

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

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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.

Council for Children's Rights: child advocate agency including its successors or designees.

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 Coordinator: 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. For available service providers, contact the Family Court Administrator's Office.

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. For available service providers, contact the Family Court Administrator's Office.

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 of Domestic Court concerning Domestic Cases, effective December 1, 2007.
- 2.3 These rules and all amendments hereafter shall be filed with the Clerk and may be cited accordingly as Local Rules of Domestic Court.
- 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.
- 2.7 These Local Rules of Domestic Court (“LRDC”) shall apply in all domestic cases and, when in conflict, shall supersede the District Court General Civil Rules. If there is no conflict between them, both sets of rules should be read in conjunction.

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 initial pleadings shall be accompanied by a coversheet using Form 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 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 designated Judge assigned by the Chief District Court Judge.
- (c) IV-D, 50B, 50C, and Uncontested Divorce cases shall not be assigned to a judge except in 50B, 50C and absolute divorce cases where a Chapter 50 action has also been filed.

3.4 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.

3.5 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.

3.6 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.

3.7 In all pleadings involving children, the parties shall be referred to as "Mother" and "Father," or other appropriate term indicating the parties' relationship to the children. In all pleadings not involving children, such as equitable distribution, post-separation support, alimony, etc., the parties shall be referred to as "Husband" and "Wife." This terminology shall be used instead of "Plaintiff" and "Defendant."

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). If the filing Party is pro se and resides within 50 miles of the courthouse, he or she must appear in person and provide copies of relevant pleadings to obtain court dates. 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 Administrator's Office. IV-D hearings shall be scheduled by the Courtroom Clerk in Courtroom 8110.

4.6 Domestic Violence Protective Order Hearings (50B) are generally calendared in Courtroom 4110. 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 4110 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 4110 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 4110 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 to 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 Each Family Court Judge shall conduct a calendar call to schedule all matters listed on the trial calendar. Self-represented litigants are noticed to be present. Attorneys are required to appear in person, send a paralegal or be available by phone for opposing counsel to reach from

the courtroom. Attorneys may also opt to forward information regarding their availability to the court via email. The email should include the case caption, file number, estimated length of the trial and the dates within the session the attorney is available. For more information on responding by email see judge specific instructions posted on the North Carolina courts webpage at <http://www.nccourts.org/County/Mecklenburg/Documents/calendarcall.doc>.

4.15 If an attorney and/or party does not attend calendar call or provide input by alternative means, the case may be scheduled in the discretion of the Court.

4.16 If a trial schedule is filled during calendar call, the Judge shall schedule the remaining cases for a time certain on “standby” status. “Standby” DOES NOT relieve the parties or counsel from being prepared, available, and ready to go forward on the assigned date. Counsel are to take reasonable steps to assure that no scheduling conflicts arise with respect to standby cases and are expected to inform other judges and localities of their standby trial dates. In the event of unavoidable conflict, counsel are to refer to Trial Practice Rule 3.1: Resolving Scheduling Conflicts to determine which setting has priority under the rule, actively to attempt to resolve the conflict pursuant to this rule, and to notify and provide contact information to the judges involved in the conflict as soon as possible (whether both are located in Mecklenburg County or in two different counties) in the event that said judges are required to confer pursuant to the rule to resolve the conflict.

4.17 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.

4.18 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. Unless the presiding judge authorizes a continuance under this provision, the Party must nonetheless appear for a scheduled hearing.

4.19 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.

4.20 The Presiding Judge may reschedule any 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 and verify the next setting with Family Court. Otherwise any case that is not rescheduled by the judge shall be rescheduled by the Family Court Administrator. All rescheduled cases shall conform to the time standards whenever possible.

Rule 5: Continuances

5.1 Motions to continue for reasons that are then foreseeable shall be presented at calendar call held pursuant to Rule 4.14. Continuance requests shall be in writing on Form CCF-5 and served on the opposing Party by fax or hand delivery within two working days prior to the calendar call. If an objection is not presented at calendar call, it shall be assumed that the opposing Party does not object to the request. The Presiding Judge shall rule on the request at calendar call.

5.2 Motions to continue for reasons that were not foreseeable at the time of calendar call shall be presented in writing on Form CCF-5 to the Family Court Administrator and opposing Party by fax or hand delivery no later than noon on 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. The motion must also document the moving party's efforts to communicate with the opposing party regarding the continuance and the response of the opposing party to the motion or failure of the opposing party to respond or reply. Any objections must be delivered to the Family Court Administrator and opposing Party on Form CCF-6 by noon on the Friday preceding the first day of the session on which the case is scheduled to be heard. The Family Court Administrator shall communicate a response to the motion by 3:00 p.m. on Friday 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.

If no determination of a motion to continue has been received prior to the court event, parties/attorneys shall act on the assumption that the matter will be heard as scheduled.

5.3 Motions to continue ED cases will be handled pursuant to Rule 13.

5.4 Absent meritorious cause, exigent or unforeseeable circumstances at the time of calendar call, 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. Inquiry as to whether "Secured Leave" was timely and properly filed will be considered in ruling upon continuance motions based on personal conflicts where appropriate. 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 do not object," "both sides agree," or "the other side received a prior continuance" do not constitute meritorious cause and shall not be sufficient to grant a continuance. However, continuances may be granted if attorneys and parties can present meritorious cause for continuance.

"Meritorious cause" may sometimes, in the discretion of the presiding judge, include circumstances where both attorneys and parties consent to continue a case because they are close to resolving some or all other issues through formal or informal settlement proceedings. In such

circumstances, counsel must present details of the dates and times when settlement efforts have been scheduled and provide a date by which time such efforts should succeed or fail. Such continuances will not be left “open-ended” and must insure that the case is placed back on the trial calendar at a certain time in conformance with Rule 16: Time Standards wherever possible.

5.5 If a Child Support, PSS or Alimony case is continued, any order of support thereafter entered shall presumptively require payment of support from the date on which the claim was originally filed.

Rule 6: Pretrial Memorandum

Upon Order of the Court or the written request of either Party or counsel at least one month before the beginning of the trial term or upon oral or written order of the court at a reasonable time prior to trial, in all Domestic Cases except temporary hearings, IV-D, Domestic Violence (50B), and Uncontested Divorces, Parties and/or Counsel shall file a pretrial memorandum. Upon timely receipt, both parties shall file and Deliver to the opposing Party a pretrial memorandum no later than the Friday preceding the first day of the term 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.

Failure to comply with this rule may result in sanctions such as payment of attorney fees incurred in preparing the pretrial memorandum by the complying party, exclusion of certain witnesses or exhibits not timely disclosed pursuant to these rules, and/or continuance of the trial if the complying party will be unduly prejudiced by noncompliance and no lesser sanctions are sufficient.

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. A suggested affidavit is Form CCF-29.

7A.2 The Parties to all custody and visitation cases, including contempts 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. Parent Education will not be waived due to a reported settlement, entry of a consent order or parenting agreement.

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 reviewed and scheduled accordingly by the Family Court Administrator's Office.

7A.7 Parties may at any time file motions for custody evaluations, appointment of the Council for Children's Rights or a Parenting Coordinator, substance abuse assessments, or regarding discovery. The Court may also make such appointments on the Court's Motion. 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 Coordinator 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 Coordinator 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 Coordinator 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, it shall be reviewed and scheduled accordingly by the Family Court Administrator's Office. The Case Coordinator conducting the review will be responsible for:

- (a) Confirming completion of Parent Education;
- (b) Scheduling non-complying Parties for a Rule 7 violation hearing for failure to complete Parent Education (if appropriate); and/or
- (c) Setting 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 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 Arrangements. 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 a Temporary Parenting Arrangements hearing pending a trial or other resolution of a claim for custody or visitation should be made only in rare situations which do not rise to the level of an emergency (See Rule 11: Emergency Matters) but which significantly affect the well-being of the child(ren). Circumstances which may warrant a Temporary Parenting Arrangement include, but are not limited to, relocation; repeated "snatching" of a child between parents; one parent claiming the other parent is denying access to the child or is

severely and unreasonably limiting access; substance abuse or mental health issues which pose some risk for the child.

All Pleadings setting forth facts that form the basis of the request shall be verified and include a request for a hearing. They may be accompanied by supporting affidavits. A copy of all Pleadings and supporting affidavits shall be served on the opposing Party and delivered to Family Court. The opposing Party has seven (7) days from the date of service to respond. Such response shall be a verified pleading, affidavit or other notarized statement and shall be served on the opposing Party and delivered to Family Court. Upon the earlier of receipt of the response or seven (7) days, Family Court shall transmit the request and response to the assigned Judge.

The assigned Judge may grant or deny the request for a Temporary Parenting Arrangement based upon the documents submitted or may set a hearing. If a hearing is set, the clerk notifies Family Court which contacts the attorneys and/or litigants. It is anticipated that the hearing will not exceed one (1) hour in length. If a ruling is based on the documents submitted, the clerk notifies Family Court which contacts the attorneys/litigants.

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

The filing of Pleadings for 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 Council for Children's Rights or a volunteer through the Council for Children's Rights's Custody Advocate Program.

Custody Advocate Program: Administered by the Council for Children's Rights, 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 Council for Children's Rights or

one volunteering through the Council for Children's Rights's Volunteer Lawyer Program or any other practicing lawyer with Family Law experience

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 Council for Children's Rights (CFCR). 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 CFCR and the Parties. If a party's attorney moves to have the CFCR appointed, he/she will give notice to the CFCR of the court date.

In cases where the GAL-Attorney and Custody Advocate seek fees prior to being appointed, the CFCR 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 CFCR 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 CFCR is able to accept the appointment, the CFCR 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 CFCR shall not begin their duties until the retainer has been paid. The CFCR sliding fee schedule shall apply unless the Court orders otherwise.

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

The court will (in the permanent custody order) state that the CFCR will be allowed to withdraw, unless the court wants the CFCR 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 may 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. 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.

The recommendations shall be communicated 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.

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 In accordance with N.C.G.S. §50-90, 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 Criteria for Appointment as a Parent Coordinator

- a. To be eligible to be included on the district court's list of parenting coordinators, a person must meet all of the following requirements:
 1. Hold a masters or doctorate degree in psychology, law, social work, counseling, medicine, or a related subject area.

2. Have at least five years of related professional post-degree experience.
 3. Hold a current license in the parenting coordinator's area of practice, if applicable.
 4. Participate in 24 hours of training in topics related to the developmental stages of children, the dynamics of high-conflict families, the stages and effects of divorce, problem solving techniques, mediation, and legal issues.
- b. In order to remain eligible as a parenting coordinator, the person must also attend a parenting coordinator seminar bi-annually that provides continuing education, group discussion, and peer review and support.

7C.3 Inclusion and Maintenance of the List of the Parent Coordinator List

- a. To be included on the list of approved Parent Coordinators, candidates must:
 1. Submit a resume to the Family Court Administrator inclusive of education, relevant experience and licensure; and
 2. Complete requisite parenting coordination training or equivalent thereof.
- b. Resumes and supporting documentation will be reviewed for by the Family Court Administrator for completeness and submitted to the Chief District Court Judge for approval. Upon approval, candidates will be notified of their inclusion on the Parent Coordinator list.
- c. The Family Court Administrator shall maintain and publish via the web address listed below a current list of Parent Coordinators.
<http://www.nccourts.org/County/Mecklenburg/Documents/ParentCoordinators.doc>

7C.4 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.5 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.6 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.7 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.8 Should the Parent Coordinator act to resolve any disagreement between the parents, the Court expects that the Parent Coordinator's decision will 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.9 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.10 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.11 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.12 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.13 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 or file and serve it no later than 5:00 p.m. on the Monday preceding the beginning of the trial term in which the case is scheduled for hearing. The responding Party shall file and serve the opposing Party with the Affidavit of Financial Standing by 5:00 p.m. on the Wednesday preceding the first week of the domestic term in which the case is scheduled for hearing. Serve" means hand-deliver, fax, email or other means whereby the affidavit reaches the opposing party by the deadline.

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. As used here, “serve” means hand-deliver, fax, email or other means whereby the affidavit reaches the opposing party by the deadline.

8.4 In all Child Support cases involving temporary or permanent child support establishment or modification, the Parties shall exchange (and not file with the Court) the following documents and information, without awaiting a discovery request by 5:00 P.M., on the Wednesday preceding the first week of the domestic term in which the matter is scheduled for hearing or trial. Such documents shall be received by the opposing party by the deadline:

For establishment (but *not* modification) of child support for persons who are hourly or salaried employees (including those who may receive bonuses and commissions in addition to their salaried income):

- a. Pay-stubs for the three (3) months preceding the court date; and
- b. Pay-stubs showing all bonuses and commissions year-to-date; and
- c. Federal income tax returns filed by the Party or on the Party’s behalf for the two (2) tax years preceding the court date, including all schedules and attachments, together with all year-end tax documentation (W-2 forms, 1098 forms, 1099 forms, extension requests, etc.) for the most recent tax year if any tax return has yet to be filed; and
- d. Receipts for child-care costs for the three (3) months preceding the court date; and
- e. Documentation of the cost and the actual payment of the portion of the payor’s medical and dental insurance that covers the child(ren) who are the subject of this case.

For establishment of child support for all other Parties (*i.e.* self-employed persons, business owners, professional practice partners, etc.) and for all Motions to Modify Child Support:

- a. The street address, city, and state of real property, wherever located, in which either Party has an interest; and
- 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; and
- 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; and
- 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; and
- g. All personal financial statements furnished to third parties during the previous two (2) years; and
- h. Receipts for child-care costs for the three (3) months preceding the court date; and
- i. Documentation of the cost of and the actual payment of the portion of the payor's medical and dental insurance that covers the child(ren) who are the subject of this case.

8.5 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 Centralized Collections 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 Centralized Collections and/or wage withholding, the order shall specifically so state.

8.6 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 IV-D Child Support Cases are primarily heard in Courtroom 8110. Periodically, court session may also be scheduled in Courtroom 8130. Court convenes at 8:00 a.m. Mondays through Fridays. IV-D Attorneys and Agents shall be in court no later than 7:30 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 8110 schedule follows:

- (a) Monday – N.C. Modifications and Motions
- (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 – Interstate enforcement (a.m.) Interstate establishment (p.m.)

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) Automated Collection and Tracking System (“ACTS”) history
- (e) 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 8110 on the next business day following his/her arrest at 9:00 a.m.

9.13 When an 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 8110 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 8110 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 or file and serve it no later than 5:00 p.m. on the Monday preceding the beginning of the trial term in which the case is first scheduled for hearing. The responding Party shall file and serve the opposing Party with the Affidavit of Financial Standing by 5:00 p.m. on the Wednesday preceding the first week of the domestic term in which the case is scheduled for hearing. “Serve” means hand-deliver, fax, email or other means whereby the affidavit reaches the opposing party by the deadline.

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. “Serve” means hand-deliver, fax email or other means whereby the affidavit reaches the opposing party by the deadline.

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 with the Financial Affidavit as required in Rule 10.2 above., on the Wednesday preceding the first week of the domestic term in which the matter is scheduled for hearing or trial. Such documents shall be received by the opposing Party by the deadline:

- (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) All 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. Motions to continue which were not timely submitted to Family Court by noon on the Wednesday preceding the term may be heard at this time; however, absent compelling circumstances, motions to continue at this juncture are strongly disfavored and will most likely be denied. 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 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 further evidence or argument, as permitted by statute. With prior written notice to be received by the opposing attorney and the presiding judge by 5:00 p.m. on the Wednesday preceding the Monday on which the PSS hearing is scheduled, Parties may request from the Court additional time to present complicated cases, which the judge may allow, in his or her discretion. Absent a ruling by the presiding judge, parties shall appear as scheduled.

10.6 In PSS cases, Parties wishing to use affidavits from accountants, private investigators, or other witnesses must serve the affidavits on the opposing Party at least seven (7) calendar days in advance of the PSS hearing; 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.

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 an emergency custody order, temporary restraining order, preliminary injunction, Domestic Violence Protective Order (50B), Civil No-Contact Order (50C) and the like 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.

11.2 A Party making an application for emergency relief shall deliver the Pleading to the Assigned Judge. Pleadings for emergency custody, ex parte or otherwise, also may be directed to the Custody Services manager who shall then confer with the Assigned Judge about the request. Entry of emergency custody 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.

If the Assigned Judge is unavailable, (i.e. away for the day due to illness, vacation or CJE attendance) 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.

These procedures are in addition to remedies available through the Magistrate and the dedicated 50B and 50C courts.

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, NC 28202.

11.5 The filing of Pleadings for emergency relief 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.

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 the assigned divorce courtroom during 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 3725 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 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 thirteen (13) days prior to the date of the summary judgment hearing.

12.4 After all Pleadings have been properly served and all documents required by Rule 12.2 above have been submitted to the Clerk, the filing Party may request that the case be placed on a calendar. In order for a case to appear on a calendar, all of the documents required in Rule 12.2 above must be submitted to the Clerk by the preceding Wednesday.

12.5 The judge assigned to Courtroom 8110 shall decide the summary judgment divorces and deliver the court files and judgments to the Clerk. Judgments will be processed and filed by the Clerk and will be available in Room 3725 by noon on Friday 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. Divorce judgments and explanations of why judgments were not granted will be placed into a basket in the Clerk's office if they are not mailed.

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 courtroom clerk 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 should 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 set by the Clerk in the Clerk's office for hearing on Tuesdays at 1:30 p.m. in Courtroom 8110.

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 to be received by 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 legal holiday, in which event the Affidavit must be served and filed no later than the next business day. "Serve" means hand-deliver, fax email or other means whereby the affidavit reaches the opposing party by the deadline.

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. This sanction and others may be imposed or conditionally imposed at the time of the IPTC.

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 months closest to DOS (both before and after)
- (d) LIFE INSURANCE POLICIES - Annual Statement of Cash Surrender Value for statement periods closest to DOS (both before and after)
- (e) RETIREMENT BENEFITS - Statements for statement periods closest to DOS (both before and after)
- (f) DEBT - Statements for months closest to DOS (both before and after)

Ten calendar 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 calendar days before the Monday of the week preceding the start of the term in which 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 unless excused by the assigned judge. If either Party is more than 100 miles from Charlotte, that Party may appear by telephone. For parties and counsel to be excused, ED affidavits must be filed, all discovery deadlines and Alternative Dispute Resolution must be agreed to and dates for the IPTC and trial must be obtained from Family Court and agreed upon by all parties and attorneys, and a consent order (CCF-37) signed by all parties and counsel shall be submitted to the courtroom clerk in advance of the hearing date.

If the IPTC is held, it 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. The clerk shall give the Family Court Case Coordinator a copy of the scheduling order.

In all cases, the clerk shall give the Family Court Administrator's Office a copy of the schedule order.

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. A Final Pretrial Order (FPTO) shall be entered using Form CCF-38 or Form CCF-38A. At the IPTC, the Court will rule on when the FPTO will be submitted. This deadline is subject to later review up to or at the FPTC. If an extension of the deadline is not requested or the request has not yet been approved by the presiding judge at the time of the FPTC and such request is then denied, the parties shall be presumptively required to submit the FPTO by the following Monday at noon. If the request is granted but parties/attorneys fail to file the FPTO by the subsequent date designated by the Judge, the parties/attorneys may face sanctions that could include shortened time for presentation of evidence against one or both parties so that a FPTO can be generated prior to the start of evidence; monetary sanction; or other sanction that is appropriate given the circumstances.

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, or may be excused as specified in Rule 13.4 above. The signatures of the Parties on the Final Pretrial Order shall be acknowledged before a Notary Public or taken upon oath before the Clerk.

13.7 Continuance of ED Cases: ED trials 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. If the Court plans to do so, it shall decide that at the IPTC.

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.”

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. In its discretion the Court may allow hearing of attorney fee claims during the trial of the underlying matter or promptly thereafter, not to exceed sixty (60) days after trial. The moving party is responsible for securing a hearing date from Family Court or the courtroom clerk for any remaining attorney fee claim within the allotted time.

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
<u>Permanent</u> 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>
a. Temporary 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	Within 45 days (in 100% of cases)
c. Mediation Session(s) 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
d. Orders Entered:	
(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 fifteen **(15) days** following the conclusion of a hearing. A judge may allow additional time to file an order in complex cases but all orders must be filed within thirty (30) days following the hearing.

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.

Cases reported settled will be tracked by the Family Court Administrator's Office to ensure consent orders are timely presented in accordance with Rule 19: Presentation of Orders and Judgments.

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."

19.2 The Family Court Administrator shall identify those orders 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 having orders 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. 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. The drafting attorney shall submit a self-addressed stamped envelope with the proposed orders. A file-stamped copy, or copies, 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 Lawyers shall provide their current email address to the Family Court Office, the Trial Court Administrator's Office, the Office of the Clerk of Court and to the Judges. This need not be done if a lawyer's email address appears in the current edition of the Mecklenburg Bar Directory, as that email address will be deemed to be accurate.

20.6 Non-compliance with this rule will 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.
- (e) Compliance of judicial requests

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 Local Rules of Domestic Court. 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-38A Final Pretrial Order – Excel
CCF-40 Motion for Appointment of GAL-Attorney and Custody Advocate
CCF-40A Judicial Appointment of GAL-Attorney and Custody Advocate
CCF-42 Council for Children’s Rights (CFCR) 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-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