

# **Family Court Rules**

## **Judicial District 37**

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| Domestic |
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Effective 1/1/26

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## **Rule 1 General**

**1.1 Purpose** The purpose of these rules is to provide a framework for the fair, just, and timely resolution of legal issues affecting families and children in this district. The rules are intended to complement the North Carolina Rules of Civil Procedure, North Carolina Rules of Evidence, and General Rules of Practice for Superior and District Courts.

**1.2 Goals** Family court strives to, among other things:

- incorporate administrative practices which promote timely resolution of family legal issues,
- provide appropriate dispute resolution services as alternatives to the adversarial process,
- ensure that participants are treated with dignity, respect, and courtesy, and
- assure uniform application and enforcement of procedures.

**1.3 Application** It is recognized that these rules are not complete in every detail and will not cover every situation that may arise. If these rules fail to address a specific matter, they should be construed in such a manner as to avoid technical or unnecessary delay and to promote the ends of justice. The family court staff is authorized to act with discretion, subject to consultation with the presiding judge or the Chief District Court Judge, in applying these rules.

**1.4 Citation** These rules, and all amendments, shall be filed with the Clerk of Superior Court and posted on the website of the Administrative Office of the Courts. These rules may be cited accordingly as Judicial District 37 Family Court Domestic Rules (37FCDR).

**1.5 Forms** Except when specifically required by these rules, attorneys or self-represented parties may use either the forms provided or any form which substantially complies with the provided form.

**1.6 Attorneys and Self-Represented Parties Must Comply** Attorneys and self-represented parties shall comply with these rules. All self-represented parties must keep the clerk's office informed of any changes in their mailing address.

**1.7 Required Court Appearances** All parties and attorneys shall be present and ready to proceed as scheduled when a case is noticed for hearing or trial. Attorneys and self-represented parties shall appear at Status Conferences unless excused by the assigned judge in advance. Parties who are represented by an attorney are only required to attend Status Conferences if ordered by the court. **Attorneys shall promptly notify the case coordinator of any known conflict with a scheduled court event.** If the attorneys and/or parties are not present and ready to proceed and have failed to notify the court of any emergency or conflict

which would preclude the attorney or party from being present, the court may impose sanctions for failure to comply with these rules.

- 1.8 Dismissal for Missed Court Appearances** Any case noticed for a court event, including pre-trial conferences, is subject to dismissal for failure to prosecute if, at the time the matter is called, the attorneys and parties are not present and ready to proceed, or have failed to notify the court of any emergency or conflict, which would preclude the attorney or party from being present.
- 1.9 Settlement of Contested Issues** Parties are encouraged to engage in settlement discussions at every opportunity. If the parties reach a settlement on a case scheduled for trial, they shall immediately notify the case coordinator of the settlement. Unless excused by the judge, attorneys and parties are not released from appearing in court based on settlement discussions. Parties and attorneys are only released from appearing if an Order resolving all scheduled issues has been signed by the parties, their attorneys, and the assigned judge.
- 1.10 Notice of Other Actions** Attorneys and self-represented parties must promptly notify the court of any other pending actions that may affect a pending case including bankruptcy and other civil or criminal matters in this district or another district.
- 1.11 Notice of Appearance** An attorney must file a Notice of Appearance or Substitution of Counsel immediately after agreeing to represent a party in a domestic matter and shall serve a copy upon each counsel of record and/or self-represented party. An attorney can file a pleading in lieu of a Notice of Appearance.

## **Rule 2 Case Management**

- 2.1 Case Tracking** Staff shall establish and maintain a case tracking system pursuant to the General Rules of Practice for Superior and District Courts, and in accordance with these rules as approved by the Chief District Court Judge. The family court staff shall schedule domestic cases for court events as may be necessary and appropriate based on the issues raised in the pleadings.
- 2.2 Managing and Closing Cases** Staff shall monitor the pending docket and manage the cases so that all issues can be expeditiously resolved. When a Judgment or Order is entered which renders other issues moot, the Clerk shall close the moot issues administratively upon being informed of the Judgment or Order. Therefore, the Clerk shall administratively close the following issues:
- (1) The entry of a final Equitable Distribution Order shall close any request for an Interim Distribution,

- (2) The entry of an Alimony order shall close any request for Post-Separation Support,
- (3) The entry of a Divorce Judgment shall close a request for Divorce from Bed and Board, whether the Divorce is entered in the same case or another case,
- (4) A final Custody Order shall close any request for Temporary Custody, and
- (5) A final Child Support Order shall close any request for Temporary Child Support.

**2.3 Administrative Orders** If a case is made inactive by an Administrative Order, either party may submit a Motion to Reinstate to the case coordinator for the assigned judge to review. The assigned judge can decide to reopen the case without a hearing or schedule a hearing to determine whether the case should be reopened. If the case is reopened, the case coordinator will set the matter for a court event.

### **Rule 3 Scheduling and Subpoenas**

**3.1 Assignment and Scheduling** Domestic cases will be automatically assigned to a judge through the case management system. Promptly after filing, all new domestic matters must be set for any required court events in accordance with these rules. In all domestic actions with pending issues other than uncontested divorces, there shall be an upcoming court event. The case coordinator will review and monitor pending actions. In any case without a properly scheduled court event, the case coordinator shall schedule the case for a status conference or other appropriate event to ensure that the court addresses all matters in a timely manner. Family court staff will contact the moving attorney to schedule any required court dates. If there is no response within two business days, family court staff will unilaterally schedule the court date.

**3.2 Notice of Hearing** Any party that requests court time is responsible for filing and serving the Notice of Hearing unless otherwise notified by family court staff. If a party reserves court time in advance of a filing, the pleading must be filed within ten (10) days, or the court time may be deemed forfeited. If a scheduled court time is changed, it is the responsibility of the party requesting the change to serve and file a revised Notice of Hearing. If a court date is set during a Status Conference, family court staff will include the Notice of Hearing in the Status Order.

**3.3 General Civil** The following issues should be calendared in General Civil Court: divorce, annulment, breach of separation agreement regarding property or money issues, and child support as outlined in the *Child Support Procedures* section of

these rules. A judge may transfer the case to family court for good cause, such as a related issue is assigned to a family court judge. If a calendar request has not been submitted for a divorce within 120 days of filing, the case coordinator may schedule the case for status or close it administratively.

- 3.4 Jury** Issues to be determined by a jury in any domestic case shall be scheduled for trial during the next available jury session.
- 3.5 DSS Records (in civil cases where DSS is not a party)** A party seeking records from the Department of Social Services (DSS) must file and serve a *Motion for Release of DSS Records*. The moving party shall schedule the motion in Family Court and serve a Notice of Hearing on DSS and all other parties. Absent extraordinary circumstances, reasonable notice is considered at least seven (7) calendar days. The Court must find that the information sought is relevant to the proceeding and unavailable from any other source.

If DSS has no objection to the Motion and submits the records to the clerk's office prior to the scheduled hearing, no appearance is required by DSS. If DSS submits the records, without objection, the Court can review and release the records in lieu of a hearing. If the records are not submitted in advance, and a hearing is held, the records shall be delivered promptly to the clerk's office after the Order is signed by the judge.

All records submitted by DSS must include an *Affidavit of Records Custodian* and a proposed *Release and Protective Order*. When records are delivered to the clerk's office, the clerk shall promptly notify family court staff. After an in-camera review, the judge will complete a *Records Review Form*. Once the form has been completed, the records will be available to the parties and/or the attorneys, pursuant to any limitations noted on the form. All released records are subject to the *Release and Protective Order*. Self-represented parties may schedule an appointment with the clerk's office to review DSS records but cannot make copies of the records due to the confidential nature of the records. The clerk shall record on the form the date and name of each party or attorney who reviews and/or copies the records.

- 3.6 Subpoenaed Records** Medical, and other protected records, shall be subpoenaed directly to the clerk's office. Upon receipt, the clerk shall promptly notify family court staff. After an in-camera review, the judge will complete a *Records Review Form*. Once the form has been completed, the records will be available to the parties and/or the attorneys, pursuant to any limitations noted on the form. All released records are subject to a Protective Order. Self-represented parties may schedule an appointment with the clerk's office to review protected records but can only make copies of their own medical records unless otherwise noted. The clerk shall record on the form the date and name of each party or attorney who reviews and/or copies the records.

## **Rule 4 Ex Parte Communications and Orders**

**4.1 Communication with Judges** Attorneys and parties shall not communicate with a judge except:

- During official proceedings,
- In writing, when appropriate, if a copy of the writing is furnished simultaneously to the other party,
- Orally, when appropriate, upon adequate notice to opposing party, or
- As otherwise permitted by law.

Before any *ex parte communication* occurs between an attorney and a judge, the attorney must first inform the judge of any other attorneys that might be involved in the case, or in a case in another court that might have overlapping issues. This Rule is designed to promote impartiality and decorum of the court with the same intent of the North Carolina Rules of Professional Conduct.

If any *ex parte communication* with a judge occurs without the other party or lawyer present, then the attorney or party must promptly deliver written notice of such communication to the opposing party or counsel.

**4.2 Motion for Ex Parte Order** Ex Parte Motions shall be submitted only for such circumstances allowed by the Rules of Civil Procedure, statute, or other law. When seeking an Ex Parte Order, attorneys shall inform the court of the identity of any known opposing counsel and shall comply with all requirements of the Rules of Professional Conduct. It is the moving party's responsibility to notify family court staff when an Ex Parte Motion is filed. If the *ex parte* request is for custody or a TRO, it is the moving party's responsibility to contact family court staff and arrange a meeting or teleconference with a judge. Ex Parte Motions should be reviewed by the judge assigned to the case. If the assigned judge is not available, another judge may review the matter.

**4.3 Return Hearing** A TRO shall include a Return Hearing within the (10) days. An Ex Parte Custody Order shall include a Return Hearing which is a limited temporary custody hearing. The scope, structure, and time limit of a Return Hearing is within the discretion of the presiding judge based on available court time. Ex Parte Custody Orders that are filed on Monday, Tuesday, or Wednesday will have the hearing scheduled the next week unless otherwise set by the judge. Ex Parte Custody Orders that are filed on Thursday or Friday will have the hearing scheduled during the second week after the Order is filed unless otherwise set by the judge. If the Return Hearing is continued, it should be continued to the assigned judge's next term unless the presiding judge determines a different date is necessary.

**4.4 Motions in the Cause for Contempt** It is the moving party's responsibility to follow-up with family court staff about obtaining an Order to Appear and Show

Cause. If granted, the case coordinator shall set the case for a First Appearance unless otherwise instructed by the issuing judge.

## **Rule 5 Temporary or Interim Hearings**

- 5.1 Temporary Hearings** Temporary hearings include custody, visitation, child support, post-separation support, and interim distributions.
- 5.2 Affidavits** Temporary hearings may be heard on affidavits. Unless otherwise stated in these rules, affidavits for temporary hearings must be served in accordance with Rule 6(d) of the North Carolina Rules of Civil Procedure. Attorneys and self-represented parties shall be present at the hearing unless excused by the judge.
- 5.3 Time Limits** Temporary hearings for custody shall be limited to two (2) hours. Temporary hearings for all other matters shall be limited to one (1) hour. Each party shall be allocated one-half of the time to be used for direct examination of the party's witnesses, cross-examination of the other party's witnesses, examination of affidavits, opening, and closing statements. It is anticipated that most temporary hearings will conclude within these time limits because of the exchange of information between the parties before the hearing; however, this time limit may be extended in the discretion of the judge for good cause.

## **Rule 6 Custody and Visitation Procedures**

- 6.1 Scheduling Mediation** All custody actions will be referred to the custody mediation office. An orientation should be scheduled for the parties within 45 days allowing 10 days for notice. Mediation sessions should be completed within 90 days of filing.
- 6.2 Scheduling Temporary Hearings** Either attorney or self-represented party may request the scheduling of a temporary hearing on the issue of custody or visitation if that issue has been raised in a pleading. The case coordinator will schedule a temporary hearing within 45 days of the request. Notice is the responsibility of the moving party.
- 6.3 Mandatory Mediation** The parties to any custody and/or visitation case, including initial filings and modifications, shall participate in mandatory mediation prior to trial of these issues, unless exempted by the court. See N.C. Gen. Stat. §7A-494, §7A-495, and §50-13.1.
- 6.4 Purpose of Mediation** The purpose of the Child Custody and Visitation Mediation Program is to provide the services of a skilled mediator to the parties involved in a custody or visitation dispute. The goal of the program is to reduce stress and anxiety experienced by children in separation and divorce by furnishing an alternate way for the parties to resolve contested custody or visitation issues.



Ideally, an educational process begins in mediation that helps the parties focus on parenting their children during this stressful period by recognizing and planning for the needs of their children during the changes in the family structure. A successful mediation may help the parties put a Parenting Agreement in writing, assist them in resolving future problems without recourse to the courts, and reduce the stress of re-litigation of custody and visitation issues.

**6.5 Opportunities for Parties through the Mediation Program** Through mediation the parties can:

- (1) Reduce any acrimony that exists between the parties regarding the dispute of custody or visitation,
- (2) Develop custody and visitation agreements that are in the child's best interest,
- (3) Participate in a process that invites informed choices and, where possible, gives the parties the responsibility for making decisions about their child's custody and visitation,
- (4) Minimize the stress and anxiety experienced by the parties, especially the child, and
- (5) Reduce the expense of litigation of custody and visitation disputes.

**6.6 Attendance** All parties named in the filing are required to attend (1) an orientation to mediation and (2) at least one mediation session. If a party fails to participate in accordance with these rules, the case will be closed in mediation and referred to the case coordinator who will promptly schedule a court date.

**6.7 Failure to Appear** After notice, the failure of any party to appear for a scheduled orientation or a mediation session may result in the following sanctions:

First failure to attend orientation:

The mediation staff or family court staff is authorized to reschedule the orientation.

First failure to attend a mediation session OR

Second failure to attend orientation:

The mediation staff shall report the failure to attend to family court staff. The person failing to appear is subject to a \$100 fine plus the cost of any expenses incurred by the other party as determined by the judge.

**6.8 Orientation** Prior to the mediation sessions, parties shall participate in orientation where the goals and procedures of the mediation process are explained by the mediator. Orientation lasts approximately 2 hours (including the completion of a

questionnaire and the scheduling of appointments for the first mediation session). The mediator may offer self-directed, online mediation when appropriate. Children are not included in orientation. If the parties attended an orientation within the previous three years, they do not need to attend an orientation prior to a mediation session.

**6.9 Mediation Session** Only parties named in the filing are permitted to be present in the mediation session; however, other parties may be present only with the consent of the parties involved and at the discretion of the mediator. Generally, children are not permitted to attend the mediation session unless that is agreed to in advance by both parties and the mediator. All participants in mediation are bound by the statutory requirement of confidentiality. Each mediation session lasts approximately two hours. Parties may spend more than one session resolving issues. Each case is unique, but the number of mediation sessions is usually one or two. The mediator helps to provide an environment where parents can:

- (a) engage in problem-solving that focuses on the needs of their children,
- (b) utilize the strengths of all concerned in reorganizing the family,
- (c) find ways to provide continuity and stability in the child's life, and
- (d) examine their responsibility for the children.

The mediator does not decide issues but provides a structure where parties can develop a parenting plan. Parties are not required to reach an agreement in mediation.

**6.10 Subsequent Mediation Sessions** A party must attend the orientation and first mediation session, unless waived by the judge. The mediator will schedule any subsequent sessions with consent of the parties and at the discretion of the mediator.

**6.11 Expedited Mediation** In some cases, the parties may be best served by attending orientation/mediation immediately. The parties must contact the mediation office to discuss this option.

**6.12 Waiving the Custody Mediation Process** In some instances, such as an ongoing investigation by the Department of Social Services, the mediator may determine a case is inappropriate for mediation and release the case for the case coordinator to schedule a court date. In other instances, a party may move to waive mediation for "good cause". Good cause is defined as including, but not limited to the following as set out in N.C. Gen. Stat. §50-13.1(c): "(1) showing of undue hardship to a party; (2) an agreement between the parties for voluntary mediation, subject to court approval; (3) allegations of abuse or neglect of the minor child, (4)

allegations of alcoholism, drug abuse, or spouse abuse; or (5) allegations of psychological, psychiatric, or emotional problems.” A showing by either party that the party resides more than 50 miles from the court may be considered good cause unless mediation is available electronically. Parties desiring an exemption shall file a Motion to Waive Mediation which will be scheduled for hearing.

- 6.13 Parenting Agreements** If the parties reach a parenting agreement, the mediator will prepare a draft and distribute copies to all parties and their attorneys. A time will be scheduled with the parties to return the signed and notarized document, usually within 21 days. The document can be returned to the mediation office by mail, personal delivery, or electronic .pdf scan. Signed agreements should be presented to the assigned judge. The assigned judge shall review each agreement signed by the parties, and, if appropriate, make the parenting agreement an Order of the Court by signing the Order Approving the Parenting Agreement. The mediator will file the final Order and Parenting Agreement with the Clerk of Superior Court and serve the parties.
- 6.14 Temporary Parenting Agreements** If the parties sign an agreement containing temporary provisions, the custody case will remain open until a final Order is filed either through mediation or a court proceeding. If a temporary agreement does not have a return to mediation scheduled within 60 days, family court staff will schedule a Status Conference with the assigned judge. The judge will review the status of the case and determine whether the case will be scheduled for trial or referred for further mediation.
- 6.15 Enforcement** Custody Orders developed through mediation shall have the same force and effect and shall be enforced as any other Order.
- 6.16 No Agreement** If the parties do not reach an agreement in mediation, the mediator will notify the case coordinator who will promptly schedule a court date.
- 6.17 Modifications of Existing Agreements** The parties must have a custody or visitation issue formally pending before the court to return to mediation.
- 6.18 Mediation Termination** The mediator may terminate the mediation if the mediator receives information that indicates continuing mediation would be inappropriate for reasons of safety, welfare or significant psychological dynamics. The mediator will then report to the attorneys and case coordinator that the case was released from mediation and the case coordinator will schedule a court date.
- 6.19 Closure of Mediation** A case will be considered closed in mediation once the parties have reached an agreement, attended orientation and at least one mediation session without an agreement, filed a consent order or voluntarily dismissed the custody issue.

- 6.20 Inadmissibility** Mediation proceedings shall be held in private and shall be confidential in accordance with N.C. Gen. Stat. §50-13.1(e).
- 6.21 Interpreter** The parties shall notify the mediation office if an interpreter is needed for mediation. The mediation staff may refer the party to self-directed orientation online or schedule the orientation and session as a combined event with an interpreter.

## **Rule 7 Child Support Procedures**

- 7.1 Temporary Hearing** For non-IVD matters, the case coordinator shall set a temporary child support hearing, if requested, within 45 days of the request. If there is a pending paternity issue, paternity should first be resolved.
- 7.2 General Civil Scheduling** Any non-IVD child support motion for modification or termination that has no other active pending domestic issues shall be calendared and heard in regularly scheduled sessions of General Civil Court. If it involves a complex or lengthy issue, it should be referred to family court staff for assignment and scheduling.
- 7.3 Collateral matters in IVD Cases** Pursuant to N.C. Gen. Stat. §110-130.1(c), any non-child support or collateral matter filed in a IV-D action in this District shall be dismissed. The Clerk of Superior Court should provide anyone attempting to file such matter a copy of this rule prior to filing.
- 7.4 Proof of Income Required** Parties shall exchange documentation of income (such as W-2, federal tax return, pay stubs, etc.), childcare expenses, and insurance costs at least seven (7) days prior to any hearing noticed for the issue of child support or modification of child support. This documentation shall include at least twelve (12) months of actual income and expenses prior to the date of the hearing. Parties shall also exchange any other documentation ordered by the Court (such as business income tax filings or receipts).

## **Rule 8 Postseparation Support (PSS) and Alimony Procedures**

- 8.1 Scheduling** The case coordinator shall set the issue of postseparation support for hearing within 60 days of the request. The case coordinator shall set alimony issues for a Status Conference within 120 days of the filing of the pleading.
- 8.2 Mandatory Use of Financial Affidavits** It shall be mandatory that the financial affidavit form adopted in this district be used in cases seeking postseparation support and/or alimony.
- 8.3 Responsibility of Moving Party before the PSS Hearing** The moving party must serve the completed financial affidavit and proof of income for the previous thirty days on the opposing party fourteen days prior to the hearing.

- 8.4 Responsibility of the Opposing Party Before the PSS Hearing** The opposing party must serve the completed financial affidavit and proof of income for the previous thirty days on the moving party seven days prior to the hearing.
- 8.5 The Postseparation Support Hearing** Both parties must file the completed financial affidavits with the court at or before the hearing. Any filed financial affidavit is deemed to be before the court as evidence offered in the PSS hearing and is subject to cross-examination and objection. The PSS hearing is subject to the temporary hearing time limits.
- 8.6 Affidavits for the Alimony or Modification of Alimony Hearing** Unless otherwise set in the Scheduling Order, the parties shall exchange financial affidavits and proof of income thirty days prior to the alimony hearing. Parties are under a continuing obligation to file updated financial affidavits reflecting any substantive changes.

## **Rule 9 Equitable Distribution Procedures**

- 9.1 Scheduling** The case coordinator shall set the issue of interim distribution, if requested, for hearing within 60 days of the request. A Scheduling Conference shall be set within 120 days of filing.
- 9.2 Inventory Affidavit** The form adopted in this district must be used unless all parties, and the assigned judge, consent to a different form. If a different form is approved, all parties must submit their data on that single form. Once finalized, the affidavit will be submitted to the court as a single document.
- 9.3 Responsibility of Initiating Party** Within 90 days after service of a claim for equitable distribution, the party who first asserts the claim shall prepare and serve upon the opposing party an Equitable Distribution Inventory Affidavit listing all property claimed by the party to be marital property and all property claimed by the party to be separate property, and the estimated date-of-separation fair market value of each item of marital and separate property in accordance with N.C.G.S. 50-21(a).
- 9.4 Responsibility of Responding Party** Within 30 days after service of the affidavit, the responding party shall list all property claimed by the party to be marital property, and all property claimed by the party to be separate property, and the estimated date-of-separation fair market value of each item of marital and separate property on the original affidavit. The responding party shall serve this affidavit on the initiating party.
- 9.5 Exchange of Affidavits/Worksheet** The parties shall continue to exchange the affidavit until such time as each party has listed their contentions as to the classification, value, possession, and proposed distribution of all property to be

divided. Every block for each item listed on the affidavit shall be completed. All incomplete fields, including “TBD”, must be updated within thirty days unless extended by the assigned judge. The failure of any party to provide a complete listing without good cause constitutes substantial evidence of a lack of good faith. Prior to mediation, it is expected that the parties will have in their possession a full and final listing of all property that the trial judge may be asked to distribute.

It is the intent of the court that the parties list the items that are identified and the values as accurate as possible so that a Pre-Trial Order may be completed. If there are items where value cannot be determined, the parties should be prepared to have a plan for the court, previously discussed with the opposing counsel, as to how values can be determined: i.e., appraisals, sale, etc. If there are items that need discovery, a plan for discovery should be presented at the Scheduling Conference. It is expected that each party will share with the other party, records that they have in their possession as to items that are clearly marital, and that the parties will cooperate with opposing counsel prior to the Scheduling Conference to allow for access to the records and items for inspection. The court intends for the parties to exchange data and information so that the proposed Pre-Trial Order may be as thorough as possible at the Pretrial Conference.

- 9.6 Filing the Affidavit** Each time the affidavit is exchanged with the other party, a Certificate of Service shall be filed with the clerk. The affidavit is only filed after it is a full and final listing of all property and incorporated into the Pretrial Order.
- 9.7 Initial Scheduling Conference** At the Initial Scheduling Conference, the judge shall enter a Scheduling Order including a requirement that the parties and their counsel attend a mediated settlement conference or, if the parties agree, other settlement procedure, by a specified date unless excused by the court for good cause shown. The parties may avoid an Initial Scheduling Conference if they contact the case coordinator to enter a Consent Scheduling Order in advance. Deadlines listed in any Scheduling Order may be extended for good cause by the assigned judge.
- 9.8 Pretrial Orders** The Pretrial Order shall be filed in accordance with the Scheduling Order or subsequent extensions granted by the court. The court retains its authority, based on the evidence, to make findings of fact and conclusions of law regarding value, classification, or distribution to affect an equitable division of the property.
- 9.9 Expedited Equitable Distribution Trial** At the Initial Scheduling Conference, the parties may request to bypass settlement procedures and expedite an equitable distribution trial. Upon consent of the assigned judge, the case coordinator shall schedule the case for trial without further discovery.
- 9.10 Supreme Court Rules** These local rules are supplemental to the Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable

Distribution and Other Family Financial Cases. Any conflict between the rules should be resolved in favor of the Supreme Court Rules. These local rules allow for settlement procedures including binding or non-binding arbitration as permitted by law in N.C.G.S. 7A-37.1 and the North Carolina Rules for Court-Ordered Arbitration.

- 9.11 Certified Mediators** Certification is required of all mediators, whether a mediator is selected by the parties or appointed by the court.
- 9.12 Judicial Settlement Conferences** Judicial Settlement Conferences (JSC) are only authorized upon the consent of both the assigned judge and the judge presiding over the settlement conference. If an attorney or party is unavailable to attend a JSC within 90 days of the date the case is eligible for JSC scheduling, the case may be transferred to the mediation track by the assigned judge. A request to continue a scheduled JSC must be in writing. Lack of good cause for a continuance or more than one continuance request may result in the case being ordered into mediation by the assigned judge.

## **Rule 10 Domestic Violence Actions**

- 10.1 Collateral Issues in 50B actions** Entry of Orders regarding collateral issues in an action filed pursuant to Chapter 50B are discouraged and should be addressed in a separate action. Any Order entered pursuant to a Chapter 50B action shall be for a fixed period not to exceed one year.

## **Rule 11 Continuance Requests**

- 11.1 General Rule** Domestic cases should be addressed at the earliest opportunity. When compelling reasons are presented, a continuance may be granted for good cause.
- 11.2 Discovery Extensions** Once a trial date has been scheduled, only the assigned judge can approve extensions for discovery if the requested extension date falls within fourteen days prior to trial or falls after the scheduled trial date. Extensions approved by the clerk are not automatically considered good cause for a continuance to be granted for the trial.
- 11.3 Scheduling Conflicts** Attorneys shall notify the court and other counsel or self-represented party of any other scheduling conflicts as soon as they become known. If the basis for a Motion to Continue is a scheduling conflict with another court, the motion shall include specific information including the case number, county, time scheduled, and name of presiding judge.
- 11.4 Motion/Stipulation** A request for a continuance shall be submitted on the local Motion for Continuance form, filed and served on opposing counsel or self-represented party via the quickest means available. Any objection to any written

request for continuance should be in writing. Oral requests are allowed if they are made on the record in front of the assigned judge as soon as possible after the need for a continuance is known.

If the parties agree that a continuance may be granted, the parties may file a Stipulation of Continuance form. The assigned judge may grant or deny the continuance. No party is excused from court until the judge has signed a Continuance Order. It is the responsibility of the attorney or self-represented party to follow-up with the case coordinator about the continuance request.

The judge may review the request for continuance out of session or may schedule a hearing.

If a rescheduling request is made at least thirty days before the scheduled hearing, and both sides agree, the case coordinator may reschedule the matter if the new date is reasonable. Otherwise, the case coordinator should consult with the assigned judge.

## **Rule 12 Timely Orders and Judgments**

**12.1 Orders and Judgments** All proposed Orders or Judgments must be submitted to the court within thirty (30) days following the ruling by the judge. The party preparing the proposed Order shall provide a copy of the proposed document to the opposing attorney or self-represented party ten (10) days prior to submitting the document to the judge, unless otherwise ordered by the court. The attorney who submits a proposed Order is responsible for service and filing a Certificate of Service once the Order has been signed by the judge and filed with the clerk.

**12.2 Rulings** When a judge takes a ruling under advisement and does not issue a ruling within thirty (30) days from the hearing, a party may contact the case coordinator and request that a status conference be scheduled during the judge's next status session or other appropriate court date. If no ruling is entered at the status conference, the coordinator shall continually schedule the case for status conference until the ruling is entered.

## **Rule 13 Sanctions**

**13.1 Failure to Comply** Failure to comply with these rules may subject the parties and/or their attorneys to sanctions as allowed by law and deemed appropriate by the judge. The purpose of this section is to encourage an efficient flow of cases and is not designed to create an unfair advantage to one party. The sanctions may include, but are not limited to:

- (1) Dismissal by the court of all or any part of any claim for relief or pleading, or



- (2) Disallowance of evidence and/or testimony, or
- (3) Payment of a fine, or
- (4) Payment of the reasonable cost or attorney's fees incurred by a party due to the other party's non-compliance with these rules.

#### **Rule 14 Remanded Cases**

- 14.1 Remands** When cases are remanded by an Appellate Court, counsel shall promptly notify the case coordinator so that the case can be scheduled for a court event.

#### **Rule 15 Telephone Conferences**

- 15.1 Telephone Conferences** The court may, in its discretion, allow oral argument on any motion by telephone, provided that all participants can be heard by all other parties during the call.

#### **Rule 16 Remote Testimony and Remote Hearings via Webex**

- 16.1 Statutory Authority** Pursuant to N.C. Gen. Stat. §7A-49.6, judicial officials may conduct proceedings utilizing remote audio and video transmissions. The proceeding must allow the parties, the presiding judge, and all other participants to see and hear one another. Each party to any proceeding involving audio and video transmission must be able to communicate fully and confidentially with his or her attorney if the party is represented by an attorney. These rules are not intended to limit the court's authority to receive remote testimony pursuant to statutes that otherwise permit remote testimony.
- 16.2 Scheduling** A party may request a remote appearance or a fully remote hearing by submitting a written request, including the reason for the request, to the case coordinator at least five business days prior to the hearing with a copy sent to any other counsel or self-represented party. The judge has the discretionary authority to conduct the hearing remotely. Remote testimony is generally not appropriate for cases involving voluminous records and the presiding judge has the discretion to decline a remote hearing or pause it and resume in person if documents cause difficulty during the hearing.
- 16.3 Objection** If a party objects to a remote appearance or hearing, the party shall submit a written objection to the case coordinator at least three business days prior to the hearing with a copy sent to any other counsel or self-represented party. In exigent circumstances, a party may make the objection at the time of the hearing.

- 16.4 Decorum and Etiquette** The decorum of a remote hearing shall be the same decorum as an in-person hearing conducted in a courtroom (e.g., eating, drinking, smoking, and profanity are prohibited). An attorney, party, or witness participating remotely should have an appropriate background and a suitably quiet location. Attorneys are bound by the same rules of dress and decorum as they are for in-person hearings.

All attorneys and parties are encouraged to access the Webex link at least 5 minutes prior to the scheduled start time of the hearing. The court shall have discretion to deny entry to the hearing if a party is not present at the appointed time.

During remote testimony, attorneys and parties who are not testifying or speaking should mute their microphones. The hearing host reserves the right to mute a party or attorney who fails to mute themselves if it causes feedback, echoing, or is otherwise noisy, disruptive, or distracting. If more than one person in the same location will be participating remotely, they must either share a device, ensure proper muting to avoid audio malfunction, or participate from separate rooms to ensure audio quality.

- 16.5 Confidential Attorney-Client Communications** If an attorney and client are participating remotely from separate locations, they may communicate privately, for example via text message or email, during the hearing, provided however, parties may not communicate with counsel while they are testifying via any mechanism or medium other than the audio and video technology seen and heard by all other participants, unless specifically permitted by the court to communicate privately during testimony. If a party wishes to communicate confidentially with his or her attorney and cannot do so by text message or email, the presiding judge should be informed.

- 16.6 Testimony** The oath shall be administered during a remote proceeding. Affirmation may be used in lieu of swearing a witness.

Witnesses should be in a room alone when testifying remotely. Parties may be accompanied by their attorney. If a person will be in the room with a testifying witness, the attorney or witness shall advise the presiding judge prior to the witness' testimony. No person, including an attorney, may communicate with a witness about the witness' testimony while the witness is testifying via any mechanism or medium other than the audio and video technology seen and heard by all other participants, unless specifically permitted by the court to communicate privately during testimony.

The presiding judge shall prescribe the manner and the terms upon which a minor child's testimony may be taken remotely and shall prescribe the appropriate

location for the testimony and whether any third party may be present with the child.

- 16.7 Exhibits** Attorneys and self-represented parties who will be participating remotely, must provide copies of documentary exhibits to the other attorneys or self-represented parties at least two business days prior to the hearing. All exhibits must be pre-marked for identification purposes. Each party must deliver all pre-marked, proposed exhibits to the clerk at least two business days prior to the hearing. The pre-marked exhibits must be submitted in an envelope marked with the case number. The entirety of this submission shall not be made a part of the file and shall not be disclosed to anyone except appropriate judicial officials, absent consent of the submitting party. Just because an exhibit is submitted correctly, does not mean it is admissible during the hearing. The Rules of Evidence apply, and parties are free to object to exhibits during the hearing. Exhibits not delivered prior to the hearing may be accepted in the discretion of the presiding judge.

Attorneys and self-represented parties may display digital exhibits during the hearing with permission of the presiding judge.

Failure to comply with the provisions set out regarding exhibits and evidence may result in a proposed exhibit not being considered, a continuance of the hearing, or other action in the discretion of the presiding judge.

- 16.8 Public Access** The public has a right to attend court proceedings unless a proceeding is confidential by law, or the presiding judge has closed the proceeding. If the proceeding is one that is open to the public, access to a remote hearing must be provided as nearly as practicable to the access that would be available were the proceeding conducted in person pursuant to G.S. § 7A-49.6(g). Any person who wishes to obtain access to a remote hearing may contact the family court office to obtain a link to the Webex proceeding. Absent approval by the presiding judge under Rule 15 of the General Rules of Practice, the parties, attorneys, witnesses, spectators, public, and media shall refrain from making any recordings, videos, or photographs of any hearing. Failure to comply with a judicial official's prohibition of electronic coverage or electronic media coverage may result in ejection from the hearing and appropriate sanctions to include contempt. Rule 15(i) of the General Rules of Practice provides that recording by the media or the public permitted by the court, if any, including film, video tape, still photographs or audio reproductions, shall not be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent and collateral thereto, or upon any retrial or appeal of such proceedings.

Spectator microphones shall be muted during a remote hearing. Spectators shall not speak or otherwise communicate with any party or witness during the hearing. Spectators shall not utilize the chat feature or interfere with the hearing in any

way. The presiding judge will provide instructions to all parties and spectators to protect the integrity of the hearing. Once the presiding judge begins instructions for the participants, the Webex hearing may be locked, and additional spectators may be prohibited from joining the hearing.

Any spectator, witness, or participant who violates orders given by the presiding judge pertaining to the use of Webex, who contacts testifying witnesses or parties, who photographs, records or videos the proceeding (without permission of the presiding judge), or who disrupts the proceeding is subject to being ejected from the hearing and may not be allowed to rejoin the hearing in the presiding judge's discretion. They are also subject to appropriate sanctions to include contempt. These limitations are necessary to protect the integrity of the hearing and to ensure the hearing can proceed without unreasonable interruption or delay. Further, the limitations protect the ability of the court and the parties to remotely conduct hearings without undue delay, interruption, or disruption while still granting the public's ability to attend the hearing.

## **Rule 17 Interpreters and Accommodations**

**17.1 Foreign Language Interpreters** The court shall ensure that rights of a person who needs a foreign language interpreter are protected prior to conducting a hearing. Requests for foreign language court interpreters should be submitted as soon as the attorney or party is aware of the need for an interpreter to allow sufficient time to schedule the interpreter. If the interpretation cannot be adequately accommodated in a remote hearing, the proceeding shall be held in-person. If, at any time during a remote hearing, the interpretation cannot be conveyed to either the court or the party, the hearing shall be delayed to address interpretation or continued to another court session.

**17.2 Requests for Accommodations Under the Americans with Disabilities Act** The court shall ensure the rights of any individuals that require a reasonable accommodation under the Americans with Disabilities Act. Reasonable accommodations are determined on a case-by-case basis and may include, but are not limited to, the use of licensed interpreters (e.g., sign language interpreters, deaf blind interpreters), periodic breaks, or captioning. Reasonable accommodation requests should be submitted to the Disability Access Coordinator. Such requests should be submitted as soon as the attorney or party is aware of the need for an accommodation to allow sufficient time to review the request and arrange for a reasonable accommodation. If a reasonable accommodation cannot be provided in a remote hearing, the proceeding shall be held in-person. If, at any time during a remote hearing, the reasonable accommodation can no longer be provided, the

hearing shall be delayed to address the reasonable accommodation or continued to another court session.