

**TWENTY-FIRST JUDICIAL DISTRICT LOCAL RULES FOR  
SUPERIOR COURT MEDIATED SETTLEMENT CONFERENCES  
FORSYTH COUNTY SUPERIOR COURT  
("LOCAL MEDIATION RULES")**

EFFECTIVE OCTOBER 1, 2000

Under authority of Rules Implementing Mediated Settlement Conferences adopted effective September 1, 2000 by the Supreme Court of North Carolina pursuant to the North Carolina General Statutes, Section 7A-38.1(c) (hereinafter "Supreme Court Rules"), the following supplemental Local Mediation Rules are hereby established to further implement mediated settlement conferences in the Superior Court of Forsyth County. Mediators, attorneys, parties, and other participants are responsible for knowledge of and compliance with the Supreme Court Rules and these rules. (The Rule numbers below are those of the related Supreme Court Rule.)

- RULE 1. Initiating order for mediated settlement conferences
- RULE 2. Selection of mediator
- RULE 3. The mediated settlement conference
- RULE 4. Duties of parties, attorneys and other participants in mediated settlement conferences
- RULE 5. Sanctions for failure to attend mediated settlement conferences
- RULE 6. Authority and duties of mediator
- RULE 7. Compensation of the mediator
- RULE 8. Mediator certification and decertification
- RULE 9. Certification of mediation training programs
- RULE 10. Local rule making
- RULE 11. Definitions
- RULE 12. Time limits

## **RULE 1. INITIATING ORDER FOR MEDIATED SETTLEMENT CONFERENCES**

A. **Motion to Dispense with Mediated Settlement Conference.** A party moving to dispense with the mediated settlement conference shall submit the motion within 21 days of the court's order to the office of the Senior Resident Superior Court Judge at the address shown below and to all opposing attorneys or unrepresented parties, who may file written objections, and the grounds thereof, with the office of the Senior Resident Superior Court Judge, within seven days after the date of the motion. Thereafter, the Senior Resident Judge will rule upon such motion without a hearing and notify the parties or their attorneys of the ruling.

B. **Consent Motion to Authorize the Use of Other Settlement Procedures.** A consent motion to authorize other settlement procedures may shall be made at any time after time for filing answers has expired and before any mediation order, or within 21 days after the Court's mediation order.

## **RULE 2. SELECTION OF MEDIATOR**

A. **Notifying the Court of Designation.** When any party files with the Clerk of Superior Court a notice regarding the designation of a mediator pursuant to Rule 2 of the Supreme Court Rules, they shall immediately deliver a copy of the notice to the office of the Senior Resident Superior Court Judge, the mediator, and the other parties.

- (a) **Appointment of Mediator by the Court.** The general procedure for judicial appointment of a mediator shall be to appoint the next certified mediator on the appropriate list (pursuant to a timely submitted request, if any, indicated on the Designation of Mediator form) who currently resides in Forsyth County, who has practiced law regularly in Forsyth County for more than five continuous years, has presided as a judge in Forsyth County for sessions totaling more than 90 days, or who certifies in writing annually to the Senior Resident Judge that he or she is familiar with these Local Mediation Rules and will fully comply with them and the Supreme Court Rules. The Senior Resident Superior Court Judge shall retain discretion to depart from the general procedure in particular circumstances such as the appointment of one mediator to multiple related cases, to appoint a newly certified mediator to a case, or to withhold a mediator from appointment pursuant to Rule 6(d). The intent of the general procedure is to assign a case to each such mediator on the appropriate lists before a mediator on the same list receives a subsequent appointment from the Court.
- (b) **Disqualification of Mediator.** If a Resident or Presiding Superior Court Judge for the Twenty-First Judicial District orders a mediator disqualified, the moving party must provide a copy of the order to the Senior Resident Superior Court Judge within five days of the date of the order. Mediators may disqualify themselves upon written notice to the Senior Resident Judge and the parties.

### **RULE 3. THE MEDIATED SETTLEMENT CONFERENCE**

(No Supplementary Local Mediation Rules)

### **RULE 4. DUTIES OF PARTIES, ATTORNEYS AND OTHER PARTICIPANTS IN MEDIATED SETTLEMENT CONFERENCES**

**Finalizing Agreement Reporting Settlement.** Upon reaching a settlement agreement on all issues before or during the conference, including any recess of the conference, the parties and others with settlement authority shall provide a copy of the executed written agreement to the mediator within seven days of such settlement and in any event before the conclusion of the final conference meeting. The mediator shall attach a copy of the written agreement to the Report of Mediator and mail both to the Senior Resident Superior Court Judge. Failure to provide a copy of the written agreement to the mediator on a timely basis may result in sanctions as for failure to attend.

### **RULE 5. SANCTIONS FOR FAILURE TO ATTEND MEDIATED SETTLEMENT CONFERENCES**

(No Supplementary Local Mediation Rules)

### **RULE 6. AUTHORITY AND DUTIES OF MEDIATOR**

- (a) Reporting Results of Conference or Full Settlement without Completed Conference. The mediator shall also indicate in the report any full settlement reached without a conference being held and completed. The mediator shall attach a copy of the written full settlement agreement to the Report of Mediator and any petition for relief from payment of the mediator fee. The report shall be submitted to the Senior Resident Judge within ten (10)seven days of the conclusion of the last contemplated conference meeting or of the receipt of a copy of a written settlement agreement, whichever comes first.
- (b) **Reporting Settlements Requiring Subsequent Board Approval.** If a proposed settlement is reached which can be approved only by a government board as contemplated by Supreme Court Rule 4.A. (1)(a) (iii), the mediator shall not report a full settlement until the necessary approval is obtained.
- (c) **Full or Partial Settlements.** Supreme Court Rule 4.C. appears to requires a timely filed consent judgment or voluntary dismissal as part of an agreement uponas to all issues. A report of full settlement of all issues shall indicate when the filing shall

occur. Any settlement not contemplating such a filing within 30 days would not be a full settlement.

A partial settlement should be reported only after the conference and must still be reduced to writing as contemplated by Rule 4.C. Any partial agreement which infringes upon, or involves a stay or delay in, the period to complete discovery, motions, or trial calendaring, or other matters which are within the responsibility and authority of the Senior Resident Judge or Trial Court Administrator, must have the prior approval of such official(s) to be considered and reported settled. See Supreme Court Rule 3.E.

- (d) **Failure of Mediator to Comply With Rule 6.** The Senior Resident Superior Court Judge reserves the right to withhold future appointments of any mediator who does not fully comply with the requirements of Rule 6 of the Supreme Court Rules or these supplemental Local Mediation Rules.

## **RULE 7. COMPENSATION OF THE MEDIATOR**

- (b) **Indigent Cases.** If any party contends that he or she is indigent and cannot pay his or her portion of the mediator's fee, that party must move to be relieved from payment of such fee. The motion shall be made on an approved Petition and Order for Relief from Obligation to Pay Mediator's Fee form available in the Office of the Senior Resident Superior Court Judge. This motion form must be submitted to the mediator at the conclusion of the conference in lieu of payment, or with any written settlement agreement provided to the mediator without a conference or during a recess. The mediator shall attach the motion and petition submitted to his or her report to the Senior Resident Judge.
- (a) **Payment of Compensation by Parties without Conference or in Recess.** If no conference is held or a conference is recessed without resuming, compensation to an appointed mediator shall be submitted with the written full settlement agreement.
- (c) **Sanctions for Failure to Pay Mediator's Fee.** Willful failure of a party to make timely payment of his or her share of an appointed mediator's fee, or of a party contending indigent status to timely submit the Petition form, shall constitute contempt of court and may result in the imposition of any and all lawful sanctions by a Resident or Presiding Judge.

## **RULE 8. MEDIATOR CERTIFICATION AND DECERTIFICATION**

(No Supplementary Local Mediation Rules)

## **RULE 9. CERTIFICATION OF MEDIATION TRAINING PROGRAMS**

(No Supplementary Local Mediation Rules)

## **RULE 10. LOCAL RULE MAKING**

- (a) These supplementary Local Mediation Rules are intended to be and should be interpreted to be consistent with the Supreme Court Rules.
- (b) All communications with the Court concerning mediated settlement conferences in the Twenty-First Judicial District should be addressed to:

Trial Court Administrator (or other person designated by the Senior Resident Judge)  
P.O. Box 20099  
Winston-Salem, NC 27120-0099  
Telephone Number (336) 761-2429

- (c) These Local Mediation Rules supercede and replace any previous version of supplements published in Forsyth County to the Rules of the North Carolina Supreme Court Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions.

## **RULE 11. DEFINITIONS**

(No Supplementary Local Mediation Rules)

## **RULE 12. TIME LIMITS**

(No Supplementary Local Mediation Rules)

## **EFFECTIVE DATE**

IT IS ORDERED that the above Local Mediation Rules for the Superior Court of Forsyth County be, and hereby are, ADOPTED, PUBLISHED, and DECLARED EFFECTIVE October 1, 2000.

This 28th day of September, 2000.

Judson D. DeRamus, Jr.  
Senior Resident Superior Court Judge