

14th JUDICIAL DISTRICT: DURHAM COUNTY
FAMILY COURT DOMESTIC RULES
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RULE 1: GENERAL RULES

- 1.1** The purpose of these Rules is to provide for the fair, just, and timely resolution of family domestic matters in the District Court Division of the 14th Judicial District, Durham County, in compliance with Rule 40(a), North Carolina Rules of Civil Procedure, and Rule 2(a), General Rules of Practice for Superior and District Courts. We operate with a “one judge-one family system” and each case will be assigned to one family court judge who has an assigned Case Coordinator.
- 1.2** It is recognized that these Rules are not complete in every detail and will not cover every situation that may arise. In the event that these Rules fail to address a specific matter, they should be construed in such a manner as to avoid technical or unnecessary delay and to promote the ends of justice. The Family Court Office is authorized to act in their discretion subject to consultation with the Chief District Court Judge.
- 1.3** **Definitions.** "Court" as used in these Rules depends upon the context in which it is used. It may mean: the Chief District Court Judge, the presiding District Court Judge, or the Family Court Case Coordinator and/or Family Court Administrator as their delegate.
- 1.4** **Pro Se Litigants/Ex Parte Communications.** Parties without attorneys are known as “pro se” litigants. Although no party is required to have an attorney, any party who is not represented by an attorney must follow all court rules and is presumed to know and understand them. All pro se litigants must keep the Family Court Office informed at all times of any and all changes in their addresses and telephone numbers. If a party moves before the case is completed and fails to inform the Family Court Office of the new address and telephone number, it will not be grounds to continue the case if notices are not received. Pro se litigants, just like attorneys, may not have, or attempt to have, ex parte communications (that is, a communication about a case with the judge or the Case Coordinator, without adequate notice to all parties, and with all parties having an opportunity to be present) with the judge assigned to his or her case except as provided in Rule 5.4. The assigned judge will not return telephone calls, listen to recorded telephone messages, or read mail which is deemed ex parte communication. The assigned judge will not open mail which does not contain the name and return address of the sender. Violations of the ex parte communication rule may, in the discretion of the assigned judge, subject the offending party to sanctions.
- 1.5** **Responsibilities of Attorneys/Unrepresented Parties.** Attorneys and litigants must keep the Family Court Office informed at all times of any and all changes in their mailing addresses, email addresses, telephone numbers, and fax numbers. Additionally, attorneys must provide the Family Court Office with client mailing addresses and telephone numbers and communicate any updates. Attorneys are to provide the Family Court Office with a copy of all motions to withdraw, which must include the client’s last known address.

- 1.6 Forms.** Except as specified herein, where forms are specified to be used by these Rules, counsel or pro se parties may use either the forms provided or a form of their own which substantially corresponds to the specified court form. “Substantially corresponds” means that the same information required on 14th Judicial District Family Court Forms should be submitted in a format that is legible and which, in large part, follows the order of Family Court forms; omissions of information based on the use of a form from another jurisdiction is not acceptable. All information provided to the Court and to be filed with the Clerk of Superior Court shall comply with the **Identity Theft Protection Act of 2005**.
- 1.7 Amendments.** These Rules and all amendments hereafter shall be filed with the Clerk of Superior Court in the 14th Judicial District and may be cited accordingly as Family Court Domestic Rules, 14th Judicial District (14FCDR). These Rules supersede and replace all previous local rules controlling actions in Domestic Court. The effective date of these Rules is November 13, 2007.
- 1.8 Location of Rules.** The Rules and the forms cited are available for downloading from the North Carolina Administrative Office of the Courts website: at <http://www.nccourts.org/Courts/CRS/Policies/LocalRules/Default.asp>
- 1.9 Secured Leave.** The vacation policy of the 14th Judicial District Family Court shall be governed by Rule 26: “Secure Leave Periods for Attorneys” of the General Rules of Practice for the Superior and District Courts N.C.G.S. §7A-34.
- 1.10 Alternative Dispute Resolution.** Durham Family Court encourages and supports alternative dispute resolution (ADR) methods for families to resolve their legal disputes outside of a contested court hearing. Family Court staff will keep resource information available for the public on: Family Law Arbitration, Collaborative Law, Judicial Settlement Conferences, Mediation, and Parenting Coordinators.

RULE 2: TIME STANDARDS TO BE MET

2.1 NC Family Court Time Standards for Domestic Cases. The North Carolina Family Court Advisory Committee has established a case management plan to aid in the just, fair, and timely resolution of cases filed. Unless otherwise specified, “days” are calendar days. The time frames below represent **maximum** time limits that are “goals.”

(a) Child Custody	
<u>Event</u>	<u>Time from Filing of Complaint</u>
<u>Temporary Orders Entered, if Requested by One or Both Parties:</u>	
In 90% of cases	within 30 days
In 100% of cases	within 45 days

Mediation Orientation Scheduled:
In 100% of cases within 45 days

Mediation Session(s) Completed:
In 90% of cases within 90 days
In 98% of cases within 120 days
In 100% of cases within 150 days

Orders Entered:
In 90% of cases within 150 days
In 100% of cases within 180 days

(b) **Child Support Event** Time from Filing of Complaint

Temporary Orders Entered (that do not involve paternity determination)
In 90% of cases within 30 days
In 100% of cases within 45 days

Permanent Orders Entered
In 75% of cases within 90 days
In 90% of cases within 180 days
In 100% of cases within 270 days

(c) **Post-Separation Support Event** Time from Filing of Complaint

Orders Entered:
In 75% of cases within 60 days
In 100% of cases within 90 days

(d) **Permanent Alimony and Equitable Distribution Matters Event** Time from Filing of Complaint

First Status Conference within 120 days
Completion of ADR session(s) within 210 days
Final Pretrial Conference within 240 days
Start of Trial within 270 days

Orders Entered:
In 90% of cases within 270 days
In 100% of cases within 365 days

2.2 Additional Time Standard for Individual Issues or Events. In addition to the case resolution goals in Rule 2.1, the Court sets the following goal for addressing individual issues or holding specific events:

- All motions to modify existing orders should be resolved within sixty (60) days from the pretrial conference.

RULE 3: DOMESTIC CASE FILINGS, ASSIGNMENT TO DISTRICT COURT JUDGES

- 3.1** All family court cases, except for involuntary commitments, IV-D, U.R.E.S.A., U.I.F.S.A., domestic violence, and clerk's automatic child support enforcement cases, shall be filed with the Clerk of Superior Court for Durham County in the Family Court Office in the Judicial Annex Building. After filing, the moving party in such cases shall take all documents to a Case Coordinator in the Family Court Office located in the Judicial Annex Building. At the initial filing, all domestic matters, except for those listed above, shall be accompanied by an **AOC COVER SHEET (Form 1)** so that the case can be assigned to a Family Court judge and given any appropriate court dates. All subsequent filings shall be delivered to a Case Coordinator in Family Court for filing. The Clerk of Superior Court shall provide a case number at the time of an initial filing and place that number upon the summons. All subsequent pleadings and papers filed with the Clerk and all subsequent communications to opposing counsel or parties or court personnel shall contain the proper case number.
- 3.2** All new domestic cases, (except for involuntary commitments, IV-D, U.I.F.S.A., and clerk's automatic child support enforcement cases), shall be accompanied by an Affidavit for **JUDICIAL ASSIGNMENT AND FAMILY COURT COVER SHEET (Form 2)**. This form shall indicate whether there is already a pending case involving the parties and/or their children or a formerly resolved domestic, domestic violence, or juvenile case involving the same family and/or issues, and the name of the judge, if any, assigned to the case; attorneys are required to solicit this information from their client. Failure to truthfully file the affidavit may result in sanctions allowed by law and deemed appropriate by the Chief District Court Judge or assigned judge.
- 3.3** All domestic cases identified in Rule 3.2 as requiring an **AFFIDAVIT FOR JUDICIAL ASSIGNMENT AND FAMILY COURT COVER SHEET (Form 2)** shall be delivered by the filing party to the Family Court Office in the Judicial Annex immediately after filing with the Clerk in the Judicial Annex Building. Family Court staff shall assign the case to a District Court Judge on a random basis at the time of filing, except for those cases previously assigned or heard by a District Court Judge (including juvenile court matters), in which event the case will be assigned to the same District Court Judge if he/she is assigned to Family Court. The judge's name shall be placed on all copies of the cover sheets by Family Court staff. All subsequent motions and hearings, including Temporary Restraining Orders (TROs), requests for *Ex Parte* orders, and other emergency matters shall be scheduled by the Family Court Office before the assigned judge. See Rule 4 for requirements relating to the calendaring of domestic relations matters.

3.4 When the judge is assigned to each case, Family Court staff will also schedule events such as status conferences and/or pretrial conferences as dictated by the issues raised in the complaint or the motion pursuant to Rule 4.2. **WITH THE EXCEPTION OF COMPLAINTS FOR ABSOLUTE DIVORCE ONLY, AT THE TIME OF FILING, EACH DOMESTIC CASE IN THE 14TH JUDICIAL DISTRICT, INCLUDING NEW ACTIONS AND MOTIONS, WILL RECEIVE A DATE FOR A STATUS CONFERENCE, PRETRIAL CONFERENCE, CUSTODY MEDIATION ORIENTATION, AND/OR HEARING AS REQUIRED BY THESE RULES. NO COURT DATE SHALL BE SET BEFORE A PLEADING OR MOTION IS FILED. SIMILARLY NO CASE WILL REMAIN PENDING WITHOUT A DESIGNATED FUTURE HEARING DATE, ENTRY OF ORDER DATE OR SIMILAR EVENT.**

3.5 The Chief District Court Judge shall designate Family Court Sessions and assign judges for such sessions. Attorneys, or pro se litigants, with an Ex Parte or emergency matter for an assigned judge shall first take the emergency complaint/motion to the Family Court Case Coordinator who will notify the assigned judge that there is a request for ex parte relief. Emergency matters may be heard by the assigned judge in any courtroom, or in chambers, if appropriate, regardless of the session to which the judge is assigned for the week. If, due to illness, vacation, or other cause, the assigned judge is not available to hear *Ex Parte* or other emergency matters, then the *Ex Parte*, or other emergency matters may be heard by any available District Court Judge serving in the Family Court rotation. Subsequent court dates on the emergency matter will be scheduled for the assigned judge.

EX PARTE RELIEF IS EXTRAORDINARY AND NOT THE RULE. WHEN SEEKING AN EX PARTE RULING, THE FIRST THING THAT IS REQUIRED IS THAT PARTIES INFORM THE COURT OF THE IDENTITY OF ANY OPPOSING COUNSEL REPRESENTING THE OTHER PARTY. THE JUDGE SHALL MAKE INQUIRY ABOUT THE EXISTENCE OF OPPOSING COUNSEL AND WHETHER ANY EFFORT HAS BEEN MADE TO NOTIFY COUNSEL OR, IF THERE IS NO LAWYER FOR THE OPPOSING PARTY, THE OPPOSING PARTY, PRIOR TO SEEKING EX PARTE RELIEF. ATTORNEYS ARE DUTY BOUND TO REVIEW THE COURT FILE TO DETERMINE IF THERE IS AN ATTORNEY OF RECORD.

RULE 4: GENERAL CALENDARING RULES

4.1 **Case Tracking.** The Family Court Division of the Trial Court Administration Office shall establish and maintain a case tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts, and in accordance with these Rules.

- 4.1.1 Case Coordinator's Role to Generate and Set Calendar.** Except for any cases set on the calendar by the presiding judge, the Family Court Case Coordinators have the responsibility and discretion to set matters on the court calendar for hearing. Case Coordinators will use their best efforts to manage the calendar so that it is efficient, impartial to all parties, and in keeping with the letter and spirit of these Rules. Cases on the calendar shall have an estimated length of time for the hearing and be designated as either an **A1 case** or an **A2 case**. Generally, A2 cases are shorter matters that can be disposed of in the first 30—60 minutes of each daily calendar call at 9:30 AM and 2:30 PM. A1 cases are cases that have been identified by either the judge or the Case Coordinators as having some identifiable reason for having priority on the calendar such as: the issue is approaching or is past the time-standard for resolution, the case has been continued a number of times in the past, or a party had to travel from a distance. Case Coordinators will also calendar cases as a **B case**, for Back-up, to an A1 case. If parties are ready to proceed and desire to be on an earlier calendar, they can become the back-up case for an A1 case so that if the A1 case comes off the calendar close to trial, the B case will be given priority of the former A1 case.
- 4.2 Status or Pretrial Conferences Required.** Except for those matters specifically identified by Rule 3.1, Show Cause Hearings, motions for temporary relief, attorney fees, and uncontested Absolute Divorces, all other domestic matters shall be set for a status and/or pretrial conference. Upon motion, good cause, and available court time, parties or their attorneys may request that the Court waive the pretrial conference and proceed directly to the hearing to dispose of the issue scheduled for a pretrial hearing. The Case Coordinator shall schedule the conference in accordance with Rules 5 and 6.
- 4.3 Moving Party's Responsibility.** It is the responsibility of the party filing the complaint, answer, or motion in the cause to meet with the Case Coordinator when filing the pleading so the Case Coordinator can schedule appropriate court dates. If an attorney represents the opposing party, the moving party shall first communicate with opposing counsel regarding his/her availability for prospective court dates. It is the policy and expectation of Family Court that parties will work together to suggest court dates that are convenient for both parties so that the matter will be heard and resolved when scheduled. Although date preference is a factor to be considered, the Case Coordinators are ultimately responsible for setting all matters before the judge. It is also the moving party's responsibility to send written notification to the opposing party or counsel immediately after a court date is set by the Case Coordinator. Family Court Case Coordinators have the discretion to send notices of hearings, especially for pro se parties, however, the responsibility for sending notices for hearings always remains with the moving party—whether he/she is pro se or represented by an attorney. The notification must be in accordance with Rule 5 of the Rules of Family Court Procedure, on a **CALENDAR REQUEST AND NOTICE OF HEARING (Form 3)**, or a notice that communicates the same information. The moving party shall file all notices with the Clerk's Office for inclusion in the case file.

- 4.4 Continuous Calendaring.** All pending actions shall always be set for an upcoming status conference, pretrial conference, trial date, or entry of order date. The Family Court Division will review pending actions and notice cases without impending court dates for a status conference or pretrial conference to review the status of the case in order to ensure that the Court addresses matters in a timely manner.
- 4.5 Consolidated Cases.** When cases have been consolidated for trial, they will be regarded as one case for calendaring purposes and will appear under the oldest case number. A copy of the order consolidating the cases for trial shall be filed in all pertinent court files and all pleadings or documents filed thereafter shall be captioned with all file numbers.
- 4.6 Dismissal for Missed Court Appearances.** Any case noticed for a pretrial conference is subject to dismissal for failure to prosecute if, at the time the matter is called for hearing, the attorneys and parties are not present and ready to proceed, or have failed to notify the Court of any emergency or good cause which would preclude the attorney or party from being present.
- 4.7 Settlement of Contested Issues.** Parties are encouraged to engage in settlement discussions at every opportunity. Family Court recognizes the importance to the family of bringing closure to these disputes, of minimizing misunderstandings that frequently occur when resolutions are not yet committed to writing, and the Court's responsibility to assist the parties in resolving these disputes. Unless agreements have been reduced to writing, signed by the parties, their attorneys, and the assigned judge prior to the time of the court date, parties and counsel are required to appear as scheduled. If a resolution has been reached but not drawn up by the time of the court date, the parties and their counsel are required to appear as scheduled and either execute a **MEMORANDUM OF JUDGMENT ORDER (AOC Form AOC-CV-220)** or read the terms of the agreement into record. The Court will then set another court date for Entry of Order with the expectation that the final order will be prepared, signed by the parties and counsel, and filed with the Court prior to or at that proceeding.
- 4.8 Trial Settings.** The assigned judge will set cases for trial at a pretrial conference if the case has not already been calendared for trial by Family Court staff.

RULE 5: CALENDARING OF DOMESTIC CASES

- 5.1 New actions or modifications.** When a party files a complaint or a motion for modification or enforcement of an existing order in a domestic case, the party shall meet with the Case Coordinator, and the Case Coordinator shall set conference and hearing dates in accordance with the following schedule:

- A. Child Support.** The party filing a complaint or motion seeking the establishment of child support or the modification of an existing order must attach a completed **FINANCIAL STANDING AFFIDAVIT (Form 6)** to the complaint or motion at the time of filing. The Case Coordinator shall set all initial child support cases for a temporary hearing within thirty (30) days after filing of the request for child support determination or modification. The moving party shall serve upon the opposing party or counsel the following: the pleading, the moving party's completed Financial Standing Affidavit with the required attachments (i.e. pay stubs for the past two months (or other official documentation of income) and the latest federal tax return including all schedules with attached W-2s and 1099's), a Calendar Request and Notice of Hearing (**Form 3**), a blank Financial Standing Affidavit (**Form 6**), and a blank Employer Wage Affidavit (**Form 7**).

At or before the temporary hearing, both parties must file with the Court and serve on the opposing party or counsel the completed Employer Wage Affidavit. The responding party or counsel must file and serve a completed Financial Standing Affidavit and the required attachments (i.e. pay stubs for the past two months (or other official documentation of income) and the latest federal tax return including all schedules with attached W-2s and 1099's) on the moving party at the earliest of the following events: with any responsive pleading filed with the Court, at the temporary hearing, or at a pretrial conference. If at the temporary hearing both parties and the presiding judge agree, then the parties may proceed with a hearing for the establishment of a permanent order of child support.

- B. Custody/Visitation.** It is the responsibility of the moving party in any action for Custody/Visitation or the Modification of Custody/Visitation to sign both parties up for the next mediation orientation session in the black binder located outside of the Case Coordinators' offices. The date for mediation orientation shall be within forty-five (45) days of the filing of the request and it is the moving party's responsibility to properly notice the opposing party of the custody mediation orientation date. The parties shall proceed with mediation in accordance with Rule 6 of these Rules. If either party makes a written motion/plea for temporary custody/visitation, the Case Coordinator will set a date for temporary custody hearing that is within thirty (30) days of the filing of the motion. The moving party shall serve upon the opposing party or counsel the pleading and the **NOTICE TO ATTEND MEDIATION ORIENTATION AND PARENTING APART CLASS (Form 14)** setting the orientation date. If a party has requested temporary custody, they shall serve upon the opposing party or counsel a Calendar Request and Notice of Hearing (**Form 3**) for the temporary custody hearing in addition to Form 14. As used herein, "Custody" includes custody, visitation, and parenting issues.
- C. Post-Separation Support & Alimony.** All pleadings for post-separation support and alimony must have attached to them a completed **FINANCIAL STANDING AFFIDAVIT** and the required attachments (**Form 6**). Unless there is a written

order in place for post-separation support, the Case Coordinator shall set the issue of post-separation support for a hearing within forty-five (45) days of the filing. The Case Coordinator shall also set a status conference within ninety (90) days of the filing of an alimony pleading and for any post-separation support issues that were not resolved prior to the status conference. The moving party who files for post-separation support and alimony shall serve upon the opposing party or counsel the pleading and their completed Financial Standing Affidavit and the required attachments (**Form 6**), a completed Calendar Request and Notice of Hearing (**Form 3**) for the post separation support hearing, a blank Financial Affidavit (**Form 6**) and a blank Employer Wage Affidavit (**Form 7**).

At or before the hearing for post-separation support, both parties must file with the Court and serve on the opposing party or counsel the completed **EMPLOYER WAGE AFFIDAVIT** (Form 7). The responding party or counsel must file and serve their Financial Standing Affidavit and attachments on the moving party at the earliest of the following events: with any responsive pleading filed with the Court, at the hearing for post-separation support, or at a pretrial conference. If at the post-separation support hearing both parties and the presiding judge agree, the parties may proceed with a hearing for the establishment of an order for alimony.

- D. Equitable Distribution (“ED”).** Immediately after filing an action for equitable distribution, the moving party must take his or her pleading to the Family Court Office so that a Case Coordinator can set a date for an initial pre-trial conference and a status conference. The initial pre-trial conference will occur within sixty days (60) of the date the pleading was filed. The status conference will occur within ninety days (90) of the date the pleading was filed. In addition to the status conference date, when necessary, the Case Coordinator will provide the moving party with an Alternative Dispute Resolution ("ADR") packet (**AOC Forms AOC-CV-825 and AOC-CV-826**) and blank copies of the **EQUITABLE DISTRIBUTION INVENTORY AFFIDAVIT (Form 12)**.

It is the responsibility of the moving party to serve the opposing party or counsel with the following: Pleading asserting equitable distribution, a completed Calendar Request and Notice of Hearing (**Form 3**) setting the status conference date, a blank Equitable Distribution Inventory Affidavit (**Form 12**); and the ADR packet (**Forms AOC-CV-825 and AOC-CV-826**). AOC CV forms are available online at www.nccourts.org. Local forms are available online at <http://www.nccourts.org/Courts/CRS/Policies/LocalRules/Default.asp>. Forms are also available in hard copy form upon request if there are extenuating circumstances.

In the event a pleading for equitable distribution includes a motion for Interim Distribution pursuant to N.C.G.S. § 50.20(i1), and if a hearing date is requested by the moving party, the Case Coordinator will schedule an Interim Distribution hearing before the assigned judge within forty-five (45) days of the date of filing.

It is the responsibility of the party seeking the interim distribution to serve the opposing party or counsel with a Calendar Request and Notice of Hearing (**Form 3**) for the Interim Distribution and a copy of the pleading seeking an interim distribution.

At the initial pretrial conference the Court shall make inquiry as to the status of the case and shall enter a date for the completion of discovery, the completion of a mediated settlement conference, if applicable, and the filing and service of motions, and shall determine a date on or after which a final pretrial conference shall be held and a date on or after which the case shall proceed to trial; if appropriate based on the complexities of the case, a Discovery Conference or additional Pretrial Conferences may be set by the court. Attendance at the initial pre-trial conference is mandatory for attorneys and all parties.

The purpose of the status conference is to ensure that the case is proceeding toward resolution in a timely and orderly fashion. The Case Coordinator shall: **(a)** confirm that each party has completed and filed his or her Equitable Distribution Inventory Affidavit (Form 12) (NOTE: failure to complete, file and exchange ED Inventory Affidavits may result in the imposition of sanctions against the non-complying party), **(b)** issue an Order designating the method of ADR to be employed, the Neutral who will conduct the ADR, and the deadline for the completion of the ADR process (**AOC Forms AOC-CV-825 and AOC-CV-826**), **(c)** set the date for a final pretrial conference which will occur as close to the thirtieth day (30th) following the completion of ADR when the parties' equitable distribution affidavits are exchanged and filed; and **(d)** either confirm that the parties have completed and filed a Discovery Conference Order (**Forms 8 or 9**) or set a date for a discovery pretrial conference if the parties are unable to agree on the terms of the Discovery Conference Order.

Attendance at the status conference is mandatory for attorneys and *pro se* parties. However, parties who wish to avoid the status conference may do so, without penalty, only if they have taken the following actions and completed and submitted the following documents to the judge at the initial pre-trial conference or to the Case Coordinator in advance of the date of the status conference:

1. Each party must have completed, filed with the Clerk of Superior Court and Case Coordinator, and served on the opposing party their Equitable Distribution Inventory Affidavit (**Form 12**).
2. The parties must have signed and submitted to the Case Coordinator in writing their chosen method of ADR, the name of the Neutral selected, and the date for which the ADR event is scheduled and the date by which ADR will be completed (**Form AOC-CV-825**).
3. The parties or their attorneys must have completed and signed the **DISCOVERY SCHEDULE ORDER (Form 9)** and/or the **Equitable DISTRIBUTION FINAL PRETRIAL ORDER (Form 11)**.

The deadlines set out for items in 2 and 3 above must comport with the Time Standards for Domestic Cases set out in these Rules and the North Carolina General Statutes. Following his or her review of items 1-3 above and if the same meet with his or her approval, the Case Coordinator will issue an Order setting forth the method of ADR to be employed, the Neutral who will conduct the ADR, the date for which the ADR event is scheduled and the deadline for completion of the ADR. The Case Coordinator will also set the date for a final pretrial conference which will occur not sooner than ninety (90) days after the Status Conference and not later than one hundred and twenty (120) days from that event.

Failure to attend the status conference or failure to complete, file and exchange ED Inventory Affidavits will result in a show cause order generated by the Case Coordinator with a court hearing set before the assigned judge. At the show cause hearing, the judge, in his or her discretion, may impose sanctions as permitted by law against the non-complying party or parties including attorneys of record.

5.2 Motions in the Cause for Contempt. The Case Coordinator shall schedule all motions for contempt and Orders to Show Cause for trial before the assigned judge without a pretrial conference. The Notice of Hearing or the Show Cause Order shall be served in accordance with G.S. 5A-23.

5.3 All Other Motions. The Case Coordinator shall set any motion not referenced above, including all discovery and non-evidentiary motions for hearing.

5.4 Ex Parte Orders. A lawyer or a party participating in an adversarial proceeding is prohibited from communicating about the merits of the case with a judge before whom the proceeding is pending outside of official proceedings, that is a hearing or communication with notice to the opposing party. Only the assigned judge will, if appropriate, enter *Ex Parte* orders for such emergency circumstances as are allowed by the Rules of Civil Procedure, statute, or other law. If the assigned judge is not available, a non-assigned judge may enter *Ex Parte* orders pursuant to Rule 3.5. The Case Coordinator or assigned judge shall schedule *Ex Parte* orders for hearing within any required time and before the assigned judge. If an *Ex Parte* communication is authorized by statute, rule, or other law and is made in writing by letter, email or fax, then the attorney or party must promptly deliver a copy of the written communication to the opposing party or counsel by the same means used to deliver the communication to the judge, i.e., hand delivery, facsimile, express mail, or otherwise.

Ex Parte communications and requests are extraordinary and shall not be abused. Before an *Ex Parte* request is made, the requesting party is required to use diligent efforts to contact counsel for the opposing party or the opposing party if that party is unrepresented by counsel. Consistent with each and every act and filing in any 14th Judicial District Family Law Case, the moving party must, before taking any action to contact the court, contact the Family Court Case Coordinator. The party requesting an *Ex Parte* order is required to complete a

form available at the Family Court Office before the request for *Ex Parte* communication is made.

5.5 Temporary Hearings. Temporary hearings shall, by definition and for the purpose of these Rules, include hearings on temporary child custody, temporary child support, post-separation support, *Ex Parte* returns on non-domestic violence cases and interim partial distributions under NCGS § 50-20(i1). Unless otherwise designated by the assigned judge in his or her discretion, temporary hearings shall be limited to one hour total, meaning per case for all issues to be determined, and each party shall be allocated one-half of that time to be used for direct examination of the party's witnesses, cross-examination of the opposing party's witnesses, examination of affidavits and other exhibits and documentary evidence by the judge, and opening and closing statements. It is anticipated that at the majority of these hearings, evidence will be presented based upon affidavits. Parties are limited to up to 5 affidavits which will be served on the opposing party not later than 3 full business days before the hearing and the same affidavits may or may not be presented to the Judge at the temporary hearing. Judges may or may not count the time it takes him/her to read affidavits in the one-hour time limit for temporary hearings. All affidavits shall be served upon the opposing party no later than 5:00 P.M. on the third (3rd) full business day prior to the scheduled hearing. As an example, if a party has a hearing set for 9:30 A.M. on Wednesday, that party's affidavits are due to the opposing party/counsel no later than the preceding Friday by 5:00 P.M. Rebuttal affidavits, i.e., affidavits that are served in response, shall be served upon the opposing party no later than twenty four (24) hours before the scheduled hearing and parties are limited to up to 5 rebuttal affidavits. Only affidavits which are introduced as evidence for consideration by the court shall be filed and those shall be filed at the time of the hearing.

Pretrial Conferences are not required prior to hearings for temporary matters unless ordered by the judge.

5.6 Peremptory Hearings. Requests for a peremptory setting for matters that involve persons who must travel long distances or numerous expert witnesses or other extraordinary circumstances must be made to the Case Coordinator, in writing, using the **REQUEST FOR PEREMPTORY SETTING (Form 4)**. This form shall be sent or delivered to the Case Coordinator with a simultaneous copy sent or delivered to the opposing party or counsel. The opposing party or counsel shall file a response within five (5) days if they oppose the request for peremptory setting. The Case Coordinator shall hold the request for peremptory setting for ten days to allow the opposing party or counsel to respond in writing. After ten (10) days or after receiving a response from the opposing party or counsel, the Case Coordinator shall place the request before the assigned judge who shall render his or her decision. The judge's decision shall be transmitted to the moving party who shall then notify the opposing party or counsel. A peremptory setting will be granted only for good and compelling reason. In addition, a Case Coordinator has the discretion to peremptorily set matters pursuant to rule 4.1.1.

5.7 **Jury.** All issues to be determined by a jury in any domestic case shall be scheduled by the assigned District Court Judge.

5.8 **Calendars.** The calendars for domestic relation sessions shall be posted in the Family Court Office and on the www.nccourts.org web site by the Wednesday preceding the sessions. Copies of the printed calendar for domestic relation sessions will not be mailed. Attorneys are encouraged to subscribe to the www.nccourts.org website because through this free service, calendars, including updated calendars, are emailed to all subscribers.

RULE 6: CONFERENCES

6.1 **Court-set Schedule.** The Case Coordinator and the Judge shall schedule such status conferences, discovery conferences, pretrial conferences, or reviews as necessary to comply with Rule 5 of these Rules.

6.2 **Status Conferences.** Case Coordinators will always set a date for status conferences at the time equitable distribution and/or alimony and post-separation support actions are filed. Attendance at scheduled status conferences is mandatory for the attorneys of record and all pro se parties unless, prior to the scheduled conference, that appearance is waived by the Case Coordinator pursuant to Rule 5. The purpose of a status conference is to ensure the exchange and submission of required documents (See Rule 5) to set deadlines for discovery and upcoming events (**Form 8 or Form 9**), to apprise participants of the dispute resolution requirements, and to provide information on community resources to the family. Each case must have a discovery schedule order and/or a discovery pretrial conference with the assigned judge. Once the assigned judge enters a discovery schedule order, the schedule of discovery can only be modified by the assigned judge and, absent a showing of good cause, extensions of discovery deadlines or requests for extensions of time to conduct discovery will not be permitted to delay the trial on the merits. Any party requesting a modification or extension of the discovery order shall file a motion for calendar request for the same with the Case Coordinator; the motion will contain the designated trial date and will state the reason for the requested modification or extension.

At the status conference for equitable distribution cases, Case Coordinators shall assign a completion date for ADR that shall occur no later than 90 days from the status conference; in each case, the parties must inform the Case Coordinator of the ADR option that will be utilized and the scheduled date for the ADR event.

In cases where alimony and equitable distribution are at issue, the Case Coordinator shall set the date of the final pretrial conference to be held immediately after the Equitable Distribution Affidavit is filed, but no later than one hundred-twenty (120) days after the date of the status conference.

6.3

Initial Equitable Distribution Disclosure. At or before the Status Conference, each party to an equitable distribution claim shall file and serve on the other party an **EQUITABLE DISTRIBUTION INVENTORY AFFIDAVIT** (“EDIA” **Form 12**). Additionally, each party shall serve on the other party the following documents that are in his/her possession and which relate to any item(s) on the Equitable Distribution Inventory Affidavit. For any asset or liability listed on the EDIA and for which documents were not produced, the Affiant must indicate the reason for the omission and identify the location of such documents if known. All information provided to the court and to be filed with the Clerk of Superior Court shall comply with the Identity Theft Protection Act of 2005.

- (a) **Realty:** Without regard to how a property is titled, if there is any real estate listed by either party on an EDIA including but not limited to a residence, rental property, or vacation property, the parties must exchange copies of deeds for that real property, any appraisals which exist at the time of filing or which have been obtained prior to the Status Conference, deeds of trust, notes relating to the deeds of trust (or mortgages), mortgage histories and amortization schedules.
- (b) **Transportation:** Without regard to how the asset is titled, if either party lists a vehicle, boat, airplane or other similar asset, he/she shall provide the other party copies of certificates of title and copies of any secured loan or lien documents which may encumber that asset.
- (c) **Brokerage and Investment Account Statements:** Without regard to how these accounts are titled, if a party lists a stock, brokerage or other investment account, he/ she shall provide copies of brokerage statements for the quarter prior to the date of separation as well as a copy of the statements for the time periods between the date of separation and the Status Conference.
- (d) **Bank Accounts:** Without regard to how these accounts are titled, if a party lists a bank account, he/she shall provide, checking account statements, savings account statements, money market account statements, passbook statements and certificate of deposit statements for the six months immediately prior to the date of separation; and, if the parties have been separated for more than one month, a copy of the last three statements for the months immediately preceding the Status Conference is required.
- (e) **Pensions, Deferred Compensation and Retirement Benefits:**
 - (1) The parties shall provide copies of pension or retirement account statements for the period (usually the year ending or a quarterly statement) immediately preceding the date of separation; if there are outstanding loans against retirement the parties shall provide statements showing those obligations and the balance owed on the date of separation and six months prior to the date of separation; if a party has deferred compensation, including but not limited to stock options,

copies of the option agreements and schedules shall be provided; if the parties have been separated for more than one month, copies of intervening periodic statements, between the date of separation and the Status Conference, shall be provided;

- (2) The parties shall provide copies of their IRA statements for the six months prior to the date of separation and, if they have been separated for more than one month, the intervening periodic statements between the date of separation and the Status Conference.
- (f) Marital Debt: Account statements showing the amount of debt which the party contends is marital existing on the date of separation and, if the parties have been separated for more than one month, currently, including, for example, credit card statements.
- (g) Credit History Report. Each party shall obtain a credit history from all three credit reporting companies and they shall exchange those at the Status Conference;
- (h) Proof of Income and Earnings, Employer Wage Affidavit, last year's tax returns, and pay stubs for the past two (2) months prior to filing the Affidavit of Financial Standing.

The purpose of this rule is to expedite the exchange of information so both sides can verify ownership and values of various assets and possibly arrive at stipulated values. The parties are encouraged to voluntarily exchange all other relevant information.

6.4 PRETRIAL CONFERENCES

6.4.1 Non-Equitable Distribution Issues. Attendance at pretrial conferences (“PTC”) is mandatory for all attorneys of record and all parties unless a party’s presence is excused by the Court pursuant to Rule 4.7 of these Rules and Rule 2 of the North Carolina General Rules of Court. The purpose of a PTC is to assist the attorneys, and/or parties who do not have counsel of record with issues of trial preparation by narrowing the issues for trial or disposition of the case, by setting enforceable deadlines to ensure the completion of reasonably necessary discovery, to facilitate the exchange of information with a view toward streamlining the litigation, to determine the need for reference, to finalize the exchange of lists of proposed witnesses, to determine which facts can be stipulated and agreed upon by the parties, to develop lists of and facilitate the exchange of stipulated exhibits, to agree upon a final pretrial order (“PTO”), and to seriously explore with the parties and their counsel the prospects of settlement of the case. At a non-equitable distribution pretrial conference, the Court will address any requests for additional discovery, finalize the discovery conference order if additional discovery is to be completed, and set a date for trial of the matter or such additional pretrial conferences as are necessary. On or before the final pretrial conference and by dates set out in the PTO, the parties shall exchange witness lists and lists of all exhibits to be offered at trial. Any party who fails in good faith to stipulate to the

authenticity of an exhibit shall be liable to the proffering party for the cost of establishing its authenticity. A **FINAL PRETRIAL ORDER FOR NON ED (Form 10)** shall be completed within thirty days following the first pretrial conference that sets forth the exhibits that the parties stipulate are authentic and those exhibits in which the authenticity is in dispute. Failure of either party to provide the appropriate information and/or documents to complete the final pretrial order may result in the imposition of sanctions.

- 6.4.2 Equitable Distribution Pretrial Conferences.** Parties and/or their attorneys must file and exchange the **EQUITABLE DISTRIBUTION AFFIDAVIT (Form 13)** no later than thirty days (30) after completion of unsuccessful Alternate Dispute Resolution. At the Status Conference, the Case Coordinator shall schedule a Pretrial Conference for the earliest available date after the exchange of the Equitable Distribution Affidavits, but no later than thirty days (30) after the completion of Alternate Dispute Resolution. Twenty days (20) after the exchange of full Equitable Distribution Affidavits (**Form 13**), the **FINAL PRE-TRIAL ORDER FOR EQUITABLE DISTRIBUTION (Form 11)** must be prepared by the moving party and provided to the opposing party. The opposing party then has ten days (10) to accept the Final PTO for Equitable Distribution or serve an alternate pretrial Order. The final pretrial conference shall be set as soon as possible after the opposing party has either accepted the PTO or served a pretrial order, but no later than thirty days (30) after the previous PTC. At the Final Pretrial Conference, the parties shall appear with a completed Pre-Trial Order for Equitable Distribution (**Form 11**) signed by the parties and attorneys. Failure of the moving party to complete the Pre-Trial Order for Equitable Distribution or failure of the opposing party to respond to the Pre-Trial Order for Equitable Distribution may result in the imposition of sanctions.

RULE 7: MANDATORY CUSTODY MEDIATION AND PARENT EDUCATION

- 7.1** The parties to any custody and/or visitation case, including initial filings, modifications or enforcement, shall participate in mandatory mediation prior to any pretrial conference or other hearing of these issues other than temporary issues, unless waived by the Court.
- 7.2** **Scheduling.** The initial mediation orientation is scheduled in accordance with Rule 5.1B. The Custody Mediator (Mediator) will schedule individual sessions for mediation at the time of the orientation.
- 7.3** **Attendance.** The parties to any custody and/or visitation case must attend and participate in the orientation session, a one-hour Parenting Apart class, and at least one mediation session to fulfill the Court's order to participate in mediation. Any party who fails to attend and participate in mediation and the parent education class(es) as required by the Court shall be subject to the contempt powers of the Court and possible sanctions.

- 7.4 Parenting Agreements.** If the parties are able to reach a full parenting agreement, the Mediator will prepare a draft and distribute copies to all parties and their attorneys, advising the parties to review the agreement with their attorneys. A time will be scheduled with the parties to return to sign the final draft (usually within ten days). Final signed agreements shall be presented to the Court. The Court shall review each agreement signed by the parties and, if appropriate, make the parenting agreement an order of the Court by signing the Order Approving Parenting Agreement. The Mediator will file the final Order and Parenting Agreement with the Clerk of Superior Court and distribute copies to the parties and/or counsel.
- 7.5 Partial Parenting Agreements.** If a partial agreement is reached, the Mediator will prepare a final draft of the partial agreement and follow the process set out in Rule 7.4. The Mediator will notify the Case Coordinator if there are unresolved issues and the Case Coordinator will schedule a pretrial conference.
- 7.6 No Agreement Reached at Mediation.** If the parties are unable to reach a completed agreement in mediation, the Mediator shall notify the Case Coordinator who will obtain an ORDER signed by the assigned judge requiring the parties to attend an additional four-hour Parenting Apart class. Along with a copy of the order, the Case Coordinator will provide pro se parties or counsel for represented parties information about the four-hour Parenting Apart classes including class registration, class fees, and the parties' next pretrial court date.
- 7.7 Modifications.** These rules also apply to modification or enforcement of existing custody orders, visitation orders, or parenting agreements. If the parties previously attended an orientation session, the Mediator shall schedule the parties for a mediation session as soon as possible. In accordance with Rule 5.1B, the moving party is responsible for contacting the Case Coordinator and notifying the opposing party or counsel of the mediation session date.
- 7.8 Waiving the Custody Mediation Process.** In some instances, mediation may not be appropriate or in the best interest of the parties or their children. In these instances, a party may move to waive mediation for "good cause" and good cause is defined as including, but not limited to the following outlined in NCGS § 50-13.1(c) showing of undue hardship to a party; an agreement between the parties for voluntary mediation, subject to court approval; allegations of abuse or neglect of the minor child; allegations of alcoholism, drug abuse, or spouse abuse; or allegations of psychological, psychiatric, or emotional problems. Parties desiring an exemption shall complete and submit **AOC Form AOC-CV-632** to the Case Coordinator and serve a copy on the opposing party or his/her attorney prior to the date of the orientation and/or the first mediation session. The Court may also exempt parties from mediation based upon the Mediator's assessment that the case is not appropriate for mediation. The Court has discretion to decide whether a case shall be exempted from mediation without a hearing on the matter.

7.9 Inadmissibility. All verbal or written communications from either or both of the parties to the Mediator or between the parties in the presence of the mediator made in a proceeding pursuant to these Rules are absolutely privileged and inadmissible in Court. Neither the Mediator nor any party or other person involved in mediation under these Rules shall be called to testify as to communications made during or in furtherance of such mediation sessions, provided there is no privilege as to communications made in furtherance of a crime or fraud.

7.10 Parent Education. Family Court offers several opportunities for family members to attend parent education: (a) the one-hour Parenting Apart class that is held at the time parties attend mediation orientation and (b) the four-hour Parenting Apart classes offered by service providers in the community. All parties in a contested custody action shall attend the one-hour Parenting Apart class, and all parties who do not reach a complete Parenting Agreement in mediation shall attend the four-hour Parenting Apart class. Parties who are exempted from mediation may be required to attend parent education classes at the discretion of the assigned judge.

RULE 8: REMANDED CASES

8.1 Remands. When cases are remanded for trial by the Appellate Division, appellant's counsel shall promptly notify the Family Court Office so that the case can be scheduled for a pretrial conference.

RULE 9: CONTINUANCE REQUESTS

9.1 General Rule. Domestic cases should be addressed at the earliest opportunity, including the first pretrial conference setting. However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process, a continuance may be granted for good cause. Requests for continuances that will delay the resolution of the contested issues beyond the established time standards shall only be granted for extraordinary cause.

9.2 Conflicts. The various levels of court should work together to move cases as expeditiously as possible. Age of the case, subject matter, and priority of setting should be given as much primacy as the level of court when resolving conflicts. Attorneys shall notify the Court and opposing counsel (or pro se party) of any other court conflict(s) as they become known. If the conflict is known before the court date, then the attorney shall communicate with the Case Coordinator to resolve the conflict. In resolving court conflicts, juvenile cases shall take precedence over all other matters.

9.3 Motions. All applications for continuance shall be by written motion using **MOTION TO CONTINUE & ORDER (Form 5)** (or similar form) and shall be delivered to the Case Coordinator; in each case, it is mandatory that the moving party set out a reason for seeking a continuance. However, oral motions to the assigned judge may be allowed when the reason for the continuance did not become known until immediately preceding the start of court.

9.4 Notification of the Request. All parties must be notified of a motion to continue. A copy of the motion to continue must be distributed to all counsel of record and/or pro se parties at the same time the motion is delivered to the Case Coordinator. In addition to the service requirements set out in the General Statute, distribution of the motion must be made by the quickest means feasible, including facsimile transmission, electronic mail or hand delivery.

9.5 Input from All Parties. All parties should have an opportunity to be heard on a motion to continue. If the request is received within five business days of the hearing date, and there is no input regarding the opposing party's or counsel's position, the Court may be unable to address the request prior to the hearing and will address the request at that time.

9.6 Responsibility of the Party Requesting the Continuance. The burden is on the party requesting the continuance to contact the opposing counsel or party prior to submitting the motion to the Case Coordinator, and including the opposing party's or counsel's position on the request as:

- Joining in the request;
- Consenting to or not objecting to the request; or
- Opposing the request.
- Setting out two proposed dates/times on the immediately subsequent court calendar where the case can be heard and all counsel and parties are available; If two proposed dates/times are not included, then the Case Coordinator will set the date without consultation with the parties.

The request shall also clearly indicate whether the opposing party cannot be reached, or fails to respond to the request, as well as a statement on the efforts made and why contact was not possible.

9.7 Responsibility of the Party Opposing The Request For Continuance. A party or counsel opposing the request has the burden of submitting a written response to the Case Coordinator immediately upon receipt of the Motion to Continue.

9.8 Factors To Be Considered For Motions To Continue. When deciding whether to grant or deny a motion for continuance, the Court shall consider:

- The effect on children and spouses if the issue is continued and not resolved;

- Whether there is in effect a temporary order dealing with the issue that is the subject of a continuance request;
- The impact of a continuance on the safety of the parties or any other persons;
- Whether the issue has been identified statutorily as an issue which should be addressed expeditiously, i.e., child support, post-separation support;
- The age of the case or motion and whether a continuance will push the case beyond the above-described Time Standards;
- The status of the trial calendar for the sessions;
- The number of previous continuances OR the number, moving party, and grounds for previous continuances;
- The extent to which counsel had input into the scheduling of the trial date;
- The due diligence of counsel in promptly making a motion for continuance as soon as practicable;
- Whether the reason for continuance is a short-lived event which would resolve prior to the scheduled court date;
- Whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- The period of delay caused by the continuance request;
- The position of opposing counsel or pro se parties;
- Whether the parties themselves consent to the continuance;
- Present or future inconvenience or unavailability of witnesses/parties, the attorneys or the witnesses if the case is continued;
- Any other factor that promotes the fair administration of efficiency and justice.

9.9 New Date. Upon granting a motion for continuance, the Case Coordinator or the judge shall reschedule the conference, hearing, or trial to a specific date after receiving scheduling input from all parties. Requests for dates/times from counsel are matters which may be persuasive, but not binding, on this process; secured leave obtained per the Rules of Court will be honored in setting a new court date and weighed in determining whether a continuance is appropriate.

RULE 10: MANDATORY USE OF FINANCIAL STANDING AFFIDAVITS

10.1 Application. This rule shall apply to support cases involving the establishment or modification of child support, post-separation support and/or alimony. As used in this rule, the term "support" means all of the actions referenced in the preceding sentence.

10.2 Financial Standing Affidavits. Each party who seeks support or from whom support is sought shall file and serve upon the other party a completed **FINANCIAL STANDING AFFIDAVIT (Form 6)**. The moving party shall file and serve his or her Financial Standing Affidavit and required attachments along with the pleading seeking support. The moving party also shall serve a blank

Financial Standing Affidavit upon the party from whom support is sought. The responding party or counsel must file and serve their completed Financial Standing Affidavit on the moving party with their responsive pleading, at the initial pre-trial conference, or at a status conference, whichever occurs first. The Court may, in its discretion, postpone or waive these filing requirements.

- 10.3 Employer Wage Affidavits.** Each party shall submit to their employer(s) an **EMPLOYER WAGE AFFIDAVIT (Form 7)** for completion. Both parties must file with the Court and serve on the opposing party or counsel the completed Employer Wage Affidavit at or before the temporary hearing or status conference whichever occurs first.

RULE 11: EQUITABLE DISTRIBUTION AFFIDAVITS

- 11.1 Equitable Distribution INVENTORY Affidavit (“EDIA” Form 12).** At or before the date of the status conference, but not later than ninety (90) days after the filing of the action for equitable distribution, each party shall prepare and serve upon the opposing party an **EQUITABLE DISTRIBUTION INVENTORY AFFIDAVIT (Form 12)**. The Equitable Distribution Inventory Affidavit shall list all of the property and debts known by the party to have existed at the date of separation and owned/owed by the party or parties. The Equitable Distribution Inventory Affidavit is intended to be a beginning point in the discovery of and development of the parties’ net estate (marital, separate and divisible) so that the parties and the court can efficiently manage the case through discovery and trial or settlement. Although the Equitable Distribution Inventory Affidavit is subject to amendment and is not binding at trial as to completeness or value, there is a requirement that the form be done in good faith and as completely as possible.
- 11.2 Equitable Distribution Affidavit Form 13.** The **EQUITABLE DISTRIBUTION AFFIDAVIT (Form 13)** must be filed in compliance with Rule 6.4 of these Rules. The Equitable Distribution Affidavit must substantially conform to Form 13 and must be typewritten. This Affidavit is binding on the party at trial unless an amendment by the judge is allowed.
- 11.3 Sanctions.** Failure to timely serve the Equitable Distribution Inventory Affidavit or Equitable Distribution Affidavit, may result in the responsible party's evidence not being allowed by the Court and/or may result in the imposition of other sanctions as provided by Rule 37 of the North Carolina Rules of Civil Procedure. The Court may extend the time limits in this subsection for good cause shown.
- 11.4 Reference.** In any equitable claim, the Court may, in its discretion, and pursuant to Rule 53 and Rule 16(a)(5) of the North Carolina Rules of Civil Procedure, order a reference before proceeding further, or before entering final judgment. The Court may provide for the apportionment of the costs of said references,

filing deadlines and scope as it deems to be in the furtherance of the disposition of the claim.

RULE 12: DELINQUENT ORDERS OR JUDGMENTS

12.1 Orders and Judgments. Unless otherwise designated by the judge, orders and judgments shall be prepared by the prevailing party or the party designated by the judge to prepare the order or judgment and submitted to opposing counsel (or the opposing party) no later than **FIFTEEN (15) DAYS** after judgment is announced in open court or otherwise communicated to the parties. The opposing party shall make written response of any objections, modifications or additions to the proposed order within ten (10) days from the date the proposed order was transmitted. If no disagreement or difference is communicated to the person who prepared the proposed order, the order shall be submitted to the judge for signature after ten (10) days have passed. If the parties agree on an order or judgment, the order shall be submitted to the judge for signature through the Case Coordinator, who shall present the order to the judge and, if the judge signs the order, remove the matter from the Court's docket. In the event that the parties disagree about the terms of the order, a copy of the proposed order and letters setting out the disputed issues shall be submitted to the Court for review and those issues shall be discussed and resolved at a hearing set for entry of order/judgment unless the judge resolves the issue based upon written submissions. Consistent with the North Carolina Family Court Time Standards, in no event shall an order be entered later than 30 days following the hearing.

At the conclusion of each case in which a final resolution is to be rendered, the matter shall be set on the judge's next available court date, and not later than thirty (30) days after the hearing; at that time either the parties will appear for entry of judgment/order or announcement of the Court's decision on matters which the Court has taken under advisement.

Consistent with the purpose of these Rules, that is, to keep cases moving forward to a final resolution, each pending case shall have a court date set for one of the following purposes unless and until a final order or judgment is signed and entered: status conference, summary/temporary matter hearing, pretrial conference, trial, motions hearing, or entry of order or judgment.

12.2 Delinquent Orders and Judgments. Cases identified as being delinquent pursuant to these Rules may be dismissed at the discretion of the Chief District Court Judge or the assigned judge, or sanctions or penalties may be imposed as deemed appropriate and as allowed by law.

RULE 13: TELEPHONE CONFERENCES

13.1 Telephone Conferences. The Court may, in its discretion, order or allow oral argument on any motion by speaker phone conference call or telephone conference call, provided that all participants to the conference can be heard by all other parties at all times during the conference call. Counsel shall schedule such conference calls at a time convenient to all parties and the judge. The judge may direct which party or parties shall bear the cost of the conference call.

RULE 14: PARENTING COORDINATORS AND GUARDIANS AD LITEM

14.1 General Rule. The purpose of this Rule is to provide for the consistent, fair and just appointment and establishment of a Guardian ad Litem and Parenting Coordination process for the 14th Judicial District.

14.2 Parenting Coordinators.

A. Purpose/Role. To Be Determined

B. Appointment.

1. **Appropriateness.** To Be Determined

2. **Appointees.** Parenting coordinators shall be chosen from a list maintained by the Family Court Administrator's Office for Durham County. Persons not on the approved Durham County list may be appointed upon consent of the parties if he/she qualifies to serve as a parenting coordinator by education, experience and certification as provided by statute. To be included on the approved list one must:

- (1) meet the statutory requirements;
- (2) provide a current resume or curriculum vitae;
- (3) provide proof of licensure/certification in parenting coordinator's area of practice; and
- (4) participate in ongoing seminar which will provide continuing education, group discussion, and peer review and support on a monthly basis. Contact information for peer groups is available in the Office of the Family Court Administrator.
- (5) file a Request for Inclusion on the Parenting Coordinator List (Form 15) with the Family Court Administrator's Office for Durham County for approval by the Chief District Court Judge.
- (6) disclose parenting coordination fees to the Family Court Administrator.

3. A parenting coordinator shall not provide any other professional services or counseling to either party or the minor children.

- C. **Fees and Expenses.** To Be Determined
- D. **Appointment Conference.** To Be Determined
- E. **Communication, Reports and Record Keeping.** To Be Determined
- F. **Termination or Modification of Appointment.** To Be Determined
- G. **Grievances.** To Be Determined

14.3 Guardian ad Litem (GAL). To Be Determined.

RULE 15: SANCTIONS

15.1 Sanctions. Failure to comply with any section of these Rules may subject the parties, and/or their counsel to sanctions allowed by law and deemed appropriate at the discretion of the presiding judge, including but not limited to: dismissal of any claim or part of any claim for relief; disallowance of evidence and/or testimony; fines; or payment of costs or the opposing party's reasonable legal fees.

15.2 Schedule of Mandatory & Discretionary Fines. The following is a list of requirements considered by the Court to be essential to the timely movement and prompt resolution of family disputes.

15.2.1 The Court shall order a mandatory fine of a **minimum of \$50.00** against a party (including a party represented by counsel) for a violation of these requirements as set out by the local Rules, including but not limited to:

1. Failure to appear in court, without prior notice and good cause, at calendar call for a scheduled pretrial conference, hearing and/or trial as required by Rules 4.6 and 9.2. Counsel may be sanctioned for violation of this rule if counsel either failed to appear in court or allowed his or her client to be excused from appearing in court as required by the Court.
2. Failure to attend and participate in the mandatory custody orientation session and at least one mediation session in cases involving visitation and/or custody as required by Rule 7.3.
3. Failure to attend the one-hour Parenting Apart class, and if ordered by the Court, the four-hour Parenting Apart class as required by Rule 7.3.
4. Failure to attend a scheduled status conference as required by Rule 5.1D.

15.2.2 The Court may order a fine of a **minimum of \$50.00** against a party (including a party represented by counsel), for a violation of these requirements as set out by the local Rules, including but not limited to:

1. Failure to promptly report to the Court, at the time designated by the Court, on issues settled out of court but not reduced to an agreed upon written document by the time of the scheduled court date as required by Rule 4.7.
2. Failure to file a completed Financial Standing Affidavit (**Form 6**) with a complaint or motion at filing as required by Rules 5.1A, 5.1C and 10.2.
3. Failure to file and serve on the opposing party or counsel a completed Employer Wage Affidavit (**Form 7**) as required by Rules 5.1A, 5.1C and 10.3.
4. Failure of the moving party to set the orientation date and serve all parties with timely notice to attend the mandatory custody orientation session (**Form 14**) in cases involving visitation and/or custody as required by Rule 5.1B.
5. Failure to file and serve on the opposing party or counsel a completed Equitable Distribution Inventory Affidavit (**Form 12**) at the time of the scheduled status conference, as required by Rules 5.1D, 6.3 and 11.1.
6. Failure to file and serve on the opposing party or counsel a completed Equitable Distribution Affidavit (**Form 13**) no later than ten (10) days prior to the final equitable distribution pretrial conference as required by Rule 11.2.
7. Failure to meet and fulfill discovery deadlines provided in the Discovery Conference Order Non-ED and/or ED (**Forms 8 and 9**) as required in Rules 6.2.
8. Failure of the prevailing party to timely prepare and submit proposed order or judgment to the Court as required by Rules 12.1 and 12.2.

Such mandatory sanctions shall be imposed automatically and are non-negotiable absent a showing of extraordinary cause. The Court shall enter an Order that specifically states the amount of the sanction, the specific violation and the party responsible for such violation. All fines imposed pursuant to this section shall be tendered by the violating party no later than 5:00 p.m. on the day such sanction is ordered subject to extension by the presiding judge and shall be paid directly to the Clerk of Superior Court of Durham County. Repeated violations by a party may result in the imposition of higher fines or other sanctions as d.1. These Rules are subject to amendment or modification as experience indicates and requires.

RULE 16: AMENDMENTS AND MODIFICATIONS

16.1 These Rules are subject to amendment or modification as experience indicates and requires.

This the __6th__ day of November 2007.

Elaine M. Bushfan
Chief District Court Judge
14th Judicial District