

**East Valley Bar Association**  
**August 16, 2019 Membership Luncheon**

**Location: The Embassy Suites, 4400 South Rural Road, Tempe, Arizona**  
**Presenter: Honorable Lisa Vandenberg, Maricopa County Superior Court**

**Presentation: Family Court Issues**

**1. Allegations of Significant Domestic Violence in Petitions involving Legal Decision Making and/or Parenting time.**

a) If the Court makes a finding of “significant domestic violence” ARS 25-403.03(A) states:

Notwithstanding subsection D of this section, joint legal decision-making shall not be awarded if the court makes a finding of the existence of significant domestic violence pursuant to section 13-3601 or if the court finds by a preponderance of the evidence that there has been a significant history of domestic violence.

b) Unfortunately neither this statute nor title 25 provide a definition, so the presentation will discuss and answer questions with regard to what the Court’s review can consist of and factors that counsel should consider in preparing evidence regarding this issue.

c) Attached (Attachment A) is a Memorandum of legal research prepared by Judge Vandenberg’s 2019 Summer Law Clerk regarding this topic and the situations in which the Court can clearly find an act of domestic violence. As well, (Attachment B) ARS 25-403.03 is attached immediately following the Memorandum.

d) Can counsel ask that in the alternative the Court consider a finding of “a significant history of domestic violence”? Or that rather an act of domestic violence has occurred in which a rebuttable presumption applies under ARS 25-403.03(D).

**2. AverHealth is the Maricopa County Family Court’s new testing agency.**

a) Brief presentation as to how testing orders are different from the Court’s perspective.

b) (Attachment C) Testing location and general information is attached immediately following ARS 25-403.03.

c) Discussing on how testing is going, questions and concerns requested from the attendees.

**3. Filing Notice vs Motion for Withdrawal.**

- a) Attached (Attachment D) is the Arizona Rule of Family Law Procedure regarding the filing of a Notice of Withdrawal and filing a Motion for Withdrawal.
- b) Discussion as to how Department staff process each.

**4. Questions regarding Family Court procedures/ policies.**

**Attachment A**

**RESEARCH MEMORANDUM**

**TO:** Judge Lisa Vandenberg & Judge Joseph Kiefer

**FROM:** Caitlin Figueroa

**DATE:** July 2, 2019

**RE:** significant domestic violence

**QUESTIONS PRESENTED**

According to case law, what is the definition of the term “significant domestic violence” as used under A.R.S. § 25-403.03?

**BRIEF ANSWERS**

In considering whether domestic violence is significant, courts have identified three factors: 1) the seriousness of the particular incident of domestic violence; 2) the frequency or pervasiveness of the domestic violence; and 3) the passage of time and its impact. These factors have been utilized by courts in forming only memorandum decisions and therefore are not considered to be precedential.

**APPLICABLE STATUTES**

Notwithstanding subsection D of this section, joint legal decision-making shall not be awarded if the court makes a finding of the existence of significant domestic violence pursuant to § 13-3601 or if the court finds by a preponderance of the evidence that there has been a significant history of domestic violence.

A.R.S. § 25-403.03(A).

“Domestic violence” means any act that is a dangerous crime against children as defined in § 13-705 or an offense [...] if any of the following applies:

1. The relationship between the victim and the defendant is one of marriage or former marriage or of persons residing or having resided in the same household.
2. The victim and the defendant have a child in common.

3. The victim or the defendant is pregnant by the other party.
4. The victim is related to the defendant or the defendant's spouse by blood or court order as a parent [...]
5. The victim is a child who resides or has resided in the same household as the defendant and is related by blood to a former spouse of the defendant or to a person who resides or who has resided in the same household as the defendant.
6. The relationship between the victim and the defendant is currently or was previously a romantic or sexual relationship. [...]

A.R.S. § 13-3601(A)

## DISCUSSION

### *Defining "significant domestic violence"*

#### *Brumley v. Brumley (2018)*

When assessing a child's best interests for the purposes of a custody determination, A.R.S. § 25-403(A)(8) requires the superior court to consider whether there has been domestic violence as defined by A.R.S. § 25-403(C). *Brumley v. Brumley*, Not Reported in P.3d 2018 WL 2208037, 1, 3 (Ariz. Ct. App. 2018)(memorandum decision). Should a court determine that domestic violence has occurred, the court must separately determine whether "significant domestic violence" or a "significant history of domestic violence" exists. *Brumley*, 2018 WL 2208037 at 3.

Mother and Father were married in 2010. *Id.* at 1. In 2015, Mother obtained an Order of Protection against Father. *Id.* Father filed for divorce seeking joint legal decision-making authority and parenting time of their child. *Id.* Mother responded and requested sole legal decision-making authority with Father having supervised parenting time due to Father's history of domestic violence. *Id.* According to Mother, Father had previously "shoved" a laptop computer off a counter, threw a coffee mug at their bedroom door and "pressed on her stomach" during an argument while she was pregnant. *Id.*

In considering whether Father's domestic violence was "significant," the superior court defined significance as a product of three factors: 1) the seriousness of the particular incident of domestic violence; 2) the frequency or pervasiveness of the domestic violence; and 3) the passage of time and its impact. *Id.* at 4. The incidents were limited to verbal altercations and

personal property damage. *Id.* As well, the incidents occurred prior to the birth of the child and several months prior to Mother seeking an Order of Protection against Father. *Brumley*, 2018 WL 2208037 at 4. Multiple professionals throughout the proceedings indicated that the child was not in danger around Father. *Id.* Father had also completed parenting classes and professional counseling to address his anger issues, in addition to complying with court ordered random alcohol tests. *Id.* Therefore, the court concluded that there was no evidence Father had engaged in acts of domestic violence and awarded Father joint-legal decision-making. *Id.*

***Paredes-Gabriel v. Riva (2019)***

In order for A.R.S. § 25-403(A) to apply, a court must find the existence of significant domestic violence pursuant to § 13-3601, which defines the crime of domestic violence by referring to several separately defined criminal offenses. *Paredes-Gabriel v. Riva*, Not Reported in Pac. Rptr., 2019 WL 1959588, 1, 3 (Ariz. Ct. App. 2018)(memorandum decision).

Mother and Father began a relationship in 2014 and moved into Father's family's home shortly thereafter. *Paredes-Gabriel*, 2019 WL 1959588 at 1. Mother gave birth to their child in 2017 and moved to Florida with the child later that year. *Id.* Father petitioned to establish sole legal decision-making and supervised parenting time for Mother. *Id.* In response, Mother alleged that she experienced domestic violence at the hands of Father and his family, and requested sole legal decision-making and supervised parenting time for Father. *Id.*

Mother's pre-trial statement asserted that she should be awarded sole legal-decision making authority "due to the significant history of domestic violence committed by Father against Mother." *Id.* Mother alleged that 1) Father and his male family members raped her; 2) Father withheld necessities, including her phone, to control her; 3) Father and his family called her names and treated her inappropriately; 4) Father hid or broke her personal property; and 5) Father and his family's behavior caused her to become isolated from her family. *Id.* Father subsequently denied these abuse allegations and testified that he believed Mother suffered from mental health issues. *Id.* at 2. Maternal grandmother also testified that Mother had witnessed and experienced abuse as a child. *Id.* In response to abuse allegations against Father's family, members of the family testified that Mother was never mistreated or abused in their home. *Id.*

The superior court found that Mother experienced “intimidation and fear tactics” but did not determine if Father’s participation in these actions met the definition of domestic violence under A.R.S. § 13-3061. *Paredes-Gabriel*, 2019 WL 1959588 at 3. The court’s ruling did not distinguish between acts that do and do not qualify as domestic violence under the statute. *Id.* As a result, the Court of Appeals was unable to determine if the court would have reached the same conclusion, had it considered only the acts that legally constitute domestic violence under the statute. *Id.* Therefore, the superior court erred in finding the existence of significant domestic violence under A.R.S. § 25-403(A) without identifying the factual basis to support a finding under A.R.S. § 13-3601(A) and without finding Father committed domestic violence as defined by the statute. *Id.* The superior court’s order awarding Mother sole legal decision-making authority was vacated and remanded for a new hearing. *Id.* at 5.

#### *Family Offenses under Ch. 36 of Title 13 Criminal Code*

§ 13-1201(A) provides that a person commits endangerment by recklessly endangering another person with a substantial risk of imminent death or physical injury. However, endangerment does not require that the endangered person be actually physically injured or even be aware that they were endangered. *State v. Villegas-Rojas*, 296 P.3d 981, 983 (Ariz. Ct. App. 2012). Defendant filed for post-conviction relief, claiming that the factual basis for the felony endangerment charge against him was insufficient as a matter of law. *State v. Villegas-Rojas*, 296 P.3d at 983. Defendant claimed that because the other motorists he endangered by driving while intoxicated were unidentified and not actually harmed, the endangerment charge was inappropriate. *Id.* Defendant’s argument was rejected by the court; the statute does not require or imply that the name or exact identity of the victim is a necessary element of the offense. *Id.*

The crime of assault, by intentionally placing another person in reasonable apprehension of imminent physical injury, is an act complete in itself and not an attempt to commit a different crime. *State v. May*, 669 P.2d 616, 619 (Ariz. App Ct. 1983). As well, the common law crime of battery is included in the Arizona assault statute, A.R.S. § 13-1203(A), which defines assault as 1) intentionally, knowingly, or recklessly causing physical injury to another person; or 2) intentionally placing another person in reasonable apprehension of imminent physical injury; or 3) knowingly touching another person with the intent to injure, insult, or provoke such person. *State v. May*, 669 P.2d at 619. On appeal, Defendant claimed that the charge of attempted

aggravated assault should be dismissed because it is not a crime under Arizona's criminal code. *Id.* at 618. Defendant was charged under subsection 2, which proscribes placing another person in reasonable apprehension of imminent physical injury. *State v. May*, 669 P.2d at 619. As well, the statute provides that a person commits attempt if such person intentionally does anything which is a step in a course of conduct planned to culminate in the commission of an offense. *Id.* at 620. Due to the fact that the Defendant went to the victim's house armed with a gun under circumstances inferring that he intended to place the victim in reasonable apprehension of imminent physical injury, he thus completed a substantial step in what would be aggravated assault. *Id.* Therefore, the attempted aggravated assault charge was affirmed by the Court of Appeals. *Id.* at 624.

## Attachment B

### A.R.S. § 25-403.03. Domestic Violence and Child Abuse

A. Notwithstanding subsection D of this section, joint legal decision-making shall not be awarded if the court makes a finding of the existence of significant domestic violence pursuant to section 13-3601 or if the court finds by a preponderance of the evidence that there has been a significant history of domestic violence.

B. The court shall consider evidence of domestic violence as being contrary to the best interests of the child. The court shall consider the safety and well-being of the child and of the victim of the act of domestic violence to be of primary importance. The court shall consider a perpetrator's history of causing or threatening to cause physical harm to another person.

C. To determine if a person has committed an act of domestic violence the court, subject to the rules of evidence, shall consider all relevant factors including the following:

1. Findings from another court of competent jurisdiction.
2. Police reports.
3. Medical reports.
4. Records of the department of child safety.
5. Domestic violence shelter records.
6. School records.
7. Witness testimony.

D. If the court determines that a parent who is seeking sole or joint legal decision-making has committed an act of domestic violence against the other parent, there is a rebuttable presumption that an award of sole or joint legal decision-making to the parent who committed the act of domestic violence is contrary to the child's best interests. This presumption does not apply if both parents have committed an act of domestic violence. For the purposes of this subsection, a person commits an act of domestic violence if that person does any of the following:

1. Intentionally, knowingly or recklessly causes or attempts to cause sexual assault or serious physical injury.
2. Places a person in reasonable apprehension of imminent serious physical injury to any person.



3. Engages in a pattern of behavior for which a court may issue an ex parte order to protect the other parent who is seeking child custody or to protect the child and the child's siblings.

E. To determine if the parent has rebutted the presumption the court shall consider all of the following:

1. Whether the parent has demonstrated that being awarded sole or joint legal decision-making or substantially equal parenting time is in the child's best interests.
2. Whether the parent has successfully completed a batterer's prevention program.
3. Whether the parent has successfully completed a program of alcohol or drug abuse counseling, if the court determines that counseling is appropriate.
4. Whether the parent has successfully completed a parenting class, if the court determines that a parenting class is appropriate.
5. If the parent is on probation, parole or community supervision, whether the parent is restrained by a protective order that was granted after a hearing.
6. Whether the parent has committed any further acts of domestic violence.

F. If the court finds that a parent has committed an act of domestic violence, that parent has the burden of proving to the court's satisfaction that parenting time will not endanger the child or significantly impair the child's emotional development. If the parent meets this burden to the court's satisfaction, the court shall place conditions on parenting time that best protect the child and the other parent from further harm. The court may:

1. Order that an exchange of the child must occur in a protected setting as specified by the court.
2. Order that an agency specified by the court must supervise parenting time. If the court allows a family or household member to supervise parenting time, the court shall establish conditions that this person must follow during parenting time.
3. Order the parent who committed the act of domestic violence to attend and complete, to the court's satisfaction, a program of intervention for perpetrators of domestic violence and any other counseling the court orders.
4. Order the parent who committed the act of domestic violence to abstain from possessing or consuming alcohol or controlled substances during parenting time and for twenty-four hours before parenting time.
5. Order the parent who committed the act of domestic violence to pay a fee for the costs of supervised parenting time.

6. Prohibit overnight parenting time.

7. Require a bond from the parent who committed the act of domestic violence for the child's safe return.

8. Order that the address of the child and the other parent remain confidential.

9. Impose any other condition that the court determines is necessary to protect the child, the other parent and any other family or household member.

G. The court shall not order joint counseling between a victim and the perpetrator of domestic violence. The court may provide a victim with written information about available community resources related to domestic violence.

H. The court may request or order the services of the department of child safety if the court believes that a child may be the victim of child abuse or neglect as defined in section 8-201.

I. In determining whether the absence or relocation of a parent shall be weighed against that parent in determining legal decision-making or parenting time, the court may consider whether the absence or relocation was caused by an act of domestic violence by the other parent.

## **Attachment C**

### **Maricopa County Superior Court FAMILY COURT RANDOM DRUG TESTING AVERHEALTH FAQ**

**Prepared by Hon. Lisa VandenBerg on 7/18/2019**

On May 28, 2019, TASC was officially be replaced by AverHealth as the court-contracted drug testing facility. This document is not an official document of the Superior Court or of AverHealth. Rather, I have collected information based on my understand of AverHealth's policies and procedures under the Maricopa County Superior Court contract and have elected to provide answers to some FAQs relating to the new testing services.

#### **Where are the testing facilities?**

There is one facility located in Central Phoenix (near 3<sup>rd</sup> Street and Virginia) and another in the East Valley (near Stapley and University) and in the West Valley (in the area of 83rd Avenue and Indian School Road).

#### **What are their hours of operation for testing?**

They open at 11:00 a.m. and close at 9:00 p.m., Monday through Friday. At precisely 9:00 p.m. each weeknight, AverHealth's policy is to do a "door check" before locking the front door. For them, a "door check" is that they step outside of the entrance to their facility to see if anyone is approaching. If so, they will let them in. If not, the doors are locked and anyone who arrives after that will be turned away.

#### **Are they open at any other days or times?**

Yes. On a random basis, they will be open on some Saturdays, Sundays or holidays. On those days that they are open, testing will be from 8:00 a.m. until 1:00 p.m. The Court cannot order weekend or specific holiday testing but for those people who are on random testing, they may be called in on those randomly selected days.

#### **How long does the process take for the person who is being tested?**

Every person ordered to be tested will have to submit to a one-time orientation. Once that is completed, the predicted time from entering the front door to leaving the facility is 5 minutes. If the person is unable to provide a sample when they arrive, they are given the option to wait in the reception area or come back later that day.

#### **How long does it take to get results for U/A testing?**

Per AverHealth's policies, all samples taken by 5:00 p.m., as well as all samples taken the day before after 5:00 p.m., are sent by overnight courier to their main testing facility in St Louis. Those samples should be tested on the business day received and the results are posted by the end of business the same day as testing.

**How does the testing facility monitor the securing of the samples?**

The AverHealth officials have indicated that they use a process called "Lift, Lower, Turn." Immediately before providing the sample, the person submitting to testing will be asked to raise their shirt to just above their stomach, lower their pants and underwear to just above the knees and do a 360 degree turn. The precise instructions are attached to this memo as attachment "A." That attachment is posted on the walls at the testing facility.

**How does the facility address the possible claim of positive testing results caused by other medications?**

AverHealth has a medication guide that is provided to all persons submitting to testing. That form is attachment "B" hereto. You should take a moment and read it over.

**How does the facility address possibility of diluted samples?**

AverHealth has a document that is provided to all persons submitting to testing that explains how to avoid a diluted sample. That form is attachment "C" hereto. You should take a moment and read it over.

**What about hair follicle testing?**

AverHealth has contracted with the court to do hair follicle testing. Results are usually secured within one week.

**What if the scalp hair is too short?**

AverHealth will also sample body hair. They may use hair from an arm, leg, or underarm or, if necessary other locations on the body.

**Is AverHealth equipped to deal with non-English speaking clients?**

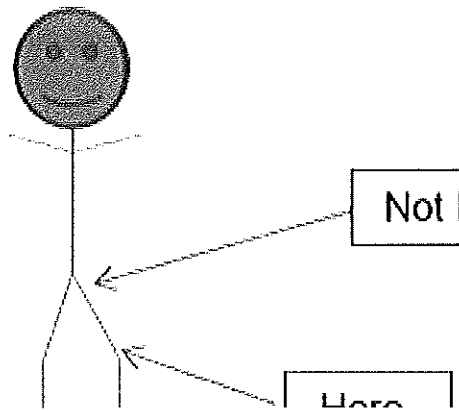
Yes. When there are other languages involved, AverHealth has indicated that they have a procedure to facilitate communication with those clients as well. For example, if someone use American Sign Language (ASL), the facility uses Skype (or a similar communication platform) so that an ASL interpreter can help facilitate testing.



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## APPROVED COLLECTION PROCEDURE

1. Please remove any coats and heavy garments.
  - a. No bags may be taken into the collection room.
2. Please wash your hands
3. Please shift your clothing.
  - a. Shirts and undershirts must be raised to above the navel.
  - b. Long shirt sleeves must be rolled up to the elbow.
  - c. Pants and undergarments must be lowered to mid-thigh.
  - d. Clothes must be left in place until collection is completed.



4. You must turn in a full circle.
5. Start voiding and then stop voiding.
6. The collector will then hand you the sample cup and you may provide a sample.
7. Hand the sample cup to the collector when you have provided 30ml of sample.

Failure to comply with any of the above instructions or comply with any instructions from the averhealth staff will be reported as a **REFUSAL**.

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## MEDICATION REFERENCE GUIDE

**Purpose:** Identify medications that help to relieve specified symptoms, while avoiding drug testing issues. The following medications must be approved by the court, probation, counselor, or appropriate authority prior consumption by a treatment court participant or probationer.

**Limitations:** This guide is merely a reference of the most common symptoms and medications. This guide is not completely exhaustive nor is it comprehensive.

**Banned Substances:** The Common Banned Substances only identify readily available substances that are marketed to relieve specified symptoms. This list does not address narcotics nor does the list address other substances that are often banned by treatment courts or probation programs.

**Responsibility:** Individuals subjected to drug testing are responsible for the substances that they consume. When in doubt, such individuals should obtain permission from the court or consult their counselor or probation officer.

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Symptoms	Common Brands	Generic Equivalents	Common Banned Substances	
<b>Pain &amp; Fever Relief</b> (arthritis, back pain, body aches, joint pain, muscle pain, muscle strains, headache, migraine, sore throat, tendonitis, toothache, earache, fever)	<ul style="list-style-type: none"> <li>Advil</li> <li>Aleve</li> <li>Anacin</li> <li>Anbesol</li> <li>Aspercreme</li> <li>Alka Seltzer – Original or Extra Strength Effervescent Antacid Pain Reliever</li> </ul>	<ul style="list-style-type: none"> <li>Bayer Aspirin</li> <li>EcoTrin</li> <li>Motrin</li> <li>Nuprin</li> <li>Orduis KT (Rx)</li> <li>Tylenol</li> </ul>	<ul style="list-style-type: none"> <li>Aspirin</li> <li>Acetaminophen</li> <li>Benzocaine topical</li> <li>Ibuprofen</li> <li>Ketoprofen</li> <li>Naproxen sodium</li> </ul>	
<b>Cough, Cold &amp; Flu</b> (common cold, flu, watery eyes, itchy throat, runny nose, sinus pressure, sneezing, coughing, stuffy nose, chest)	<ul style="list-style-type: none"> <li>Luden's Cough Drops</li> <li>Hall's Cough Drops</li> <li>Musinex (Not D or DM)</li> <li>Saline nasal spray</li> </ul>	<ul style="list-style-type: none"> <li>Guaifensin</li> <li>Menthol</li> <li>Pectin</li> <li>Phenylephrine</li> </ul>	<ul style="list-style-type: none"> <li>Alcohol</li> <li>Robitussin</li> <li>Robitussin DM</li> <li>Musinex DM</li> <li>Pertussin DM Extra Strength Cough Relief</li> <li>Dextromethorphan</li> <li>Ephedrine</li> <li>Pseudoephedrine</li> <li>Musinex D</li> </ul>	
<b>Allergy &amp; Sinus</b> (itchy eyes, itchy throat, runny nose, sinus pressure, sneezing)	<ul style="list-style-type: none"> <li>Ahist</li> <li>Claritin (Not D)</li> <li>Dayhist</li> </ul>	<ul style="list-style-type: none"> <li>Neo-Synephrine</li> <li>NasalCrom</li> <li>Tavist (Not D)</li> <li>Zyrtec (Not D)</li> </ul>	<ul style="list-style-type: none"> <li>Cetirizine</li> <li>Chlorpheniramine</li> <li>Clemastine</li> <li>Cromolyn Sodium</li> <li>Loratadine</li> <li>Phenylephrine</li> <li>Dextromethorphan</li> <li>Ephedrine</li> <li>Pseudoephedrine</li> <li>Levmetafetamine</li> <li>Claritin D</li> <li>Travist D</li> <li>Zyrtec D</li> </ul>	
<b>Feminine Products</b>	<ul style="list-style-type: none"> <li>Femstat</li> <li>Gyne Lotrimin</li> <li>Monistat</li> </ul>	<ul style="list-style-type: none"> <li>Vagisil</li> <li>Vagistat</li> </ul>	<ul style="list-style-type: none"> <li>Benzocaine</li> <li>Butoconazole</li> <li>Clotrimazole</li> <li>Miconazole</li> <li>Resorcinol</li> <li>Tioconazole</li> </ul>	
<b>Insomnia</b>	<ul style="list-style-type: none"> <li>Unisom</li> </ul>		<ul style="list-style-type: none"> <li>Doxylamine</li> <li>Melatonin</li> <li>Benadryl</li> <li>Diphenhydramine</li> </ul>	
<b>Nausea (motion sicknesses, vomiting)</b>	<ul style="list-style-type: none"> <li>Bonine</li> </ul>	<ul style="list-style-type: none"> <li>Emetrol / Cola</li> </ul>		
<b>Heartburn</b> (acid indigestion, acid reflux, ulcers)	<ul style="list-style-type: none"> <li>Axid AR</li> <li>Basaljel</li> <li>Gaviscon</li> <li>Maalox</li> <li>Roloids</li> <li>Mylanta Liquid, Double Strength, Maximum Strength Liquid, and AR</li> </ul>	<ul style="list-style-type: none"> <li>Prilosec</li> <li>Pepcid</li> <li>Tagament HB</li> <li>Tums</li> </ul>	<ul style="list-style-type: none"> <li>Aluminum Hydroxide</li> <li>Calcium Carbonate</li> <li>Cimetidine</li> <li>Famotidine</li> <li>Magnesium Hydroxide</li> <li>Magnesium Hydroxide</li> <li>Nizatidine</li> <li>Omeprazole</li> </ul>	
<b>Irregular Bowel</b> (bloating, constipation, diarrhea, gas)	<ul style="list-style-type: none"> <li>Beano</li> <li>Dul Colax</li> <li>Exlax</li> <li>Fibercon</li> <li>Gas-X</li> <li>Imodium</li> <li>Kaopectate</li> </ul>	<ul style="list-style-type: none"> <li>Pepto-Bismol</li> <li>Phillips Gelcaps</li> <li>Phillips Milk of Magnesia</li> <li>Charcoal Plus DS</li> <li>Charco Caps</li> <li>Liqui Char</li> <li>Actidose – Auqa</li> </ul>	<ul style="list-style-type: none"> <li>Bismuth Subsalicylate</li> <li>Loperamide</li> <li>Magnesium Hydroxide</li> <li>Simethicone</li> </ul>	
<b>Smoking Cessation</b>	<ul style="list-style-type: none"> <li>Nicorette</li> <li>Nicotrol</li> </ul>	<ul style="list-style-type: none"> <li>Nicoderm</li> </ul>		
<b>Diet, Exercise &amp; Nutritional Supplements</b>		<ul style="list-style-type: none"> <li>Protein</li> <li>Amino Acids</li> <li>Caffeine</li> </ul>	All other diet, exercise, nutritional, and performance enhancing supplements must be avoided.	
<b>Skin Care</b>	<ul style="list-style-type: none"> <li>Clearasil</li> <li>Cortaid</li> <li>Cortizone</li> <li>Lotrimin Ultra or AF</li> <li>Preparation H Anti-Itch Cream</li> </ul>	<ul style="list-style-type: none"> <li>Tinactin</li> <li>Lamasil</li> <li>Ivy Block</li> <li>Oxy 10</li> </ul>	<ul style="list-style-type: none"> <li>Benzoyl peroxide</li> <li>Hydrocortisone</li> <li>Clotrimazole</li> <li>Butenafine Hydrochloride</li> <li>Miconazole</li> <li>Tolnaftate</li> <li>Terbinafine</li> </ul>	<ul style="list-style-type: none"> <li>Benadryl Anti-Itch Cream</li> <li>Diphenhydramine</li> </ul>
<b>Vitamins</b>	<ul style="list-style-type: none"> <li>Nature Made</li> <li>One a Day</li> </ul>	<ul style="list-style-type: none"> <li>Centrum 21</li> <li>Finest Nutrition</li> </ul>	<ul style="list-style-type: none"> <li>B6, B12, B Complex</li> <li>Folic Acid</li> <li>C</li> <li>D</li> <li>E</li> <li>Pre-Natal</li> </ul>	Must avoid all herbal blend vitamins.

**Alcohol**

The below substances must be avoided if you are not allowed to consume alcohol.

• e-Cigarettes that contain alcohol, Mouth washes, breath strips, cough medicines (i.e. Nyquil, etc.), hand sanitizer, non-alcoholic beer and wine, herbal supplements (i.e. ginkgo biloba, etc.), flavoring extracts (i.e. vanilla, etc.), communion wine, flambé dishes (i.e. baked Alaska, etc.), colognes, body sprays or any other product containing alcohol.

• Solvents, lacquers, and insecticides. If contact with such products cannot be avoided due to employment reasons, discuss with your Treatment Provider or Probation Officer.



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## Successful Tips for How to Avoid a Diluted or Adulterated Test

- Do not drink excessive amounts of fluid within two hours of providing a sample.
  
- As a general rule of thumb, you should not drink more than 32 ounces of fluid within two hours of providing a sample.
  - 7-11 Big Gulps contain 32 ounces of fluid
  - McDonald's large drinks contain 32 ounces of fluid
  - Starbuck's Iced Venti contains 24 ounces of fluid
  
- Allow your urine to naturally accumulate. The average person naturally creates about one milliliter of urine per minute. You only need to provide 30 milliliters of urine.
  
- Ingestion of excessive amounts of fluid can result in a diluted urine sample.
  
- Do not consume any performance enhancing supplements or diet supplements.
  
- Do not consume any substances not deemed for human consumption.
  
- Do not attempt to alter or substitute your urine specimen. During the collection and testing process any attempt to alter specimens will be detected and reported.



## Attachment D

### Rule 9. Duties of Parties or Counsel

(d) Appearance, Withdrawal, and Substitution of Counsel.

(2) *Withdrawal and Substitution.*

(A) Notice of Withdrawal. When a judgment, decree, or other appealable order has become final, the time for appeal has passed, and there are no matters pending before the court, an attorney may withdraw from further representation by filing a notice of withdrawal. The notice must state that the attorney will no longer represent the client and include the client's address and telephone number, unless protected. The withdrawing attorney must provide a copy of the notice to the client and all other parties. An order approving the notice of withdrawal is not required.

(B) Motion to Withdraw as Counsel. A motion to withdraw as attorney of record must be in writing, state the reasons for the withdrawal, and set forth the client's address and telephone number. Additionally:

(i) If the motion bears the client's written approval, it must be accompanied by a proposed written order and may be presented to the court *ex parte*. The withdrawing attorney must give prompt notice of the entry of such order, together with the client's address and telephone number, unless protected, to all other parties.

(ii) If the motion does not bear the client's written approval, it must be served on the client and all other parties. The motion must be accompanied by a certificate of the moving attorney that the client has been notified in writing of the status of the action, including the dates and times of any court hearings or trial settings, or the client cannot be located or cannot be notified of the motion's pendency and the case status.

(C) Withdrawal after Trial Setting. No attorney will be permitted to withdraw as attorney of record after a trial date is set, unless:

(i) The application includes the party's signed statement that the party is aware of the trial date and has made suitable arrangements to be prepared for trial; or

(ii) The attorney seeking withdrawal shows good cause for allowing the attorney to withdraw even though the action has been set for trial.