

FORM 22D

REQUEST TO DISTRICT CIVIL CALENDAR CLERK

Please calendar case number _____

CALENDAR FOR THE SESSION BEGINNING _____

(All non-jury matters are set on the first day of each session. Peremptory settings must be scheduled by the Chief District Court Judge.)

PLAINTIFF: _____

DEFENDANT: _____

TYPE OF HEARING:

1. MOTION for _____ (State Type of Motion)
2. TRIAL ON MERITS _____ (State Type of Trial)
 UNCONTESTED DIVORCE
 PRE-TRIAL EQUITABLE DISTRIBUTION CONFERENCE
 INITIAL CHILD SUPPORT
3. JURY NON-JURY
4. COURT REPORTER WAIVE REPORTER

APPROXIMATE TIME REQUIRED: _____

SPECIAL CIRCUMSTANCES: _____

5. OPPOSING ATTORNEY: _____

Address _____

IF NO OPPOSING ATTORNEY, ADDRESS OF PARTY: _____

6. CALENDARING ATTORNEY CERTIFIES AS FOLLOWS:

- (1) Opposing counsel has been previously consulted regarding the requested court date;
- (2) All discovery has been completed or the time for discovery has expired;
- (3) All witnesses have been subpoenaed and will be available on the requested court date;
- (4) If an equitable distribution case, the parties have complied with the equitable distribution rules regarding exchange of inventories and pretrial affidavits, and are ready for trial or pretrial;

Firm _____

Plaintiff

Defendant

cc: _____

Attorney for _____

Attorney for _____

9.4 The clerk should schedule child support hearings at any civil term, jury or non-jury, within the sixty (60) day period. If it is not possible to schedule for a civil term, the clerk may schedule the hearing at support, juvenile, or as a last resort, a criminal session of court if the sixty (60) day time limit will run before the next civil term. Any scheduling for a support, juvenile or criminal session should be only after consulting with the Presiding Judge.

9.5 The initiating party is responsible for giving notice of the hearing date and time to the opposing party in accordance with the Rules of Civil Procedure. The clerk should place the case on the calendar and mail a copy of the same per the local calendaring rules.

9.6 For all actions involving child support, (excluding paternity cases) where service has been obtained, a continuance for a maximum of thirty (30) days may be allowed by the court if either party cannot be present at the hearing for good cause; or the parties have consented to a continuance.

9.7 The party moving for a continuance is responsible for insuring that opposing party is notified of the request for continuance prior to the session of court for which the hearing is scheduled or as soon as a conflict becomes known.

9.8 The designated clerk will be responsible for manually tracking each child support case beginning with the implementation of these rules.

9.9 The tracking of these cases by the designated clerk will be conducted to insure that a disposition of child support cases take place within the time limits of G.S. 50-32.

9.10 Compliance of G.S. 50-32 can most easily be met by a temporary order for child support pending trial on the merits.

9.11 Provisions of Rule 9 apply to **initial** child support cases only. Instances where parties are seeking modifications in existing support orders shall be treated as other civil cases pursuant to

Rule 11. Attorneys shall be responsible for notifying the Clerk when a case is for initial setting of child support. Provisions of Rule 9 also apply only to cases in which the party actually having physical custody of the child is seeking support. Attorneys must state in initial pleadings which party has physical custody.

(10) CIVIL COVER SHEET

10.1 A "Civil Action Cover Sheet" shall be required on all pleadings. The cover sheet shall be prepared by the attorney preparing and filing the pleading and shall be on Form 22(C). (Form attached)

(11) CALENDARING OF CIVIL ACTIONS

11.1 Any attorney may request that a matter be placed on the civil calendar. Requests for calendaring shall be in writing on Form 22(D) and delivered to the "Civil Clerk" of the county in which the action is pending. (Form attached)

11.2 The civil clerk shall make a separate division on each civil calendar for "Initial Child Support Actions" and "Equitable Distribution Pretrials".

11.3 Cases shall be placed on the civil calendar in priority according to the age of the pleading or motion which initiated the pending action. "Civil Cover Sheets" shall be used to determine the age of the relevant pleading or motion.

11.4 **NOTE:** Hearings on Equitable Distribution pretrials will be set by the **civil clerk** 150 days after the last pleading is filed in accordance with the local rules for Equitable Distribution effective January 15, 1988.

11.5 No case may be calendared for more than one session of civil court. Calendar requests for more than one session will not be accepted.

11.6 Cases may be added to the published trial calendar up to ten (10) days before the convening of the session of court provided proper notice requirements are met. Requests to add cases or other matters to the trial calendar shall be in writing and coordinated through the Clerk of Superior Court's office.

11.7 Except for uncontested divorces, no case or motion will be added to the calendar later than ten (10) days prior to the beginning of a session unless specifically approved by the Chief District Judge or the Presiding Judge.

11.8 The Civil Clerk may have the discretion to limit cases so that no more than twenty (20) contested motions and twenty (20) contested trials are scheduled. This would not include domestic violence cases or motions to modify support which are supposed to be scheduled for Wednesdays in Mooresville and Mondays in Thomasville.

Additional cases may be scheduled only if specifically approved by the Chief District Court Judge or the Presiding Judge for that session of civil court.

(12) CLEAN UP CALENDARS

12.1 Cleanup calendars shall be prepared by the civil clerk in each county for a date designated by the Chief District Court Judge. Cleanup calendars shall include:

- a) all matters in which the case has been heard or settled and in which an Order is pending

b) all matters in which the complaint or action was filed six months or more prior to the date of the cleanup calendar.

12.2 Any attorney with a matter on a cleanup calendar **must** be present at calendar call unless he or she has previously received express permission from the presiding judge to be absent. All unrepresented parties must be present at calendar call.

12.3 The presiding judge may, in his or her discretion, dismiss any action in which a moving party fails to appear for call of a cleanup calendar.

12.4 The purpose of civil cleanup calendaring is to determine the status of pending cases, to dismiss actions for failure to prosecute, to set definite trial dates for older cases, and to enforce rule (2) pertaining to delinquent judgments or orders.

(13) INACTIVE CASES

13.1 If all parties and attorneys in a case agree that the ends of justice require the declaration of a case as inactive and removal of the case from the trial docket, they may prepare a consent order, stating the reasons, for approval and signature of the Chief District Court Judge, declaring the case inactive and closing the case file without prejudice to any party's right to have the matter reopened upon motion. Such inactive cases shall be reviewed periodically by the Chief District Court Judge.

(19) SUPPLEMENTAL PLEADINGS

19.1 In cases involving divorce from bed and board, child custody, or support, or alimony, parties may supplement their original pleading or alimony complaint to allege one year separation and pray for Absolute Divorce.

Pleadings may **not** be supplemented after a final judgment has been entered and the file closed.

RULE (h): EQUITABLE DISTRIBUTION RULES

- (h) 1 Pretrial conference settings will be non-jury. The attorney shall obtain a setting from the Calendar Clerk. The Clerk will give time certain settings in District Courts.
- (h) 2 The Clerk will set a pretrial conference at the time the last pleading is filed for approximately 150 days thereafter.
- (h) 3 Thirty days before the pretrial conference the attorneys shall exchange Equitable Distribution Affidavits.
- (h) 4 At the pretrial conference at which counsel and their clients shall be present, the Court will review the affidavits, determine the need for further discovery, attempt to settle the case, determine the need for a reference, set the date of the next event, and/or take other appropriate action.
- (h) 5 The judge shall set the date for all trials and no settings shall be granted on an **ex parte** basis.
- (h) 6 Each party to an equitable distribution claim shall file an **Equitable Distribution Affidavit** with the court and the opposing party or counsel. The affidavit must be filed and served not less than thirty (30) days prior to the time set for the pretrial conference. The affidavit to be filed must be identical in form to the affidavit attached hereto as Form No. CCF-11A-2 and must be typewritten.
- (h) 7 Non-compliance with Rule (h) 6 shall result in the responsible party's proffered testimony (whether written or oral) not being allowed into evidence by the Court.
- (h) 8 In any equitable distribution claim, the Court may, in its discretion and pursuant to Rules 53 and 16(5) of the Rules of Civil Procedure, order a reference before proceeding further or before entering final judgment. The Court may provide for an apportionment of the costs of said reference and its scope as it deems to be in furtherance of the efficient administration of justice.
- (h) 9 Effective 10/1/93 a party seeking an equitable distribution of marital property must prepare and serve a property inventory within 90 days from serving the claim in accordance with N. C. General Statutes 50-21. Within 30 days after service of the inventory, the opposing party must prepare and serve a similar inventory on the other party.

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| STEP 1 | CASE FILED BY COMPLAINT | OR ANSWER WITH CLERK |
| STEP 2 | THE CLERK SETS DATE FOR PRETRIAL CONFERENCE *
150 DAYS FROM DATE LAST PLEADING IS FILED | *Whether you file an Equitable Distribution Complaint or file an Answer asserting it, you must secure a pre-trial conference setting From the Clerk. |
| STEP 3 | PARTY SEEKING AN EQUITABLE DISTRIBUTION

EQUITABLE DISTRIBUTION CLAIM. WITHIN 30 DAYS OF SERVICE, OPPOSING PARTY SERVES A SIMILAR INVENTORY. | Clerk.
PREPARES AND SERVES A PROPERTY INVENTORY WITHIN 90 DAYS OF SERVING THE |
| STEP 4 | PARTIES CONDUCT DISCOVERY, OBTAIN APPRAISALS, DISCUSS SETTLEMENT POSSIBILITIES | |
| STEP 5 | EXCHANGE AFFIDAVITS 30 DAYS BEFORE PRETRIAL CONFERENCE | |
| STEP 6 | PRETRIAL CONFERENCE OCCURS 180 DAYS AFTER LAST PLEADING IS FILED * | *Counsel and parties are required to appear at this conference. |
| STEP 7 | CASE ROUTED TO SETTLEMENT, ADDITIONAL DISCOVERY, REFERENCE, OR SET FOR HEARING FOR TRIAL BY JUDGE | |
| STEP 8 | EQUITABLE DISTRIBUTION | |

TRIAL

CIVIL COURT SCHEDULE

1. In Davidson County, all hearings on domestic violence matters filed pursuant to N. C. General Statutes 50(b) shall be scheduled for Thomasville civil district court on Mondays at 9:30 a.m. or in Lexington, NC on Tuesdays at 9:30 a.m.

2. In Davidson County, all motions for modification of existing child support orders shall be scheduled for civil district court in Thomasville on Mondays at 9:30 a.m. or in Lexington, NC on Tuesdays at 9:30 a.m.

3. In Iredell County, all hearings on domestic violence matters filed pursuant to N. C. General Statutes 50(b) shall be scheduled for Mooresville civil district court on Wednesdays at 9:30 a.m.

4. In Iredell County, all motions for modification of existing child support orders shall be scheduled for civil district court in Mooresville on Wednesdays at 9:30 a.m.

5. Civil matters other than uncontested divorces may be calendared on these days only by consent of the presiding judge.

6. Uncontested divorces may be scheduled on these days by request of either party without consulting the presiding judge.