Judicial District (Giles, Lawrence, Maury and Wayne Counties of middle-Tennessee). My selection would impact the court immediately. For 20 years, I have served in both the capacity of advocate, as well as that of quasi-judicial officer. Coupled with my extensive courtroom experience I will take the bench ready to resolve cases either through conciliation or through trial. I can offer to this District, new and alternative proven methods that could improve the efficiency and effectiveness of the court. At the same time, because of my rather intimate familiarity with the administrative offices within the courthouses that was obtained as Assistant District Attorney General, I would adopt the best practices from all of the counties in which I have served to achieve and maintain the high standards of justice and service that was exhibited by my predecessor and the current members of the bench.

38. Describe your participation in community services or organizations, and what community involvement you intend to have if you are appointed judge? *(250 words or less)*

Kiwanis Club of Lawrenceburg (member)

Sacred Heart Home and School Association (secretary)

I believe that a judge must always remember that he/she is first and foremost a citizen of the greatest nation on earth, and--in the case of the 22nd Judicial District--a member of one of the finest communities in Tennessee. Unlike in other countries, judges in America are not from a privileged class of people, but rather, they are privileged to be chosen to serve all of their fellow citizens in a fair and just manner regardless of class.

As a father, good neighbor, and attorney I have done what I can to give back (at least in some small measure) to my God and to my community for all that I have been given. I believe that it is not always the deepest pocket that has the greatest impact, but rather the sincerest of heart. Whether it be parking cars at a fair, volunteering with my church, working at a school concession stand, or doing pro bono legal services, I have striven to give thanks. Whether or not I am selected shall not affect this part of my life.

As a judge, I believe that I must remain involved, and to the extent possible, extend my community involvement to all of my neighbors. In addition to dispensing justice in the courtroom, a judge has a unique ability to expand justice and fair play into our schools, houses of worship, community organizations, and even onto the playing fields, and as such, I would do all in my power to see that I could be available to help and serve the community in any volunteer capacity that would not otherwise compromise my office. Whether it be judging a burglary case or judging a pie contest at the county fair, a judge must remember that he is a fellow neighbor who must be trusted to make a fair and unbiased—and sometimes even flavorful—decision.

39. Describe life experiences, personal involvements, or talents that you have that you feel

will be of assistance to the Council in evaluating and understanding your candidacy for this judicial position. *(250 words or less)*

To paraphrase the words of the poet Rudyard Kipling:

“If you can talk with crowds and keep your virtue; or Walk with Kings—nor lose the common touch...

If all men count with you, but none too much...

If you can fill the unforgiving moment with sixty seconds worth of distance run,

Yours is the Earth and everything that’s in it, and—which is more...”

You’ll be a just Judge, my son.

I am but a common man from the most humble of beginnings, who has been very blessed, and who has never lost the “common touch.” I also state unabashedly that I see myself as the embodiment of the American Dream. Neither of my parents were able to go to college, but both worked tirelessly—my father as a laborer with the bus company, and my mother as a bookkeeper--to make sure that I could attain an education that would make my life better. Through their love and encouragement, and my disciplined approach to my studies, I became the first person in my family not only to receive a college diploma, but a law degree as well.

My “blue collar” family instilled in me from the beginning the value of an honest day’s work, and the virtue that comes from a job well-done. My “white collar” professors, clergymen, and fellow professionals showed me how higher education with integrity could both reward me, and more importantly benefit my fellow man.

As my mentor Dr. Fred Rogers (Mr. Roger’s Neighborhood fame) taught me:

“From every person you meet you can learn something—either what to do, or what not to do.”

I live by that mantra and strive each day to learn from my neighbor the farmer, and from the presiding judge on my case to learn what to do or not to do. Following this belief, all people count with me, but none “too much.” In the “unforgiving moment” of the next two years of this judicial term, I want to fill it with “sixty seconds worth of distance run” and strive to help make the 22nd Judicial District a model for other courts to follow, and a court about which my neighbors, my family, and my Creator will be proud.

40. Will you uphold the law even if you disagree with the substance of the law (e.g., statute or rule) at issue? Give an example from your experience as a licensed attorney that supports your response to this question. *(250 words or less)*

Yes. A judge—unlike a legislator—does not have the right to make ANY law. Only in cases in which a law is “unconstitutional” may a judge refuse to uphold a law. Even in unconstitutional

situations, the judge is still upholding the law—that law being the state or federal constitutions. However, in cases in which a law is merely “disagreeable” to the judge, or unpopular with the public, there is NO CHOICE for a judge but to UPHOLD THE LAW NONETHELESS! It is the function of the legislature to change bad or unpopular laws—not the judiciary.

Every day as Assistant District Attorney General I applied the child support guidelines that are based on gross income, rather than net income, and which do not give 100% credit to a Respondent for other child support cases for which they are paying. I personally prefer a support calculation that utilizes net incomes and gives 100% credit for additional cases, but that is not the law. I therefore followed the law as it exists, and voiced my suggested changes through the Steering Committee of the District Attorney Generals Conference and to DHS directly at administrative meetings. The proof of my adherence to the law I believe is evidenced through the IV-D performance measures that show a steady increase from January 2011 through August 2014 in cases with orders, collections on arrears, and collections on current support. Were I not following the law, I do not believe that my orders would have been confirmed by the circuit court judges of this District.

**REFERENCES**

41. List five (5) persons, and their current positions and contact information, who would recommend you for the judicial position for which you are applying. Please list at least two persons who are not lawyers. Please note that the Council or someone on its behalf may contact these persons regarding your application.

A. T. Michel Bottoms, Esq., District Attorney General of the 22nd Judicial District from 1982 to 2014 (retired)
B. Honorable S. Louis Farino, Judge of the Civil Division, Court of Common Pleas of Allegheny County, Pennsylvania (retired)
C. Robert J. Carter, District Attorney General of the 17th Judicial District; 311 East Market St., PO Box 878, Fayetteville, TN 37334 931-438-1906
D. Robert W. Counce, Business owner and Kiwanis Club member;
E. Judy McDonald, Co-President of Wayne County Helping Hands; 720 Highway 99, PO Box 146, Waynesboro, TN 38485 931-722-6888

**AFFIRMATION CONCERNING APPLICATION**

Read, and if you agree to the provisions, sign the following:

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the Circuit Court of Tennessee, and if appointed by the Governor and confirmed, if applicable, under Article VI, Section 3 of the Tennessee Constitution, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended questionnaire with the Administrative Office of the Courts for distribution to the Council members.

I understand that the information provided in this questionnaire shall be open to public inspection upon filing with the Administrative Office of the Courts and that the Council may publicize the names of persons who apply for nomination and the names of those persons the Council nominates to the Governor for the judicial vacancy in question.

Dated: February 23, 2015.

\_\_\_/s/ *Thomas J. Dancison, Jr.*  
Thomas J. Dancison, Jr.  
Signature

When completed, return this questionnaire to Debbie Hayes, Administrative Office of the Courts, 511 Union Street, Suite 600, Nashville, TN 37219.





**THE GOVERNOR'S COUNCIL FOR JUDICIAL APPOINTMENTS  
ADMINISTRATIVE OFFICE OF THE COURTS**

511 UNION STREET, SUITE 600  
NASHVILLE CITY CENTER  
NASHVILLE, TN 37219

**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY  
TENNESSEE BOARD OF JUDICIAL CONDUCT  
AND OTHER LICENSING BOARDS**

**WAIVER OF CONFIDENTIALITY**

I hereby waive the privilege of confidentiality with respect to any information that concerns me, including public discipline, private discipline, deferred discipline agreements, diversions, dismissed complaints and any complaints erased by law, and is known to, recorded with, on file with the Board of Professional Responsibility of the Supreme Court of Tennessee, the Tennessee Board of Judicial Conduct (previously known as the Court of the Judiciary) and any other licensing board, whether within or outside the State of Tennessee, from which I have been issued a license that is currently active, inactive or other status. I hereby authorize a representative of the Governor's Council for Judicial Appointments to request and receive any such information and distribute it to the membership of the Governor's Council for Judicial Appointments and to the Office of the Governor.

Thomas J. Dancison, Jr.

\_\_\_\_\_  
Type or Print Name

/s/ Thomas J. Dancison Jr.  
Signature

February 23, 2015  
Date

TN 026100  
BPR #

Please identify other licensing boards that have issued you a license, including the state issuing the license and the license number.

<u>Supreme Court of Pennsylvania PA ID # 75984</u>

IN THE \_\_\_\_\_ COURT OF \_\_\_\_\_ COUNTY,  
TENNESSEE

STATE OF TENNESSEE ex. rel.,

\_\_\_\_\_  
Petitioner

v.

\_\_\_\_\_  
Respondent

Docket No. \_\_\_\_\_

IV-D No. \_\_\_\_\_

Court I.D. \_\_\_\_\_

**FRIENDS PROGRAM PROCEDURES**

AND NOW, to-wit, upon the  ORDER OF COURT  CONSENT of the Parties, the Respondent being properly before the Court, the Respondent shall be subject to the following terms and conditions for enrollment and participation by the Respondent in the FOCUS RESOURCES on INTERVENTION AND EMPLOYMENT NEEDS to DEVELOP SUCCESS (F.R.I.E.N.D.S). in "Paying Child Support" Program (hereinafter: "FRIENDS"). The Respondent agrees to participate in the following services and components as part of the FRIENDS Program:

- Employment Search and Development Program
- GED Educational Program
- Drug and Alcohol Counseling

1. That the Respondent as indicated by his/her signature below, shall report to the locations and offices set forth herein, and on the days and times indicated on the attached FRIENDS Program form(s), and cooperate with all aspects of said FRIENDS Program until successful completion of the program or further order of Court.

**NOTE WELL**

**SHOULD RESPONDENT FAIL TO COMPLY WITH THE FRIENDS PROGRAM**

**REQUIREMENTS AND ORDER, THE CASE SHALL PROCEED TO A HEARING FOR CIVIL CONTEMPT ON THE UNDERLYING CHILD SUPPORT ENFORCEMENT ACTION AND THE STATE MAY SEEK INCARCERATION OF THE RESPONDENT FOR CIVIL CONTEMPT AT THE NEXT COURT DATE.**

*IN ADDITION*, A PETITION FOR INDIRECT CRIMINAL CONTEMPT MAY BE FILED AGAINST THE RESPONDENT FOR ANY WILLFUL VIOLATIONS OF THE TERMS AND CONDITIONS OF THE "FRIENDS" PROGRAM ORDER(S) AND THE CASE SCHEDULED FOR FURTHER PROCEEDINGS BY TIDS COURT FOR INDIRECT CRIMINAL CONTEMPT. THE STATE UNDER AN INDIRECT CRIMINAL CONTEMPT PETITION MAY REQUEST TO THE COURT THAT THE RESPONDENT BE SENTENCED FOR TEN (10) DAYS FOR EACH VIOLATION, UP TO AND INCLUDING SIX (6) MONTHS OF INCARCERATION IN THE COUNTY JAIL FOR INDIRECT CRIMINAL CONTEMPT, AND/OR THAT THE COURT CONSIDER APPROPRIATE SANCTIONS FOR RESPONDENT'S FAILURE TO COMPLY, INCLUDING ALL REMEDIES AVAILABLE AT LAW.

2. Respondent shall, BY 9:30 AM ON THE NEXT BUSINESS DAY IMMEDIATELY FOLLOWING THE SIGNING OF TIDS ORDER BY THE RESPONDENT, report to the TENNESSEE CAREER CENTER located in:

- o GILES COUNTY at 125 South Cedar Lane, Pulaski, 1N 38478 (931-363-9550)
- o LAWRENCE COUNTY at 702 Mahr Avenue, Lawrenceburg, 1N 38464 (931-766-1405)
- o MAURY COUNTY at 119 Nashville Highway, Suite 106, Northway Shopping Center, Columbia, 1N 38401 (931-490-3800)
- o WAYNE County at Old Wayne County Courthouse, Courthouse Square, Waynesboro, 1N 38485 (931-722-9214)
- o The county of Respondent's primary residence of \_\_\_\_\_

Respondent shall go on-line at [tn.gov](http://tn.gov) and click on "Employment", then click "Training" and select "Career Centers" to locate the Tennessee Career Center in Respondent's county of residence, or which location is most convenient for the Respondent.

RESPONDENT IS REQUIRED TO SIGN IN AND OUT WITH THE TN CAREER CENTER RECEPTIONIST AND WITH THE WORKSHOP PRESENTERS USING THE APPROVED FRIENDS PROGRAM SIGN-IN FORM EACH TIME RESPONDENT APPEARS AT THE TN CAREER CENTER. TN Career Center staff will NOT backdate any forms.

3. IMMEDIATELY upon reporting to the TN CAREER CENTER on the NEXT BUSINESS DAY FOLLOWING THE SIGNING OF TIDS ORDER BY THE RESPONDENT, the Respondent shall perform the following actions:

A. Provide the TN Career Center intake staff member with the following two (2) forms of identification:

1. PHOTO IDENTIFICATION
2. SOCIAL SECURITY CARD

\*PROOF OF IDENTIFICATION IS REQUIRED IN ORDER TO RECEIVE SERVICES THROUGH THE TN CAREER CENTER.

B. Register for, or schedule and appointment to register for, COMPLETE JOB SERVICES through the Tennessee Career Center with a member of the TN Career Services Center staff. If a staff member is available to conduct orientation/registration with the Career Center, the Respondent MUST register on the first visit to the Center.

C. Complete a "Career Scope." The TN Career Center staff will assist with set up.

D. Enroll in [www.Jobs4.tn.gov](http://www.Jobs4.tn.gov), the on-line job matching system that provides current employment opportunities for the Respondent's job search. The TN Career Center staff will assist with enrollment.

E. Schedule an appointment and time to participate and complete the "INTERVIEW STREAM." The "Interview Stream" shall be scheduled for the FIRST AVAILABLE DATE after registration with the Career Center. The TN Career Center staff will assist with scheduling.

4. On the TIDRD BUSINESS DAY FOLLOWING THE SIGNING OF THIS ORDER BY THE RESPONDENT, the Respondent shall report to the TN CAREER CENTER and shall:

A. Participate in and complete the "INTERVIEW STREAM" provided that it is available to be performed on that day.

B. Conduct a work search on [www.Jobs4.tn.gov](http://www.Jobs4.tn.gov).

C. Check the Job books for potential employment.

5. On the FOURTH (4th) BUSINESS DAY FOLLOWING THE SIGNING OF THIS ORDER BY THE RESPONDENT, the Respondent shall report to the TN CAREER CENTER and shall:

A. Select and schedule THREE (3) seminars and/or webinars that MUST BE COMPLETED BEFORE THE NEXT COURT DATE.

A MINIMUM on ONE (1) seminar/webinar MUST include a RESUME seminar/webinar.

B. Attend and complete a "RESUME CLINIC" webinar or live workshop. If the Resume Clinic is not scheduled for the 4th day following the signing of this Order, Respondent shall schedule to attend and complete the webinar before the next court date.

C. Complete a "JOB APPLICATIONS" webinar or live workshop. If the Resume Clinic is not scheduled for the 4th day following the signing of this Order, Respondent shall schedule to attend and complete the webinar before the next court date.

D. Conduct a work search on [www.Jobs4.tn.gov](http://www.Jobs4.tn.gov).

E. Check the Job books for potential employment.

6. Between the FOURTH (4th) BUSINESS DAY AND THE DATE OF THE NEXT HEARING, Respondent must appear at the TN Career Center for JOB SEARCH purposes on NOT LESS THAN SIX (6) OCCASIONS and:

A. Conduct a work search on [www.Jobs4.tn.gov](http://www.Jobs4.tn.gov).

B. Check the Job books for potential employment.

C. Once enrolled, you must report to the TN Career Center a minimum of three hours each visit to search for employment AND attend a minimum of one relevant workshop each week (during the three-hour visit). You should register for relevant workshops as soon as possible in advance to ensure your enrollment.

7. Respondent shall, BY 9:30 AM ON THE SECOND (2<sup>nd</sup>) BUSINESS DAY IMMEDIATELY FOLLOWING THE SIGNING OF TIDS ORDER BY THE RESPONDENT, report to the GOODWILL CAREER SOLUTIONS CENTER located in:

- o LAWRENCEBURG at 1604 North Locust Avenue, Lawrenceburg, TN 38464 (931) 762-4350.
- o MURFREESBORO at 710 Memorial Blvd., Murfreesboro, TN 37129 (615) 898-1887
- o SPRING IDLL at 1008 Nasdaq St., Spring Hill, TN 37174 (615) 392-7755
- o The Respondent shall go on-line at goodwillcareersolutions.org and find the Goodwill Career Solutions Center nearest to Respondent's residence.

- o Respondent is NOT required to enroll for services through Goodwill because the Respondent is a registered sex offender.

- o Respondent is NOT required to enroll for services through Goodwill *at the present time* because the Respondent has pending felony charges.

□ \_\_\_\_\_

RESPONDENT IS REQUIRED TO SIGN IN AND OUT WITH THE GOODWILL CAREER SOLUTIONS CENTER RECEPTIONIST AND/OR WITH THE WORKSHOP PRESENTERS USING THE APPROVED "FRIENDS" PROGRAM SIGN-IN FORM EACH TIME RESPONDENT APPEARS AT THE GOODWILL CAREER SOLUTIONS CENTER. Goodwill Career Solutions Center staff will NOT backdate any forms.

8. At the time that the Respondent first appears at the Goodwill Career Solutions Center, the Respondent shall:

A. Register for, or schedule an appointment to register for, COMPLETE JOB SERVICES through the Goodwill Career Solutions Center with a member of the Center staff. If a staff member is available to conduct orientation/registration with the Career Center, the Respondent MUST COMPLETE the orientation/registration process at the time of the first visit to the Career Solutions Center.

- B. View the orientation video for the Goodwill Career Solutions Center program.
  - C. Complete the 2 computer evaluations listed below that are presented by the Center:
    - 1.) Job Readiness Program
    - 2.) Transitional Program
  - D. Perform a "Career Scope" for the Goodwill Career Solutions Center. The Solutions Center staff will assist with set up.
  - E. Participate in a phone interview with Goodwill Career Solutions in Nashville, TN. The Solutions Center staff will assist with set up of the interview.
  - F. Schedule a date and time to attend the NEXT available "JOB READINESS TRAINING" class.
9. Within FOURTEEN (14) days of enrollment with Goodwill Career Solutions Center, the Respondent shall:
- A. Attend and complete the JOB READINESS TRAINING class.
  - B. Conduct an interview with a Counselor or Director of the Career Solutions Center.
10. Between the FOURTH BUSINESS DAY AND THE DATE OF THE NEXT HEARING, Respondent must appear at the GOODWILL CAREER SOLUTIONS CENTER on NOT LESS THAN FOUR (4) OCCASIONS for JOB SEARCH purposes and:
- A. Conduct a work search utilizing the search materials available at the Center for potential employment.

- B. Participate in and complete at least one training session offered by the Career Solutions Center.  
(Training sessions are generally conducted on Thursdays at the Lawrenceburg Center.)

**11. On the FIFTH (5th) BUSINESS DAY through the SEVENTH (7th) BUSINESS DAY FOLLOWING THE SIGNING OF THE ORDER BY THE RESPONDENT, the Respondent shall make application to and emoll with the following **EMPLOYMENT AGENCIES:****

- A. o **WISE STAFFING** 330 Robins St., Lawrenceburg, 1N 38464  
(Lawrenceburg) (931) 762-5370
- B. o **RANDSTAD** 1653 West College Street, Suite 101, Pulaski, 1N 38478  
(Pulaski) (931) 363-1794
- C. o **STAFFMARK** 1197 West College Street, Pulaski, 1N 38478  
(Pulaski) (931) 424-0033
- D. o **ALLSTAFF SERVICES** 611 N. Garden St., Columbia, 1N  
(Columbia) (931)381-5193
- E. o **RANDSTAD** 136 Bear Creek Pike, Columbia, 1N  
(Columbia) (931)381-9675
- F. o **STAFFMARK** 502 N. Garden St., Columbia, 1N  
(Columbia) (931)388-1310
- G. o **KELLY SERVICES** 6241 University Dr. N.W., Suite B-1, Huntsville, AL  
(covers Florence) (256) 767-9077
- H. o **EPSCO, Inc.** 1409 E. Second Street, Sheffield, AL 35660  
(Sheffield) (256) 383-0776



I. o. **TROJAN LABOR** 1163 Trotwood Ave., Columbia, TN **DAY LABOR**  
(Columbia) (931) 380-8484

- REPORTING TIME IS **5:00 AM**

J. o. **LYONS HR** 600 East Tennessee St., Florence, AL 35630 **DAY LABOR**  
(Florence) (256) 767-4562

- REPORTING TIME IS **5:30 AM**

K. □ \_\_\_\_\_

Respondent must bring a signed and dated enrollment & attendance form to next hearing date for each of the above-named companies.

**12.** Between the **FIFTH (5th) BUSINESS DAY AND THE DATE OF THE NEXT HEARING**, Respondent shall:

- A. o Present himself/herself and apply for **DAY LABOR** at one of the companies listed hereinabove on at least **FOUR** separate occasions and accept any job assignment for which the agency deems the Respondent qualified. **OR**
- o Day Labor site is not readily accessible for the Respondent. Respondent shall therefore make at least **SIX (6)** separate appearances on 6 separate dates at the **EMPLOYMENT AGENCIES** listed in paragraph **11** hereinabove and accept any job assignment for which the agency deems the Respondent qualified.

- B. o Appear *IN PERSON* on not less than **TWO (2)** separate occasions at the **EMPLOYMENT AGENCIES** listed hereinabove and accept any assignment for which the agency deems the Respondent qualified.

**13. FELONY JOB APPLICATIONS**    o REQUIRED    o NOT APPLICABLE

- A. The Respondent acknowledges that he/she is a convicted felon.
- B. The following companies have been identified as employers who *may* employ convicted felons under certain conditions.

- |     |  |   |
|-----|--|---|
| 1.) | <b><u>Precision Laser &amp; Mfg.</u></b> | Apply through the TN Career Center                            |
| 2.) | <b><u>Dura Automotive</u></b>            | Apply through the TN Career Center                            |
| 3.) | <b><u>Assurance Operations Corp.</u></b> | 2005 Liberty Avenue<br>Lawrenceburg, TN 38464<br>931-766-7750 |

\* IN PERSON APPLICATION REQUIRED

- |     |                            |  |
|-----|----------------------------|--|
| 4.) | <b><u>Trojan Labor</u></b> | 1163 Trotwood Ave.<br>Columbia, TN<br>(931) 380-8484 |
|-----|----------------------------|--|

\* IN PERSON APPLICATION REQUIRED

- C. Respondent shall make application with the above-referenced companies **within FIVE (5) Business Days** of signing this Order and provide proof of said application at the time of the next court date, or a note to indicate that said employers are not accepting applications at this time.
- D. Respondent shall apply for and accept employment or job assignment for which the company deems the Respondent qualified

14. Respondent shall provide all documentation required herein to the Office of the District Attorney General for Child Support and to the Court at the next court date.

15. FAILURE ON THE PART OF THE RESPONDENT TO PROVIDE ALL OF THE COMPLETED AND SIGNED ATTENDANCE FORMS FOR THE VARIOUS PROGRAMS AND EMPLOYMENT AGENCIES SET FORTH HEREINABOVE SHALL RESULT IN THE CASE PROCEEDING DIRECTLY TO A CONTEMPT HEARING ON THE NEXT COURT DATE.

RESPONDENT'S INITIALS: \_\_\_\_\_

16. IN THE EVENT THAT IT IS REPORTED TO THE CIDLD SUPPORT OFFICE OR TO THE COURT THAT THE RESPONDENT HAS IN ANY WAY DISRUPTED THE FUNCTIONING OF, OR CAUSED ANNOYANCE OR INCONVENIENCE TO, THE STAFF OF ANY TN CAREER CENTER, GOODWILL CAREER SOLUTIONS CENTER, EMPLOYMENT AGENCY OR OTHER PROVIDER HEREIN, THE RESPONDENT SHALL BE DISQUALIFIED FROM PARTICIPATION IN THE "FRIENDS" PROGRAM AND THE CASE SHALL PROCEED DIRECTLY TO A CONTEMPT HEARING ON THE NEXT COURT DATE.

17. Respondent shall immediately notify the Child Support Office at (931) 766-1458 immediately upon being hired for ANY position (full or part-time) as a result of participation in the "FRIENDS" program, or otherwise. Respondent MUST provide the Child Support Office with the following information for ANY Employer: 1.) Complete Name of the Employer/Company; 2.) Mailing address of the Employer/Company; 3.) Telephone number for the Employer/Company; and 4.) Name of the Respondent's immediate supervisor at the Employer/Company.

18. That in the event that the Respondent obtains a wage attachable job through "FRIENDS" or otherwise, and obtains employment that shall FULLY SATISFY the Respondent's monthly current and arrears child support obligation, the Respondent may immediately cease participation in the Program – SO LONG AS THE RESPONDENT PAYS HIS/HER CHILD SUPPORT AS ORDERED AND ON TIME BETWEEN THE DATE OF HIRE AND THE NEXT COURT DATE.

19. o EDUCATIONAL ADDENDUM ATTACHED and MADE A PART OF TIDS  
AGREEMENT AND ORDER

o DRUG TREATMENT ADDENDUM ATTACHED and MADE PART OF TIDS  
AGREEMENT AND ORDER

20. \_\_\_\_\_

THE UNDERSIGNED ACKNOWLEDGES THAT HE/SHE HAS BEEN ADVISED OF THE  
REQUIREMENTS OF THE FRIENDS PROGRAM AND AGREES TO PARTICIPATE THEREIN  
PURSUANT TO A COURT ORDER ENTERED THE DAY OF \_\_\_\_\_

20

\_\_\_\_\_  
RESPONDENT

\_\_\_\_\_  
RESPONDENT'S ATTORNEY

**"FRIENDS" PROGRAM - EDUCATION ADDENDUM**

1. Respondent shall, **BY 9:00 AM On or Before the FIRST TUESDAY IMMEDIATELY FOLLOWING THE SIGNING OF THIS ORDER BY THE RESPONDENT**, report to the following **ADULT EDUCATION CENTER** located in:

- o **GILES COUNTY** at the **TN Technology Center** located at 1233 East College Street, Pulaski, TN 38478 (931-424-4014)
- o **LAWRENCE COUNTY** at the **J.C. Barnett Educational Complex** located at 610 Mahr Avenue, Lawrenceburg, TN 38464 (931-762-5251)
- o **MAURY COUNTY** at the **Project Learn Education Center** located at 119 Nashville Highway, Suite 113, Nolihway Shopping Center, Columbia, TN 38401 (931-490-3811)
- o **WAYNE COUNTY** at the **Wayne County Adult Education Center** located at 211 A. Dexter Woods Blvd., Waynesboro, TN 38485 (931-722-5313)
- o The county of Respondent's primary residence of \_\_\_\_\_  
Respondent shall go on-line at **www.state.tn.us/labor-wfd/AE** and click on "GED", then click "GED Centers" and locate the Tennessee GED Center in Respondent's county of residence, or which location is most convenient for the Respondent.

1. At the time of the **FIRST CONTACT** with the appropriate Adult Education Center (hereinafter: Center), the Respondent shall schedule a time with the appropriate Center for **REGISTRATION** and **ORIENTATION** in the Center's **GED Program**.
2. Respondent shall participate in Assessment testing through the Center to determine the approximate level of educational assistance that is required for the Respondent to prepare for the GED.
3. Upon completion of the assessment testing by the Center, the Respondent shall enroll in the class(es) that are deemed necessary by the Center to meet the Respondent's educational needs for attainment of the GED.

4. Respondent shall be required to attend ALL scheduled classes for the particular educational program in which the Respondent is enrolled. In the event that the Respondent misses any class, the Respondent must make up said class (if possible per the Center's schedule) at the earliest available date.
5. The Respondent MUST provide to the Assistant District Attorney General for Child Support and to the Court an excuse for ANY missed GED class(es). **If the Assistant District Attorney General determines that there was not good cause for the absence, the Respondent shall be expelled from participation in the "FRIENDS" Program and the case shall proceed to an enforcement hearing before the Court at the next hearing date.**
6. At the time of the next hearing, the Respondent shall provide the Assistant District Attorney General and the Court with a signed **ENROLLMENT FORM** from the Center's supervisor/teacher to verify that the Respondent has completed the Registration and Orientation process for the Center's GED Program.
7. At the time of the next hearing, the Respondent shall provide the Assistant District Attorney General and the Court with a signed **ATTENDANCE FORM** from the Center's supervisor/teacher to verify all classes that the Respondent has attended since enrolling in the GED program.
8. At the time of the next hearing, the Respondent shall provide to the Assistant District Attorney General a copy of the Respondent's **GED CLASS SCHEDULE** which is signed by a Center supervisor/teacher. In addition to the class schedule, the Respondent shall notify the Assistant District Attorney General and the Court of the estimated time that the Educational Center expects that the Respondent shall require in order to get prepared to take the GED test.
9. **RESPONDENT IS REQUIRED TO SIGN IN AND OUT WITH THE ADULT EDUCATION SUPERVISOR/TEACHER USING THE APPROVED "FRIENDS" PROGRAM FORM EACH TIME RESPONDENT APPEARS AT THE ADULT EDUCATION CENTER.**  
  
**ADULT EDUCATION CENTER STAFF WILL NOT BACKDATE ANY FORMS.**
10. If the Respondent refuses to complete the GED Educational classes prior to taking the GED test, and fails thereafter to pay the Respondent's FULL monthly current and arrears obligation(s), the case may proceed to an enforcement hearing at the next available court date.

11. In the event that the Respondent's educational program extends beyond the time of the next court date, the Respondent shall appear at the next court date and request additional time to complete the GE course of study. Respondent shall remain responsible to provide to the Assistant District Attorney General and to the Court attendance the class schedule and attendance records for all classes that are required and attended between court dates hereafter.

12. FAILURE ON THE PART OF THE RESPONDENT TO PROVIDE ALL OF THE COMPLETED AND SIGNED ATTENDANCE FORMS FOR THE GED PROGRAM SET FORTH HEREINABOVE SHALL RESULT IN THE CASE PROCEEDING DIRECTLY TO A CONTEMPT HEARING ON THE NEXT COURT DATE.

RESPONDENT'S INITIALS: \_\_\_\_\_

13. IN THE EVENT THAT IT IS REPORTED TO THE CHILD SUPPORT OFFICE OR TO THE COURT THAT THE RESPONDENT HAS IN ANY WAY DISRUPTED THE FUNCTIONING OF, OR CAUSED ANNOYANCE OR INCONVENIENCE TO, THE STAFF OR STUDENTS OF ANY ADULT EDUCATION CENTER, THE RESPONDENT SHALL BE DISQUALIFIED FROM PARTICIPATION IN THE "FRIENDS" PROGRAM, AND THE CASE SHALL PROCEED DIRECTLY TO A CONTEMPT HEARING ON THE NEXT COURT DATE.

14. Respondent shall authorize and release to the Assistant District Attorney General ALL GED course records upon demand.

15. The Respondent shall be responsible for the cost associated with taking the GED test. In the event that the Respondent refuses to take the GED test upon completion of the GED Program, the case may proceed to an enforcement hearing on the underlying child support case.

16. The Respondent shall abide by ALL rules and regulations of the Adult Education Program in which the Respondent is enrolled.

17. The GED Enrollment/Attendance and Evaluation form(s) are attached hereto as Exhibits to the within Order of Court.

**'FRIENDS' PROGRAM - DRUG AND ALCOHOL COUNSELING ADDENDUM**

1. The Respondent shall attend regularly scheduled meetings of Alcoholics Anonymous (hereinafter: AA) at the location nearest the Respondent.

o Lawrenceburg Group

**212 South Military Street, Harbor House,  
Lawrenceburg**

Daniel F: 931-242-1142

Lillian K: 931-964-2487

Terry S.: 904-626-3680

o Linden Group

**In the Old Hospital, Linden, TN**

Tom F.: 931-589-2810

Joel T.: 931-589-2049

Billy P.: 931-589-2767

o Hohenwald

**Calvary Baptist Church, 130 Buffalo Rd.,  
Hohenwald, TN**

Vicki P.: 931-796-5701

John A.: 931-796-4625

o Wayne Co. Group

**Cumberland Presbyterian Church, Hwy. 13  
North, Waynesboro, TN**

C.W.B.: 731-695-2358

Ron R.: 931-762-5977

Leon K.: 256-483-0563

o The AA /NA Program that is nearest to the Respondent's home, or most convenient for the Respondent.



2. That the Respondent shall attend a MINIMUM of ONE (1) MEETING PER WEEK, between the date that the Respondent signed the within Order and the next hearing date.
  
3. That the Respondent shall have a sponsor or member of AA verify attendance at any AA meeting attended. Said attendance form shall be provided to the Assistant District Attorney General and the Court at the next hearing.
  
4. That the Respondent shall submit to and pay the cost of an INITIAL DRUG SCREEN that shall be performed:
  - o TODAY
  
  - o within TWO (2) Business Days of the date that the Respondent signs the within FRIENDS Program Order.
  
5. The INITIAL DRUG SCREEN and REVIEW drug screens shall be administered by:
  - o LAWRENCE COUNTY & GILES COUNTY through PROBATION SERVICES OF TN, 369 Brink Street, PO Box 32, Lawrenceburg, TN 38464. 931-766-7907.
  
  - o WAYNE COUNTY through  

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  - o PROBATION SERVICES OF TN, 369 Brink Street, PO Box 32, Lawrenceburg, TN 38464. 931-766-7907.
  
  - o the Probation Office of the County in which the Respondent resides.
  
6. That the Respondent shall schedule and a REVIEW/SECOND DRUG SCREEN test to be completed not more than THREE (3) calendar days BEFORE the next hearing date.

7. That the Respondent shall provide the results of the two (2) drug screens (Initial and Review screens) conducted pursuant to the Order herein to the Assistant District Attorney General and to the Court at the time of the next hearing.
  
8. FAILURE ON THE PART OF THE RESPONDENT TO PROVIDE ALL OF THE COMPLETED AND SIGNED ATTENDANCE FORMS FOR THE AA PROGRAM AND THE TWO (2) DRUG SCREEN RESULTS SHALL RESULT IN THE CASE PROCEEDING DIRECTLY TO A CONTEMPT HEARING ON THE NEXT COURT DATE.

RESPONDENT'S INITIALS: \_\_\_\_\_



OFFICE OF DISTRICT ATTORNEY GENERAL  
 STATE OF TENNESSEE 22ND JUDICIAL DISTRICT  
 CHILD SUPPORT DIVISION  
 232 NORTH MILITARY AVENUE, SUITE A  
 LAWRENCEBURG, TN 38464  
 PHONE (931) 766-1458 FAX (931) 766-1443

TENNESSEE CAREER CENTER ATTENDANCE RECORD

RESPONDENT NAME: \_\_\_\_\_

1. The undersigned certifies that the above-named individual completed a CAREER SCOPE with the Career Center on this date.

\_\_\_\_\_ For TN Career Center \_\_\_\_\_ Date

2. The undersigned certifies that the above-named individual completed the INTERVIEW STREAM with the Career Center on this date.

\_\_\_\_\_ For TN Career Center \_\_\_\_\_ Date

3. The undersigned certifies that the above-named individual completed the following THREE (3) SEMINARS and/or WEBINARS the Career Center on the dates listed below.

A.) Seminar/Webinar #1 TITLE: \_\_\_\_\_

\_\_\_\_\_ For TN Career Center \_\_\_\_\_  
 Date

B.) Seminar/Webinar #2 TITLE: \_\_\_\_\_

\_\_\_\_\_ For TN Career Center \_\_\_\_\_  
 Date

C.) Seminar/Webinar #3 TITLE: \_\_\_\_\_

\_\_\_\_\_ For TN Career Center \_\_\_\_\_  
 Date

D.) Seminar/Webinar (Additional) TITLE: \_\_\_\_\_

\_\_\_\_\_ For TN Career Center \_\_\_\_\_  
 Date

RESPONDENT'S TN CAREER CENTER VERIFICATIONS (To be Completed by RESPONDENT)

1. The RESPONDENT certifies that he/she completed an APPLICATION FOR COMPLETE JOB SERVICES at the TN Career Center located in \_\_\_\_\_ County on this date. A JOB SEARCH PRINT OUT TO VERIFY APPLICATION WITH THE CENTER MUST BE ATTACHED TO THIS FORM.

\_\_\_\_\_  
RESPONDENT

\_\_\_\_\_  
Date

2. The RESPONDENT certifies that he/she enrolled in "[Jobs4.tn.gov](http://Jobs4.tn.gov)" the on-line job search program at the TN Career Center on this date. A JOB SEARCH PRINT OUT TO VERIFY ENROLLMENT WITH THE SEARCH PROGRAM MUST BE ATTACHED TO THIS FORM.

\_\_\_\_\_  
RESPONDENT

\_\_\_\_\_  
Date

3. The RESPONDENT certifies that he/she completed the following SIX (6) JOB SEARCHES at the Career Center on SIX (6) SEPARATE OCCASIONS on the dates listed below. Copies of 6 job search print outs are attached hereto. JOB SEARCH PRINT OUTS MUST BE ATTACHED AND INCLUDED HEREIN FOR A SEARCH TO BE VALID FOR VERIFICATION PURPOSES.

1.) Search 1      DATE OF SEARCH: \_\_\_\_\_, 20\_\_ —

\_\_\_\_\_  
RESPONDENT

2.) Search 2      DATE OF SEARCH: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
RESPONDENT

3.) Search 3      DATE OF SEARCH: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
RESPONDENT

4.) Search 4      DATE OF SEARCH: \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
RESPONDENT

5.) Search 5      DATE OF SEARCH: \_\_\_\_\_, 20\_\_ —

\_\_\_\_\_  
RESPONDENT

6.) Search 6      DATE OF SEARCH: \_\_\_\_\_, 20\_\_ —

\_\_\_\_\_  
RESPONDENT



OFFICE OF DISTRICT ATTORNEY GENERAL

STATE OF TENNESSEE - 22ND JUDICIAL DISTRICT

CHILD SUPPORT DIVISION

232 NORTH MILITARY AVENUE, SUITE 201

LAWRENCEBURG, TN 38464

PHONE (931) 766-1458 FAX (931) 766-1443

GOODWILL CAREER SOLUTIONS CENTER ATTENDANCE RECORD

RESPONDENT NAME: \_\_\_\_\_

1. The undersigned certifies that the above-named individual completed an APPLICATION FOR COMPLETE JOB SERVICES at the Goodwill Career Solutions Center located in \_\_\_\_\_ County on this date.

\_\_\_\_\_

For Goodwill Career Solutions Center

\_\_\_\_\_

Date

2. The undersigned certifies that the above-named individual viewed the ORIENTATION VIDEO at the Goodwill Career Solutions Center located in \_\_\_\_\_ County on this date.

\_\_\_\_\_

For Goodwill Career Solutions Center

\_\_\_\_\_

Date

3. The undersigned certifies that the above-named individual completed a "CAREER SCOPE" at the Goodwill Career Solutions Center located in \_\_\_\_\_ County on this date.

\_\_\_\_\_

For Goodwill Career Solutions Center

\_\_\_\_\_

Date

4. The undersigned certifies that the above-named individual completed the required PHONE INTERVIEW at the Goodwill Career Solutions Center located in \_\_\_\_\_ County on this date.

\_\_\_\_\_

For Goodwill Career Solutions Center

\_\_\_\_\_

Date

GOODWILL CAREER SOLUTIONS CENTER ATTENDANCE RECORD (page 2 of 2)

5. The undersigned certifies that the above-named individual completed the JOB READINESS TRAINING PROGRAM at the Goodwill Career Solutions Center located in \_\_\_\_\_ County on this date.

\_\_\_\_\_  
For Goodwill Career Solutions Center

\_\_\_\_\_  
Date

6. The undersigned certifies that the above-named individual completed an INTERVIEW with a Counselor or Director of the Goodwill Career Solutions Center located in \_\_\_\_\_ County on this date.

\_\_\_\_\_  
For Goodwill Career Solutions Center

\_\_\_\_\_  
Date

7. The undersigned certifies that the above-named individual completed the following FOUR (4) JOB SEARCHES at the Goodwill Career Solutions Center on the dates listed below.

Search 1

\_\_\_\_\_  
For Goodwill Career Solutions Center

\_\_\_\_\_  
Date

Search 2

\_\_\_\_\_  
For Goodwill Career Solutions Center

\_\_\_\_\_  
Date

Search 3

\_\_\_\_\_  
For Goodwill Career Solutions Center

\_\_\_\_\_  
Date

Search 4

\_\_\_\_\_  
For Goodwill Career Solutions Center

\_\_\_\_\_  
Date

Search 5 (Optional)

\_\_\_\_\_  
For Goodwill Career Solutions Center

\_\_\_\_\_  
Date



OFFICE OF DISTRICT ATTORNEY GENERAL

STATE OF TENNESSEE DEPARTMENT OF JUDICIAL ADMINISTRATION

CHILD SUPPORT DIVISION

232 NORTH MIAMI VALLEY AVENUE, SUITE 111

MEMPHIS, TENNESSEE 38102

PHONE (931) 766-1458 FAX (931) 766-1443

EMPLOYER APPLICATION FORM

RESPONDENT NAME: \_\_\_\_\_

1. The undersigned certifies that the above-named Individual completed an application for employment or employment services at \_\_\_\_\_ on the date listed below.

\_\_\_\_\_  
Company Representative Date Phone Number

2. The undersigned certifies that the above-named Individual completed an application for employment or employment services at \_\_\_\_\_ on the date listed below.

\_\_\_\_\_  
Company Representative Date Phone Number

3. The undersigned certifies that the above-named Individual completed an application for employment or employment services at \_\_\_\_\_ on the date listed below.

\_\_\_\_\_  
Company Representative Date Phone Number

4. The undersigned certifies that the above-named Individual completed an application for employment or employment services at \_\_\_\_\_ on the date listed below.

\_\_\_\_\_  
Company Representative Date Phone Number

5. The undersigned certifies that the above-named Individual completed an application for employment or employment services at \_\_\_\_\_ on the date listed below.

\_\_\_\_\_  
Company Representative Date Phone Number

6. The undersigned certifies that the above-named Individual completed an application for employment or employment services at \_\_\_\_\_ on the date listed below.

\_\_\_\_\_  
Company Representative Date Phone Number



OFFICE OF DISTRICT ATTORNEY GENERAL

STATE OF TENNESSEE 22ND JUDICIAL DISTRICT

CIVIL SUPPORT DIVISION

232 NORTH MILITARY AVENUE, SUITE A

LAWRENCEBURG, TN 38464

PHONE (931) 766-1458 FAX (931) 766-1443

HIGH SCHOOL EQUIVALENCY (HSE) PROGRAM ATTENDANCE RECORD

RESPONDENT NAME: \_\_\_\_\_

1. The undersigned certifies that the above-named individual completed the REGISTRATION AND ORIENTATION process for the HSE Program (formerly GED) at the Adult Education Center located in \_\_\_\_\_ County at \_\_\_\_\_ on this date and further certifies that the above-named individual is REGISTERED AND ENROLLED for the GED Program at the aforesaid Adult Education Center. (For students in Giles County, registration is the 1st Tuesday of the month. For students in Lawrence County, registration is 2nd Tuesday, Wednesday and Thursdays of the month)

\_\_\_\_\_ Date  
For Adult Education Program

2. The undersigned certifies that the above-named individual completed an EDUCATIONAL ASSESSMENT for the HSE Program at the Adult Education Center on this date.

Based upon the Assessment, the class schedule for the above-named shall be as follows:

Days: \_\_\_\_\_ through \_\_\_\_\_  
Time: \_\_\_\_\_ M to \_\_\_\_\_ M

\_\_\_\_\_ Date  
For Adult Education Program

3. The undersigned certifies that the *estimated* course duration for the Respondent's HSE Program is APPROXIMATELY \_\_\_\_\_ months \_\_\_\_\_ days.

\_\_\_\_\_ Date  
For Adult Education Program

4. The undersigned that the Respondent reported for classes on the dates and times listed on the attached attendance record.

\_\_\_\_\_ Date  
For Adult Education Program



# F.R.I.E.N.D.S. Case Analysis Evaluation Form

Date: \_\_\_\_\_

RESPONDENT Name: \_\_\_\_\_

TCSSES Case ID(s): \_\_\_\_\_

Docket Number(s): \_\_\_\_\_

COURT COUNTY: \_\_\_\_\_

PHYSICAL Address of Respondent:

Phone No.: (\_\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_

Mobile No.: (\_\_\_\_\_) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

MAILING Address (if different from Physical Address):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Age of Respondent: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

## Work history

Date of last employment: \_\_\_\_\_

Number of jobs in the last five years: \_\_\_\_\_

Employment Field(s): \_\_\_\_\_

Reasons for leaving positions held: \_\_\_\_\_

Under the table work **hio**: \_\_\_\_\_

\_\_\_\_\_

## Education

Highest grade completed/GED \_\_\_\_\_

Post high school education \_\_\_\_\_

\_\_ Certifications \_\_\_\_\_

\_ Literate \_no \_yes

**Criminal History**

Criminal convictions \_\_\_\_\_

Date of most recent release from jail/correctional institution \_\_\_\_\_

Megan's Law conviction: \_\_\_ no \_\_\_ yes

**Medical**

Claimed disabilities \_\_\_\_\_ Disability/Workman's comp claim pending no\_\_\_\_yes

Receiving SSI \_\_\_ no \_\_\_ yes, date opened \_\_\_\_\_

Receiving SSD \_\_\_ no \_\_\_ yes

Histo of addiction/rehabilitation \_\_\_\_\_

Enrolled in a methadone program \_\_\_ no \_\_\_ yes VA Benefits? \_no \_yes

**General**

Histo of homelessness \_\_\_ no \_\_\_ yes Currently resides with \_\_\_\_\_

\_\_\_ Owns car \_\_\_ no \_\_\_ yes Owns home \_\_\_ no \_\_\_ yes

Valid Driver's License \_no \_yes

If "No" is license suspended for a reason other than non-payment of child support, and if so, state reason for suspension: \_\_\_\_\_

Spends day doing \_\_\_\_\_

**Does defendant have any income or assets available to pay support? \_\_\_ no \_\_\_ yes**

**IN THE SUPERIOR COURT OF PENNSYLVANIA  
SITTING AT PITTSBURGH**

---

**No. 2240 WDA 2003**

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**Paula Kearney, an Individual,**

**Appellee,**

**vs.**

**Curtis Randolph, an Individual,  
d/b/a Randolph Construction,**

**Appellant.**

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**BRIEF FOR APPELLANT**

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Appeal of Appellant, Curtis Randolph from the Jury Verdict/Order of Court dated November 18,  
2003 of the Court of Common Pleas of Allegheny County, Pennsylvania Civil Division at AR  
02-5378

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THOMAS J. DANCISON, Jr., Esquire  
PA Supreme Court ID# 75984

551 North Avenue  
Pittsburgh, PA 15209

412-821-1919

Attorney for Appellant

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### **Statement of Jurisdiction**

This Honorable Court has jurisdiction to review the Jury Verdict/Order of Court dated November 18, 2003 of the Court of Common Pleas of Allegheny County, Pennsylvania Civil Division at AR 02-5378, pursuant to 42 Pa. C.S.A. §742 and §5105 and Pa. R.A.P. 301 and 341(b).

### **Statement of Scope and Standard of Review**

In reviewing the findings of a jury, a Pennsylvania appellate court will view the evidence in the light most favorable to the party in whose favor the findings were made. *Sweitzer v. Whitehead*, 404 Pa. 506, 173 A.2d 116 (1961). In cases tried before a jury, the weight of the evidence on one side or the other is a subject for the jury primarily and for the court below secondarily; in the absence of a clear abuse of discretion, it is not a matter for review on appeal.

The scope and standard of review on appeal of a jury verdict is therefore whether there has been a clear abuse of discretion at the trial court level. For the purpose of appellate review by the Pennsylvania appellate courts of lower matters involving the exercise of judicial discretion by the hearing judge, an “abuse of discretion” exists where the judgment exercised by the lower court is manifestly unreasonable or lacking in reason, or is the result of partiality, prejudice, bias, or ill will as shown by the evidence on the record, *or* is without support on the record. *Snyder v. Snyder*, 427 Pa. Super 494, 629 A.2d 977 (1993).

However, a trial court’s judicial discretion in a given situation is governed by the legal principles that are applicable to the situation, and if, in reaching a conclusion, the law is departed from, or is overridden or misapplied, discretion is abused, and it is the duty of the appellate court to correct the error. *Ashbaugh v. Ashbaugh*, 426 Pa. Super. 589, 627 A.2d 1210 (1993); *Comm. v. One 1961 Buick Special 4-Door Sedan*, 204 Pa. Super. 293, 204 A.2d 288 (1964).

**Order in Question/Verdict from Which Appeal is Taken**

**IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA  
CIVIL DIVISION**

<b>Paula Kearney, an Individual,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>No.: AR 02-5378</b>
	)	
<b>vs.</b>	)	<b>Judge: Alan S. Penkower</b>
	)	
<b>Curtis Randolph, an Individual,</b>	)	<b>Court Reporter: Amanda Haffenden</b>
<b>d/b/a Randolph Construction,</b>	)	
	)	
<b>Defendant.</b>	)	

**VERDICT**

AND NOW, to-wit, this 18<sup>th</sup> day of November, 2003, the Jury empanelled in the above entitled case, finds

On Plaintiff's claim: In favor of the plaintiff in the amount of \$15,875.00

On Defendant's counterclaim: In favor of the plaintiff.

Theresa C. Sullivan, Foreman



### **Statement of Questions Involved**

1. Did the trial court commit an error of law and abuse its discretion by admitting into evidence Plaintiff's exhibits 8 and 9 over the timely objection of the Defendant?

Answered in the negative by the trial court.

2. Did the admission into evidence of Plaintiff's exhibits 8 and 9 so prejudiced the Defendant and misled the jury as to demand a retrial and/or reversal of the verdict in favor of the Plaintiff?

Answered in the negative by the trial court.

## Statement of the Case

On or about February 11, 2002, the Plaintiff, Paula Kearney, contracted with the Defendant, Curtis Randolph, d/b/a Randolph Construction, for an excavation project to be completed at the Plaintiff's residence. A copy of the estimate for the work to be performed by Mr. Randolph was introduced at trial as Plaintiff's Exhibit #1. The main components of the contract provided specifically that Mr. Randolph was to disassemble a wall next to the driveway, enlarge the width of the drive and reassemble the driveway wall using the disassembled stone materials and in the rear of the home, Randolph was to install a "versa-lock" single two-tier wall. There was no mention at all in the contract with the Plaintiff that the Defendant was to install two retaining walls in the front of the home, two retaining walls in the rear of the home, install a new gas line and complete concrete work in the front of the home. The total cost of the excavation and installation of the new walls under the terms of the contract between the Plaintiff and Mr. Randolph was \$14,500.00.

Work commenced on the Plaintiff's property on or about March 4, 2002, with the hope that the job could be completed in approximately three weeks. Mr. Randolph performed the majority of the work for which he was contracted. However, due to unforeseen difficulties that were encountered during the excavation and due to having to care for his terminally ill wife, Mr. Randolph was not able to complete the job within the three week time frame as estimated. Poor weather, structural and geographical problems encountered at the job site additionally conspired to make the completion of the contract more difficult and more costly for the Defendant. It must be noted that in spite of the increased cost necessitated by unforeseen structural difficulties at the site, Mr. Randolph did not require that payment of any additional charges by the Plaintiff. Throughout March, April and May 2002, Mr. Randolph attempted to complete the project.

Following the death of Mr. Randolph's wife on May 21, 2002, the Plaintiff informed Mr. Randolph by letter dated June 19, 2002 that he must complete the contract pursuant to certain terms and conditions *not* specified in the original contract. The Plaintiff's letter also established a completion date and schedule established by the Plaintiff alone without consultation with Mr. Randolph as to the availability of his crew. Subsequently, the Plaintiff informed Mr. Randolph

that he was not permitted to complete the job and that another contractor would be used to finish the remaining work.

According to the testimony of the Plaintiff, she contracted with William A. Fenk, Jr. for various additional construction services at her home, as well as to complete Mr. Randolph's contract. At trial, the Plaintiff did not produce Mr. Fenk to testify or be subject to cross-examination. Furthermore, at no time before trial was Mr. Fenk ever deposed. However, over the objection of Mr. Randolph, the court permitted into evidence two documents purported to be contracts between Mr. Fenk and the Plaintiff for various contracting services. The documents to which Mr. Randolph objected were admitted into evidence as Plaintiff's Exhibits 8 and 9. (Transcript p. 47)

The documents that were entered by the Plaintiff contained charges for services such as the removal of a rear patio, excavation of 8 feet off the back patio 37 feet long, construction of two retaining walls in the front of the house, installation of a new gas line, and construction of a concrete walkway in the front of the home. Mr. Randolph objected to the admission of the Plaintiff's Exhibits 8 and 9 due to the fact that they were inaccurate, misleading and not comparable to the work for which Mr. Randolph had been hired. (Transcript pp. 44, 47) Due to the additional construction items that were included in Mr. Fenk's documents, the actual cost for Mr. Fenk's services were far greater than those to be provided originally by Mr. Randolph. The numbers contained in Mr. Fenk's documents are inaccurate and bear no relation to the actual contract between the Plaintiff and Mr. Randolph. Moreover, the Plaintiff lacked the capacity to disseminate and extrapolate from Mr. Fenk's contract the true costs of the specific services rendered by Mr. Fenk, and how those costs and services compared to the services provided or to be provided by Mr. Randolph.

At the conclusion of the trial, the jury returned a verdict for the Plaintiff and against the Defendant, Curtis Randolph, in the amount of \$15,875.00. Following the trial, the Defendant filed an appeal to the Superior Court of the Commonwealth of Pennsylvania and post-trial motions with this Honorable Trial Court.

## **Summary of the Argument**

The Appellant argues that the trial court committed an error of law and abused its discretion by admitting into evidence Plaintiff's exhibits 8 and 9 over the timely objection of the Defendant because said evidence was pure hearsay. The evidence that was objected to by the Defendant were in the form of two documents that were purported to be estimates supposedly prepared by the Plaintiff's contractor. The Plaintiff did not prepare nor author the documents entered into evidence. Rather, the actual author of the two documents—namely the supposed contractor--was not present in court nor subject to cross-examination by the Defendant. The documents were not under seal, nor of any type of document that did not require authentication by the actual maker of said documents under the Rules of Evidence. Under the Rules of Evidence, a document that is submitted into evidence that is in the form of an estimate or an invoice for services rendered to a particular party is hearsay, unless the actual author of said document is available in court and subject to cross-examination.

The Appellant also contends that the admission into evidence of Plaintiff's exhibits 8 and 9 so prejudiced the Defendant and misled the jury as to demand a retrial and/or reversal of the verdict in favor of the Plaintiff.

## **Argument**

- I. The admission into evidence of estimates for construction services and invoices of a contractor who did not appear in court and who was not the subject of cross examination constitutes an abuse of discretion on the part of the trial court.**

**The trial court abused its discretion by admitting into evidence Plaintiff's exhibits 8 and 9 over the timely objection of the Defendant.**

## **ARGUMENT**

Plaintiff's Exhibits 8 and 9, without the testimony of the actual author of said documents, namely Mr. William A. Fenk, Jr., are hearsay. Pa. Rules of Evidence Article VIII, Rule 801 states that hearsay is a statement, other than one made by the Declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. Rule 802 provides that hearsay is not to be admitted into evidence by the court, unless such evidence is permitted under an exception to the general rule. While Article VIII of the Rules of Evidence provides for certain exceptions to Rule 801, there is no exception that provides for the admission of construction contracts.

In the present case, exhibits 8 and 9 were offered by the Plaintiff solely to prove the actual cost and the nature of services provided by Mr. Fenk. The costs charged by Mr. Fenk were then used directly for comparison with the Defendant's contract and to establish the amount of the Plaintiff's alleged damages. As such, exhibits 8 and 9 were used to "prove the truth of the matter asserted." Based entirely upon this evidence that was not only hearsay, but also grossly misleading, the jury entered a verdict against the Defendant.

The law holds that the testimony from the president of a construction company who actually estimated the cost of rebuilding a retaining wall is required for the admission of the

actual proposal and cost estimate. The statements however of the client alone of the proposal and cost estimate are insufficient for the admission of such documentation. *Albig v. Municipal Authority of Westmoreland County*, 348 Pa.Super. 505, 502 A.2d. 658 (1985). Furthermore, estimates for the cost of work to be performed by a contractor are hearsay when the estimates are not identified by the person who prepared the estimate, and said estimates do not fall into the business records exception. 11 P.S. §50-102(2); 18 Pa.C.S.A. §3304(b); *In Re Gillen*, 236 Pa. Super. 521, 344 A.2d 706 (1975). Therefore, in the present case, given that the Plaintiff herself did not prepare Exhibits 8 and 9 and was not a member of the construction company, the testimony of the Plaintiff was insufficient to allow the admission of the proposals and cost estimates allegedly prepared by Mr. Fenk.

There are many situations in which an out-of-court statement is offered into evidence for a purpose other than to prove the truth of the matter asserted. Often, the evidence can be admitted to show what constitutes an offer or acceptance, the declarant's state of mind, and/or prior consistent or inconsistent statements. Pa. Rule of Evidence, Rule 801 Comment—1998. However, the evidence in exhibits 8 and 9 herein was not offered to prove the Plaintiff's state of mind or the existence of a contract, but rather solely to measure the Plaintiff's damages.

Mr. Randolph did object to the admission of exhibits 8 and 9 during the trial. His objections went beyond a mere hearsay objection, and went to the heart of the argument that the documents were irrelevant, prejudicial and misleading to the jury due to the fact that the terms and conditions of said documents differed completely from the terms and conditions of the original contract between the Plaintiff and Mr. Randolph. Pa. R.E. 403 states that: Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. Pa. R.E. 403, unlike the Federal Rules, does not require the proffered evidence to “*substantially outweigh*” its probative value, but merely to “outweigh” its probative value. Unfair prejudice under the Rules means a tendency to suggest decision on an improper basis or to divert the jury's attention away from its duty of weighing the evidence impartially. Evidence must be excluded where its admission is confusing and there is a danger of unfair prejudice. *Commonwealth v. Boyle*, 498 Pa. 486, 447 A.2d 250 (1982). It is the trial judge's function to exclude evidence that would confuse the issues and

distract the attention of the jury from the primary issue in the case. *Eldridge v. Melcher*, 226 Pa. Super. 381, 313 A.2d 750 (1973).

In the present case, the fact is that the charges and services that were allegedly provided by Mr. Fenk were completely different from those provided by the Defendant. The Court did in fact recognize this fact that the two contractors' proposals were different, but stated that the Plaintiff herself nonetheless could interpret and decipher those parts of Mr. Fenk's contract that were also a part of Mr. Randolph's contract in order to "prove the damage component" of her case. (Transcript, pp. 44-48). The plaintiff does not have the capacity nor the expertise to compare and contrast the two competing contracts from Mr. Fenk and Mr. Randolph. Given that the evidence of Mr. Fenk's proposals (exhibits 8 and 9) was specifically used to establish the Plaintiff's damages, the admission of such evidence clearly has the potential to pose a danger of unfair prejudice, confusion and the misleading of a jury. Defendant contends that the admission of Exhibits 8 and 9 unfairly prejudiced the Defendant and confused and misled the jury during their deliberations and led directly to the amount of the jury verdict that was imposed. Pennsylvania courts have held that the record of certain mechanics liens and judgments based thereon for certain *additional work* [emphasis added] will be excluded where they would have been prejudicial to the Defendant. *Hauser v. Hambersky*, 368 Pa. 482, 84 A.2d 184 (1951).

In the present case, the amount of damages awarded by the jury was in excess of the amount of the original contract between the Plaintiff and Mr. Randolph. As argued hereinabove, the amounts of said jury award was obviously based upon the admission of the alleged contracts from Mr. Fenk and other contractors, all of which were hearsay. Where a plaintiff obtains a verdict for damages for breach of a building contract and the total sums paid are in excess of the original contract price, and the Plaintiff--despite the objection of the Defendant--is permitted to offer into evidence the testimony of a person who merely examined the building contract and *not* the actual building contractor who prepared the contract and performed the work, the court is obliged to either grant a new trial or grant the Defendant's motion for judgment N.O.V. A witness who did not actually prepare and perform the contract is not qualified as to the terms of said contract or the reasonableness of its terms. The party proffering a contract into evidence has

the burden of offering the testimony of each contractor so that each contractor can be cross-examined by the opposing party. *Whitelaw v. Cusumano*, 74 Montg. 390 (1958).

**II. The admission of hearsay evidence for consideration by the jury constitutes an abuse of discretion on the part of the trial court.**

The admission of hearsay evidence in the nature of Plaintiff's exhibits 8 and 9 so prejudiced the Defendant and misled the jury as to demand a retrial and/or reversal of the verdict in favor of the Plaintiff.

Rather than restate the legal arguments made in Section I above, Appellant shall incorporate by reference his prior legal arguments made herein above.



## **CONCLUSION**

The trial court committed an error law and abused its discretion by admitting into evidence Plaintiff's exhibits 8 and 9 over the timely objection of the Defendant. The admission of hearsay evidence for consideration by the jury was inappropriate and misleading, and was so prejudicial to the Defendant, that the Defendant is entitled to a reversal of the verdict of the trial court, or at the very least a new trial.

Respectfully submitted:

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Thomas J. Dancison, Jr., Esquire,  
Attorney for Appellant