

**STATE OF NORTH CAROLINA**

**14<sup>TH</sup> JUDICIAL DISTRICT**

**DURHAM COUNTY**

**THE GENERAL COURT OF JUSTICE**

**DISTRICT COURT DIVISION**

**JUVENILE COURT**

**ORDER ADOPTING LOCAL RULES FOR FAMILY COURT**

The attached Local Rules for Family Court are hereby adopted effective September 1, 2009 and shall apply to all cases filed on or after that date and, insofar as practical, to all pending cases.

These rules supersede all previous rules pertaining to Abuse, Neglect and Dependency cases in the 14<sup>th</sup> Judicial District.

It is so ordered, this the 31<sup>st</sup> day of August, 2009.

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HONORABLE ELAINE M. BUSHFAN  
CHIEF DISTRICT COURT JUDGE  
14<sup>TH</sup> JUDICIAL DISTRICT

**Durham Family Court Rules for  
ABUSE/NEGLECT/DEPENDENCY  
(including Termination of Parental Rights) Court**

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## **1.0 SCOPE**

- 1.1 These rules apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected and /or dependent, and petitions to terminate parental rights. A copy of these rules shall be maintained in the Juvenile Clerk's office and in the Family Court office.

## **2.0 PURPOSE**

- 2.1 These rules establish procedures for Juvenile Court in cases in which a petition is filed alleging that a juvenile is abused, neglected and /or dependent, petitions and motions to terminate parental rights.
- 2.2 These rules are designed to fulfill the purposes of and insure compliance with the North Carolina Juvenile Code and related statutes, and the Adoption and Safe Families Act.
- 2.3 These rules are designed to help achieve a permanent, stable and safe home for juveniles in a timely manner by:
- (1) providing oversight in case planning;
  - (2) making proceedings accessible and understandable to families and juveniles;
  - (3) encouraging the involvement of families and juveniles in the decision-making process;
  - (4) helping parties present issues and evidence to the court in an efficient manner;
  - (5) eliminating unnecessary delays in court proceedings;
  - (6) promoting the integration of services for the parents/caretakers and children involved in hearings, and by increasing their access to community services;
  - (7) whenever possible and in the best interests of the child, preserving and strengthening the child's family ties, removing the child from the custody of the child's parent or legal custodian only when the child's safety and welfare cannot otherwise be adequately safeguarded;
  - (8) securing for the child a safe and appropriate placement when removal from the child's parent or legal custodian is necessary and in the child's best interests;
  - (9) providing a just, thorough, speedy and efficient determination of each juvenile protection matter before the court and ensuring due process for all persons involved in the proceeding.

## **3.0 CONSTRUCTION AND ENFORCEMENT**

- 3.1 These rules shall be construed to accomplish the purposes set forth in Rule 2. The court may impose sanctions against a party or attorney who fails to comply with these rules; however, no rule shall be construed, applied, or enforced in a manner that will endanger or harm a child or prejudice the rights of any party.

- 3.2 The scheduled times and dates in these rules may be modified from time to time to reflect scheduling changes at the direction of the Chief District Court Judge. Modifications shall be communicated to all attorneys who regularly practice in Juvenile Court by memorandum from Family Court staff. The memorandum shall be placed in attorneys' boxes and sent by email. All memoranda shall be posted in a conspicuous location and added to the Appendix of these rules.

#### 4.0 **DEFINITIONS**

Unless the context clearly requires otherwise, for purposes of these rules:

- (1) **Juvenile Case Coordinator** means a qualified member of the Family Court Staff.
- (2) **Clerk** means any clerk of Superior Court, acting clerk or assistant or deputy clerk.
- (3) **Court** means the District Court division of the General Court of Justice.
- (4) **DSS** means the county department of social services in the county in which a case is initiated or heard.
- (6) **Guardian *ad Litem* volunteer** means the Guardian *ad Litem* volunteer who acts on the behalf of the child pursuant to NC GS 7B-1200.
- (7) **Attorney Advocate** means one representing the child in conjunction with the Guardian *ad Litem* volunteer pursuant to NC GS 7B-601 and NC GS 7B-1200.
- (8) **Guardian *ad Litem* for the parent** means a court-appointed attorney who assists the parent and his/her counsel pursuant to NC GS 7B-602.
- (9) **Family Drug Treatment Court** is a court-supervised substance abuse treatment option for parents and/or guardians with active Abuse, Neglect, Dependency court adjudications which mandate treatment. Family Drug Treatment Court offers intensive, outpatient treatment supported by incentives and sanctions and encourages the successful rehabilitation of the parent or guardian. (See the sample Order in the Appendix to these Rules).
- (10) **Judge** refers to any District Court Judge.
- (11) **UCCJEA** means the Uniform Child Custody Jurisdiction and Enforcement Act, Chapter 50A of the North Carolina General Statutes.

#### 5.0 **COURTROOM PROCEDURE**

- 5.1 **Interpreters.** Counsel shall notify the Juvenile Case Coordinator of the need for an interpreter at the pretrial for the hearing. If there is no pretrial conference, counsel shall notify the Juvenile Case Coordinator by 8:00 a.m. on the Monday of the week the hearing is scheduled.
- 5.2 **Incarcerated parties.** At or before 9:00 a.m. on the day of the hearing, Counsel shall notify the deputy assigned to Abuse, Neglect, Dependency Court that their client needs to be brought over from the Durham County Jail. (It is the responsibility of counsel for the

parent to secure attendance by writ if the incarcerated parent is needed for the proceeding.)

5.3 **Appointment of Guardian *ad Litem* for a parent.** A hearing for an inquiry as to whether or not to appoint a Guardian *ad Litem* for a parent shall be held pursuant to statute. Whenever possible, unless waived by the parent, the hearing shall be a closed hearing.

5.4 Hearings in progress take priority over other hearings excluding nonsecure custody hearings.

## 6.0 **APPOINTMENT OF COUNSEL**

### 6.1 **Abuse/Neglect/Dependency and Termination of Parental Rights.**

A. The Public Defender's office, pursuant to the Rules of Appointment for Indigent Cases for the Fourteenth Judicial District, shall maintain a current list of attorneys eligible to be appointed to represent indigent parents of children alleged to be abused, neglected or dependent. To be included on the list, an attorney must maintain an office in Durham County, have a local working telephone number at which he or she can be contacted, have the ability to receive and send email correspondence, maintain a mailbox in the Family Court office in the Judicial Annex or wherever designated, be familiar with the juvenile code regarding abuse, neglect and dependency proceedings and complete any initial or follow-up training specified by the Public Defender. Attorneys shall pick up petitions or other documents relating to abuse, neglect and/or dependency and termination of parental rights matters from the attorney mailbox in the Judicial Annex or wherever designated.

B. Upon the filing of a petition alleging that a juvenile is abused, neglected or dependent, the County Attorney's office shall fax a copy of the petition immediately to the Public Defender's office, which shall appoint provisional counsel to represent the Respondent parents. An attorney shall not accept appointment in a case if he or she knows any reason why he or she may not be available to try the case from the first non-secure custody hearing after the attorney is notified of the appointment through the adjudication, which should occur within sixty days from the filing of the petition, if possible. The summons, or notices attached to the summons, shall inform the respondent of the appointment of the Office of the Public Defender as provisional counsel and that:

- (1) The respondent may retain counsel; and
- (2) The court, at the first hearing will determine whether the respondent qualifies for appointed counsel and, if the respondent does, whether the respondent waives the right to counsel; and
- (3) The court will dismiss the assigned counsel if the respondent does not qualify for appointed counsel or the respondent waives the right to counsel.

- C. **Termination of Parental Rights.** In any case in which a petition or motion for termination of parental rights is filed, and the parent whose rights are sought to be terminated is represented by an attorney in an abuse, neglect, or dependency proceeding in the district, the petitioner shall mail the attorney a copy of the summons or notice (if applicable) and petition or motion. If the parent applies and qualifies for court-appointed counsel, the Public Defender shall appoint the same attorney to represent the parent in the Termination of Parental Rights Proceeding.

It shall be the responsibility of the attorney to ensure he/she has the complete file. If the termination of parental rights proceeding is filed as a Motion in the Cause, pursuant to NC G.S. 7B-1102, the current appointed counsel, including the Guardian *ad Litem* for the parent, shall continue representation, unless that attorney has properly moved the court to withdraw.

If the parent is not currently represented by counsel in a pending abuse, neglect, or dependency proceeding, counsel shall be appointed as in Rule 6.2.

- D. **Guardian *ad Litem* (GAL) Attorney.** Appointment of a GAL attorney advocate for the child shall occur upon the filing of a petition and in accordance with NC G.S. 7B-601. The GAL Attorney Advocate and GAL program shall be appointed absent a conflict. In the event of a conflict, the Judge shall appoint an attorney to represent the child from a list maintained by the court.
- E. **GAL Attorney for Respondent Parent(s).** Guardian *ad Litem* for parents shall be appointed as provided in G.S 7B-602(b) and (c), G.S. 7B-1101.1(b) and (c), and GS 1A-1, Rule 17.

- 6.2 **Qualification of Counsel.** The Public Defender shall maintain three lists of attorneys eligible to be appointed to represent parents of children alleged to be abused, neglected or dependent.

- (1) **List A.** To represent parents of children alleged to be abused, neglected or dependent, an attorney must meet the requirements of section 5.1A above, and must:
  - a. have thoroughly reviewed the Durham County Local Rules for Juvenile A/N/D Court;
  - b. be willing to attend CLE programs on abuse, neglect and dependency cases when offered and as requested by the Public Defender;
  - c. be willing to have a mentor (when available) for the first year of practice in juvenile court if requested by the Court or the Public Defender.
- (2) **List B** To represent parents of children alleged to be abused, neglected or dependent, where a parent also faces criminal charges arising from the same set of facts alleged in the juvenile court petition, an attorney must meet all the requirements in paragraph (1) above and meet all requirements for the relevant (felony or misdemeanor) list of criminal attorneys.

The attorney appointed to represent a parent is responsible for reviewing the allegations in the juvenile petition and assessing the need for an attorney from List B. If the appointed attorney determines that the parent needs an attorney from List B and the appointed attorney is not on List B, the appointed attorney shall notify the Public Defender, and if requested by the Public Defender, shall move to withdraw so that the Public Defender can appoint new counsel from List B.

- (3) **List C.** To represent parents in termination of parental rights cases, an attorney must be licensed to practice law for two (2) years or more, meet all requirements set forth in paragraph (1) above, and have demonstrated proficiency in the field of juvenile law regarding abuse, neglect and dependency cases.

Notwithstanding this provision, an attorney who has represented a parent in an abuse, neglect or dependency case shall continue to represent the parent in a subsequent motion or petition to terminate parental rights case unless that attorney has properly moved the Court to withdraw.

## **7.0 RESPONSIBILITY OF ATTORNEYS**

- 7.1 **Priority.** An attorney who represents a party in a case scheduled for hearing shall appear at the calendar call unless excused by the Court or by agreement of all other parties. An attorney who has a conflict in another court shall comply with the relevant rules relating to priority as specified in Rule 3 of the North Carolina General Rules of Practice, and it shall be the responsibility of the attorney to keep the courtroom clerk or Juvenile Case Coordinator informed of his or her location at all times

- 7.2 **Continuation of Representation.** Provisional counsel shall be removed by the court for the reasons set out in NC G.S. 7B-602(a). The removal of provisional counsel does not affect the right of the parent to subsequently come forward and request court appointed counsel. After an attorney enters an appearance or accepts an appointment in a case, he or she shall represent his or her client through all stages of the proceedings pursuant to NC G.S. 7B, as long as the child continues within the jurisdiction of the Court, until such time as the matter is appealed, if applicable.

- 7.3 **Withdrawal by Counsel.** If an attorney appointed to represent a parent has been unable to establish contact with the parent, the appointed attorney shall be permitted to withdraw from the case at the call of the adjudication hearing.

If an attorney appointed to represent a parent has been unable to maintain contact with the parent subsequent to the adjudication hearing, the appointed attorney shall be permitted to withdraw after the first review with no contact, absent a compelling reason. Further, an attorney appointed to represent a parent may be permitted to withdraw at any time upon filing of a motion with good cause. Any order granting a motion to withdraw

as counsel shall include the last known address of the parent for the purpose of service of future pleadings in the case.

- 7.4 All attorneys who are placed on the Juvenile Court lists by the Public Defender's office shall maintain a functioning email account and provide the address to the Juvenile Clerk and Juvenile Case Coordinator. This address will also be furnished to all parties involved in an assigned case for the purposes of correspondence between the parties regarding scheduling and negotiations. Additionally, if an attorney is given a mailbox in the Family Court offices, he/she shall check the mailbox on a regular basis for documentation needed for assigned cases, memoranda and updates.

If any attorney has reason to believe he or she has an email account which for any reason does not accept email from other parties or can not send email to any parties, that attorney shall immediately inform the Case Coordinator of the problem. Unless the account is not working for a temporary time only, the attorney shall document with the Case Coordinator his or her efforts to correct the malfunction. If the Case Coordinator is not satisfied with the efforts to correct the malfunction, the Case Coordinator shall inform the Family Court Administrator of the problem. The Family Court Administrator shall take corrective action which may include reporting the lack of compliance to the Chief District Court Judge or the Public Defender if an attorney is receiving court appointments.

All attorneys must further provide a working telephone number to the juvenile clerk and case coordinator. It is the attorney's responsibility to inform them of any changes to any contact information.

## **8.0 CONTINUANCES**

- 8.1 No extension of time or continuance beyond the time specified by statute, order, or these rules shall be granted, except for good cause, as determined by the assigned Judge, or as delineated in the Juvenile Code or case law. The consent of the parties alone is not good cause for an extension or continuance.
- 8.2 Whenever possible, motions for continuances shall be made in writing and served on all the parties and the Juvenile Case Coordinator at least two days prior to the scheduled hearing. Service may be affected by hand delivery, mail, facsimile transmission, or email attachment. All parties shall have an opportunity to be heard on the motion.
- 8.3 Whenever possible, orders for continuance shall be prepared and tendered to the judge for signature in open court by the moving party; however, the moving party is not precluded from submitting the order for signature after court has recessed. The clerk shall make sufficient copies for all attorneys and place the copies in the attorneys' boxes in the Family Court office. A copy of the form continuance order is in the Appendix to these Rules.

## 9.0 COURT SCHEDULE

### A. Primary Court Week

In the schedule listed below, the morning court session runs from 9:30 a.m. until 1:00 p.m. The afternoon court session runs from 2:30 p.m. until 5:00 p.m.

**Monday Morning – Nonsecures and Motions:** The summons and notices will provide a 9 a.m. court time for parents to appear to complete paper work for court appointed counsel and for parent attorneys to meet with their clients. The calendar call will be at 9:30 a.m.

**Tuesday Morning:** Reviews on cases in which the oldest child's last name begins with A through H. Also, TPRs and adjudications may be mixed in. Calendar call will be at 9:30 a.m.

**Tuesday Afternoon:** Reviews on cases in which the oldest child's last name begins with I through M and overflow from the morning. Calendar call will be at 2:30 p.m.

**Wednesday Morning:** Reviews on cases in which the oldest child's last name begins with N through Z and TPRs and adjudications regularly scheduled. Calendar call will be at 9:30 a.m.

**Wednesday Afternoon:** TPRs and adjudications and overflow from the morning. Calendar call will be at 2:30 p.m.

**Thursday and Friday (all day):** TPRs and adjudications. Calendar call will be at 9:30 a.m.

### B. Secondary Court Week

**Monday Morning – Nonsecures and Motions:** The summons will provide a 9 a.m. court time for parents to complete paperwork and for parent attorneys to meet with parents. Calendar call will be at 9:30 a.m.

**Tuesday Afternoon:** Prehearings on adjudications, reviews and TPRs.

2:30 p.m. – 3:30 p.m.: Prehearings for adjudications and TPRs. Calendar call will be at 2:30 p.m. for adjudications and TPRs.

3:30 p.m. – 5 p.m.: Prehearings on reviews. Calendar call will be at 3:30 p.m. for reviews.

**Wednesday Afternoon:** Entry of order conferences. All cases from the prior court session of the judge for which an order has not been submitted to the case coordinator by the previous Friday will be on a calendar for entry of order. A calendar with all cases on for order conference will be emailed on Monday afternoon. Any conflicts on orders will be resolved at the order conference and the order will be completed and submitted to the judge for signature that afternoon. Calendar call will be at 2:30 p.m.

### C. Emergency hearings regarding abuse, neglect and dependency cases shall be scheduled by the Juvenile Case Coordinator on the next available court date for the judge assigned to the case.

## **10.0 CALENDAR**

- 10.1 The Juvenile calendar shall be maintained by the Juvenile Case Coordinator. No case shall be scheduled on such calendar except by the assigned judge or by the Juvenile Case Coordinator.
- 10.2 Any cases involving a juvenile previously adjudicated delinquent, undisciplined, abused, neglected, or dependent shall be heard by the same judge who presided at the adjudication, unless circumstances otherwise require. At filing, the clerk or juvenile case coordinator shall review the court records to determine the proper assignment.
- 10.3 At or before the conclusion of each hearing, the next hearing date shall be set, if applicable. If parents are present, a written Notice of Hearing for the next court date shall be given to them by the juvenile clerk with a copy placed in the file.
- 10.4 If the assigned judge is not going to be available for a court session, notice shall be given to the Juvenile Case Coordinator who will notify all attorneys by email or by telephone. The Juvenile Court is a priority court and should not be cancelled unless absolutely necessary. Attempts will be made to secure the other judge presiding in dependency, neglect and abuse matters to preside over the juvenile court session. Cancellation of court or use of a retired judge shall occur only when emergencies dictate.
- 10.5 Court calendars shall be provided via email to, the Guardian *ad litem* office, County Attorney's office, the Public Defender's office, Family Drug Treatment Court Case Coordinator, the DSS Mental Health Liaison and all counsel with a case on the calendar. The calendars will be modified to adhere to confidentiality requirements. Parent attorneys can request from the Juvenile Case Coordinator, a listing of the cases to which they are counsel for Respondent parents at any time.
- 10.6 At the conclusion of the calendar call, the Court, after consultation with all parties, shall announce the order of hearings and the approximate time required to complete each case. The court shall to the extent possible, assist in establishing a schedule in order to allow attorneys, parties and witnesses to address business elsewhere while waiting for their cases to be reached. Attorneys who are excused until a certain time shall return at that time and shall keep the courtroom clerk or Juvenile Case Coordinator informed of their location until that time.

## **11.0 TIMELINESS REQUIREMENTS**

- 11.1 If a child is placed in nonsecure custody, a hearing to determine the need for continued nonsecure custody shall be held within seven days, unless an earlier hearing is required by NC G.S. 7B-506. Subsequent review of nonsecure custody shall be held as required by NC G.S. 7B-506.

- 11.2 If a child is placed in nonsecure custody, the adjudication hearing shall be scheduled for the earliest possible date and in no event more than sixty days after removal of the child from his or her home.
- 11.3 In all other cases, the adjudication hearing shall be scheduled for no more than sixty days after the filing of the petition.
- 11.4 Whenever possible, the disposition shall take place immediately following adjudication. The disposition will otherwise be set before the same judge as soon as practicable, and in no event more than thirty days after the adjudication.

**12.0 FAMILY COURT TIME STANDARDS**

- 12.1 Unless otherwise noted, “days” are calendar days, and are counted from the date the petition is filed.
- 12.2 Not all of the stages listed below will occur in every case; *e.g.*, the child may not be taken into nonsecure custody or the petition may be dismissed.
- 12.3 These time frames represent goals for maximum time limits. In every case, the child’s best interest is the paramount goal.
- 12.4 The time frames listed above are intended to be consistent with the Federal Adoption and Safe Families Act provisions and North Carolina Statutory provisions.
- 12.5 All orders should be filed within thirty days following the conclusion of a hearing. A judge may allow additional time for the drafting of an order in complex cases but all orders must be filed within thirty days following the hearing. The Court shall set entry of order dates in open court for the respective Judge’s monthly Wednesday afternoon session.

**13.0 SERVICE OF SUMMONS AND PETITION**

From the date the Petition is filed until the adjudication hearing, the Petitioner shall have a continuing duty to identify and locate any parent who has not been served with a copy of the summons and petition, and to have the summons and petition served on any such parent. The court may also inquire of any party concerning any information that party has which may lead to the location and service on the parent. A parent’s request for counsel shall be deemed a general appearance for purposes of service of the summons and petition.

#### **14.0 PRE-TRIAL CONFERENCES FOR ADJUDICATIONS, REVIEWS AND PERMANENCY PLANNING HEARINGS**

- 14.1 **Purpose.** The purpose of the pretrial conference shall be to explore the possibility of settlement, to narrow the issues as much as possible, to stipulate to those facts which are not in dispute, to estimate the time the matter will take for hearing, to prioritize the hearing order of the scheduled cases and to share witness and exhibit lists. Each party shall distribute to all other parties a copy of all exhibits intended to be used at trial. Further, any attorney considering a pre-trial motion shall put all other counsel on notice of same at the pre-trial conference whenever possible. Copies of all available listed exhibits intended for use at trial shall be provided. Any listed exhibit not available for distribution at the pre-trial conference shall be distributed as soon as available. Parties are encouraged to share any exhibits intended to be used for hearing on adjudication at the earliest practicable time.
- 14.2 **Assigned Judge in Attendance.** The judge assigned to the case will be present at the pre-trials to assist the parties in narrowing the issues, estimating length of hearings and prioritizing cases to be heard. If a resolution is reached, an order can be proffered to the judge at pre-trials for signature and that matter will be removed from the trial calendar. If no resolution is reached, the pretrial judge will remain the assigned judge through the conclusion of the case.
- 14.3 **Scheduling.** There shall be a pre-trial conference for each calendared case on the Tuesday afternoon in the secondary (i.e., short) court week for the assigned judge.
- 14.4 **Attendance.** All counsel of record shall attend the conference. The parties, whether represented or not, shall be present at the conference to assist with preparation for the trial or shall specifically give counsel authority to consent. Consent orders may be entered pursuant to NC G.S. 7B-902.
- 14.5 **Sanctions.**  
If counsel fails to appear for the scheduled pretrial conference, the Court may issue an Order to Show Cause after properly setting the matter for hearing and finding contempt. Sanctions may include the following: fines and any other sanctions deemed appropriate by the Court.

#### **15.0 DISCOVERY**

- 15.1 **Orders.**  
Discovery of The Durham Department of Social Services record is available by the use of a discovery order. The discovery order, prepared by the Juvenile Case Coordinator, which is in the appendix to the rules, may be signed ex parte upon appointment or retention of counsel. A copy of the discovery order shall be served on the attorney for the Department of Social Services and mailed or hand-delivered to the DSS Program Manager's Designee, currently Tammy Castro-Yelton, if known, prior to any initiation of

discovery. The following information shall be provided to each parent attorney by placing those records in a sealed envelope in the attorney's juvenile court box or sent electronically within ten business days of the delivery of this order to DSS:

1.
  - a. The Report (deleting the name and identity of the reporter) concerning the pending petition and any dictation and all handwritten notes, safety assessments, structured assessments, and Team Decision Making reports.
  - b. Any child medical evaluations and medical records or reports acquired during the investigation.
  - c. If the family was in case management at the filing of the petition, any case management dictation related to the current petition.
2. If DSS objects to providing any of the above records, a motion shall be filed setting out those records objected to and the basis for any objection. The motion shall be served on all parties by hand delivery or by facsimile and be set for hearing at the next regularly scheduled setting for nonsecure custody hearings.
3. Any requests for any additional DSS records may occur as follows:
  - a. The attorney shall communicate with the DSS Child Protective Services Program Manager's designee, presently Tammy Castro Yelton, in writing, and request review of the record. The request will be sent by facsimile to 919-560-8442. The Program Manager's Designee will telephone the attorney to schedule a time for the attorney to review the record within 5 business days of the request. The following information shall be provided to each parent attorney by placing those records in a sealed envelope in the attorney's juvenile court box or sent electronically within 10 business days of the delivery of this order to DSS.
  - b. If DSS objects to providing any of the additional records requested, a motion shall be filed setting out those records objected to and the basis for any objection. The motion shall be served on all parties by hand delivery or by facsimile and be set for hearing at the next regularly scheduled setting for nonsecure custody hearings.
4. Subsequent requests for DSS records may occur as follows:
  - a. If the matter has been adjudicated, the parent attorney request for records will be made to the supervisor of the assigned social worker. The request will be in writing with a copy to the assigned DSS attorney. The supervisor shall telephone the attorney to schedule a time for the attorney to review the record within 5 business days of the request. After the attorney reviews the DSS record and makes notations on documents requested, the records shall be copied and placed in the juvenile box of the attorney within 5 business days.
  - b. If DSS objects to providing any of the requested records, a motion shall be filed setting out those records objected to and the basis for any objection. The motion shall be served on all parties by hand delivery or by facsimile and be

set for hearing at the next regularly scheduled setting for nonsecure custody hearings.

5. The release of this information is restricted for the purpose of representation of the respondent parent in Juvenile Court and shall not be released for any other purpose without further order of this court. The limitations set out in Rule 16 do not apply to the discoverability of sibling or parent information.
6. For any motion for continuance of an adjudication or disposition based upon not having received discovery, the court should inquire of the moving party the date of the attorney's appointment as counsel, the date the discovery order was sent to DSS, and the date the DSS records were received by the attorney. If the attorney requested additional records, the court should inquire of the date of the request to review the record, the date of the review of the records and the date the records were received.

15.2 Any party may file a motion to compel discovery of specific information or material. The motion shall be calendared for hearing within five business days of the date it is filed.

## **16.0 JUVENILE RECORDS**

- 16.1 **Confidentiality of Juvenile Records.** Juvenile Records, Human Services and/or Department of Social Services files, medical records, psychological evaluations and other assessments are confidential. All recipients of confidential information, including, but not limited to, court calendars, copies of the juvenile's files, discovery, court summaries, records of the juvenile and his or her parents' psychological evaluations and assessments, medical records, Family Treatment Court records, and all similar records, shall exercise extraordinary care to prevent unauthorized dissemination of such documents. Copies of the court calendar contain information involving other juveniles and therefore shall not be provided to the juvenile, a parent of the juvenile, other family members or the foster parent. No confidential information (i.e. court reports and non-redacted calendars) shall be emailed to and from an nccourts.org email address without taking reasonable precautions to protect confidentiality.
- 16.2 **Juvenile File Numbers.** The Clerk of Superior Court shall assign a separate and individual file number to each juvenile named in a petition alleging abuse, neglect, and/or dependency or in a petition to terminate parental rights in which no petition alleging abuse, neglect, and/or dependency has been filed. A juvenile will only receive one file number, even if a subsequent abuse/neglect/dependency, delinquency and/or undisciplined petition is filed.

### 16.3 Filing Documents.

- A. Documents to be filed shall contain all applicable file numbers.** Any and all documents submitted for filing in the juvenile’s court file shall contain all file numbers for which that document is applicable. Documents include, but are not limited to, motions, court summaries, orders, psychological and/or substance abuse evaluations, letters from a juvenile to the Court, exhibits introduced by any party, Affidavits of Indigency, and returns of service. Exhibits for which there is only one original (i.e. photographs and other tangible exhibits) shall be filed in the juvenile file of the oldest juvenile involved in a petition and a separate document shall be filed in each applicable file referencing the filing location of the original exhibit. With the exception of the original documents accompanying the petition alleging abuse, neglect, or dependency, the party filing the document or submitting it to the Court shall be responsible for placing all file numbers for which that document is applicable on the document before filing or submission to the Court.
- B. Documents to be filed only in applicable files.** A document shall only be filed in the juvenile’s file for which it is applicable.
- C. Example.** The following is an example of appropriate filings:

A petition is filed alleging neglect of Juvenile A, Juvenile B, and Juvenile C. Jane Doe is the biological and legal mother of all three juveniles. Each juvenile has a different biological father.

<u>File Number</u>	<u>Juvenile</u>	<u>Date of Birth</u>	<u>Mother</u>	<u>Father</u>
06-J-901	Juvenile A	1-1-02	Jane Doe	John Apple
06-J-902	Juvenile B	1-2-04	Jane Doe	John Barnes
06-J-903	Juvenile C	1-3-06	Jane Doe	John Cole

Any pleadings, documents and/or exhibits pertaining to these cases should contain the following file numbers:

06-J-901, 06-J-902 and 06-J-903:

- Court summaries that reference all the juveniles, the mother and the fathers of the juveniles
- Orders regarding all the juveniles, the mother and the fathers of all the juveniles
- A motion filed by Jane Doe’s attorney to continue the adjudication hearing
- Jane Doe’s Affidavit of Indigency
- They psychological evaluation of Jane Doe

06-J-901 only:

- The psychological evaluation of Juvenile A
- The apartment lease for John Apple
- The letter to the Court written by Juvenile A
- John Apple’s Affidavit of Indigency

- A cross-reference to the family photograph introduced by Jane Doe

06-J-902 only:

- The report card for Juvenile B
- The substance abuse evaluation for John Barnes
- A photograph of Juvenile B
- A waiver of counsel for John Barnes
- A cross-reference to the family photograph entered by Jane Doe

06-J-903 only:

- The forensic evaluation of Juvenile C
- The pay stubs for John Cole
- The letter to the Court written by the mentor for Juvenile C
- John Cole's Affidavit of Indigency
- Family photograph album introduced by Jane Doe

## **17.0 DISPOSITIONS**

17.1 **Pre-trial Conference on Disposition.** If disposition occurs on a date after the adjudication, there shall be no additional pre-hearing conference unless ordered by the Court. In the event there is a pre-trial conference for disposition, it shall follow the rules of pre-trial conferences for adjudications.

17.2 **Pre-disposition Report.** Prior to disposition/settlement, DSS shall prepare a pre-disposition report that shall include at least the following:

- A. A description of the placement plan for the child and how that plan is appropriate to the needs of the child;
- B. A description of the plan of services for the child and his or her family, and how that plan is appropriate to meet the needs of the child; and
- C. A statement of changes in parental behavior which are needed to correct the conditions that led to the abuse, neglect or dependency, and the actions the parent must take;
- D. If there is a recommendation that the child be removed from the home, the report shall also include:
  1. What efforts were made by DSS to prevent the need for placing the child outside the home,
  2. What efforts were made by DSS to reunify the family, including services that have been offered, provided or rejected;
  3. A statement of why the child cannot be reasonably protected from the identified problems while remaining in the child's home;

4. The identity of all relatives and friends who have been contacted about providing a placement for the child;
  5. A suggested visitation plan for the child;
  6. A statement of the child's special needs and how they may be met; and
  7. The identity and location of the child's siblings and a statement of steps required to maintain contact between the siblings and to reunify the family.
- E. If the court has ordered or DSS recommends that reunification efforts are not to continue, reasons shall be specifically given in the report.
- 17.3 The GAL for the child is not required but is strongly encouraged to prepare a disposition report to assist the Court in reaching a disposition that will best serve the needs of the child.
- 17.4 If a report is not prepared and submitted to the parties, copies of the recommendations of the GAL shall be provided to all parties, including pro se parties by the Thursday preceding the pretrial date for the Tuesday, Wednesday or Thursday adjudication.
- 17.5 The Court shall not review the disposition report prior to the adjudication hearing unless the parties have settled all adjudication issues or unless the parties otherwise agree.

Before accepting a stipulated disposition, the Court shall inquire of the parties in open court to determine that they understand the contents of the stipulation and its consequences; and that they voluntarily consent to its terms. The Court's findings shall be set forth in the record. A party's non-resistance to entry shall be acceptable in the court's discretion. Consent Orders shall be entered pursuant to NC G.S. 7B-902.

## **18.0 SUBMISSION OF COURT REPORTS**

All court reports from any party and/or their counsel may be submitted to parties via e-mail, with a hard copy for the Court so long as reasonable action is taken to protect confidentiality.

### **18.1 Review Hearings – Submission to District Court Judge.**

DSS Court reports for all review hearings (i.e., ninety day review hearings following Adjudication/Disposition, six month review hearings, permanency planning hearings, post-Termination of Parental Rights hearings) shall be submitted to the Family Court Office on or before the Thursday that is twelve days before the pretrial conference. All other reports (including, but not limited to, reports from Durham County Social Services, the Guardian *ad litem* Program, and mental health, psychological, substance abuse and/or other evaluations previously ordered by the court) shall be submitted the Thursday before the pretrial.

### **18.2 Submission of Adjudication/Disposition and Termination of Parental Rights.** These reports shall not be submitted to the presiding judge prior to the Adjudication hearing or the Termination of Parental Rights hearing.

18.3 **Timing of Submission of Pre-Adjudication and Disposition Reports.**

Durham County Social Services shall submit their court reports for all reviews, all Adjudication /Disposition hearings and all Termination of Parental Rights hearings to all other pertinent persons on or before the Thursday that is twelve days before the pretrial conference. The Guardian *ad Litem* program or Conflict Guardian *ad Litem* Attorney Advocate shall submit their court reports the Thursday before the pretrial hearing.

- 18.4 For the early submission of Court Reports, pertinent “persons” typically include: the assigned DSS Attorney, parents’ counsel, the Guardian *ad Litem* for a parent, Durham County Social Services social worker and the Guardian *ad Litem* Program and/or the Guardian *ad Litem* Attorney Advocate. If a parent is unrepresented by counsel, then a copy shall be mailed to the parent’s last known address unless the Court determines that notice is not required. Any report listed in Rule 16.1 above that is submitted to the presiding judge for early review shall be submitted to all pertinent persons at the time of submission of the court summary so that there is an opportunity to file notice that counsel objects to the Judge reviewing the reports and set times to hear objections prior to the judge reviewing the report.

The court order on adjudication and disposition and subsequent review orders at the end of the order shall include the following:

- a. the date and time of the review hearing
- b. the date and time of the prehearing conference
- c. the date and time court reports are due
- d. the entry of order date (date signed by the Judge)

The Durham DSS Court Summary for review shall be submitted to the parties and the juvenile case coordinator on or before the Thursday that is twelve days prior to the scheduled prehearing conference for the review hearing. The GAL and the parent may also file a report which is due the Thursday before the pretrial. Summaries and reports may be sent to the parties by mail, by facsimile, by email attachment, or by placement in the juvenile court box.

Objections as previously required no longer are required, however it is the responsibility of each party to notify the assigned DSS attorney and other counsel of the following prior to the prehearing:

- a. That the party has not received a court summary (no later than the Tuesday, 7 days prior to the prehearing conference)
- b. Those areas of the DSS recommendations which are at issue (no later than the Thursday, 5 days prior to the prehearing conference)
- c. Any additional recommendations (no later than the Thursday, 5 days prior to the prehearing conference)

The filing of the GAL or parent counsel of a timely report, no later than the Thursday five days prior to the prehearing conference, as set forth above, satisfies this requirement.

Submission of late court summaries is not condoned by these rules and may be subject to sanctions as deemed appropriate by the court. Late reports must still be delivered to the Family Court Office and may not be delivered individually to the presiding judge by the DSS Attorney, the GAL for the juvenile or the GAL Attorney Advocate. The Family Court Office shall notify the presiding Judge of which reports are tardy.

## **19.0 REVIEW OF CASES**

- 19.1 **Scheduling of Reviews.** The Court shall conduct an intensive review of each case, as provided by statute. The Court may set a review hearing for any case at any time, on its own motion, or upon motion of any party. If a party chooses to file a motion for review, the party shall seek the assistance of the Juvenile Case Coordinator to secure a court date.

When possible, notice of the review hearing shall be given in open Court at the end of the prior hearing. Unless previously set in open court, counsel for the moving party shall serve timely notice of the hearing as required by statute to the other parties. It shall be the responsibility of counsel for the other parties to notify their clients of any hearings.

If a party is unrepresented and that party is not present in the Court at the time the next review date is scheduled and is not given a written Notice of Hearing, a Notice of Hearing shall be mailed by the Juvenile Case Coordinator to the last known address of said party. This requirement is satisfied by sending a copy of the signed order to the unrepresented party, if the order includes a review date.

- 19.2 **Scheduling of Motions.** If a party requesting relief files a motion, the moving party shall serve the motion and a notice of hearing at least five days prior to the hearing date. When service is by facsimile, the sending attorney shall confirm receipt of same by the receiving attorney.

Any party filing a motion of relief with less than five days notice to the parties shall show good cause for said failure. A copy of the motion and notice of hearing shall be delivered to the Juvenile Clerk and Juvenile Case Coordinator.

- 19.3 **DSS Court Summary and GAL Reports.** When the date for filing of court summaries is a holiday, the summaries are due on the next business day following the holiday. DSS court summaries shall be sent by email or placed in the attorney mailboxes located in the Family Court office in the Judicial Annex. Delivery and service on unrepresented parents shall be by mail and delivery is deemed complete as of the date of mailing.

GAL and parents' court reports shall be due five days prior to the pretrial.

While these Rules contemplate that all reports shall be timely filed so that the parties have adequate time to review same, the Court should grant leeway for late reports when to not do so would not be in the best interests of the child. Whenever practicable, reports

should be submitted in a timely fashion and counsel for any party submitting a late report should be prepared to show good cause why same should be accepted.

- 19.4 **Assigned Judge in attendance.** The assigned judge will be present at the pre-trials to assist the parties in narrowing the issues, estimating length of hearings and prioritizing cases to be heard. If a resolution is reached, a consent order can be entered at pre-trials for signature pursuant to NC G.S. 7B-902.
- 19.5 **Preparations of Order.** In the majority of cases, the assigned DSS attorney must prepare a proposed order conforming to NC G.S. 7B-906, but the presiding judge may assign another attorney to draft the order. Entry of order dates shall be set in open court no more than thirty days from the date of the Court's decision. The presiding judge shall make specific findings of fact to support any order in any contested proceeding in addition to rendering the decree. It is the responsibility of all counsel to request the judge to make specific findings.

## **20.0 PERMANENCY PLANNING HEARINGS**

- 20.1 **Calendaring.** The court shall conduct an intensive permanency planning hearing of each case, as provided by statute. The court may set a permanency planning hearing for any case at any time, on its own motion or upon motion by any party. If a party chooses to file a motion, the party shall seek the assistance of the Juvenile Case Coordinator to secure a court date. Notice of the permanency planning hearing may be given in open court at the end of the prior hearing after the presiding Judge assures that all parties are still present when the dates are announced and a written copy must be provided to the parties present in court.
- 20.2 **Notice.** Unless previously set in open court, the counsel for the moving party shall serve a notice of the hearing at least five days prior to the date set for the review hearing.
- 20.3 **Timelines.** In a permanency planning hearing held pursuant NC G.S. 7B-907, the hearing shall be timely held at the judge's next session after the cease reunification order has been entered in open court. The court summaries previously filed shall remain in effect for the pre-hearing conference. Nothing in this section shall prohibit the holding of joint review and permanency planning hearings. However, a permanency planning hearing shall be designated either in the court's previous order or by written notice to all counsel and/or *pro se* parties, unless notice is waived by the parties.
- 20.4 **DSS Court Summaries.** In a permanency planning hearing held pursuant to NC G.S. 7B-907, the DSS attorney shall deliver a written court summary to all counsel, unrepresented parties, and the GAL Office by the Thursday that is twelve days prior to the prehearing conference, which summarizes the progress in the case since the last hearing, and DSS recommendations. When the date for filing of the court summary is a holiday, the summary is due on the next business day following the holiday. DSS court summaries shall be sent by email or placed in the attorney mailboxes located in the Family Court

office. Delivery on unrepresented parents shall be by mail, and delivery is deemed complete as of ten days after the date of mailing.

- 20.5 **Assigned Judge in attendance.** The assigned judge will be present at the pre-trials to assist the parties in narrowing the issues, estimating the length of hearings and prioritizing cases to be heard. If a resolution is reached, a consent order can be entered at the pre-trial conference pursuant to NC G.S. 7B-902 and that matter will be removed from the trial calendar.
- 20.6 **Rescheduling.** If the permanent plan is not implemented, the order shall include the date of a further permanency planning hearing, pursuant to the statutes.
- 20.7 **Preparation of Order.** In the majority of cases, the assigned DSS attorney must prepare a proposed order conforming to NC G.S. 7B-906, but the presiding judge may assign another attorney to draft the order. Entry of order dates shall be set in open court no more than thirty days from the date of the Court's decision. The presiding judge shall make specific findings of fact to support any order in any contested proceeding in addition to rendering the decree. It is the responsibility of all counsel to request the judge to make specific findings.

## 21.0 **TERMINATION OF PARENTAL RIGHTS**

- 21.1 **Extensions of Time To Answer.** Extensions of time are not automatic and may be allowed only for good cause shown explaining why an answer cannot be timely filed. Any motion for extension of time may be made ex parte; however, it must include whether or not Durham DSS, the GAL or any other parent counsel resists the extension of time. The motion must also include the date the termination action was filed; the date the matter is currently set for hearing; whether any extension of time is within or after ninety days from the filing of the action; and whether the proposed extension goes past the current hearing date on the action. In all instances in which the extension of time goes past the hearing date, it further is the responsibility of the moving party to make the motion to continue the hearing.

### 21.2 **Pre-hearing**

**A. Purpose.** The purposes of the pre-trial conference shall be to determine the issues raised by the petition and any filed answer, to address any issues regarding the appointment of counsel, to exchange witness and exhibit lists, and to enter into a pre-trial order. Further, any attorney considering a pre-trial motion shall put all other counsel on notice of same at the pre-trial conference if known at that time.

**B. Order.** The attorneys shall enter into a pre-trial conference order for a juvenile court judge's signature. Each party shall attach to the order a written list of prospective witnesses and exhibits. Copies of all available listed exhibits intended for use at trial shall be provided. Any listed exhibit not available for distribution at the pre-hearing

conference shall be distributed as soon as available. Parties are encouraged to share any exhibits intended to be used for hearing at the earliest practicable time. The orders shall be tendered as soon as possible to the district court judge presiding in juvenile court that week. The Juvenile Clerk shall ensure copies of the signed order are placed in each attorney's box in the Juvenile Clerk's office.

**22.0 MINISTERIAL ORDERS.** The following orders do not require review by the parties prior to submission to the judge but do require a certificate of service after the order is signed and distributed:

- (1) Nonsecure custody orders.
- (2) Orders relieving counsel.

The following orders do not require review by the parties prior to submission to the judge and do not require a certificate of service after the order is signed and distributed:

- (1) Discovery orders
- (3) Home study orders
- (4) Interstate Compact Home Study orders
- (5) Orders appointing or denying counsel
- (6) Paternity testing orders
- (7) Limited redacted order indicating who has custody of a child.

The clerk shall put copies of the order in each attorney's mailbox. The County Attorney representing DSS shall send copies of the orders to appropriate county officials.

**23.0 APPENDIX: FORMS**

The appendix contains the forms listed below. Orders and other forms may be updated by the local rules committee without the changing of these rules. See the Juvenile Clerk or Juvenile Case Coordinator if you need a copy of any Juvenile form.

- (1) Order of Continuance
- (2) Discovery Order
- (3) Notice of Termination of Parental Rights
- (4) Notice of Hearing on Nonsecure Custody and Notice of Prehearing/Settlement Conference
- (5) Family Drug Treatment Court Order



STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

FILE NO.  
IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

IN THE MATTER OF:

**DISCOVERY ORDER**

\_\_\_\_\_  
Name of Respondent Parents: \_\_\_\_\_

Names of Counsel: \_\_\_\_\_

Phone #s of Counsel: \_\_\_\_\_

Adjudication Date: \_\_\_\_\_

Name of DSS Attorney: \_\_\_\_\_

This matter coming on to be heard before the undersigned judge presiding over the District Court of Durham County, Juvenile Division for an order of discovery of Durham DSS records.

**IT APPEARING TO THE COURT** that there are time requirements within the Juvenile Code for matters to be heard, that the time requirement for adjudications is that the matter be adjudicated within 60 days of filing and that the hearings can be continued only for reasons set out in G.S. 7B-803.

**IT FURTHER APPEARING TO THE COURT** that it is in the interests of the administration of justice and that it furthers the purpose of the Juvenile Code that counsel for the respondent parent be provided with DSS= records expeditiously for the purpose of representing the respondent parent in the juvenile court proceedings and for that purpose only.

**IT FURTHER APPEARING TO THE COURT** that this information is confidential pursuant to G.S. 7B-800 and the further disclosure of information in the DSS file should not be allowed and should subject the disclosing party to the contempt powers of the Court.

**IT FURTHER APPEARING TO THE COURT** that authorizing the juvenile coordinator to prepare a discovery order for the court's signature will expedite discovery.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

1. A copy of this order shall be delivered by the juvenile coordinator to the above named DSS Attorney and to each of the above named parent attorneys by placing a copy in the juvenile boxes of said attorneys and delivered to Durham DSS by facsimile to 919-560-8442. The original discovery order shall be placed in the court file.
2. The following information from the DSS record shall be provided to each of the above named attorneys by placing those records in a sealed envelop in the attorney's juvenile court box within 10 business days of the delivery of this order to DSS:
  - a. The Report (deleting the name and identity of the reporter) concerning the pending petition and any dictation and all hand written notes, safety assessments, structured assessments, and Team Decision Making Decision reports.
  - b. Any child medical evaluations and medical records or reports acquired during the investigation.
  - c. If the family was in case management at the filing of the petition, any case management dictation related to the current petition.
3. If DSS objects to providing any of the above records, a motion shall be filed setting out those records objected to and the basis for any objection. The motion shall be served on all parties by hand delivery or by facsimile and be set for hearing at the next regularly scheduled setting for nonsecure custody hearings.
4. Any requests for any additional DSS records may occur as follows:
  - a. The attorney shall communicate with the DSS Child Protective Services Program Manager's designee Tammy Castro Yelton in writing and request review of the DSS record. The request will be sent by facsimile to 919-560-8442. The Program Manager's designee will telephone the attorney to schedule a time for the attorney to review the record within 5 business days of the request. After the attorney reviews the DSS record and makes notations on documents requested, the records shall be copied and placed in the juvenile box of the attorney within 5 business days.
  - b. If DSS objects to providing any of the above records, a motion shall be filed setting out those records objected to and the basis for any objection. The motion shall be served on all parties by hand delivery or by facsimile and be set for hearing at the next regularly scheduled setting for nonsecure custody hearings.

5. If the matter has been adjudicated, the parent attorney request for records will be made to the supervisor of the assigned social worker. The supervisor shall telephone the attorney to schedule a time for the attorney to review the record within 5 business days of the request. After the attorney reviews the DSS record and makes notations on documents requested, the records shall be copied and placed in the juvenile box of the attorney within 5 business days.
6. If DSS objects to providing any of the above records, a motion shall be filed setting out those records objected to and the basis for any objection. The motion shall be served on all parties by hand delivery or by facsimile and be set for hearing at the next regularly scheduled setting for nonsecure custody hearings.
7. The release of this information is restricted for the purpose of representation of the respondent parent in Juvenile Court and shall not be further released for any other purpose without further order of this Court.
8. For any motion for continuance of an adjudication or disposition based upon not having received discovery, the court shall inquire of the moving party the date of the attorney's appointment as counsel, the date the discovery order was sent to DSS, and the date the DSS records were received by the attorney. If the attorney requested additional records, the court shall inquire of the date of the request to review the record, the date of the review of the records and the date the records were received.

Date: \_\_\_\_\_

\_\_\_\_\_  
**JUDGE PRESIDING**

**Date Order Faxed To DSS** \_\_\_\_\_

**\*The discovery is due 10 business days from the date the order was faxed to DSS.**

\_\_\_\_\_  
**Juvenile Coordinator**

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

FILE NO. \_\_ J \_\_\_\_\_

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

IN THE MATTER OF:

NOTICE

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TO: \_\_\_\_\_, Durham DSS; Christy Hamilton Malott; GAL Office; Debbie Boone;  
Rebecca Worley

**YOU ARE HEREBY NOTIFIED** to respond to the attached motion and petition to terminate parental rights filed as a motion in the cause in this case pursuant to GS 7B-1102. This motion and petition has been filed for the purpose of terminating the parental rights of the above named minor child. You must prepare and file with the Clerk Of Superior Court of the county named above a written response to the motion and petition within 30 days after service of this notice. You must also serve a copy of the response on the petitioner or the petitioner's attorney. If you fail to file a response, your parental rights may be terminated. The petitioner will apply to the court for the relief demanded in the petition.

You are also entitled to attend any hearing affecting your parental rights. Parents are entitled to have counsel appointed by the court if they can not afford one, provided they request such counsel at or before the time of the hearing in this matter. Parents may contact the Clerk Of Superior Court immediately to request counsel. As this is a motion in the cause of the pending juvenile matter regarding the above named minor child, any attorney previously appointed will represent the parent in this proceeding unless otherwise ordered by the court.

The hearing on the motion and petition for termination of parental rights will be held before the presiding Judge of the District Court to be held \_\_\_\_\_, 20\_\_ at **9:30 A.M.**, Juvenile Courtroom, First Floor, Durham County Judicial Annex, 201 North Roxboro Road, Durham, North Carolina or as soon thereafter as the petitioner can be heard. A Special Hearing/Prehearing Conference will be held on \_\_\_\_\_, 20\_\_ at **9:30 A.M.**

This the \_\_\_\_ day of \_\_\_\_\_, 2009.

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**THOMAS W. JORDAN, JR.**  
**DEPUTY COUNTY ATTORNEY**  
**P.O. Box 3508**  
**Durham, NC 27702**  
**(919) 560-0712**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing notice and motion and petition for termination of parental rights in the above entitled action by hand-delivery to Christy Hamilton Malott and the GAL Office and by depositing the same, enclosed in a postpaid, properly addressed wrapper in an official depository under exclusive care and custody of the United States Post Office Department addressed to the following above named parties:

Service being in accordance with Rule 5, Chapter 1A of the General Statutes of North Carolina.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
**THOMAS W. JORDAN, JR.**  
**DEPUTY COUNTY ATTORNEY**

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

FILE NO. \_\_\_ J \_\_\_\_\_

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

IN THE MATTER OF:

NOTICE OF HEARING ON NONSECURE  
CUSTODY AND NOTICE OF PREHEARING/  
SETTLEMENT CONFERENCE

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TO: Durham DSS; GAL Office; Christy Hamilton Malott; Debbie Boone; Rebecca Worley; Public Defender;

YOU ARE HEREBY NOTIFIED to appear for a hearing on nonsecure custody on the Durham DSS petition filed herein before the presiding Judge on **Wednesday, May 13, 2009 at \_\_\_:30 PM**. Scheduled hearings for nonsecure custody will be at the following dates and in the court rooms indicated unless the court orders that the hearings not be held:

**May 13, 2009 at 2:30 PM** in the Juvenile Court, 1<sup>st</sup> Floor, Durham County Judicial Annex, 201 N. Roxboro Street, Durham, North Carolina

**May 20, 2009 at 2:30 PM** in Court Room 5, 2<sup>nd</sup> Floor, Durham County Judicial Building, 201 E. Main Street, Durham, North Carolina

**May 27, 2009 at 2:30 PM** in the Juvenile Court, 1<sup>st</sup> Floor, Durham County Judicial Annex, 201 N. Roxboro Street, Durham, North Carolina

**June 3 2009 at 2:30 PM** in Court Room 5, 2<sup>nd</sup> Floor, Durham County Judicial Building, 201 E. Main Street, Durham, North Carolina

PLEASE TAKE FURTHER NOTICE that a prehearing/settlement conference will be held in the above matter in Durham, North Carolina at **9:30 am on the \_\_\_\_\_, 20\_\_** in Juvenile Court, 1<sup>st</sup> Floor, Durham County Judicial Annex, 201 North Roxboro Street, Durham, NC or as soon thereafter as the matter can be heard. An order may be entered by the court at the prehearing conference. Failure to appear at the prehearing conference could result in the court issuing an order to show cause for you to be held in contempt.

This the \_\_\_\_ day of April, 2009.

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THOMAS W. JORDAN, JR.  
DEPUTY COUNTY ATTORNEY  
P.O. Box 3508  
Durham, NC 27702  
(919) 560-0713

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this notice was attached to the summons and petition as to any respondent and by served on all other by hand delivery or by facsimile.

This the \_\_\_\_ day of April, 2009.

\_\_\_\_\_  
THOMAS W. JORDAN, JR.  
DEPUTY COUNTY ATTORNEY

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NUMBER: \_\_\_\_\_

IN THE MATTER OF:

\_\_\_\_\_

**ORDER:  
FAMILY DRUG TREATMENT COURT**

On or before \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_, Respondent Parent/Guardian (hereinafter Participant) is hereby **ORDERED** to make an appointment and meet with the **Family Drug Treatment Court Case Coordinator** (564-7237) or the **Drug Court Director** (564-7205) for eligibility screening.

Eligibility for Family Drug Treatment Court shall be determined by the Family Drug Treatment Court Team. If it is determined by the Durham County Family Drug Treatment Court ("FDTC") that the Participant is not eligible for FDTC, then the Participant's attorney will be notified and the information gathered during the screening process shall remain confidential and will not be used against the Participant in further court proceedings absent a motion and order consistent with the requirements of GS 122C-54 and Title 42, Part 2 of the Code of Federal Regulations titled Confidentiality Of Alcohol And Drug Abuse Patient. The case coordinator shall promptly notify counsel for the other parties of the ineligibility of the Participant.

If the Participant is determined to be eligible for FDTC, then he or she is hereby **ORDERED** to participate in that program. Placement of the Participant in Tier 1 or Tier 2 of FDTC will be determined by the FDTC Team, based on the Participant's screening. The Treatment Court Team may also move a Participant to a more restrictive or less restrictive tier base upon the Participant's performance.

The Participant's compliance with the objective standards of the FDTC program, as captured on the FDTC progress report, WILL be shared with the juvenile court. Other information gathered during the Participant's participation in FDTC is confidential; no information shall be shared by the FDTC Team members with the juvenile court, nor will information gathered during his or her court participation be used against the Participant in further court proceedings except as set forth herein.

The Case Coordinator shall prepare a Progress Report regarding the Participant's Status in FDTC after each court session. Said report shall be distributed to the GAL Office, counsel for DSS and counsel for each parent. Information that leads to a Participant's successful or unsuccessful discharge from the FDTC shall be included with the Progress Report, as well. Nothing in this order affects the responsibility of the providers or the FDTC Case Coordinator to report child abuse and neglect.

Failure to comply with this Order may result in contempt of court and/or other sanctions.

This the \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge Presiding