

**26TH JUDICIAL DISTRICT
FAMILY COURT DIVISION
LOCAL RULES FOR DOMESTIC CASES**

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26TH JUDICIAL DISTRICT FAMILY COURT DIVISION LOCAL RULES FOR DOMESTIC CASES

Rule 1: Definitions

Alternative Dispute Resolution (ADR): a procedure for settling a dispute by means other than litigation before a judge, such as arbitration, mediation, or judicial settlement conference.

Assigned Judge: the judge assigned to a Domestic Case.

Child Support Cases: all claims for child support, both temporary and permanent, except those made in IV-D cases and Domestic Violence Cases.

Clerk: the Clerk of Superior Court for the 26th Judicial District.

Courtroom Clerk: the assistant or deputy Clerk who is assigned to a particular Courtroom.

Custody Mediation: the statutory process in which both Parties meet with a mediator to attempt to develop a Parenting Agreement. Also refers to the group orientation required of all Parties ordered to participate in Custody Mediation.

Custody Services Case Manager: a designated staff person in the Family Court Administrator's office.

Deliver: to leave documents at the last known address of the opposing Party. Delivery shall be deemed to have occurred if the documents are mailed at least three (3) days prior to the required date of delivery.

Domestic Cases: cases involving claims under Chapter 50 of the North Carolina General Statutes (N.C.G.S.) and all other cases involving family law disputes, such as a breach of a separation agreement, but does not include juvenile cases under Chapter 7B of the N.C.G.S.

Domestic Violence Cases (50B Cases): cases involving claims of domestic violence brought under Chapter 50B of the N.C.G.S.

ED: Equitable Distribution.

Evidentiary Hearing: a Court hearing at which evidence is presented.

Ex Parte Communication: a communication with the judge, either written or verbal, by one Party without the other Party being present or consenting to the communication.

Family Court Administrator: all staff of the Family Court Administrator's office.

Family Financial Cases: alimony claims, unless joined with equitable distribution claims; prenuptial agreements; post nuptial agreements; separation agreements; retroactive child support; and child support cases which exceed the current guideline maximum with regard to income or number of children

IV-D Cases: Child Support Cases processed through the North Carolina Child Support Enforcement Agency (CSE).

Guidelines Cases: Child Support Cases in which the combined gross annual income of both Parties does not exceed the maximum amount reflected by the current North Carolina Child Support Guidelines and in which neither Party seeks a deviation from the Child Support Guidelines.

Party: a litigant in a case and/or his or her attorney of record.

Parent Education: the four-hour course that is offered by United Family Services and is required for parents and other primary caregivers who are involved in a custody or visitation case.

Pleading: any document filed with the Clerk in which a Party seeks some form of relief, including but not limited to complaints, counterclaims, and motions.

Pro Se Litigant: a Party who represents himself or herself in a case without an attorney.

PSS: postseparation support.

Supervised Exchange: a provision in custody, visitation and Domestic Violence orders that requires a neutral third Party to oversee the exchange of a child between separated or divorced parents or caretakers.

Supported Visitation: a provision in custody, visitation and Domestic Violence orders that requires a trained visitation monitor to be present and observe the visitation of a child with a parent or caretaker.

UIFSA Cases: cases brought under the Uniform Interstate Family Support Act (Chapter 52C of the N.C.G.S.).

Uncontested Divorce Cases: cases or claims in which there is no dispute about the requested divorce.

Rule 2: General Rules

2.1 The purpose of these rules is to institute a case management plan that will provide for the orderly, prompt, and fair disposition of Domestic Cases. They are promulgated in compliance with Rule 40(a) of the North Carolina Rules of Civil Procedure, and Rule 2 of the General Rules of Practice for the Superior and District Courts.

2.2 These rules supersede all previous local rules concerning Domestic Cases, effective September 3, 2002.

2.3 These rules and all amendments hereafter shall be filed with the Clerk and may be cited accordingly as Domestic Local Rules.

2.4 These rules are not complete in every detail and will not cover every situation that may arise. In the event that these rules do not cover a specific matter, the Family Court Administrator is authorized to act in his or her discretion, subject to consultation with the Chief District Court Judge or Assigned Judge.

2.5 Where forms are specified to be used, Parties shall use either the specified forms or a form that contains the same verbiage.

2.6 The Family Court Administrator shall maintain copies of these rules and associated forms and make them available to the public upon request.

Rule 3: Case Filings and Individual Judge Assignments

3.1 All Domestic Cases shall be initiated by filing a Pleading with the Clerk. The Clerk shall assign a case number at the time of initial filing and place the number upon the Pleading and the summons. All subsequent Pleadings filed with the Clerk and all subsequent communications with the Court shall contain the assigned case number.

3.2 All Pleadings shall be accompanied by an original and a copy of an appropriate coversheet. The appropriate coversheet for initial filings shall be AOC-CV-750 (Revised). All coversheets shall indicate whether there is another pending domestic, juvenile, or domestic violence (50B) case involving both Parties to the case and/or their minor Children and the name of the judge, if any, assigned to the case(s). All coversheets accompanying initial filings shall include the current addresses of both Parties.

3.3 The Clerk shall not accept for filing any Pleading not accompanied by an original and a copy of the appropriate cover sheet.

3.4 The Clerk shall forward to the Family Court Administrator the copy of all cover sheets .

3.5 The Clerk shall randomly assign a Family Court Judge to each Domestic Case at the time of filing.

Exceptions:

- (a) The Clerk shall assign all Domestic Cases involving the same Parties to the same judge.
- (b) In a case in which only a Qualified Domestic Relations Order (QDRO) is sought, a judge shall not be assigned and the Parties shall be directed to the Chief District Court Judge.
- (c) IV-D, 50B, and Uncontested Divorce cases shall not be assigned to a judge.

3.6 The Clerk shall write the Assigned Judges' three-letter code on all initial Pleadings and summons and shall enter the judge code into the computerized Civil Index System. All subsequent Pleadings and coversheets shall contain the judge code.

3.7 If a judge recuses himself or herself from a case, an order to that effect must be presented by the Parties to the Family Court Administrator. The Family Court Administrator shall assign a new judge to the case.

3.8 When the Family Court Administrator becomes aware of multiple Family Court cases pending before different judges that involve the same Parties and/or their minor children, he or she shall, in consultation with the assigned judges in all pending cases and/or the Chief District Court Judge, determine whether to consolidate any or all of the cases, and shall inform the Parties and judges of the determination and any Court date changes, using Form CCF-59. This includes 50B cases in which a one-year protective order has already been entered.

Family Court judges shall also inform the Family Court Administrator whenever Chapter 50 and 50B cases involving the same parties, and/or their children, are identified or consolidated. The Family Court Administrator shall ensure that a consolidation order is entered for each of these cases on Form CCF-59 and that CaseWise is updated accordingly.

Rule 4: Calendaring of Domestic Cases

4.1 The calendar for the disposition of Domestic Cases shall be set and maintained by the Family Court Administrator in accordance with these rules and under the supervision of the Chief District Court Judge.

4.2 Within five (5) calendar days after the date a Pleading is filed, the filing Party should contact the Family Court Administrator to obtain a date(s) for the first Court hearing or other required event(s), and shall serve notice of the date(s) on the opposing Party within five (5) calendar days of obtaining the date(s). In cases involving pro se litigants, the Family Court Administrator will mail a courtesy copy of the scheduled events to the opposing party.

If the filing Party is represented by an attorney, his or her attorney may contact the Family Court Administrator by telephone, fax, or in person to obtain the date(s). The moving party will be required to provide the address of the opposing party prior to scheduling the court event.

4.3 If the filing Party fails to contact the Family Court Administrator to obtain a date or to notify the Family Court Administrator that the case has been resolved within fourteen (14) calendar days of filing a Pleading, the Family Court Administrator shall automatically assign a date for the first Court hearing or other required event. If the filing Party is represented by an attorney, the Family Court Administrator shall serve notice of the date of the hearing or other event on the attorney within five (5) working days of setting the hearing or event, and the attorney shall serve the notice on the opposing Party within five (5) working days of receiving the notice from the Family Court Administrator. If the filing Party or both Parties are Pro Se, the Family Court Administrator shall serve notice of the Court hearing or other event on both Parties within five (5) working days of setting the hearing or event.

4.4 No hearing date shall be assigned until the Pleading containing the requested relief is filed with the Clerk.

4.5 ED trial dates shall be scheduled by the Assigned Judge at the Initial Pre-Trial Conference. Custody trial dates shall be scheduled by the Family Court Custody Services Case Manager at the custody status conference. IV-D hearings shall be scheduled by the Courtroom Clerk in Courtroom 204.

4.6 Domestic Violence Protective Order Hearings (50B) are generally calendared in Courtroom 203. However, when the same parties have both a 50B and a Chapter 50 case, the following procedures shall apply:

- (a) If the Family Court Administrator(FCA) or the judge assigned to Courtroom 203 become aware of a 50B case involving parties who also have a Chapter 50 case, either the FCA, the judge or a clerk designated by the judge shall call the judge assigned to the Chapter 50 case to determine if and when that judge can hear the 50B case in his or her assigned courtroom.
- (b) Neither the FCA, nor the 203 judge or clerk shall schedule the 50B case before the Chapter 50 judge without permission from that judge, nor shall any of them send the litigants directly to the Chapter 50 judge's courtroom.
- (c) If the 50B matter cannot be heard by the Chapter 50 judge within a time satisfactory to both parties, the matter shall not be continued over a party's objection, but shall be heard by the 203 judge as scheduled.

4.7 In all other Domestic Cases, trial dates shall be scheduled by the Family Court Administrator, either on his or her own initiative or at the request of the Parties. All hearing and trial settings shall conform with the time standards whenever possible.

4.8 When a case is remanded from the Appellate Division, either Party may request an expedited trial date by filing a Request to Set (Form CCF-2).

4.9 Cases entitled to statutory priority shall be brought to the attention of the Family Court Administrator in writing, and the requesting Party shall cite the statutory authority for such priority. A Party may request a specific trial session by filing a Request to Set (Form CCF-2).

4.10 Peremptory settings may be granted on a Party's motion or on the Assigned Judge's own motion. The Party's motion shall be submitted in writing on Form CCF-3 and shall: 1) state the specific reason for the peremptory setting; 2) be copied to all Parties; and 3) be addressed to the Assigned Judge. Requests for peremptory settings will be granted at the discretion of the Assigned Judge, but only for good cause, including but not limited to:

- (a) It is impossible or impractical for a witness or litigant to appear for the trial except by air travel;
- (b) The case involves numerous expert witnesses;
- (c) The case is a custody or visitation action which the best interest of the child or children requires be resolved promptly;
- (d) Severe adverse economic consequences will result from delay of the trial; or
- (e) The case has been repeatedly scheduled for trial without being tried.

Cases that have been peremptorily set may only be continued on the written motion of a Party on Form CCF-5, served on the opposing Party, and addressed to the Assigned Judge. Any peremptorily set case that is continued will be rescheduled peremptorily only by renewing the request in the manner prescribed by this rule.

4.11 Cases entitled to statutory priority or given a Peremptory Setting shall appear at the top of each Trial calendar. To the extent possible, the Family Court Administrator shall set other cases so that the oldest pending matters will appear immediately after those designated as peremptory or given statutory priority.

4.12 The Family Court Administrator shall publish a Trial calendar for each session of Court and a separate calendar for Temporary Hearings, PSS, Motions, and Contempt. The Trial calendar shall be published at least four (4) weeks before the session begins. The Temporary, PSS, Motions, and Contempt calendar shall be published at least ten (10) calendar days before the session begins.

4.13 All calendars are published through the Clerk and The Mecklenburg Times. Trial Calendars will also be published through the Internet web site address for the 26th Judicial District at <http://www.aoc.state.nc.us/www/public/Courts/mecklenburg.htm>. The availability of calendars published through these outlets shall constitute official notice to local attorneys. Individual notices regarding hearings and trials will be mailed to out-of-town attorneys and unrepresented Parties by the Family Court Administrator.

4.14 Information that Parties would like noted on the docket shall be faxed to the Family Court Administrator at (704) 417-1908 no later than 5:00 p.m. on the Thursday prior to the first day of the session. All faxes should reference the case number, Assigned Judge, and session date. The Family Court Administrator will post calendars containing the information received by 12:00 noon the Friday prior to the first day of the session outside of the Assigned Judge's Courtroom.

4.15 When an attorney is notified to appear before the Court, the attorney must appear or have a partner, associate, or another attorney familiar with the case appear on his or her behalf.

4.16 It is the responsibility of the filing Party to determine whether the opposing Party has been served with notice of the hearing or trial. If the opposing Party has not been served, the filing Party shall notify the Courtroom Clerk by 4:00 p.m. on the business day before the case is scheduled for hearing.

4.17 No formal calendar call will be held in advance of the scheduled session. The Parties are responsible for remaining informed of changes in the status of the cases ahead of them.

4.18 Any case listed on a published calendar is subject to dismissal for failure to prosecute if, at the time it is called for hearing, the Parties are not present or ready to proceed. All cases calendared shall be ready to be heard at any time during the session.

4.19 The Presiding Judge shall reschedule all cases "not reached" or continued during the session, and it shall be the responsibility of the Parties to document the next setting for their records. Any case that is not rescheduled by the judge shall be rescheduled by the Family Court Administrator. All rescheduled cases shall conform with the time standards whenever possible.

Rule 5: Continuances

5.1 All motions for continuance, with the exception of those filed in ED cases, shall be submitted in writing on Form CCF-5 to the Family Court Administrator no later than the Wednesday preceding the first day of the session on which the case is scheduled to be heard. The reason for requesting the continuance shall be clearly stated. Motions to continue ED cases will be handled pursuant to Rule 13.

5.2 The opposing Party must be notified of the request for a continuance prior to the filing with the Family Court Administrator. Any objections must be delivered to the Family Court Administrator on Form CCF-6 within two (2) working days of the filing of the motion to continue. If an objection is not filed with the Family Court Administrator within the two (2) working days specified, it shall be assumed that the opposing Party does not object to the request.

5.3 The Family Court Administrator shall rule upon motions to continue upon the expiration of the two (2) day objection period or sooner if the position of the opposing Party is already known. Appeals of the decision rendered by the Family Court Administrator shall be directed to the Assigned Judge.

5.4 Absent exigent or unforeseeable circumstances, continuances shall not be granted. Party unavailability, witness unavailability, and incomplete discovery shall be considered on a case-by-case basis. The timeliness of identifying and addressing these issues, however, will be a major determinant in any ruling. Requests based upon personal conflicts such as vacations and family

commitments shall be made as soon as possible after the publishing of the calendar. Rulings regarding professional conflicts shall be governed by the Guidelines for Resolving Scheduling Conflicts as adopted by the State-Federal Judicial Council of North Carolina.

The grounds “the case has never before been continued,” “the opposing attorney does not object,” or “the other side received a prior continuance” shall not be sufficient to grant a continuance.

5.5 If a Child Support, PSS or Alimony case is continued, any order of support thereafter entered may require payment of support from at least the date on which the case was originally scheduled to be heard.

Rule 6: Pretrial Memorandum

In all Domestic Cases except IV-D, Domestic Violence (50B), and Uncontested Divorces, Parties shall file and Deliver to the opposing Party a pretrial memorandum no later than the Friday preceding the first day of the session on which the case is set for trial. The pretrial memorandum shall contain the following:

- (a) A list of witnesses who may be called at the trial. If a witness will be offered as an expert, the witness' specific area of expertise shall be stated.
- (b) A list identifying all exhibits which the Party may offer at trial. To the extent possible, all exhibits shall be numbered in accordance with the exhibit list. Copies of all exhibits that can practicably be photocopied shall be attached to the memorandum. All other exhibits shall be made available to the opposing Party for inspection by the deadline for filing the memorandum.

Rule 7: Custody and Visitation, (i.e. Shared Parenting) Cases

7A. General Rules

7A.1 The information required by N.C.G.S. § 50A-209 shall be included in a verified Pleading or attached to all initial Pleadings for custody or visitation. suggested affidavit is Form CCF-29.

7A.2 The Parties to all custody and visitation cases, including contempt and modification motions, shall complete Parent Education and participate in Custody Mediation prior to a trial on the issues unless the Court waives either or both events.

7A.3 The Family Court Administrator shall be responsible for maintaining data regarding the completion of Parent Education, Mediation Orientation, and Mediation appointments.

If a Party fails to attend Parent Education, Mediation Orientation, and/or the Mediation appointment by the required scheduled or re-scheduled date, without good cause, or fails to notify the Family Court Administrator of settlement or dismissal prior to the Mediation Orientation or

Mediation appointment date, the Chief District Court Judge or Assigned Judge may impose upon that Party a one hundred dollar (\$100) sanction as authorized by Local Rule 22.

The Family Court Administrator shall assign a hearing date for sanctions before the Assigned Judge or Chief District Court Judge when Parties fail to comply with the scheduled events.

7A.4 Parent Education is offered by United Family Services. Each Party shall contact United Family Services within forty-eight (48) hours of receiving the Notice of Court Events to register for the class and shall pay his or her respective fees and expenses as charged by United Family Services and as approved by the Administrative Office of the Courts.

7A.5 Unless Custody Mediation is waived, the Parties shall participate in a group orientation and at least one mediation session. The Custody Mediation program shall operate in accordance with the following rules:

- (a) 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 shall be absolutely privileged and inadmissible in Court.
- (b) Neither the Mediator nor any Party or other person involved in mediation under these rules shall be competent 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.

7A.6 The Custody Mediation Office shall notify the Family Court Administrator of the outcome of all mediation proceedings.

- (a) Cases that are resolved through mediation shall have Parenting Agreements drafted by the mediator and signed by the Parties. Upon review and acceptance of the agreement by the Court, an Order will be executed adopting the Parenting Agreement as an enforceable Order of the Court.
- (b) When a case is not resolved through mediation, it shall be scheduled for a status conference with the Custody Services Case Manager.

7A.7 Parties may at any time file motions for custody evaluations, appointment of the Children's Law Center, substance abuse assessments, or regarding discovery. Motions shall not be scheduled for hearing until after Custody Mediation is completed or waived. Discovery on custody issues shall be suspended until mediation is completed or waived.

7A.8 For good cause, on the written motion of either Party made on Local Form CCF-55 or on the Court's own motion, the Court may waive Parent Education and/or Custody Mediation.

- (a) Any motion to waive shall be filed and served on the opposing Party and on the Custody Services Case Manager no less than twenty-one (21) calendar days prior to the scheduled event. Any response to the motion shall also be filed and served on the opposing Party and the Custody Services Case Manager seven (7) calendar days

after receipt of the motion. Both the motion and response may be accompanied by a supporting affidavit or other documentation. Either Party may request an Evidentiary Hearing on the motion.

- (b) After receipt of a response or after the period for filing a response to a motion to waive has expired, the Custody Services Case Manager shall present the motion, any response, and all supporting documentation to the Assigned Judge. The Assigned Judge shall determine in his or her discretion whether to schedule an Evidentiary Hearing and whether to grant or deny the motion for waiver and shall enter his or her decision on Local Form CCF-56. The Family Court Administrator has discretion to rule on motions for waivers alleging grounds that one or more parties reside more than 50 miles from the courthouse.
- (c) If the motion to waive Parent Education and/or Custody Mediation is denied, the Parties shall proceed with the scheduled events or, if the date(s) has passed, shall be assigned new dates by the Family Court Administrator.

7A.9 When a case is not resolved in mediation or when mediation is waived, attorneys and unrepresented Parties shall attend a status conference with the Custody Services Case Manager. The status conference shall be held within twenty-one (21) calendar days after the Case Manager is notified that the case was not resolved in mediation or mediation was waived. The Custody Services Case Manager may adjust the time frame at his or her discretion. The Custody Services Case Manager shall serve notice of the status conference date on all attorneys and unrepresented Parties at least ten (10) calendar days prior to the status conference. The status conference may be canceled by filing with the Court and submitting to the Custody Services Case Manager a Joint Compliance Certificate (Form CCF-58) signed by both Parties or their attorneys before the date of the status conference. If the status conference is canceled, the case shall be scheduled for trial within 60 calendar days of the scheduled status conference date or on the Assigned Judge's next available calendar, unless there is good cause to schedule the trial at an earlier or later date.

At the status conference, the Custody Services Case Manager shall:

- (a) Review the issues in the case with the Parties and attorneys and determine whether any issues can be resolved before trial;
- (b) Identify other pending Family Court cases involving the family;
- (c) Schedule hearings on any unresolved motions;
- (d) Provide information regarding intervention services;
- (e) Establish deadlines for completing discovery;
- (f) Confirm completion of Parent Education;
- (g) Address any issues regarding any minor Child's presence and/or testimony in Court; and
- (h) Set a trial date for custody and/or visitation and "permanent" Child support (if pending).

7A.10 These rules shall also apply to motions to modify a prior custody or visitation Parenting Agreement or order and motions for contempt regarding such an order. Parties who have previously completed Parent Education shall be referred directly to Custody Mediation

Orientation. The Custody Mediation Program may, in its discretion, excuse the Parties from Mediation Orientation.

7A.11 Pleadings for Temporary Parenting Agreements

It is the policy of the Family Court to discourage litigation and encourage mediation of custody and visitation disputes. It is recognized that some disputes cannot be resolved without judicial intervention, and that the best interests of children will sometimes require such intervention.

Pleadings for emergency orders, ex parte or otherwise, shall be directed to the Assigned Judge, or to the Custody Services Case Manager who shall then confer with the Assigned Judge about the request. Entry of emergency orders shall be governed by the considerations in N.C.G.S. 50-13.5(d)(3), and by the considerations of the child's safety and availability for future hearings.

Pleadings for Temporary Parenting Arrangements pending a trial or other resolution of a claim for custody or visitation shall be made only rarely, under circumstances which pose some significant risk to the child's physical or emotional safety. These circumstances may include, for example, repeated "snatching" of a child between parents.

Any order that makes Temporary Parenting Arrangements shall be without prejudice to either Party during Custody Mediation and at the trial of the custody claim.

All Pleadings shall be verified and/or accompanied by supporting affidavits setting forth facts that form the basis of the request. The opposing Party shall file any response and opposing affidavits within five (5) working days of service of the Pleading. A copy of all Pleadings and affidavits shall be directed to the Custody Services Case Manager. The judge may make a decision based on the Pleadings and affidavits. If the judge determines that a hearing is necessary, the judge shall cause it to be scheduled as soon as possible. It is anticipated that the hearing will not exceed one (1) hour in length.

The filing of Pleadings for emergency or Temporary Parenting Arrangements that are not well-grounded may result in sanctions against the offending Party, which may include, but are not limited to, attorney's fees, or, if the offending Party may otherwise be entitled to attorney's fees, the denial of a fee award. Such sanctions are within the judge's discretion.

7B. Guardian Ad Litem and Custody Advocate Program

7B.1 Definitions

Child: The minor Child or Children who is/are the subject of a custody and visitation proceeding.

Custody Advocate: A trained layperson serving with the GAL-Attorney in the representation of Children in the custody and visitation case. The Custody Advocate shall be appointed by the Court. The Custody Advocate shall either be a staff person at the Children's Law Center or a volunteer through the Children's Law Center's Custody Advocate Program.

Custody Advocate Program: Administered by the Children's Law Center, the program recruits, trains, assigns and pairs GAL-Attorneys and Custody Advocates to represent the best interests of minor Children in contested custody and visitation proceedings. This team acts as investigators and facilitators of services in an attempt to resolve conflicts outside of the Courtroom and to promote effective co-Parenting.

GAL-Attorney: A licensed practicing attorney appointed by the Court to represent the Child's best interest as guardian ad litem pursuant to Rule 17 (b)(3) of the North Carolina Rules of Civil Procedure. The attorney shall either be a staff attorney at the Children's Law Center or one volunteering through the Children's Law Center's Volunteer Lawyer Program.

Parent: The Parent or other caregiver who is a Party to the custody and visitation proceeding.

Parent's Attorney(s): The attorney representing the Parent or caregiver that is a Party to the custody and visitation proceeding. If a Party is unrepresented, then the reference to "Parent's Attorney" shall apply to the Party proceeding Pro Se.

7B.2 Education and Training

Custody Advocates shall receive a minimum of 12 hours of training before a case may be assigned, including the topics of confidentiality, interviewing, developmental stages of Children, stages and effects of divorce, communication, and expectations of judges and Parties' attorneys. The GAL-Attorney shall be required to attend a 3-hour CLE course, although a GAL-Attorney may accept a case prior to completing this course.

7B.3 Appointment Process

The Court shall not routinely appoint a GAL-Attorney but shall reserve the appointment for those cases in which the Court finds that an appointment is necessary in light of the particular circumstances of the case.

If mediation is waived or does not result in a Parenting agreement, a Party may seek representation of the minor Child(ren) in a custody and/or visitation proceeding. The Parent's Attorney shall file a motion requesting the appointment of a GAL-Attorney and Custody

Advocate and schedule the motion for hearing. The motion shall contain the name(s), date(s) of birth, and sex(es) of the Child(ren), and the reasons for requesting the appointment. The motion shall be served on the opposing Party and the Children's Law Center (CLC). A suggested motion is Form CCF-40.

A judge on his or her own motion may consider the appointment of a GAL-Attorney and Custody Advocate by completing an order (Form CCF-40A) and scheduling the case for hearing. The order shall be mailed or faxed to the CLC and the Parties. If a party's attorney moves to have the CLC appointed, he/she will give notice to the CLC of the court date.

In cases where the GAL-Attorney and Custody Advocate seek fees prior to being appointed, the CLC shall file a motion requesting fees and schedule a hearing on the motion. This hearing shall be combined with the hearing on the GAL-Attorney appointment, if one has been scheduled.

Unless otherwise filed and served, each Party shall file an Affidavit of Financial Standing and Deliver it to the opposing Party and the CLC not later than forty-eight (48) hours before the scheduled hearing.

If the judge determines that a GAL-Attorney and Custody Advocate should be appointed to represent the Child(ren) and the CLC is able to accept the appointment, the CLC shall prepare an appointment order (Form CCF-42) unless the judge directs otherwise. The appointment order is contingent upon the parties' payment of a specific retainer or minimum fee. The CLC shall not begin their duties until the retainer has been paid. The CLC sliding fee schedule shall apply unless the Court orders otherwise.

After the appointment order is entered, the CLC will disseminate to the Parties copies of the Custody Advocate Program guidelines.

The court will (in the permanent custody order) state that the CLC will be allowed to withdraw, unless the court wants the CLC to stay on for a specific time to perform specific tasks, in which case the court will specify those tasks.

7B.4 Best Interest/Expressed Interest

The Custody Advocate and GAL-Attorney shall represent the Child's "best interest", and shall communicate the Child's "expressed interest" position to the Parties and the Court. A Child's position shall be considered by the GAL-Attorney and Custody Advocate and may be fully discussed with the Child, but shall not be controlling.

7B.5 Potential Conflicts in Cases with Siblings

When a conflict of interest arises, the GAL-Attorney shall move the Court to appoint separate attorneys for siblings.

7B.6 Scope of GAL Attorney's Authority

The GAL-Attorney shall function as does any attorney for a Party and shall be subject to all applicable rules.

7B.7 Child Support

The GAL-Attorney and Custody Advocate will not routinely address the establishment or enforcement of child support, unless requested to do so by the judge or by a Parent's Attorney.

7B.8 Use of Experts by the GAL-Attorney

The GAL-Attorney may file a motion requesting appointment of an expert at the expense of the Parent(s). The GAL-Attorney and Custody Advocate may independently engage an expert, regardless of the Court's decision on the appointment and payment of an expert.

7B.9 GAL-Attorney/Custody Advocate Contact with Parents

The GAL-Attorney or the Custody Advocate shall not contact or meet with a Parent individually without the consent of the Parent's Attorney. The times and dates of any joint meetings with the Parents shall be communicated to the Parents' attorneys prior to the meeting.

7B.10 Communicating with Court-Appointed Experts

Any communication between the GAL-Attorney or Custody Advocate and a Court appointed expert must be simultaneously communicated to the Parents' attorneys, including any written information or documents that the Child's representatives might provide to an expert.

7B.11 Recommendations and Written Reports

The GAL-Attorney and Custody Advocate have a responsibility to begin their roles in a neutral posture. At various points in the case, the GAL-Attorney and Custody Advocate may make recommendations to Parents and their attorneys concerning the Child's best interest, and they may inform the Court of their position and recommendations when requested.

Any recommendation, whether oral or written, shall be submitted to the Parents' attorneys three (3) weeks before trial. The GAL-Attorney shall communicate the GAL-Attorney and Custody Advocate's recommendations first to the Parents' attorneys and then directly to the Parents if requested to do so by the Parents' attorneys. The GAL-Attorney and Custody Advocate's recommendations may be communicated directly to the Child, through the Child's therapist or through one or both of the Parents. The GAL-Attorney shall disclose all sources of information reported. No report will be submitted to the judge pretrial without the consent of the Parents' attorneys. A written report is admissible at the conclusion of the trial as a trial memorandum and shall include only evidence admitted at trial.

7B.12 Custody Advocate Testimony

The Custody Advocate may testify at trial.

7B.13 The Child As Witness

The GAL-Attorney ordinarily discourages Parents from requiring the minor Child to testify. If testimony is to be elicited at the Court proceedings, then the GAL-Attorney may advocate using an alternative procedure such as an in-chambers interview, closed circuit television, or one-way mirror with an audio connection.

The GAL-Attorney may request an in-chambers interview with only the Child, judge, GAL-Attorney and Custody Advocate being present. The judge may exclude Parents from the interview, although Parents' attorneys have the right to be present. If the Parents' attorneys consent to an in-chambers interview that excludes attorneys as well as Parents, they may submit questions for the Child to the judge.

7C. Parent Coordinator Appointments

7C.1 The general functions of a Parent Coordinator are as follows:

- (a) assist parents in implementing Custody/Visitation Court Order on an ongoing basis;
- (b) reduce conflict between parents;
- (c) teach parents communication skills, child development and children's issues specific to divorce;
- (d) facilitate both parents' relationships with the children;
- (e) provide attorneys and any unrepresented party with written summaries of developments in the case;
- (f) in the implementation of the parenting plan act to resolve any issues not specifically governed by the court order over which the parents reach an impasse, until further orders are entered; and
- (g) empower the parents to successfully resolve conflicts over their children on their own.

The Parent Coordinator will not deal directly with financial issues and will refer financial issues to the attorneys.

7C.2 Parent Coordinators shall be chosen from a list maintained by the Family Court Administrator. To be included on the list, a Parent Coordinator must provide documentation of the following:

- (a) Education: Masters or Ph.D. degree in psychology, law, social work, counseling, medicine, or related degrees and relevant training or experience.
- (b) Training and experience:
 - (1) no less than five years of related professional post degree experience;

- (2) have participated in 24 hours of training in topics of development stages of children, dynamics of high conflict families, stages and effects of divorce, problem solving techniques, and legal issues; training shall consist of attending the 26th Judicial District's Parent Coordinator training; provided, that if the Parent Coordinator has attended an approved mediation course (s)he will receive credit toward the total 24 hours' training, and such credit will not exceed 12 hours for a 40 hour approved mediation course;
- (3) the Parent Coordinator shall participate in an ongoing seminar which will provide continuing education, group discussion, and peer review and support on a monthly basis.
- (c) Licensing: current license in the Parent Coordinator's area of practice.

7C.3 The Court may appoint a Parent Coordinator on its own motion, upon motion of either party or the GAL:

- (a) upon the entry of a custody order or parent agreement;
- (b) at an earlier stage of litigation; or
- (c) after multiple motions have been filed regarding the child(ren) even though a custody order has previously been entered.

7C.4 Appointment Process

- (a) If mediation is waived or does not result in a parenting agreement, the Court shall appoint a Parent Coordinator if the Court finds that:
 - (1) the parties' conflict represents a "high conflict" case in which the child(ren)'s welfare is at risk as a result of the parties' conflict; and
 - (2) that it is in the best interest of the child(ren) to appoint a Parent Coordinator.
- (b) Every effort should be made to enter such order upon consent of the parties.
- (c) If the Judge determines that a Parent Coordinator should be appointed, or if the parties and any Guardian at Litem agree without motion to the appointment of a Parent Coordinator:
 - (1) the Court shall complete a referral form listing contact information for the parties and their attorneys, if any, and the issues warranting the appointment of a Parent Coordinator; the form shall be provided to any proposed Parent Coordinator prior to his or her appointment; and
 - (2) the Court shall schedule an appointment conference, at which the parties, their attorneys, Guardians at Litem, and the proposed Parent Coordinator shall be present.
- (d) Both parties shall prepare and bring to the appointment conference an Affidavit of Financial Standing [AOC form].
- (e) The Judge may make the appointment contingent upon the parties' payment of a specific fee to the Parent Coordinator, which shall be allocated between parties proportionate to their combined incomes or divided equally, whichever the Court determines to be fair and equitable. The Parent Coordinator shall not begin their duties until the fee has been paid. The fees may include a specific cost for consultation with an experienced mental health professional.

- (f) If the parties have agreed upon a custody evaluation or one has been ordered, any appointment of the Parent Coordinator may be pursuant to specific identified responsibilities, if appropriate.

7C.5 At the Appointment Conference, the Court shall:

- a. explain the Parent Coordinator's role, authority and responsibilities;
- b. determine who will provide what information to the Parent Coordinator;
- c. provide for financial arrangements, establish the proportionate share of the Parent Coordinator's fee to be paid by each party and authorize the Parent Coordinator to charge any party separately for individual contacts made necessary by that party's behavior;
- d. inform the participants of the Rules regarding communication among themselves and with the Court; and
- e. enter the Appointment Order.

The Parent Coordinator and any GAL shall bring to the Appointment Conference all necessary releases, contracts, and consents, which shall be signed by the parties. The Parent Coordinator shall also schedule the first sessions with the parties.

7C.6 The Parent Coordinator shall be entitled to reasonable compensation for services rendered and to a reasonable retainer. Either party or the Parent Coordinator may request a hearing in the event of a fee dispute.

7C.7 Should the Parent Coordinator act to resolve any disagreement between the parents, the Parent Coordinator's decision shall prevail until the matter is reviewed by the Court upon motion or request. The Parent Coordinator, of any party or the attorney for any party, or the GAL, may request a hearing, file a motion and schedule a hearing on an expedited basis. See Woncick v. Woncick, 82 N.C.App. 244 (1986). A Parent Coordinator may be subpoenaed to appear and testify only by the Judge presiding over the case.

7C.8 The Parent Coordinator shall promptly notify the Court, parties and attorneys for the parties and child and the child's GAL, if any, in writing, in the event that:

- a. (s)he determines that the existing custody order is not in the best interests of the child. Upon receipt of such notice, the Court will promptly schedule the matter for review no later than its next Court session;
- b. (s)he determines that there exist issues in the case which (s)he is not qualified to address or resolve. Upon receipt of such notice, the Court will promptly schedule the matter for review no later than its next Court session, and the Parent Coordinator shall remain involved in the case until the review hearing.

7C.9 If the parents agree to any fundamental change in the order, the Parent Coordinator shall send the agreement to the parties' attorneys for preparation of a Consent Order.

7C.10 The Parent Coordinator shall maintain records of each meeting. Such records may only be subpoenaed by the Judge presiding over the case. The Judge shall perform an in-camera

inspection of the records and shall release them to the parties and their attorneys if the Court determines that the information contained in the records will assist the parties with the presentation of their case at trial.

The Parent Coordinator and the Judge shall not engage in any ex parte communication.

7C.11 The Court may terminate or modify the Parent Coordinator appointment for good cause upon motion of either party, the Guardian Ad Litem, at the request of the Parent Coordinator, upon the agreement of the parties and the Parent Coordinator or by the Court on its own motion. Good cause includes, but is not limited to:

- a. lack of reasonable progress over a significant period of time despite the best efforts of the parties and/or the Parent Coordinator;
- b. a determination that the parties no longer need the assistance of a Parent Coordinator;
- c. an impairment on the part of a party which significantly interferes with participating in the process; or
- d. the Parent Coordinator is unable or unwilling to continue to serve.

7C.12 Because the Parent Coordinator is appointed as an agent of the Court, the Parent Coordinator is not liable for decisions made or information provided while serving in the capacity of Parent Coordinator.

Rule 8: Child Support Cases

8.1 In all cases involving claims for temporary child support, “permanent” child support, or a modification of a child support order, both Parties shall file and exchange an Affidavit of Financial Standing (Form CCF-31). The short form may be used in Guidelines cases; the entire form shall be completed if a Party seeks a deviation from the Guidelines.

8.2 The Party seeking child support or a modification of a child support order shall attach the Affidavit of Financial Standing to his or her initial Pleading. The responding Party shall file and serve the opposing Party with the Affidavit of Financial Standing with his or her responsive pleading or by the Wednesday preceding the first week of the domestic term in which the case is scheduled for hearing, whichever is earlier.

8.3 In cases involving a trial of a “permanent” child support claim, each Party shall file and serve the opposing Party with an updated Affidavit of Financial Standing no later than the Wednesday preceding the first week of the domestic term in which the case is scheduled for trial.

8.4 In all Child Support Cases, the Parties shall exchange (and not file with the Court) the following documents and information, without awaiting a discovery request, on the Wednesday preceding the first week of the domestic term in which the matter is scheduled for hearing or trial:

- (a) The street address, city, and state of real property, wherever located, in which either Party has an interest.
- (b) If not attached to a previously filed affidavit by either Party, evidence of gross income from all sources for the previous three (3) months, including but not limited to:
 - salaries
 - wages
 - commissions
 - bonuses
 - severance pay
 - pensions
 - interest
 - trust income
 - annuities
 - capital gains
 - Social Security benefits
 - Workers Compensation benefits
 - unemployment insurance benefits
 - disability pay
 - insurance benefits
 - gifts
 - prizes
 - alimony or maintenance received from persons other than the Parties to the instant action
- (c) Evidence of the above-captioned income shall include but not be limited to the following:
 - pay stubs
 - vouchers
 - employee benefit statements
 - stock options statements
 - company financial statements (if the Party is self-employed)
 - company tax returns or Schedule C (if the Party is self-employed)
- (d) Statements for the previous three (3) months evidencing all accounts in banks, credit unions, brokerage accounts and other financial institutions for which the Party has been a signatory.
- (e) A listing of all outstanding debts, together with written documentation or account statements for each creditor indicating the principal balance currently owed and the payment terms.
- (f) Federal tax returns filed by the Party or on the Party's behalf, including all schedules and attachments (W-2 forms, 1099 forms, etc.) for the past two (2) years, together with all year-end tax documentation (W-2 forms, 1098 forms, 1099 forms, extension requests, etc.) for the most recent tax year in the event the tax return has yet to be filed.

- (g) Personal financial statements furnished to third Parties during the previous two (2) years.

8.5 When a Party seeks to enforce an existing child support order, he or she must file a Pleading that specifically identifies the type of relief sought.

8.6 All orders for the payment of child support shall include a provision requiring payment through Centralized Child Support, unless the recipient chooses not to participate in the Automatic Child Support Enforcement Program or the Court has found good cause not to require payment through Centralized Child Support. A Wage Withholding Order and a Notice to Withhold wages shall also be prepared and submitted to the Court, unless the recipient has agreed in writing not to require wage withholding, or the Court has found good cause not to require wage withholding. If the recipient chooses not to participate in the automatic Child support enforcement program and/or wage withholding, the order shall specifically so state.

8.7 All child support orders shall comply with N.C.G.S. § 110-136.3; however, in cases involving allegations of domestic violence, child abuse, and other facts affecting the health, safety, and well-being of a child or Party, the Court may direct that the residence and mailing address of the child or the Party be maintained by the Clerk and not released to the obligor.

Rule 9: IV-D Child Support Cases

9.1 All IV-D Child Support Cases are heard in Courtroom 204. Court convenes at 8:30 a.m. Mondays through Fridays. IV-D Attorneys and Agents shall be in Court no later than 8:00 a.m. and remain until all cases are resolved. The Courtroom shall be opened to the IV-D Attorney and Agents by the Sheriffs Deputies assigned to that Court by 8:00 a.m. and opened to all parties by 8:00 a.m. For the afternoon session of Court, the Courtroom shall be opened to the IV-D Attorney and Agents by the Sheriffs Deputies assigned to that Court by 1:00 p.m. and opened to all parties by 1:00 p.m.

9.2 The weekly Courtroom 204 schedule follows:

- (a) Monday – Interstate Enforcement (a.m.) and Interstate Establishment Modification (p.m.)
- (b) Tuesday – Enforcement cases (North Carolina Orders)
- (c) Wednesday – N.C. Establishment cases, paternity in issue
- (d) Thursday – N.C. Establishment cases, paternity not in issue
- (e) Friday – N.C. Modifications and Motions

9.3 Whenever an order for arrest or a show cause order has been issued, the IV-D Attorneys and/or Agents shall not discuss the case with the person against whom such process has been issued, except upon their appearance in Court. No one against whom such process has been issued shall be released from Court prior to the disposition being brought before the Court.

- 9.4 Complete court dockets will be provided to the Clerk of Superior Court by the IV-D agency two (2) days prior to the Court date.
- 9.5 No Court files shall be removed from the Courthouse by anyone.
- 9.6 The IV-D Agency shall be prepared for Court with all necessary documentation, including:
- (a) case file synopsis
 - (b) payment history
 - (c) current employer
 - (d) North Carolina employment security commission histories
 - (e) Automated Collection and Tracking System (“ACTS”) history
 - (f) All documents showing properly filed motions, orders and proof of service
- 9.7 IV-D Agents shall be prepared to testify, if necessary, on past public assistance amounts and other relevant facts.
- 9.8 Agents shall have all cases prepared for the Attorneys’ review prior to the Court date.
- 9.9 Any motion shall be in writing and shall be filed with the Office of the Clerk of Superior Court and calendared on the appropriate dates as outlined in Section 9.2 above.
- The IV-D Agency shall:
- (a) notify the obligee of the motion and the court date and time; and
 - (b) take the steps necessary to prepare to respond to the motion.
- 9.10 Automated Collection and Tracking System (ACTS) documents (except for the Order for Arrest) shall be utilized to monitor cases and generate IV-D child support orders and, whenever possible, shall be created in Court and signed by the Judge with a copy to be mailed to the Obligor.
- 9.11 Court orders shall be clear and concise. They shall be prepared, reviewed, and forwarded to the Assigned Judge no later than ten (10) business days after the case was decided.
- 9.12 Every Order for Arrest shall provide that the person be directed to return to Courtroom 204 on the next business day following his/her arrest at 9:00 a.m.
- 9.13 When a IV-D case is reset for review or any other purpose, the obligor shall appear in Court on the scheduled date and time.
- 9.14 Any Motion to Strike an Order for Arrest/Forfeiture shall be in writing on Form CVD-CS-1. These forms shall be made available in the Office of the Clerk of Superior Court. The moving Party shall attach any supporting documentation to the motion. No more than one Motion to Strike shall be made regarding any Order for Arrest/Forfeiture.

The moving Party shall file any motion to strike with the Clerk. The Clerk shall schedule a hearing on the motion within two (2) business days after it is filed. A designated Clerk shall inform the Courtroom Clerk in Courtroom 204 that the motion has been filed and that these motions be listed on an “add on” docket created by the Clerk and the files pulled for Court.

The moving Party shall appear in Courtroom 204 on the scheduled date, except:

- (a) an Assistant Clerk may strike an Order for Arrest issued in error; and
- (b) the Court will only grant a Motion to Strike if it is satisfied that the moving Party was incarcerated, hospitalized or otherwise institutionalized on the date he or she failed to appear; was provided with an incorrect court date and time; or if other extraordinary cause to support the motion exists.

The Clerk shall not strike any Order for Arrest/Forfeiture without a completed and duly signed Order to Strike Order for Arrest/Forfeiture (Form CVD-CS-2).

Rule 10: Postseparation Support (PSS) and Alimony Cases

10.1 In all cases involving claims for postseparation support (PSS) or alimony or a modification of a previous order for alimony, both Parties shall file and exchange an Affidavit of Financial Standing (Form CCF-31).

10.2 The Party seeking PSS or alimony or a modification of alimony shall attach the Affidavit of Financial Standing to his or her initial Pleading. The responding Party shall file and serve the opposing Party with the Affidavit of Financial Standing with his or her responsive pleading or by the Wednesday preceding the first week of the domestic term in which the case is scheduled for hearing or trial, whichever is earlier.

10.3 In cases involving a trial of an alimony or modification of alimony claim, each Party shall file and serve the opposing Party with an updated Affidavit of Financial Standing no later than the Wednesday preceding the first week of the domestic term in which the case is scheduled for trial.

10.4 In all PSS and alimony cases, the Parties shall exchange (and not file with the Court) the following documents and information, without awaiting a discovery request, on the Wednesday preceding the first week of the domestic term in which the matter is scheduled for hearing or trial:

- (a) The street address, city, and state of real property, wherever located, in which either Party has an interest.
- (b) If not attached to a previously filed affidavit by either Party, evidence of gross income from all sources for the previous three (3) months, including but not limited to:
 - salaries
 - wages
 - commissions
 - bonuses
 - severance pay

- pensions
 - interest
 - trust income
 - annuities
 - capital gains
 - Social Security benefits
 - Workers Compensation benefits
 - unemployment insurance benefits
 - disability pay
 - insurance benefits
 - gifts
 - prizes
 - alimony or maintenance received from persons other than the Parties to the instant action
- (c) Evidence of the above-captioned income shall include but not be limited to the following:
- pay stubs
 - vouchers
 - employee benefit statements
 - stock options statements
 - company financial statements (if the Party is self-employed)
 - company tax returns or Schedule C (if the Party is self-employed)
- (d) Statements for the previous three (3) months evidencing all accounts in banks, credit unions, brokerage accounts and other financial institutions for which the Party has been a signatory.
- (e) A listing of all outstanding debts, together with written documentation or account statements for each creditor indicating the principal balance currently owed and the payment terms.
- (f) Federal tax returns filed by the Party or on the Party's behalf, including all schedules and attachments (W-2 forms, 1099 forms, etc.) for the past two (2) years, together with all year-end tax documentation (W-2 forms, 1098 forms, 1099 forms, extension requests, etc.) for the most recent tax year in the event the tax return has yet to be filed.
- (g) Personal financial statements furnished to third Parties during the previous two (2) years.

10.5 PSS hearings shall be set on the first Monday afternoon of each session of domestic Court, beginning at 2:00 p.m. If a claim for temporary child support is also pending, it will be heard along with the claim for PSS. There is no cut-off, cap, or other restriction on the number of such hearings. If they have not already contacted the Family Court Administrator prior to the start of the session, attorneys should contact the Courtroom Clerk, by 9:00 a.m. on the Court date, with information that a defendant has not been served, that a continuance is requested, or a case resolved without hearing. At 2:00 p.m. the judge will call the calendar and give each case an approximate hearing time; if more than three (3) cases require hearing, the additional cases will be

given other days and times during the domestic term to return for hearing. Each side will have up to thirty (30) minutes to present his or her case, including direct and cross-examination and closing arguments, although a judge may elect to decide a case on affidavits, without evidence or argument, as permitted by statute. With prior written notice to the opposing attorney by 5:00 p.m. on the Wednesday preceding the Monday on which the PSS hearing is scheduled, attorneys may request from the Court additional time to present complicated cases, which the judge may allow, in his or her discretion.

10.6 In PSS cases, Parties wishing to use affidavits from accountants or private investigators must serve the affidavits on the opposing Party at least seven (7) days in advance of the PSS hearing; otherwise, the Court will not consider the affidavits.

10.7 In PSS cases, parties wishing to use “text” affidavits of the parties must serve the affidavits on the opposing party by noon on the Friday before the case is scheduled to be heard; otherwise the court will not consider the affidavits. “Serve” means hand-deliver, fax, email, or other means whereby the affidavit reaches the opposing party by the deadline.

Rule 11: Emergency Matters

11.1 An application for a temporary restraining order, preliminary injunction, or Domestic Violence protective order (50B) shall be made in a written, verified Pleading which sets forth the facts giving rise to the need for emergency relief. The verified Pleading may be accompanied by affidavits of third Parties. Requests for emergency child custody orders are governed by Rule 7A.11.

11.2 A Party making an application for emergency relief shall deliver the Pleading to the Assigned Judge. If the judge grants ex parte relief or determines to have a hearing to consider the motion, the Assigned Judge shall schedule the hearing within ten (10) days through the Family Court Administrator. The moving Party shall serve notice of the hearing on the opposing Party.

If the Assigned Judge is unavailable, application shall be made to the judge then assigned to Civil Domestic Violence Court. The judge assigned to Civil Domestic Violence Court shall determine whether the alleged emergency requires the Court to act before the anticipated return of the judge to whom the case is assigned. If so, the judge shall enter the appropriate order either granting or denying the relief requested. A copy of the emergency motion and any resulting order shall be left with the Family Court Administrator for the Assigned Judge’s review upon his or her return and for the calendaring of future hearings.

11.3 A Party making an application for emergency relief must give actual and reasonable notice of the application and any scheduled hearing to the Party against whom the order is sought, except for those circumstances in which the Court made an evidentiary finding that either:

- (a) notice of the application for such order will result in the very harm sought to be prevented; or

- (b) all reasonable means calculated to give the notice required were used but were unsuccessful.

11.4 The attorney for the Party for whom a 50B protective order was obtained shall Deliver a copy of the 50B protective order to the Warrant Repository. The Warrant Repository is located in the Central Intake Center at 715 East Fourth Street, Charlotte, N.C. 28202.

Rule 12: Divorce Cases

12.1 Substantially all Uncontested Divorce actions shall be heard by summary judgment. There shall be a published calendar issued by the Clerk each Friday indicating all motions that will be decided by the judge in Courtroom 204 beginning on the Monday of the following week. The divorces will be decided on the basis of the documentation in the file.

12.2 Upon filing a Pleading for divorce, the filing Party shall serve the opposing Party with the complaint and submit to the Clerk in room 214 the following documents:

- (a) proof of service, including an affidavit of service by publication, or an affidavit of service by certified mail, return receipt requested; and
- (b) the original and two (2) copies of the Certificate of Absolute Divorce (vital statistics form); and
- (c) the original and two (2) copies of the proposed Judgment of Divorce; and
- (d) a self-addressed, stamped envelope.

A stamped envelope addressed to the other Party may also be submitted.

12.3 After the opposing Party has filed a responsive Pleading or the period to file a response has passed, the filing Party may file and serve by first-class mail a motion for summary judgment and certificate of service showing that the motion was mailed to the opposing Party at least ten (10) days prior to the date of the printed calendar.

12.4 After all Pleadings have been properly served and all documents submitted to the Clerk, the filing Party may request that the case be placed on a published calendar. In order for a case to appear on a calendar published on any Friday, all of the required documents must be submitted to the Clerk by the preceding Wednesday.

12.5 The judge assigned to Courtroom 204 shall decide the summary judgment divorces and deliver the court files and judgments to the Clerk no later than 5:00 p.m. each Wednesday. Judgments will be processed and filed by the Clerk on Thursday mornings and will be available in room 214 of the Civil Courts Building by noon on Thursdays to attorneys who choose not to have the judgments mailed.

12.6 Parties that provide a self-addressed, stamped envelope shall be mailed copies of the judgment or explanation of why the motion was not granted by the Clerk. A copy of the judgment

or explanation shall also be mailed to any opposing Party for whom a self-addressed, stamped envelope was submitted.

12.7 If a stamped envelope addressed to the other Party is not provided, the filing Party shall mail a copy of the judgment to the other Party.

12.8 The Clerk in Courtroom 204 will not accept any divorce documents.

12.9 There shall be no limit, cap, or other restriction on the number of divorce cases calendared on the published calendar. No cases will be added to the printed calendar.

12.10 When there is no Court on Monday because of a holiday, or because Court is not scheduled, there will be no divorce calendar that week.

12.11 Annulments, contested divorces, and uncontested divorces requiring live testimony shall be individually assigned to a judge and scheduled on that judge's next available unpublished calendar. Requests to add such cases to a published calendar must be approved by the Assigned Judge.

12.12 Uncontested divorces in which service is by publication shall be scheduled for a live testimony hearing by the Family Court Administrator at the request of a Party. In all other uncontested divorce cases, live testimony divorces shall only be scheduled upon approval of a motion made to the Family Court Administrator or Chief District Court Judge using Form CCF-60.

Rule 13: Equitable Distribution (ED) Cases

- 13.1 Time Standards for ED Cases: The following time standards shall apply in ED cases:
- (a) Initial Pretrial Discovery Conference (IPTC) and scheduling order to be completed within 120 days of the first filing of a Pleading asserting a claim for ED.
 - (b) Final pretrial conference to be completed 80 - 120 days of the IPTC.
 - (c) Trial setting for expedited ED cases within 90 days of the IPTC.
 - (d) Trial settings in all other ED cases within 60 days of the Final Pretrial Conference (FPTC).
 - (e) Trial in all ED cases to be completed within one (1) year from the date of the first filing of a claim seeking ED.

13.2 ED Affidavit: Each Party shall file an ED Affidavit with the Court and serve a copy on the opposing Party using Form CCF-33, which must be typewritten. The Affidavit must be filed and served seven (7) days prior to the date set for the IPTC, unless the 7th day prior to the time set for the IPTC is a Saturday, Sunday or legal holiday, in which event the Affidavit must be served and filed no later than the next business day. Filing and service of Form CCF-33 in compliance with this rule shall be deemed compliance with the statutory requirement of an inventory as set forth in N.C.G.S. § 50-21. In the event compliance with this rule results in the affidavit being filed

more than 90 days after service of the ED claim, the Court is deemed to have ordered an extension of time to file the inventory under N.C.G.S. § 50-21.

Non-compliance with this rule may result in the responsible Party's proffered testimony (whether written or oral) not being allowed into evidence by the Court, in addition to the sanctions provided for in Local Rule 22.

ED Affidavits should refer to the Parties as "Husband" and "Wife" rather than as "Plaintiff" and "Defendant."

13.3 Mandatory Discovery: At the same time a Party serves his or her ED Affidavit upon the opposing Party, the Party shall also serve upon the opposing Party copies of the following documents concerning the assets and debts listed in the ED Affidavit:

- (a) REAL ESTATE:
 - (i) Deeds
 - (ii) Promissory Notes
 - (iii) Deeds of Trust
 - (iv) Amortization Schedules
 - (v) Statements showing mortgage balance on DOS and current date
 - (vi) Appraisals
- (b) TRANSPORTATION
 - (i) Certificates of Title
 - (ii) Notes or other Loan Documents (If money owed on vehicle on DOS)
 - (iii) Statements showing loan balance on DOS (If money owed on DOS)
- (c) ACCOUNTS - Statements for the periods of time closest to DOS (both before and after)
- (d) LIFE INSURANCE POLICIES - Annual Statement of Cash Surrender Value for periods of time closest to DOS (both before and after)
- (e) RETIREMENT BENEFITS - Statements for periods of time closest to DOS (both before and after)
- (f) DEBT - Statements for periods of time closest to DOS (both before and after)

Ten days prior to the mediation or other ADR procedure being utilized by the Parties, each Party shall serve upon the opposing Party copies of the following:

- (a) The documents listed above that have not previously been served upon the opposing Party; and
- (b) The most recent statements and other documents which a Party has concerning the current net fair market value of each item listed in the following schedules of both Parties' ED Affidavits:
 - (i) Accounts
 - (ii) Life Insurance Policies
 - (iii) Retirement Benefits
 - (iv) Divisible Property
 - (v) Debts

- (c) All appraisal reports which the Party intends to offer into evidence at trial, unless previously provided to the opposing Party.

Ten days before the Monday the case is scheduled for trial, each Party shall serve upon the opposing Party copies of the following:

- (a) The documents listed above that have not previously been served upon the opposing Party; and
- (b) The most recent statements and other documents which a Party has concerning the current net fair market value of each item listed in the following schedules of both Parties' ED Affidavits:
 - (i) Accounts
 - (ii) Life Insurance Policies
 - (iii) Retirement Benefits
 - (iv) Divisible Property
 - (v) Debts
- (c) All appraisal reports which the Party intends to offer into evidence at trial, unless previously provided to the opposing Party.

The documents required by this rule should not be filed with the court.

13.4 Initial Pretrial Discovery Conference (IPTC) and Scheduling Order: The IPTC shall be deemed to be a "discovery conference" ordered by the Court on its own motion as authorized in Rule 26(f) of the North Carolina Rules of Civil Procedure and N.C.G.S. § 50-21(d). Each of the Parties at the IPTC is expected to have a statement of the issues as they then appear, a proposed plan and schedule of discovery, and proposed limits, if any, to be placed on discovery. Each Party is under a duty to participate in good faith in the framing of a discovery plan and is under a duty to confer in advance of the IPTC in the framing of a discovery plan.

Attorneys for the Parties **and the Parties** shall be present at the IPTC. The IPTC shall be used to schedule the ED trial and set other deadlines. The IPTC shall also be used to review the ED Affidavits, determine what assets need to be appraised and the procedures for determining values, determine whether attorneys and the Parties are familiar with Alternative Dispute Resolution (ADR) procedures, and select and order the completion of a selected ADR procedure.

The Court will enter a Scheduling Order at the IPTC on Form CCF-37, which shall be provided for the Court by the Parties. Copies of the order shall be provided to the Family Court Administrator, the Parties, and the designated neutral.

ED IPTC orders should refer to the Parties as "Husband" and "Wife" rather than as "Plaintiff" and "Defendant."

13.5 Alternative Dispute Resolution (ADR) Procedures: At the IPTC, the Court shall ask the Parties if they have discussed the various ADR procedures available to them and shall determine that the Parties are familiar with such procedures. The Court shall make a finding as to the procedure the Parties have chosen and order them to complete the procedure in a prompt and

timely manner. The Parties shall participate in an ADR procedure, which shall be completed prior to the FPTC. The various ADR techniques and procedures and the rules governing their selection and usage are incorporated into the Local Rules as Rules for Alternative Dispute Resolution in Equitable Distribution and Other Family Financial Cases in the 26th Judicial District.

13.6 **Final Pretrial Conference (FPTC):** A Final Pretrial Conference (FPTC) shall be held in every ED case not resolved through ADR except expedited ED cases. The time for the FPTC shall be set at the IPTC. At the FPTC, or at such other date set by the Court, a Final Pretrial Order shall be entered using Form CCF-38. In advance of the deadline for entry of the Final Pretrial Order, the Parties shall confer and shall agree upon the schedules to be attached to the Final Pretrial Order. At the FPTC, the trial date shall be confirmed or a new trial date shall be set and any additional deadlines shall be set. All attorneys and all Parties shall be present at the FPTC. The signatures of the Parties on the Final Pretrial Order shall be acknowledged before a Notary Public or taken upon oath before the Clerk.

ED FPTC orders should refer to the Parties as “Husband” and “Wife” rather than as “Plaintiff” and “Defendant.”

13.7 **Continuance of ED Cases:** ED shall not be continued except by the trial judge. All motions for continuance after the first continuance shall be signed by the moving Party, indicating his or her awareness of the motion, as well as by the attorney of record.

13.8 **Expedited ED Cases.** At the IPTC, the Court shall inquire of the Parties as to whether the case may be appropriate for disposition as an expedited ED case. The following rules shall apply to such cases:

- (a) If the Parties agree and the Court approves, an ED case may be processed as an expedited ED case. In general, a case will not be appropriate for expedited ED procedures unless the total net fair market value of the marital estate is less than \$25,000 exclusive of marital real estate and marital vested pensions.
- (b) A case designated as an expedited ED case will be given an initial trial setting within 90 days of the IPTC. A discovery schedule for each expedited ED case shall be set at the IPTC, and an order entered thereafter.
- (c) At the expedited ED trial, the Court will accept written briefs, affidavits and other written documentation, but will only allow each Party a total of one (1) hour to present that Party's case either through summary argument or testimony of that Party and witnesses. The Court shall retain discretion to extend the time allotted to each Party if it will serve the interest of the Parties and the ends of justice. The Court in its discretion may take evidence by affidavits in lieu of oral testimony.

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13.9 **Preparation and Entry of Judgment:**

- (a) Following an ED trial, within 30 days, the Assigned Judge will provide the attorneys with a status report on his or her progress toward reaching a decision in the case. Within 60 days of trial, the Assigned Judge shall render his or her decision. If the Assigned Judge is unable, within the 60-day period, to render a decision in the case, she or he shall request from the Chief District Court Judge relief for one or more days from regular Court assignment to spend time on the case. The judge shall communicate this information to the attorneys, and within seven (7) days of the relief day(s), render his or her decision. The judge shall also designate the attorney who is to be responsible for drafting the judgment.
- (b) Within 14 days of (i) announcing to the Court that an ED case has been settled, or (ii) receiving the judge's decision after an ED trial, the designated attorney shall provide a proposed judgment to the opposing attorney. The attorney receiving the judgment shall, within two (2) weeks of its receipt, communicate any requested changes to the attorney who prepared the judgment. Within fourteen (14) days of receiving the requested changes, the first attorney shall submit the judgment to the Court, with either the requested changes or a letter advising the judge of changes that were requested, but not made (with copies to opposing attorney). Upon receipt of the judgment, the judge shall, within seven (7) days, either sign the judgment (with handwritten changes as needed) or schedule a meeting with the attorneys to resolve the judgment's language.
- (c) If no judgment is received within six (6) weeks after the judge renders the decision, the Family Court Administrator shall contact the attorney responsible for preparing the judgment. If after another fourteen (14) days no judgment has been received, the judge shall notify the Family Court Administrator to place the case on the judge's next contempt calendar, at which both attorneys will appear and either present the judgment or explain to the Court why the judgment is not ready. Sanctions against either or both attorneys will be in the Court's discretion.
- (d) If an ED case is settled at a judicial settlement conference, the Memorandum of Judgement and also the final order should be submitted to the settlement judge for signature, rather than to the assigned judge.

ED final orders should refer to the Parties as “Husband” and “Wife” rather than as “Plaintiff” and “Defendant.” In the decretal portion of the final order, the Parties’ actual names should be used.

Rule 14: Alternative Dispute Resolution (ADR) in Family Financial Cases Except ED

Family Court actions involving certain cases may be referred to alternative dispute resolution procedures. These cases are:

- (a) alimony claims, unless joined with equitable distribution claims;
- (b) prenuptial agreements;
- (c) post nuptial agreements;

- (d) separation agreements;
- (e) retroactive child support; and
- (f) child support cases which exceed the current guideline maximum with regard to income or number of children

The ADR techniques and procedures and the rules governing their usage are incorporated into the Local Rules as Rules for Alternative Dispute Resolution in Equitable Distribution and Other Family Financial Cases in the 26th Judicial District.

If a family financial case is settled at a judicial settlement conference, the Memorandum of Judgement and also the final order should be submitted to the settlement judge for signature, rather than to the assigned judge.

Rule 15: Attorney's Fee Claims

In all cases in which an attorney seeks an award of fees, the attorney shall file an appropriate affidavit at the time the case is called for trial.

Rule 16: Time Standards

It is the goal of the Family Court that 100% of all domestic relations cases be disposed of within 12 months of filing. The specific disposition goals by type of case are:

For Alimony and Equitable Distribution Matters:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
a. Service of Complaint	30 days
b. Filing of Answer	90 days
c. Initial Pretrial Discovery Conference	120 days
d. Completion of ADR	210 days
e. Final Pretrial Discovery Conference	240 days
f. Start of Trial	270 days

Disposition of Case:

(1) in 90% of cases	Within 270 days of filing
(2) in 100% of cases	Within 365 days of filing

Child Support:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
<u>Temporary</u> orders entered, if requested by one or both Parties and do not involve paternity determinations:	

- | | |
|---------------------|--------------------------|
| a. in 90% of cases | Within 30 days of filing |
| b. in 100% of cases | Within 45 days of filing |

Permanent orders entered:

- | | |
|---------------------|----------------------------|
| a. in 75% of cases | Within 90 days of service |
| b. in 90% of cases | Within 180 days of service |
| c. in 100% of cases | Within 270 days of service |

Post-Separation Support:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
Orders entered:	
(1) in 75% of cases	Within 60 days of filing
(2) in 100% of cases	Within 90 days of filing

Child Custody:

<u>Event:</u>	<u>Time from Filing of Complaint:</u>
<u>Temporary</u> Orders, if requested by one or both Parties:	
(1) in 90% of cases	Within 30 days
(2) in 100% of cases	Within 45 days

- | | |
|--|----------------|
| b. Mediation Orientation Session
(in 100% of cases) | Within 45 days |
|--|----------------|

Mediation Completed:

- | | |
|----------------------|-----------------|
| (1) in 90% of cases | Within 90 days |
| (2) in 98% of cases | Within 120 days |
| (3) in 100% of cases | Within 150 days |

Trials Completed:

- | | |
|----------------------|-----------------|
| (1) in 90% of cases | Within 150 days |
| (2) in 100% of cases | Within 180 days |

All Family Court Cases:

All orders must be filed within **ten (10) days** following the conclusion of a hearing. A judge may allow additional time to file an order following a hearing concerning equitable distribution. Family Court judges and staff will not be unreasonable in applying the time standards.

Rule 17: Motions

17.1 At the time a motion is filed, the moving Party shall contact the Family Court Administrator to obtain a date for a hearing on the motion and shall serve notice of that date on the opposing Party within five (5) days.

17.2 Failure of the moving Party to serve the notice of the motion hearing date on the opposing Party in a timely manner will not delay any trial date already set in the case.

17.3 When filing a motion to withdraw as attorney of record in a case, the moving attorney shall provide the Family Court Administrator with the current address and telephone number of the client.

Rule 18: Settlement of Cases

When a case on a published calendar is settled prior to the start of a session, all Parties shall notify the Family Court Administrator before the session begins and provide the Family Court Administrator with a copy of the consent order or dismissal. When a case on a published calendar is settled after the session starts, all Parties shall notify the Courtroom Clerk for the Assigned Judge. When cases are settled, the Parties shall also notify all Parties in the next case calendared. This notification shall constitute notice to the Parties in the next case so that they will be ready to proceed.

Rule 19: Presentation of Orders and Judgments

19.1 The presentation of orders and judgments in ED cases shall be handled in accordance with Rule 13. In all other Domestic cases appearing on a published calendar, the order or judgment shall be submitted for signature within ten (10) business days after a decision is rendered or a settlement is reported to the Court, unless otherwise ordered by the Assigned Judge. In all orders involving children, the Parties shall be referred to as “Mother,” “Father,” or another appropriate term indicating the Parties' relationship to the child(ren). In all orders not involving children—such as ED, PSS and alimony orders – the Parties shall be referred to as “Husband” and “Wife.” This terminology should be used instead of “Plaintiff” and “Defendant,” except in the decretal portion, where the Parties' actual names should be used.

19.2 The Family Court Administrator shall identify those cases that are delinquent and bring them to the attention of the Chief District Court Judge or Assigned Judge. After notice to the Parties and the opportunity to be heard, cases identified as delinquent may be dismissed at the discretion of the Chief District Court Judge or Assigned Judge, or the Assigned Judge may order sanctions or impose penalties as he or she deems appropriate and are allowed by law.

19.3 No judgment or order shall be presented to a judge until the opposing attorney or Party has had a reasonable opportunity to review it and has been advised of the date when the proposed

judgment/order will be presented for signature. A suggested "Verification of Consultation with Opposing Attorney" is Form CCF-7.

19.4 All orders and/or judgments submitted by attorneys for signature shall be delivered to the Family Court Administrator. Orders or judgments presented which do not have the appropriate Civil Action Cover Sheet attached shall not be signed. Attorneys or their designees must log-in the order on the provided log-in sheet. No order will be signed unless these procedures are followed. A file-stamped copy of orders that have been signed shall be returned to the drafting attorney by the Family Court Administrator.

19.5 Every order and judgment shall be captioned with specificity as to type; for example "Temporary Custody and Child Support Order" or "ED Order and Judgment."

Rule 20: Written Communications With Judges

20.1 Unless otherwise specifically requested by a Judge, written communications with a Judge shall be limited to the following circumstances:

- (a) scheduling of a hearing, trial or conference with a Judge;
- (b) tendering to a Judge a proposed Order for her or his consideration;
- (c) objecting to the form of and/or requesting specific changes to a proposed Order previously tendered to a Judge;
- (d) inquiring about the status of an Order; and
- (e) requesting permission to submit additional legal authority or make additional legal arguments.

20.2 None of the communications identified above shall include any arguments regarding the merits of the case. Parties are specifically prohibited from attempting to argue, re-argue, or submit additional legal authority regarding the merits of a case unless specifically requested or permitted by the Judge.

20.3 In the event a request for permission to submit additional legal authority or to make additional legal arguments is granted, the Judge shall set a timetable and parameters for hearing additional arguments or receiving the additional legal authority.

20.4 All written communications with a Judge shall be contemporaneously served on the opposing Party in the same manner that it is sent to the Judge. Provided, communications tendered to a Judge by hand delivery may be served simultaneously on opposing Party via facsimile.

20.5 Non-compliance with this rule may result in the correspondence being returned unread or subject the offending Party to sanctions as allowed by law and deemed appropriate in the discretion of the presiding Judge.

Rule 21: Communications Between Family Court Staff and Judges

21.1 Oral and written communications between Family Court staff and judges regarding pending cases shall be limited to administrative issues regarding

- (a) consolidation of a family's multiple cases;
- (b) scheduling hearing and trial dates;
- (c) Court-ordered services to families (including availability, scheduling, and attendance of appointments); and
- (d) Court deadlines and timely filing of Court documents, reports, orders, etc.

21.2 Family Court staff persons shall refrain from communicating information to judges that may jeopardize or compromise judicial neutrality in any way. This includes but is not limited to communications regarding merits of a case and personal opinion or bias of any individual involved in the case.

Rule 22: Sanctions

Failure to comply with any section of these rules shall subject an action to dismissal or other sanctions allowed by law and deemed appropriate at the discretion of the Assigned Judge.

Rule 23: Unbundled Services

Lawyers are permitted to provide limited scope “unbundled” services to pro se litigants. They may give legal advice and drafting assistance, including filling out legal forms and providing subpoenas, without appearing as counsel of record. They may advise regarding strategy, tactics and techniques of litigation.

Lawyers who undertake such a role should be aware that an attorney-client relationship would generally be formed under such circumstances, and the Rules of Professional Conduct, particularly those concerning confidentiality and conflict of interest, would apply. The lawyer must, of course, act competently in offering advice and assistance; for example, the lawyer should caution the client against undertaking a matter too difficult for the client to handle pro se.

Lawyers are encouraged to put each agreement for unbundled services in writing, obtain the client's signature, and include the signed agreement in the court file.

Should the lawyer enter a limited appearance, s/he should be careful to withdraw in a manner that makes it clear to the court, court personnel and other counsel that s/he is no longer in the case. Telephone calls inquiring about the lawyer's status in the case should be promptly returned, to avoid an unwelcome summons to court.

See RPC 114 (July 12, 1991), North Carolina State Bar Lawyer's Handbook (2001).

Rule 24: Entering an Appearance

If an attorney is retained after a matter has appeared on a printed calendar, s/he shall promptly notify opposing counsel, Family Court staff and the courtroom clerk that s/he will be appearing in the case. Cases will not be continued for counsel's unreadiness or unavailability.

26th Judicial District
Family Court Division
Local Forms For Domestic Cases

The Forms listed below are those cited in the foregoing Domestic Local Rules. These forms are required for all Domestic cases filed in the Family Court on or after August 1, 2000.

AOC-CV-750	Domestic Coversheet
CCF-2	Request to Set
CCF-3	Motion for Peremptory Setting
CCF-5	Motion/Order for Continuance
CCF-6	Objection to Motion to Continue
CCF-7	Verification of Consultation with Opposing Attorney
CCF-29	Custody and Visitation Affidavit/Affidavit as to the Status of a Minor Child
CCF-31	Affidavit of Financial Standing
CCF-33	Equitable Distribution (ED) Affidavit
CCF-37	Initial Pretrial Conference (IPTC) Order
CCF-38	Final Pretrial Order
CCF-40	Motion for Appointment of GAL-Attorney and Custody Advocate
CCF-40A	Judicial Appointment of GAL-Attorney and Custody Advocate
CCF-42	Children's Law Center (CLC) Appointment Order
CCF-48	Parent Coordinator Referral Order
CCF-49	Parent Coordinator Appointment Order
CCF-51	Order for Connections
CCF-54	Notice of Court Events in Custody, Visitation and Temporary Child Support Cases
CCF-55	Motion to Waive Parent Education and/or Custody Mediation
CCF-56	Order Waiving Parent Education and/or Custody Mediation
CCF-58	Joint Compliance Certificate
CCF-59	Consolidation Order
CCF-60	Live Testimony Divorce
CCF-66	Order for Access Family Services
CVD-CS-1	Motion to Strike Order for Arrest/Forfeiture
CVD-CS-2	Order on Motion to Strike Order for Arrest/Forfeiture