



**State of Tennessee
Circuit Court
Fourth Judicial District**

Honorable Carter S. Moore, Judge, Div. I
Honorable James L. Gass, Judge, Div. II
Honorable Rex Henry Ogle, Judge, Div. III
Honorable O. Duane Slone, Judge, Div. IV

Serving the Counties of:

Cocke
Grainger
Jefferson
Sevier

**LOCAL RULES OF PRACTICE
- CIVIL -
(Amended February 27, 2019)**

Adopted Pursuant to Rule 18
of the
Rules of the Supreme Court of Tennessee

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**CIVIL RULES OF CIRCUIT COURT
FOURTH JUDICIAL DISTRICT
STATE OF TENNESSEE**

The following rules are promulgated to become effective immediately, superseding previous rules which are vacated by the entry of this Order.

The purpose of these Rules is to keep the practice of law in the Circuit Court for the Fourth Judicial District as simple as possible, yet to assure that the orderly administration of justice is carried out.

These rules apply to all persons/entities who appear before the Court, regardless of capacity (i.e. attorneys, parties, witnesses, etc.). Tennessee common, statutory and procedural law including the Rules of the Supreme Court, Civil and Criminal Procedure shall in any and every event be controlling and applicable if there is a conflict between them and these local rules.

A judge may suspend any of these rules whenever justice requires. (Additional rules may be added as may be required for the orderly administration of justice).

RULE 1. SESSIONS OF COURT

1.01 Court Calendars:

All sessions of court will be set forth in each yearly calendar prepared by the judges' administrative assistants and made available to all persons through the offices of the Clerks of Cocke, Grainger, Jefferson and Sevier Counties no later than 90 days before the 1st day of each year. These calendars will show where each judge is holding court on any particular day and will indicate whether it is civil or criminal, jury or non-jury, civil motions, new session and/or grand jury, arraignment, plea day, order of protection, or criminal appeals. Also all court days of the Chancellor and Child Support Magistrate are shown on said calendar.

1.02 Court Hours:

All court sessions will commence at 9:00 a.m., unless the court directs otherwise.

RULE 2. SETTING CASES

2.01

Each judge shall have control of his/her respective civil dockets, and may set cases in the Court's discretion. Attorneys desiring court dates shall contact the judge's assistant to obtain a trial date, followed by immediate notice to all other counsel of said date, or when all parties have agreed that a case is ready for trial, they shall contact the judge's assistant for an agreed date. The judges prefer for trial dates to be agreed upon and all trial dates shall be confirmed by agreed order to the judge's assistant in accordance with Rule 8.02.

2.02

Criminal cases will be set by the Court.

RULE 3. MOTIONS AND EX PARTE MATTERS

3.01

Civil motions and ex parte matters shall be scheduled pursuant to Rule 2 and may be heard on any civil motion or non-jury date and with the agreement of counsel and approval of Court, may be heard at any time in any county.

3.02

Motions will not be heard on the day of trial without prior approval of the Court.

RULE 4. CONTINUANCES

4.01

Civil cases may be continued by agreement of the parties, with leave of the Court. A case will not be continued except by a showing of good cause and compliance with the Rules of Civil Procedure. The application for a continuance must be supported by an affidavit setting out the grounds for the requested continuance.

4.02

When the application for the continuance is based upon the illness of a party, or a material witness, there must be filed therewith a written statement of a physician specifying the type of illness, whether same is temporary or permanent, and whether or not such person is able to appear in court. (The Court may allow the late filing of the application and affidavit.)

4.03

When the application for the continuance is based upon the fact that a material witness cannot be found, an affidavit must be filed giving the name of the witness, the substance of the testimony that will be given by such witness; whether the affiant has personally talked with such witness or some other supporting reason as to why he believes the witness will so testify, and detail the efforts made to locate the witness.

4.04

In the event a continuance is granted by the Court, the attorney for each party, including the attorney general, shall notify all witnesses subpoenaed by such party of the continuance.

4.05

All motions for continuances must be presented to the judge. Agreed continuances will not be allowed unless the Court finds that the reason for the continuance is valid. All motions and orders for an agreed continuance "shall" be approved by the parties as well as the attorneys.

4.06

A continuance will be granted one (1) time because of a conflict in another court. Thereafter, counsel will be expected to resolve any further conflicts and be available for trial in the Fourth Judicial District.

RULE 5. PRE-TRIAL CONFERENCE

5.01

Upon motion, any party may request a pre-trial conference. The Court in its discretion may direct counsel to appear for a pre-trial conference.

RULE 6. EXHIBITS

6.01

Exhibits which are proposed to be used at the trial (other than impeachment or rebuttal exhibits) shall be exhibited to opposing counsel for inspection at least seven (7) days prior to trial. All such exhibits shall be marked and numbered sequentially for identification, beginning with plaintiff's exhibits and going through defendant's exhibits. No proposed exhibit shall be shown to the jury until duly admitted into evidence and appropriately marked. Depositions read into evidence shall also be marked as exhibits. (As amended by order March 6, 2015.)

6.02

All trial exhibits shall be accounted for and placed in the custody of the clerks unless otherwise directed by the Court. Upon proper application, the Court may allow substitution of copies for the originals. In all civil cases, exhibits may be withdrawn after the judgment becomes final without order of the Court. All exhibits not withdrawn within thirty (30) days after judgment becomes final may be disposed of by the clerk.

RULE 7. CASES REMOVED TO FEDERAL COURT

7.01

In all cases removed to the Federal District Court from the Circuit Court of this district, costs shall follow the costs as taxed in the Federal District Court. It shall be the responsibility of the party removing the case to Federal Court to advise the clerk of the court from which the case was removed as to the final disposition of the case. If the clerk is not notified within a reasonable time after final disposition of the case in Federal Court, costs will be taxed to the removing party.

RULE 8. PREPARATION AND PRESENTMENT OF ORDERS

8.01

All judgments and orders shall be tendered for entry within fifteen (15) days after the decision or ruling by the Court; all orders must contain thereon the docket number. Unless the Court directs otherwise, it shall be the initial duty of the prevailing party or the

prevailing party's counsel to prepare the judgment or order and to submit it to all other parties or counsel for approval. In the event that there is no response thereto, or the parties or counsel do not agree upon a proposed judgment or order, any party may serve a proposed judgment or order on all other parties or counsel with notice thereon of a hearing for entry of the judgment or order, which hearing shall be set through the judge's administrative assistant. Any other party or counsel may tender a proposed judgment or order to the Court with the signature of that party or counsel together with the certificate of that party or counsel that a copy of the proposed judgment or order has been served on all other parties or counsel.

8.02

All orders or judgments requiring court approval shall be sent to the assigned judge, along with two envelopes, postage paid. One envelope shall be addressed to the clerk of the court for direct filing and the other envelope shall be addressed to the attorney sending the original order or judgment, to whom the clerk shall send a filed copy of the order or judgment. All orders or judgments sent to the judge will be returned only to the clerk and not the attorney.

RULE 9. ATTORNEYS - WITHDRAWAL - SETTING FEES

9.01

(a) Withdrawal - No attorney may be allowed to withdraw and leave a party without counsel without leave of the court on proper motion being filed and the reasons being set forth therein with a notice to said party. No attorney shall be allowed to withdraw at any time within thirty (30) days prior to the date set for trial, unless it is clearly shown that justice demands the withdrawal.

(b) Setting Attorney Fees - Whenever it is necessary for the court to fix fees of attorneys, such attorneys shall file a statement of time spent on the case and a suggestion of the amount of a proper fee.

RULE 10. DOMESTIC RELATION CASES

10.01

Unless otherwise ordered by the Court, all Domestic Relations cases must go to *Mediation prior to trial*.

10.02

Designation of Parties. In the complaint, answer, and other pleadings it is requested that the parties or counsel avoid such terms as plaintiff, defendant, counter-plaintiff, and counter-defendant, using instead such easily understood references to parties as husband and wife.

10.03

In all contested divorce cases, both parties shall file sworn financial statements subject to such protective orders as may be applied for and granted.

Policy - The failure to file the information required by the preceding rule, in whole or in part, without just cause will create a presumption that the other party's statements regarding whatever information is not supplied are true and that his/her request is valid.

10.04

In all pendente lite hearings and contested divorce cases, the parties shall file with the clerk, with a copy furnished to opposing party or counsel, at least seven (7) days before the hearing, the following:

(a) A copy of the previous year's tax return, regardless of whether the returns were filed individually or jointly.

If a parties tax return has not been filed, a copy of all of the documents that reflect all of the income received from whatever source by either party for the previous year.

(b) A copy of the documents that reflect all of the income received from whatever source by either party from January 1 of the year of the hearing to the date of the hearing.

(c) A financial affidavit setting forth the parties actual or estimated necessary monthly expenses, their total monthly gross income from all sources, their assets and liabilities from the date of the affidavit to the date of the trial. (See attached forms.)

10.05

Parenting Issues - In cases involving minor children, all parties will comply with the provisions and procedures set out in the Tennessee Parenting Plan Act, T.C.A. §36-6-401 et seq., as follows:

(a) All divorcing parents with minor children are mandated to participate in the "Parenting Plan".

(b) The provisions of T.C.A. §36-6-401 et seq. shall apply to all actions involving custody and support of minor children.

(c) Within thirty (30) days of filing any action involving custody and support of minor children, both parents shall attend a parenting education seminar sanctioned by the Courts of at least four (4) hours duration and shall be required to file with the Court a Certificate of Attendance.

(d) The plaintiff/petitioner shall file with the Complaint or Petition an "Agreed Parenting Plan" defined in the Act (the forms are included in the Parenting Plan package). If no agreement has been reached, a "Proposed Parenting Plan" of the plaintiff/petitioner shall be filed.

(e) The defendant/respondent shall, if no agreement has been reached, file with their Answer to the Complaint or Petition a "Proposed Parenting Plan".

(f) Unless a party has sworn upon oath that the conduct specified in T.C.A. §36-6-406 exists, disputes over the Parenting Plan shall first be addressed by mediation.

10.06

Pendente Lite Hearings/Temporary Hearings

(See Rule 10.04)

All pendente lite hearings/temporary hearings shall be heard upon the filing of a motion.

(a) All motions seeking temporary support shall be limited to oral argument by counsel, or any party who is unrepresented, and only in exceptional cases, as determined by the Court, will the Court hear proof from a party or any witness(es).

(b) Counsel shall give the other party or adverse counsel at least five (5) days notice by motion of any intent to request that the Court hear testimony by reason of exceptional circumstances and said motion shall set forth the asserted exceptional circumstances.

(c) Counsel shall advise the Court of any case in which a motion has been filed requesting the Court to hear proof, and the case will be set on a civil motion day. Every effort will be made to limit temporary support hearings to a maximum of thirty (30) minutes.

RULE 11. VERDICT FORMS - CIVIL CASES

11.01

Verdict forms in all civil cases are to be prepared by the attorneys and submitted to the Court no later than the commencement of the trial. The attorneys should first attempt to agree upon a verdict form and if unable to do so shall submit separate forms.

RULE 12. CONDUCT OF COUNSEL

12.01

Counsel shall refrain from interrupting the Court or opposing counsel until the statement being made is fully completed, except when absolutely necessary to protect the interest of the client, and should respectfully await the completion of the courts statement or opinion before undertaking to point out objectionable matters.

12.02

No attorneys, parties, or witnesses shall engage in any conversation or conduct with any trial juror until his or her term of service has expired.

12.03

During presentation of matters in open court counsel shall refrain from addressing opposing counsel, but direct all comments and questions to the court.

RULE 13. WITNESSES

13.01

(a) Subpoenas

Subpoenas for potential witnesses by all parties shall be issued not less than seven (7) days prior to the date of trial for witnesses within the county, and not less than ten (10) days for out-of-county witnesses, except expert witnesses should be disclosed not less than thirty (30) days prior to trial

(b) Issuance of Subpoenas

Upon issuance of subpoenas, the issuing party shall supply the other party a list of said subpoenaed witnesses.

(c) Witness List

In all cases, each party shall exchange a list of their witnesses no later than seven (7) days before trial, except expert witnesses shall be disclosed no later than thirty (30) days before trial.

RULE 14. DORMANT CASES; DOCKET CALLS

14.01

Dismissal of Dormant Cases

To expedite cases, the Court may take reasonable measures to purge the docket of old cases where the cases have been dormant without cause shown for an extended time. The Court may also set special docket soundings for the purpose of setting cases or dismissing dormant cases without good cause shown.

14.02

Dismissal for Want of Prosecution

Copies of the order dismissing the case for failure to prosecute shall be mailed to all counsel of record or to any party without counsel of record, if their whereabouts can be ascertained upon reasonable inquiry by the clerk.

14.03

Additional Docket Soundings

The Court may hold docket calls to ascertain the status of cases and set deadlines for their disposition.

RULE 15. CLERK SALES, BIDS, AND CONFIRMATION OF SALES

15.01

Clerk sales shall be conducted in accordance with the applicable statute.

RULE 16. APPEALS FROM CITY AND GENERAL SESSIONS COURT

16.01

All appeals from the city and general sessions courts are to be tried without delay. Any appeals made without proper security and after having reviewed the entire file, including the bond required, shall be dismissed by the Court sua sponte. The clerks are directed to bring defects to the attention of the judge assigned to the case.

16.02

The clerks are directed to familiarize themselves with proper procedure required by statute to accept the filing of an appeal, including the requirements specified for proper bond.

16.03

An appeal on a default judgment where the defendant, after proper notice, fails to appear, must be accompanied by a sworn statement for his or her reason for not having appeared at the general sessions level. Otherwise, the appeal will be dismissed and remanded for execution at the costs of the appellant.

RULE 17. INTERROGATORIES AND REQUESTS FOR ADMISSION

17.01

When answering interrogatories and requests for admissions, same shall be numbered and the replying party shall, as a part of his answer, set forth immediately preceding the answer, the questions or the request made in the same numerical sequence.

17.02

No party shall serve on any other party more than thirty (30) interrogatories without leave of the Court. For purpose of this Rule, a sub-part of an interrogatory shall count as an additional interrogatory. Any motion seeking permission to serve more than thirty (30) interrogatories shall set out the additional interrogatories the party wishes to serve, together with the reasons establishing good cause for the service of additional interrogatories. If a party is served with more than thirty (30) interrogatories without the order of the Court, said party shall respond only to the first thirty (30).

RULE 18. PRE-TRIAL PROCEDURE FORMS, WORKSHEETS AND BRIEFS

18.01

In all actions set for trial on the merits, at least seven (7) days prior thereto:

(a) The names and addresses of witnesses (other than impeachment and rebuttal witnesses) shall be furnished to opposing counsel.

(b) Copies of all exhibits which are proposed to be offered (other than impeachment or rebuttal exhibits) shall be furnished to opposing counsel.

(c) Depositions to be used as evidence (other than for impeachment) shall be filed with the clerk and a copy furnished to the judge.

(d) Counsel may file pre-trial briefs by filing the original with the clerk and then delivering a copy to the judge at his permanent address or by other method specifically authorized by the judge assigned to the case.


**RULE 19. PROCEDURE FOR MOTIONS FOR SUMMARY JUDGMENT AND
MOTIONS TO DISMISS**

19.01

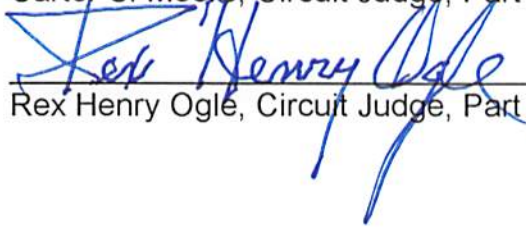
Copies of all Motions for Summary Judgment and Motions to Dismiss, and responses thereto, as well as all briefs, supporting documents and legal authorities, are to be sent to the judge's office no later than ten (10) days prior to the hearing date.

It is Ordered and Adjudged that the Rules shall become effective this 27th day of

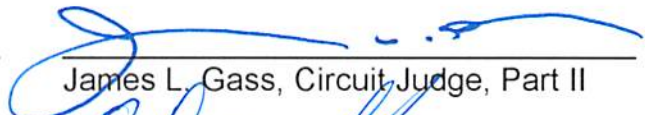
February, 2019.



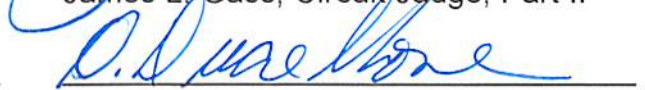
Carter S. Moore, Circuit Judge, Part I



Rex Henry Ogle, Circuit Judge, Part III



James L. Gass, Circuit Judge, Part II



O. Duane Slone, Circuit Judge, Part IV

FORM A

PLEASE INDICATE: HUSBAND _____ OR WIFE _____

IN THE CIRCUIT COURT FOR _____ COUNTY, TENNESSEE

AT _____

PLAINTIFF

(Present Address)

VS.

DOCKET NO. _____

DEFENDANT

(Present Address)

AFFIDAVIT OF ASSETS AND LIABILITIES

ASSETS	HOW WAS PROPERTY/ASSETS ACQUIRED (i.e. inherited, purchased separate or together)	HOW IS PROPERTY/ASSETS TITLED	IS PROPERTY/ASSETS MARITAL OR SEPARATE	ESTIMATED FAIR MARKET VALUE OF PROPERTY/ASSETS	(A) NAME OF MORTGAGE/LIEN HOLDER AND (B) BALANCE	PAYMENT SCHEDULE
MARITAL RESIDENCE (address) _____ _____ _____			MARITAL _____ SEPARATE _____		(A) _____ _____ (B) _____ _____ _____	
OTHER REAL PROPERTY 1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ (B) 2. _____ (B) 3. _____ (B) 4. _____ (B) 5. _____ (B) 6. _____ (B) 7. _____ (B) 8. _____ (B) 9. _____ (B) 10. _____ (B)	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____

ASSETS	HOW WAS PROPERTY/ ASSETS ACQUIRED (i.e. inherited, purchased separate or together)	HOW IS PROPERTY/ ASSETS TITLED	IS PROPERTY/ASSETS MARITAL OF SEPARATE	ESTIMATED FAIR MARKET VALUE OF PROPERTY/ASSETS	(A) NAME OF MORTGAGE/LIEN HOLDER AND (B) BALANCE	PAYMENT SCHEDULE
HOUSEHOLD FURNISHINGS (DO NOT ITEMIZE UNLESS EXTRAORDINARY) 1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____
MOTOR VEHICLES 1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____
BANK ACCOUNTS (i.e. checking, savings, money market, IRA, retirement, etc.) 1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____

PLEASE INDICATE: HUSBAND _____ OR WIFE _____

ASSETS	HOW WAS PROPERTY/ ASSETS ACQUIRED (i.e. inherited, purchased separate or together)	HOW IS PROPERTY/ ASSETS TITLED	IS PROPERTY/ASSETS MARITAL OF SEPARATE	ESTIMATED FAIR MARKET VALUE OF PROPERTY/ASSETS	(A) NAME OF MORTGAGE/LIEN HOLDER AND (B) BALANCE	PAYMENT SCHEDULE
STOCKS, BONDS, MUTUAL FUNDS ETC. 1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____
MISCELLANEOUS (i.e. other items not itemized above including business property, etc.) 1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____	1. _____ 2. _____ 3. _____ 4. _____ 5. _____ 6. _____ 7. _____ 8. _____ 9. _____ 10. _____

SCHEDULE B. - LIABILITIES

PLEASE INDICATE HUSBAND _____ OR WIFE _____

AFFIDAVIT OF MONTHLY INCOME AND EXPENSES

- 1. Rent or Mortgage \$ _____
- 2. Real Estate Taxed \$ _____
- 3. Homeowner's or Renter's Insurance \$ _____
- 4. Homeowners' Dues \$ _____
- 5. Electricity \$ _____
- 6. Gas \$ _____
- 7. Water \$ _____
- 8. Garbage \$ _____
- 9. Telephone \$ _____
- 10. Cellular Phone \$ _____
- 11. Food \$ _____
- 12. Clothing \$ _____
- 13. School Costs \$ _____
- 14. Alimony to Prior Spouse(s) \$ _____
- 15. Child Support for Prior Children \$ _____
- 16. Child Care/Day Care \$ _____
- 17. Life Insurance \$ _____
- 18. Health Insurance \$ _____
- 19. Medical, Dental and Medicines \$ _____
(not including insurance payments)
- 20. Installment Payments: \$ _____
Auto

- 21. Auto Insurance \$ _____
- 22. Transportation (not including \$ _____
auto payment, but include gas
and maintenance)
- 23. Laundry and Dry Cleaning \$ _____
- 24. Cable TV \$ _____
- 25. Internet \$ _____
- 26. Home/Yard Maintenance \$ _____
- 27. Taxes \$ _____
- 28. Recreation and Entertainment \$ _____
- 29. Miscellaneous \$ _____

DISCRETIONARY EXPENSES

- 1. Charitable Contributions \$ _____
- 2. Vacation \$ _____
- 3. Gifts \$ _____
- 4. Clubs \$ _____
- 5. Miscellaneous \$ _____
- 6. _____ \$ _____
- 7. _____ \$ _____
- 8. _____ \$ _____

INCOME

EMPLOYER: _____

(Address)

POSITION: _____

(A) GROSS MONTHLY INCOME: \$ _____

Deductions:

FICA \$ _____

Withholdings \$ _____

_____ \$ _____

_____ \$ _____

_____ \$ _____

_____ \$ _____

(B) ADDITIONAL INCOME: \$ _____
\$ _____
\$ _____
\$ _____

SOURCE OF ADDITIONAL INCOME: _____

(C) TOTAL NET INCOME: \$ _____

This affidavit shall be filed with the following documents:

- A. A copy of the previous year's tax return, or if not available, a copy of the documents that reflect all of the income received from whatever source by either party for the previous year.
- B. A copy of all of the documents that reflect all of the income received from whatever source by either party from January 1 of the year of the hearing to the date of the hearing.

Under the penalty of perjury I make oath that the financial information setforth above is accurate to the best of my knowledge.

This _____ day of _____, 20 ____.

HUSBAND

WIFE