

**3A JUDICIAL DISTRICT  
FAMILY COURT DOMESTIC RULES  
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## **Rule 1: General**

- 1.1 Purpose.** The purpose of these Rules is to provide a framework for the fair, just, and timely resolution of legal problems affecting families and children in this district, whether court intervention is initiated by a family member or a governmental agency. The Rules are to complement the North Carolina Rules of Civil Procedure, North Carolina Rules of Evidence, and General Rules of Practice for Superior and District Courts.
- 1.2 Application.** It is recognized that these Rules are not complete in every detail and will not cover every situation that may arise. In the event that these Rules fail to address a specific matter, they should be construed in such a manner as to avoid technical or unnecessary delay and to promote the ends of justice. The Family Court Staff is authorized to act in its discretion subject to consultation with the presiding Judge or the Chief District Court Judge in applying these Rules.
- 1.3 Compliance.** Parties and attorneys shall comply with these Rules. Although a party is not required to have an attorney, any party who is not represented by an attorney must comply with these Rules and keep Family Court informed of his/her current address.
- 1.4 Citation.** These Rules and all amendments hereafter shall be filed with the Clerk of Superior Court in Judicial District 3A and the Administrative Office of the Courts. These Rules may be cited accordingly as **Three A Judicial District Domestic Court Rules (3ADCR)**.
- 1.5 Availability of Rules.** The Family Court Staff will maintain a supply of Rules and associated forms to be furnished to attorneys and the public upon request, with the exception of Financial Affidavits, Equitable Distribution Inventory Affidavits and Pre-Trial Orders.
- 1.6 Forms.** Except as specifically required herein, where local forms are required by these Rules, counsel or pro se parties may use either the forms provided or a form of their own which substantially corresponds to the specified court form.
- 1.7 Communication with Judges.** Attorneys and unrepresented parties shall not communicate ex parte with a Judge except in the course of official proceedings, in writing (if a copy of the writing is furnished simultaneously to the other party), orally, upon adequate notice to opposing party, or as otherwise permitted by law.

Before the occurrence of any ex parte communication concerning a case between an attorney or unrepresented party and a Judge, the attorney or unrepresented party must first inform the Judge of any other attorneys that might be involved in the case at hand, or of another case that might have overlapping issues. In addition, attorneys and unrepresented parties shall not engage in (a) conduct intended to disrupt a court, including but not limited to failing to comply

with known local customs of courtesy or practice of the Bar or of a particular court without giving opposing counsel timely notice of the intent not to comply, or (b) undignified or discourteous conduct.

**1.8 Applicability.** These rules apply to all domestic matters, whether an initial filing or a subsequent motion, **except** for involuntary commitments, IV-D, U.R.E.S.A., U.I.F.S.A., juvenile and domestic violence.

**1.9 Time Standards for Domestic Cases.** The North Carolina Family Court Advisory Committee has established a case management plan to aid in the just, fair and timely resolution of cases filed. Unless otherwise specified, “days” are calendar days. In the event there is an inordinate time to perfect service, the time frames may be extended. The Judge may extend the time frames for good cause shown. The time frames below represent maximum time limits that are “goals.”

Event	Time from Filing of Complaint
<b>Child Support</b>	
Temporary Hearing Scheduled	45 Days
Temporary Orders Entered	45 Days
Entry of Permanent Order	270 Days
<b>Custody</b>	
Temporary Hearing Scheduled	45 Days
Temporary Orders Entered	45 Days
Mediation Orientation Scheduled	45 Days
Mediation Completed	150 Days
Permanent Hearing Scheduled	150 Days
Entry of Permanent Order	180 Days
<b>Post-Separation Support</b>	
Moving Party’s Financial Affidavit	15 days prior to hearing
Opposing Party’s Financial Affidavit	5 days after moving party
Temporary Hearing Scheduled	60 days
Entry of Order	90 days
<b>Alimony</b>	
Initial Status Conference	120 Days
Amended Financial Affidavit	150 Days
Last Day to Amend Financial Affidavits	75 Days prior to trial
Completion of ADR	210 Days
Final Pre-Trial Conference	240 Days
Trial	270 Days
Entry of Permanent Order	365 Days

### Equitable Distribution

Initial Status Conference	120 Days
Completion of ADR	210 Days
Final Pre-Trial Conference	240 Days
Trial	270 Days
Entry of Permanent Order	365 Days

- 1.10 Sanctions.** Failure to comply with any section of these Rules or the Rules of Civil Procedure shall subject the parties and/or their counsel to sanctions allowed by law and deemed appropriate at the discretion of the presiding Judge, including but not limited to: dismissal of any or part of any claim for relief or pleadings, disallowance of evidence and/or testimony, a fine, payment of costs or the opposing party's reasonable legal fee.

## Rule 2: Domestic Case Filings

- 2.1 Commencement.** All domestic matters, whether an initial filing or a subsequent motion, shall be commenced by contacting the Family Court Staff to obtain the judicial assignment and all dates pertaining to the filing. This contact may be in person, over the telephone or by fax prior to filing the pleadings with the Clerk of Superior Court of Pitt County. Once these assignments and dates are made by the staff in person, by telephone or fax, it is the responsibility of the filing party or counsel to record this information on a Judicial Assignment and Notice of Hearing (Form #2). The Judicial Assignment and Notice of Hearing shall indicate whether there is a pending or resolved domestic case, domestic violence, or juvenile case involving the same family and/or issues, and the name of the Judge, if any, previously assigned to such case. All domestic matters, whether an initial filing or a subsequent motion, shall be accompanied by an AOC cover sheet (Form #1) and a Judicial Assignment and Notice of Hearing (Form #2).
- 2.2 Filings.** The AOC Coversheet, Judicial Assignment and Notice of Hearing, summonses, and Complaint shall be taken to the Clerk's Office for filing. All subsequent motions in domestic cases, after obtaining the Judge assignment, and any and all dates pertaining to the filing from the Family Court Staff, shall be filed in the Office of the Clerk of Superior Court. The Clerk of Superior Court shall provide a case number at the time of an initial filing and place the number upon the summons. All subsequent pleadings and papers filed by the Clerk and all subsequent communications to opposing counsel or parties or court personnel shall contain the proper case number. A copy of the pleadings and the Judicial Assignment and Notice of Hearing shall be placed in the Family Court box in the Clerk of Superior Court's office, faxed or hand-delivered to the Family Court Office after filing.
- 2.3 Mailing of Filings.** All domestic matters and subsequent motions shall be mailed or hand-delivered to the Clerk of Superior Court's Office for filing, provided that a

Judge assignment and any and all dates pertaining to the filing have been obtained over the telephone or by fax from the Family Court Staff. Once these assignments are made via the telephone or fax, the filing party or counsel shall record this information on Form #2, Notice of Hearing, and mail the filing to the Clerk. A copy of the AOC Coversheet and the Judicial Assignment and Notice of Hearing shall be placed in the Family Court box in the Clerk of Superior Court's office, faxed or hand-delivered to the Family Court Office after filing.

- 2.4 Court Sessions.** The Chief District Court Judge shall designate Family Court Sessions and assign Judges for such sessions. Emergency matters may be heard by the Judge assigned to the case in any courtroom regardless of the session to which the Judge is assigned for the week. If, due to illness, vacation, or other cause, the Judge assigned to a case is not available to hear ex parte or other emergency matters, those matters may be heard by another District Court Judge.

### **Rule 3: General Calendaring Rules**

- 3.1 Case Tracking.** The Family Court Administrator shall establish and maintain a case tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts, and in accordance with these rules.
- 3.2 Status or Pretrial Conferences Required.** All domestic matters shall be set for a conference or hearing, except for motions for temporary relief and attorney fees. The Family Court Staff shall schedule the conference or hearing in accordance with Rule 4 below.
- 3.3 Notices.** The moving party shall:
- (1) confer with the Family Court Staff prior to filing a Complaint, Motion or Counterclaim to obtain a date and time for the appropriate hearing, conference or orientation, and
  - (2) serve the opposing party or counsel with the file stamped pleadings and filed stamped Notice of Hearing with the scheduled dates, times and amount of time needed for the hearing or conference in the manner and within the time limits as set forth in the statutes and
  - (3) file all notices with the Clerk's office for inclusion in the case file and; (4) provide a copy of the pleading and Form #2, or a Notice of Hearing which substantially corresponds to Form #2 to the Family Court Staff.

If the party or counsel receiving the Notice objects 1) to the matter being heard, or 2) being heard at the date or time designated in the Notice or 3) to the amount of time needed for the hearing, he or she shall contact the moving party, or counsel for the moving party, and attempt to reconcile any conflict regarding the scheduling of the matter as soon as possible. If the parties reach an agreement

for having the matter heard a different date or time, the moving party shall confer with Family Court to determine if the proposed hearing date and time is available and advise the Family Court of the agreement to change the hearing date or time before the assigned judge within the time standards set forth in Rule 1.9, if applicable, and another Notice setting forth the agreed upon date and time shall be sent by the moving party to the opposing party and Family Court. If the parties cannot agree on a new date and time for the hearing, the party receiving the Notice shall file and serve a Motion to Continue pursuant to Rule 8.

Any party requesting more time for a final hearing on any issue than set forth in the Notice of Hearing shall advise the assigned Judge at the Pre-Trial or Settlement Conference or file a written motion fifteen (15) days prior to the hearing setting forth the reasons for the request, whichever shall first occur. The opposing party shall file a response to a written motion in writing within ten (10) days of the hearing. The Judge shall make a ruling on the request within seven (7) days of the hearing and advise the parties in writing of the decision. If the parties fail to advise the Court that additional time will be needed for a hearing, the hearing will proceed within the time allotted.

- 3.4 Upcoming Court Events.** All pending actions shall always be set for an upcoming status conference, hearing, or orientation date. The Family Court Staff will review pending actions and notice cases without upcoming court dates for a status conference, hearing or appropriate appearance to ensure that the Court addresses matters in a timely manner.
- 3.5 Consolidated Cases.** When cases have been consolidated for trial, they will be regarded as one case for calendaring purposes and will appear under the oldest case number. A copy of the order consolidating the cases for trial shall be filed in all pertinent court files and all pleadings or documents filed thereafter shall be captioned with the oldest file number only.
- 3.6 Dismissal for Missed Court Appearances.** Any case or issue in any case noticed for a conference or hearing is subject to dismissal for failure to prosecute if, at the time the matter is called for hearing, the attorneys and parties are not present and ready to proceed, or have failed to notify the court of any emergency which would preclude the attorney or party from being present.
- 3.7 Settlement of Contested Issues.** Parties are encouraged to engage in settlement discussions at every opportunity. The Family Court recognizes the importance to the family of bringing closure to these disputes, of minimizing misunderstandings that frequently occur when resolutions are not yet committed to writing, and of the Court's responsibility to assist the parties in resolving these disputes. Unless agreements have been reduced to writing, signed by the parties, their attorneys, and the assigned Judge prior to the time of the court date, parties and counsel are required to appear as scheduled. If a resolution has been reached but not drawn up by the time of the court date, the parties and their

counsel are required to appear as scheduled and execute a Memorandum of Judgment Order. **The Court will then set another court date with the expectation that the order will be prepared, signed and filed with the Court prior to or at the proceeding.**

- 3.8 Trial Settings.** The assigned Judge will set cases for trial at a pretrial conference.

## **Rule 4: Calendaring of Domestic Cases**

- 4.1 New Actions or Modification.** When a party files a Complaint or a Motion for Modification of an existing order in a domestic case, the party shall confer with the Family Court Staff, and the Family Court Staff shall set conference and hearing dates for the issues below in accordance with the following schedule:

- A. Temporary and Permanent Child Support.** The Family Court Staff shall set all child support cases for a temporary hearing to be held within forty-five (45) days after filing and shall set all child support cases for a permanent hearing to be held within two hundred forty (240) days after filing.

The party filing a complaint or motion seeking the establishment of child support or the modification of an existing order shall:

- (1) attach a completed Child Support Financial Affidavit (Form #3) to the complaint or motion at filing,
- (2) attach the Notice of Hearing setting the temporary hearing date (Form #2),
- (3) attach a blank Child Support Financial Affidavit (Form #3), and
- (4) serve upon the opposing party or counsel the pleading, their completed Child Support Financial Affidavit, the Notice of Hearing (Form #2) and a blank Child Support Financial Affidavit (Form #3).

Ten (10) days prior to the temporary hearing, the opposing party shall serve the completed Child Support Financial Affidavit (Form #3) or Financial Affidavit (Form #4), if requesting deviation from the child support guidelines or if it is a non-guideline case, on the moving party. Each party shall serve the other with the supporting documentation at least ten (10) days prior to the temporary hearing.

In addition to the required documentation, upon the written request of the opposing party, additional income documentation for the past two (2) years, including but not limited to tax returns, pay stubs to date and any other documentation used to complete the Child Support Financial Affidavit shall be submitted within five (5) days of the written request.

If at the temporary hearing both parties and the presiding Judge agree, the parties may proceed with a hearing for the establishment of a permanent order of child support. It is the policy of Family Court to establish temporary child support even when the custody mediation is ongoing and custody has yet to be resolved. To ensure compliance with North Carolina regulations, a temporary child support order shall be expected to be entered in each new child support case within sixty (60) days of service of the Complaint.

Thirty (30) days prior to the permanent child support hearing, the parties may file and serve amended Child Support Financial Affidavits for the purpose of the permanent child support hearing.

**All social security numbers shall be redacted from all documents filed with the Court unless otherwise required.**

- B. Custody/Visitation.** The Family Court Staff shall set all custody issues, both initial establishment and modification, for Custody Mediation Orientation/Parenting Apart within forty-five (45) days of the filing of the request for custody and/or visitation. The parties shall proceed with mediation in accordance with Rule 5 of these rules. Upon request of the party filing the Complaint, the Family Court Staff will set a temporary hearing date to be held within forty-five (45) days of the filing. Upon request of the defendant, the Family Court Staff will set a temporary hearing within forty-five (45) days of the request. The moving party shall serve upon the opposing party or counsel the pleading and the Notice of Hearing (Form #2) setting the orientation date and the temporary hearing date (if applicable). An Order to Attend Custody Mediation, (Form #5), shall be prepared by Family Court Staff and signed by the assigned Judge to be served on the parties. As used herein, "Custody" includes custody, visitation, and parenting issues. A date for Custody Mediation Orientation/Parenting Apart will be assigned in all cases unless waived pursuant to Rule 5.8.
- C. Post-Separation Support & Alimony.** Upon request of the moving party, the Family Court Staff shall set the issue of Post-Separation Support for hearing to be held within forty-five (45) days of the filing of the Complaint. The parties shall exchange and serve Financial Affidavits (Form #4) fifteen (15) days prior to the hearing. If at the Post-Separation Support hearing both parties and the presiding Judge agree, the parties may proceed with a hearing for the establishment of an order for alimony.

The Family Court Staff shall set all Alimony issues for a Status Conference to be held within one hundred twenty (120) days of the filing of the pleading. The Financial Affidavits with supporting documentation can thereafter be modified up to thirty (30) days prior to trial.

Upon the written request of the opposing party, income documentation for the past two (2) years, including but not limited to tax returns, pay stubs to date and any other documentation used to complete the Financial Affidavit shall be submitted within five (5) days of the written request.

**D. Equitable Distribution.** Prior to filing a pleading asserting a claim for Equitable Distribution, the moving party must confer with the Family Court Staff who will set a date for a Status Conference. The Status Conference will be held within one hundred twenty (120) days of the date the pleading was filed. It is the responsibility of the moving party to serve the opposing party or counsel for the opposing party with the following:

- (1) the pleading asserting Equitable Distribution, and
- (2) the Notice of Hearing setting the Status Conference date (Form #2).

In the event a party seeks an Interim Distribution pursuant to N.C.G.S. 50.20(i1), the party shall identify the property they wish to have distributed. The Family Court Staff will schedule an Interim Distribution Hearing before the assigned Judge within thirty (30) days of the date of filing or date of the request. It is the responsibility of the party seeking the Interim Distribution to serve the opposing party or counsel with a Notice of Hearing for the Interim Distribution (Form #2) and a copy of the pleading seeking an Interim Distribution, including the specific property sought to be distributed.

- 4.2 Motions in the Cause for Contempt.** All motions in the Cause for Contempt shall be filed with the Clerk of Superior Court. If an Order to Show Cause is signed, the Family Court Staff shall set the case for hearing in front of the assigned Judge. The Order to Appear and Show Cause shall contain the date, time and place for the hearing. A copy of the order shall be faxed or placed in the Family Court box in the office of the Clerk of Superior Court by the party filing the Motion or seeking the order to show cause..
- 4.3 All Other Motions.** Any motion not referenced above, including all discovery and non-evidentiary motions, shall be set for hearing by the Family Court Staff. It is the responsibility of the moving party to obtain a hearing date from the Family Court Staff and provide notice of the hearing date to all counsel and parties entitled to notice. Any motion filed for which there has been no request for a scheduling date for a period of at least ninety (90) days shall be deemed abandoned and may be summarily denied without notice. The Court may file a dismissal without prejudice of any motion found pending for more than ninety (90) days which has not been scheduled at least once for hearing.
- 4.4 Ex Parte Orders.** Ex parte orders shall not be sought except as provided in Rule 2.4 and then only for such circumstances as are allowed by the Rules of Civil Procedure, statute or other law. The ex parte order shall contain the date, time and place for the hearing. A copy of the order shall be faxed or placed in the

Family Court box in the office of the Clerk of Superior Court. Return of the hearing on ex parte orders shall be held within ten (10) days of the signing of the Order before the assigned Judge. A lawyer or a party participating in an adversary proceeding is prohibited from communicating as to the merits of the case with a Judge before whom the proceeding is pending if the communications occur outside of official proceedings. The opposing counsel or unrepresented party shall be copied on any ex parte communication with the Judge.

Ex parte communications shall not be abused, and it is the preferred practice to contact counsel for the opposing party, if that party is represented, before an ex parte request is made. When seeking an ex parte ruling, parties shall inform the court of the identity of opposing counsel of record or of any counsel that is known to have been consulted; and the Judge shall make inquiry, before issuing an ex parte ruling, about the existence of opposing counsel.

- 4.5 Temporary Hearings.** Temporary hearings shall include hearings on temporary child custody, temporary child support, post-separation support, ex parte returns on non-domestic violence cases, and interim partial distributions under N.C.G.S. 50-20(i1). Unless otherwise ordered by the Court for good cause shown, post-separation and temporary custody hearings shall be limited to three (3) hours and other temporary hearings shall be limited to one (1) hour. Each party shall be allocated one-half of that time to be used for direct examination of the party's witnesses, cross-examination of the opposing party's witnesses, examination of affidavits, and opening and closing statements. It is anticipated that at the majority of these hearings, evidence will be presented based upon affidavits. All affidavits shall be filed by the propounding party and faxed or hand delivered upon the opposing party at least ten (10) business days prior to the scheduled hearing. Rebuttal affidavits shall be served upon the opposing party no later than five (5) days before the scheduled temporary hearing. The Court may, in its discretion, postpone or waive these filing, hearing and timeline requirements. Fact affidavits in cases other than financial affidavits will be allowed if both parties agree. These affidavits must contain the address and phone number of the affiant.

Any party requesting additional time for a temporary hearing shall file a written motion ten (10) days prior to the hearing setting forth the reasons for the request. The opposing party shall file a response in writing within five (5) days of the hearing. The Judge shall make a ruling on the request within forty eight (48) hours of the hearing and advise the parties in writing of the decision.

- 4.6 Peremptory Hearings.** Requests for a peremptory setting for matters that involve persons who must travel long distances or numerous expert witnesses or other extraordinary reasons must be made to the Family Court Staff. The request shall be made in writing using the Peremptory Request form (Form #7) which shall be sent or delivered to the Family Court Staff with a simultaneous copy sent or delivered to the opposing party or counsel. The opposing party or counsel

shall file a response within five (5) days if they oppose the request for peremptory setting. The Family Court Staff shall hold the request for peremptory setting for the aforementioned five (5) days or until receiving a response from the opposing party or counsel in writing. The Family Court Staff shall then place the request before the assigned Judge who shall render his or her decision. The Judge's order granting or denying the request will be filed with the Court and served on the parties. A peremptory setting shall be granted only for good and compelling reason.

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

**4.8 Calendars.** The calendars for domestic relations sessions shall be available in the Family Court Office and the Office of the Clerk of Superior Court one (1) week prior to the session. The calendar will also be posted on the NC Courts web site one (1) week prior to the session. After the calendar is published, additions will be allowed for emergency matters and otherwise in the discretion of the assigned judge.

## **Rule 5: Mandatory Custody Mediation**

**5.1 Participation.** The parties to any custody and/or visitation case, including initial filings, modifications or enforcement, shall participate in mandatory mediation, either through the mediation program of the Administrative Office of the Courts or through private mediation, prior to any pretrial conference or other hearing of these issues, other than temporary issues, unless waived by the Court. If the parties elect to use private mediation, the election shall be in writing and shall contain the name of the mediator. If the parties cannot agree to a mediator, the Court shall appoint a certified custody mediator. The private mediator, whether appointed or chosen by the parties, shall comply with the reporting requirements of this Rule and the timelines set forth in Rule 1.9.

**5.2 Scheduling.** The initial mediation orientation is scheduled in accordance with 4.1B. The Custody Mediator will schedule individual sessions at the time of the orientation.

**5.3 Attendance.** The parties to any custody and/or visitation case must attend and participate in the orientation session, a one-hour parent education session, and at least one mediation session to fulfill the Court's order to participate in mediation, whether through private or court mediation. Any party who fails to attend and participate in mediation as ordered shall be subject to the contempt powers of the Court.

**5.4 Parenting Agreements.** If the parties are able to reach a full Parenting Agreement, the AOC Custody Mediator will prepare a draft and distribute copies

to all parties and their attorneys, advising the parties to review the agreement with their attorneys. A time will be scheduled for the parties to return to sign the final draft. Final signed agreements shall be presented to the Court. The Court shall review each agreement signed by the parties and, if appropriate, make the Parenting Agreement an order of the Court by signing the Order Approving Parenting Agreement. The AOC Custody Mediator will file the final Order and Parenting Agreement with the Clerk of Superior Court and distribute copies to the parties and/or counsel. The mediator shall also advise the Family Court Staff in writing that an Order Approving Parenting Agreement has been entered.

If the parties elect to use private mediation, the private mediator may elect to prepare the agreement or may delegate the preparation of the agreement to an attorney. The private mediator shall advise the Family Court Staff in writing that an Agreement has been reached by the parties.

- 5.5 Partial Parenting Agreements.** If a partial agreement is reached, the Custody Mediator will prepare a final draft of the partial agreement and follow the process set out in Rule 5.4.
- 5.6 No Agreement Reached at Mediation.** If the parties fail to agree, the Custody Mediator will notify the Family Court Staff, who will set the matter for hearing.
- 5.7 Modifications.** These rules also apply to modification or enforcement of existing custody orders, visitation orders, or Parenting Agreements. If the parties have attended an orientation session within less than two (2) years from the date of filing of the motion, the mediator shall schedule the parties for a mediation session as soon as possible; otherwise, the parties shall be scheduled for Custody Mediation Orientation and then a mediation session. In accordance with Rule 4.1B, the moving party is responsible for contacting the Family Court Staff and notifying the opposing party or counsel of the orientation or mediation session date.
- 5.8 Waiving the Custody Mediation Process.** In some instances, mediation may not be appropriate or in the best interests of the parties or their children. In these instances, a party may move to waive mediation for “good cause” and good cause is defined as including, but not being limited to, the showing of undue hardship to a party; an agreement between the parties for voluntary mediation, subject to court approval; allegations of abuse or neglect of the minor child; allegations of alcoholism, drug abuse, or domestic violence; or allegations of psychological, psychiatric or emotional problems. Parties desiring an exemption shall complete and submit a Motion and Order to Waive Custody Mediation (Form AOC-CV-632) to the Family Court Staff prior to the date of the orientation or first session. The opposing party or counsel shall file a response within five (5) days if they oppose the Motion to Waive Custody Mediation. The Family Court Staff shall hold the Motion to Waive for the aforementioned five (5) days or until

receiving a response from the opposing party or counsel in writing. The Court will make a decision based on the submission without a hearing.

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

## **Rule 6: Family Financial Settlement Conferences**

- 6.1 Purpose.** Pursuant to NCGS § 50-21(d), a Scheduling and Discovery Conference shall be held within one hundred twenty (120) days of the filing of the initial pleading or motion in the cause for equitable distribution. The purpose of the Status Conference is to ensure that the case is proceeding toward resolution in a timely and orderly fashion. Unless otherwise permitted by the Court, the case will be ordered to family financial mediation pursuant to the Supreme Court Rules Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases, as may be amended from time to time. At the Status Conference, the Family Court Staff shall:

- (1) Determine the status of the Equitable Distribution Inventory Affidavits. Each party shall complete and file his or her Equitable Distribution Affidavit prior to the Status Conference pursuant to NCGS § 50-21(a). However, by consent of the parties, or an order granting a motion for good cause shown, the submission of Equitable Distribution Inventory Affidavits may be waived. In no event will the filing of Equitable Distribution Inventory Affidavits be extended beyond ninety (90) days of the Status Conference unless ordered by the assigned Judge.
- (2) Complete a Scheduling and Discovery Order,( Form #8), if the parties agree that a Scheduling and Discovery Order is needed
- (3) Complete AOC Form #824, Order for Mediated Settlement Conference including the date for completion of the ADR within ninety (90) days of the Status Conference.
- (4) Complete AOC Form #825, Designation of Mediator, setting forth their chosen method of ADR, the name of the Neutral selected and the date for completion of the ADR within ninety (90) days of the Status Conference.
- (5) Set the date for a final pretrial conference within ninety (90) days of the Status Conference.

- 6.2 Attendance.** Participation at the status conference is mandatory for all pro se parties and counsel. In lieu of attendance, the parties or counsel shall furnish the

following documents to the Family Court Staff in advance of the date of the status conference:

- (a) Each party or counsel must have completed, filed with the Clerk of Superior Court, and served the opposing party with the ED Inventory Affidavit unless waived.
- (b) The parties or counsel must have agreed on a Neutral to conduct the ADR and submitted to the Family Court Staff AOC Form #824, Order for Mediated Settlement and AOC Form #825, Designation of Mediator, setting forth their chosen method of ADR and the name of the Neutral selected. The Family Court Staff will add the date by which ADR will be completed and file the same with the Clerk.
- (c) A completed Scheduling and Discovery Order (Form #8), setting forth a discovery schedule if requested by the parties..

**6.3 Sanctions.** Failure to comply with this Rule may result in sanctions against the non-complying party pursuant to NCGS 50-21.

## **Rule 7: Pretrial Conferences**

**7.1 Participation and Purpose.** Attendance at pretrial conferences is mandatory for all attorneys of record and all parties. The purpose of a pretrial conference is to assist the attorneys, or parties, for trial preparation by narrowing the issues for trial or disposition of the case, to set deadlines for the completion of discovery, to seriously explore the prospects of settlement of the case, to finalize proposed witness lists, to determine what facts can be stipulated and agreed upon by the parties, to develop lists of stipulated exhibits, and to agree upon a final pretrial order. At least seven (7) days prior to the pretrial conference, the parties shall exchange proposed pretrial orders. Prior to the presentation of the pretrial order at pretrial conference, the parties or counsel shall confer with each other for the purpose of finalizing the pretrial order. At a pretrial conference, the Court will address any requests for additional discovery and set a date for trial of the matter or such additional pretrial conferences as are necessary. The presiding Judge will order a final pretrial order to be completed and submitted by a certain date or within ten (10) days following the final pretrial conference.

## **Rule 8: Continuance Requests**

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

- 8.2 Conflicts.** The various divisions of Court should work together to move cases as expeditiously as possible. Conflicts shall be resolved as set forth in Rule 3.1 of the General Rules of Practice. Age of case, subject matter, and priority of setting should be given as much primacy as the level of court when resolving conflicts. Attorneys shall notify the Court and opposing counsel of any other Court conflict(s) as they become known and shall communicate with attorneys and Judges of this district and other Judges to ordinarily resolve such conflicts. In resolving Court conflicts, juvenile cases shall take precedence over all other matters.
- 8.3 Motions.** All applications for continuance shall be by written motion (Form #9). However, oral motions may be allowed when the reason for the continuance did not become known until immediately preceding the start of court.
- 8.4 Notification of the Request.** All parties must be notified of a motion to continue. A copy of the motion to continue must be distributed to all counsel of record and/or unrepresented parties at the same time the motion is delivered to the Family Court Staff. In addition to the service requirements set out in the statute, distribution of the motion must be made by the quickest means feasible, including facsimile transmission, electronic mail or hand delivery.
- 8.5 Input from All Parties.** All parties should have an opportunity to be heard on a motion to continue. If the request is received within five (5) business days of the hearing date, and there is no input regarding the opposing party's or counsel's position, the Court may be unable to address the request prior to the hearing and will address the request at that time.
- 8.6 Responsibility of the Party Requesting the Continuance.** The burden is on the party requesting the continuance to contact the opposing counsel or party prior to submitting the motion to the Family Court Staff, and include the opposing party's/counsel's position on the request as:
- Joining in the request;
  - Consenting to or not objecting to the request; or
  - Opposing the request.
- If the opposing party cannot be reached or fails to respond, that should be noted on the request as well as a statement on the efforts made and why contact was not possible.
- 8.7 Responsibility of Party Opposing the Request for Continuance.** A party or counsel opposing the request has the burden of submitting a written response to the Family Court Staff immediately upon receipt of the Motion for Continuance.
- 8.8 Factors to be Considered.** Factors to be considered by the Court when deciding whether to grant or deny a motion for continuance should include:
- The effect on children and parties if the issue is continued and not resolved;

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

**8.9 New Date.** Prior to granting a motion for continuance, the Family Court Staff or the Judge should reschedule the conference, hearing or trial to a specific date after receiving scheduling input from all parties.

## **Rule 9: Telephone Conferences**

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

**9.2 Telephone Testimony.** The Court may, in its discretion, allow witnesses to testify by telephone. The opposing party shall be given adequate notice of a party's desire to allow a witness to testify by telephone. If the opposing party opposes the request, the attorneys shall conference with the presiding Judge in advance of the date of the hearing to determine whether or not the telephone testimony will be permitted.

## **Rule 10: Trial Exhibits and Subpoenas**

- 10.1 Exhibits.** Except as provided in this Rule, every exhibit to be used at trial must be (1) stamped as either "Plaintiff's exhibit" or "Defendant's exhibit" as is appropriate, (2) numbered, it being acceptable if the exhibits are numbered without regard to when they are presented at trial, and (3) listed on a document showing the number and a shorthand statement of what the exhibit represents. The list and a copy of exhibits must be provided to the opposing counsel or party at the beginning of the trial or hearing. Counsel shall have sufficient copies for all parties, the Clerk of Court and the presiding Judge.
- 10.2 Subpoenas.** When a subpoena is issued to a witness or other person, the attorney or party issuing the subpoena must, **at the same time**, serve, by fax and/or mail, a copy of the subpoena upon opposing counsel or party pursuant to the Rules of Civil Procedure.

## **Rule 11: Orders and Judgments**

- 11.1 Orders and Judgments.** Judges shall announce a ruling 1) in custody actions within fourteen (14) days of the hearing, 2) in alimony and post-separation and alimony actions within twenty one (21) days of the hearing and 3) in equitable distribution actions within forty five (45) days of the hearing. The Judge shall designate the counsel to prepare the Order or judgment unless prepared by the Court. The Order shall be submitted to the Judge by the date assigned by the court. Every effort will be made for Orders to be entered within the time frames set forth in Rule 1.9. The party preparing the proposed order or judgment shall provide a copy of the proposed document to the opposing party within twenty one (21) days after the ruling. The opposing party shall have fourteen (14) days to submit objections to the proposed order or judgment. The parties shall have seven (7) days to reach an agreement on the order or judgment. If an agreement is not reached on the proposed order or judgment both parties shall submit proposed orders or judgments with an Order Submission Form to the assigned Judge who shall enter an order or judgment within seven (7) days of receipt of the proposed orders. Orders in which opposing counsel have made no response within fourteen (14) days of receipt shall be placed in the Family Court Office for signature by the assigned Judge. A file stamped copy of each order, judgment or dismissal shall be provided to the Family Court Staff by the party preparing such document.
- 11.2 Delinquent Orders or Judgments.** Orders or judgments identified as being delinquent may be addressed at the discretion of the assigned Judge, and sanctions may be imposed as deemed appropriate and as allowed by law.

## **Rule 12: Managing and Closing Cases**

- 12.1 Managing Cases.** The Family Court Staff shall monitor the pending docket and manage the cases so that all issues can be expeditiously resolved. Attorneys shall cooperate in assisting the Family Court Staff in identifying the issues to be heard in cases in which they are involved. Therefore, attorneys and parties should be careful in using and accurately preparing the AOC Domestic Cover Sheets required for filings in Family Court cases.
- 12.2 Closing Cases.** In Family Court matters, when a judgment or order is entered which renders moot issues not addressed in the order, the Clerk shall close the moot issues administratively upon being informed of the judgment or order resolving the main issue. Therefore, the Clerk shall administratively enter as closed and remove from the pending docket the following issues which are moot:
- (1) The entry of a final Equitable Distribution Order shall close any request for an Interim Distribution;
  - (2) The entry of an Alimony Order shall close any request for Post-Separation Support;
  - (3) The entry of a Divorce Judgment shall close a request for Divorce from Bed and Board, whether the Divorce is entered in the main action or in a collateral action between the parties. To complete the record, the Clerk may place a certified copy of the Divorce Judgment in the case in which the Divorce from Bed and Board is pending if the Divorce was granted in a separate action;
  - (4) A final Custody Order shall close any request for Temporary Custody;
  - (5) Orders or Judgments resolving all other issues shall close any request for such other relief as may be appropriate or similar requests for unspecified additional relief.

## **Rule 13: Remanded Cases**

- 13.1 Remands.** When cases are remanded for trial by the Appellate Division, appellant's counsel shall promptly notify the Family Court Staff that the case can be scheduled for any remaining issues.

## **Rule 14: Family Court Advisory Committee**

- 14.1 Family Court Advisory Committee.** A Family Court Advisory Committee shall be established whose function shall be to periodically review these Rules, to serve as a liaison between Family Court and the community, to bring issues affecting families to the attention of Family Court, to inform Family Court of services and programs within the community available to assist families in crisis, to communicate and inform Family Court of the current and emerging needs of

## **Rule 15: Amendments and Modifications**

**15.1 Amendments and Modifications.** These rules are subject to amendment or modification as experience indicates and requires.

**Appendix**  
**Pitt County Family Court Domestic Forms**

Form #1	AOC Coversheet
Form #2	Judicial Assignment and Notice of Hearing
Form #3	Child Support Financial Affidavit
Form #4	Financial Affidavit
Form #5	Order to Attend Custody Mediation
Form #6	Equitable Distribution Inventory Affidavit
Form #7	Request for Peremptory Setting
Form #8	Equitable Distribution Scheduling and Discovery Order
Form #9	Request for Continuance
Form #10	Pre-Trial Order