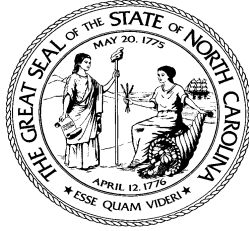


Judicial
District
27B

SUPERIOR COURT
DISTRICT COURT

CLEVELAND
LINCOLN



SUPERIOR COURT JUDGES

JOHN MULL GARDNER, SENIOR RESIDENT
FOREST DONAL BRIDGES

DISTRICT COURT JUDGES

GEORGE W. HAMRICK, CHIEF
JAMES T. BOWEN
J. KEATON FONVIELLE
JAMES W. MORGAN

100 Justice Place
Shelby, North Carolina 28150
December 15, 1995

MEMEORANDUM

TO ALL LAW FIRMS IN THE 27B JUDICIAL DISTRICT

Attached is a copy of the Case Management Plan for Superior Civil Cases, 27B Judicial District, effective January 1, 1996. This plan has been adopted by the Senior Resident Superior Court Judge as required by the General Rules of Practice for the Superior and District Courts adopted by the Supreme court of North Carolina.

JOHN M. GARDNER, SENIOR RESIDENT
SUPERIOR COURT JUDGE

CASE MANAGEMENT PLAN FOR SUPERIOR CIVIL CASES
27B JUDICIAL DISTRICT
CLEVELAND AND LINCOLN COUNTIES
Effective January 1, 1996

The following case management plan for the calendaring of civil matters in the Superior Courts of Judicial District 27B has been adopted by the Senior Resident Superior Court Judge as required by the General Rules of Practice for the Superior and District Courts adopted by the Supreme Court of North Carolina.

Rule 1 - CASE TRACKING SYSTEM

The Clerks of Court shall maintain docket sheets for civil cases pending in the Superior Courts, keeping a separate index for medical malpractice actions.

The Case Management Assistant to the Senior Resident Superior Court Judge shall maintain a case tracking system for civil cases pending in the Superior Courts.

The Clerk's docket sheets and the Superior Court tracking system must record the filing dates for pleadings, a list of pending motions, and a list of trial continuances.

Rule 2 - TIME STANDARDS FOR CALENDARING

A case shall be calendared for trial as soon as practical after the following events:

- (a) The lapse of 120 days after the filing of the Answer or last required pleading. The 120 day period shall be reserved exclusively for discovery, unless otherwise ordered by the Court, but the trial of the case shall not thereafter be delayed for failure to complete discovery, unless for good cause shown the Senior Resident Superior Court Judge extends the expiration of the 120 day period. Motions for limitation or extension of discovery period should be mailed to the office of the Senior Resident Superior Court Judge;
- (b) The remand of a case on appeal for re-trial;
- (c) The docketing of any case having a statutory priority;
- (d) The filing of a consent request for calendaring signed by all attorneys of record in the case and all parties not represented by attorneys.

Rule 3 - NOTICE OF TENTATIVE TRIAL SCHEDULE

At such time as the last required pleading is filed in a case, the Case Management Assistant to the Senior Resident Superior court Judge shall issue to counsel of record and pro se litigants a Notice of Tentative Trial Schedule, which shall include the date discovery ends and the trial date.

Rule 4 – REQUESTS TO RESET TRIAL DATE

All requests to reset a trial date shall be made in writing within 15 days of receipt of said Notice of Tentative Trial Schedule to the Case Management Assistant to the Senior Resident Superior Court Judge. The reasons for the request shall be completely and specifically stated and shall propose a new trial date.

Opposing counsel or pro se litigants shall be notified of the request prior to its delivery to the Case Management Assistant to the Senior Resident Superior court Judge.

The Case Management Assistant to the Senior Resident Superior Court Judge shall notify all attorneys and pro se litigants in writing:

- (a) That the request is granted and shall include notification of the new trial date;
- (b) That the request is denied and that trial will proceed as scheduled; or
- (c) Of a date, time and place for a setting conference.

Rule 5 – SETTING CONFERENCE

Recognizing that some cases will involve complex issues requiring numerous expert witnesses, extensive discovery, etc., the Case Management Assistant to the Senior Resident Superior Court Judge will schedule a setting conference during which individual attention will be given to special concerns.

Participants in a setting conference shall include counsel of record, pro se litigants, and the Senior Resident Superior Court Judge.

During said conference, each party shall be prepared to discuss any unresolved issues. Specifically, each party shall report whether (1) additional parties are necessary; (2) experts, if any, have been disclosed; (3) discovery has been completed; (4) the pleadings are closed; and (5) all dispositive motions have been filed and ruled upon by the Court.

At the conclusion of the setting conference, trial will be set for a specific session of Court.

Rule 6 – PEREMPTORY SETTINGS

At any time prior to publication of the calendar by the Case Management Assistant to the Senior Resident Superior Court Judge, an attorney or unrepresented party may request a preemptory setting. The request should state the reasons why the case should be preemptorily set and whether the request is approved by all other attorneys or parties in the case. This request

should be directed to the Senior Resident Superior Court Judge. No more than one peremptory setting per week shall be made. If a peremptorily set case is continued, parties in that case shall not be entitled to a second priority setting unless another request is approved.

Rule 7 – TRIAL CALENDAR

(1) Publication

Not less than four weeks prior to the first day of each session, the Case Management Assistant to the Senior Resident Superior Court Judge shall prepare a calendar of cases for trial at that session. She shall distribute one copy thereof to each law firm with one or more cases listed thereon, one copy to each unrepresented party whose address appears of record, and one copy to the Presiding Judge.

Each attorney and each unrepresented party shall be responsible for seeing that his correct mailing address appears in the record.

(1) Order of Listing for Trial

Peremptorily set cases shall be calendared at the top of the trial calendar and marked accordingly. Thereafter, cases shall be set by date of filing in chronological order unless otherwise ordered by the Senior Resident Superior Court Judge. Cases shall be called when reached in the order they are set unless the calendar notes a date before which or after which a case shall not be tried.

Rule 8 – SCHEDULING OF MOTIONS

In advance of filing a motion, counsel shall contact the Case Management Assistant to the Senior Resident Superior Court Judge to determine a date certain for hearing. The date should be cited in the notice of hearing accompanying the motion filed with the Clerk of Court. Upon filing, a copy of the notice of hearing shall be mailed to the Case Management Assistant to the Senior Resident Superior Court Judge.

Motions to dismiss filed under Rule 12 (b), General Rules of Practice for Superior and District Courts, shall not be calendared for hearing if they are included as part of the answer, unless the moving party requests otherwise in such case, the same scheduling procedure outlined the preceding paragraph will be followed.

Motions not scheduled through the Administrative Assistant to the Senior Resident Superior Court Judge will not appear on a published calendar and will be heard only at the discretion of the Presiding Judge.

Rule 9 – CONTINUANCES

Any motion for a continuance from the trial calendar shall be made in writing to the office of the Senior Resident Superior Court Judge at least ten (10) days prior to the first day of each

session of Court. Such motions must specify the reason for continuance and give a specific date the case may be rescheduled for trial. Opposing counsel must be notified of the request for continuance.

Rule 10 – SETTLEMENT OF CASES

When a case on a published calendar is settled, all attorneys of record must notify either the Clerk of Court or the Case Management Assistant to the Senior Resident Superior Court Judge within twenty-four (24) hours of the settlement and advise who will prepare and present judgment and when.

If the attorney responsible for preparing and presenting a judgment or dismissal fails to do so within the time indicated when he notified the Clerk of Court or the Case Management Assistant to the Senior Resident Superior Court Judge of the settlement, the case shall thereafter be placed on the regular or supplemental motion calendar for a later session of Court for dismissal of the case for failure to timely file the judgment or dismissal. Any attorney or party in the case may appear and show cause why the case should not be dismissed. If no good cause is shown, the case shall, in the discretion of the Presiding Judge, be dismissed for failure to timely file the judgment or dismissal.

Rule 11 – REMOVING INACTIVE CASES FORM TRIAL DOCKETS

The Senior Resident Superior Court Judge may, of his own motion, declare a case inactive and remove it from the trial docket if it appears to him the controversy between the time expired, or that trial of the matter will not be required. When a case is declared inactive by the Court's own motion, such ruling shall be without prejudice to any party's right to have the case reopened for further necessary proceedings.

This plan may be modified or amended by the Senior Resident Superior Court Judge by subsequent modification orders.

Adopted this the 1st day of December, 1995.

John Mull Gardner, Senior Resident Superior Court Judge
27B JUDICIAL DISTRICT
100 Justice Place
Shelby, N.C. 28150

Superior Court communications under this plan should be addressed to:

Kathleen G. Hunt

Case Management Assistant to Senior Resident Superior Court Judge

100 Justice Place

Shelby, N.C. 28150

Telephone (704) 484-4876

Fax: (704) 480-5487

**AMENDMENT TO CASE MANAGEMENT PLAN FOR CIVIL CASES,
SUPERIOR COURT DIVISION, JUDICIAL DISTRICT 27-B, CLEVELAND
AND LINCOLN COUNTIES.**

Rule 9 – CIVIL ACTION COVER SHEET

All pleadings filed in any civil action with the clerk of Superior Court shall be accompanied by a completed civil action cover sheet. A form for such is incorporated as a part hereof as Form CCF-1.

The Clerk of Superior Court shall forward a cover sheet (CCF-1) to the Judicial Secretary for any case appealed to the Superior Court civil issue docket for determination of issue of law or fact in accordance with N.C.G.S 1-272.

The Clerk of Superior court shall forward a cover sheet (CCF-1) to the Judicial Secretary for any case transferred to the Superior court civil issue docket for the determination of issues of law or fact in accordance with N.C.G.S. 1-273.

The Clerk of Superior Court is ordered to refuse to accept for filing any pleading not accompanied by a completed civil action cover sheet.

Adopted this 17th day of December, 1987

John Mull Gardner
Resident Judge of Superior Court
Shelby, N.C. 28150
Phone: Office – 704/484-4876
Home – 704/487-0755

Civil Action Cover Sheet Attached

CIVIL ACTION COVER SHEET

STATE OF NORTH CAROLINA
COUNTIES OF CLEVELAND AND LINCOLN

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

Date: _____

Case No. _____

Jury: Yes No

1. LIST ALL PARTIES IN THE ACTION:

Plaintiff/Petitioner

Defendant/Respondent

vs.

2. TYPE OF PLEADING:

- Complaint
 Reply
 Third Party Complaint

Answer

Contains:

- Counterclaim
 Crossclaim

3. ARE ANY MOTIONS REQUIRING A COURT HEARING CONTAINED IN THE ABOVE PLEADINGS: Yes No

If yes, please specify _____

4. NATURE OF SUIT:

- Contract
 Real Property
 Motor Vehicle Negligence
 Account
 Products Liability
 Property Damage

- Condemnation
 Medical Malpractice
 Premises Liability
 Administrative Appeal
 Other (*Specify*) _____

5. NAME OF ATTORNEY: _____

Counsel for: Plaintiff
 Defendant

Tel. No. _____
 Third Party Defendant

(*Indicate which parties*)

Required by Calendaring Rule 9 to be filed with any of the listed pleadings.

<p style="text-align: center;">Twenty-Seventh-B Judicial/Prosecutorial District Case Management System for Criminal Superior Court</p>

Rule 1: General Provisions

1.1 The purpose of these rules is to institute a Case Management System (CMS) that will provide for the orderly, prompt, and just disposition of criminal matters in the Twenty-Seventh-B Judicial/Prosecutorial District. It is intended that matters addressed pursuant to this system be resolved in a fashion to protect the interests of this District and the victims of crime; as well as insure that the rights of the Defendants are preserved.

1.2 The calendar for the disposition of criminal cases in the Twenty-Seventh-B Judicial/Prosecutorial District, Superior Court Division, shall be set and maintained by the District Attorney in accordance with these rules. The District Attorney shall establish and maintain a case tracking system to monitor the number, age, type, and procedural status of each case. The term “District Attorney” shall include the elected District Attorney for the Twenty-Seventh-B Prosecutorial District and his designees.)

1.3 These rules shall be construed in such a way as to avoid technical delay.

1.4 It is recognized that these rules are not complete in every detail and will not cover every situation which may arise. In the event that these rules do not cover a specific matter, the District Attorney is authorized to act in his discretion, subject to the laws of North Carolina and the United States. The District Attorney shall consult with the Senior Resident Superior Court Judge or a Resident Superior Court Judge regarding resolution of the issue raised. If no resident judge is available, then the District Attorney should consult with the Presiding Judge.

1.5 These rules shall be filed in the offices of the Clerks of Court in each of the counties composing the Twenty-Seventh-B Judicial District and may be cited accordingly; provided however, until further notice these rules shall apply only to Cleveland County.

1.6 The District Attorney shall distribute a copy of these rules to each member of the Bar of the Twenty-Seventh-B Judicial District. The District Attorney shall maintain a supply of printed rules to be provided to attorneys upon request.

1.7 The Clerks of Superior Court shall provide a file number for each case at the time of indictment. That file number **shall** be designated on all subsequent pleadings and papers filed with the Clerk of all subsequent communications to opposing counsel, parties, or court personnel. All pleadings in a case, all motions, and any document needed to comply with these rules shall be filed with the Clerk.

1.8 The provisions of these rules shall apply to all Superior Court cases in which a true bill of indictment was returned on or after February 2nd, 1998, in Cleveland County. Such cases shall be termed, “Case Management System (CMS) Cases.” Superior Court filings prior to February 2nd.,

1998, shall be termed, “Pre-Case Management System (Pre-CMS) cases,” and may be integrated into the Case Management System.

1.9 These rules shall not apply to cases designated as “Exceptional” by the District Attorney or the Senior Resident Superior Court Judge or the Resident Superior court Judge. Cases which may be designated as “Exceptional” include, but are not limited to , complicated homicides; multiple-defendant or numerous victims crimes; complicated white collar crimes, and those requiring extraordinary scientific investigation.

RULE 2: Time Standard Goals

2.1 Absent exigent circumstances, each case not designated as “Exceptional” should be tried or disposed of no more than eighteen (18) months after its “**Initiation Date.**” Initiation Date is defined as the date of the return of service of an indictment. It is the goal of CMS that ninety (90%) percent of the non-exceptional cases reach disposition within twelve (12) months of Initiation Date.

2.2 Cases designated as “Exceptional” shall receive specialized scheduling orders for the purpose of facilitating timely disposition.

Rule 3: Discovery

3.1 No later than four weeks after the Initiation Date, the District Attorney shall provide photocopies of discovery in each file, as indicated on the Discovery Certificate, to the attorney of record entering a general appearance in that case. Said photocopies shall be provided one time to the current attorney of record. Should a change in defense counsel occur, it is the joint responsibility of both new and previous counsel to ensure that the photocopied discovery material is transferred from previous counsel of record to new counsel of record. Photocopies shall not be distributed to defense counsel entering only a limited appearance.

3.2 The District Attorney or the Assistant District Attorney assigned to a case shall be responsible for completing a “Discovery Certificate (DC)” for that case. (See sample DC which is attached as Exhibit A.) A completed and signed Discovery Certificate shall accompany the photocopied discovery and shall be served upon the defense attorney of record in one of the following ways: (a) personal delivery, (b) U.S. postal delivery, (c) delivery to the office of the defense attorney of record, or (d) by depositing into the attorney’s mailbox located in the office of the Clerk of Superior Court of the county where venue lies. A completed and signed DC shall also be filed with the Clerk of Superior Court for placement in the court file.

3.3 All discovery motions filed by defense counsel shall contain one of the following certification provisions and shall be signed by the moving party:

I, the undersigned attorney of record, do hereby certify to the Court that prior to the filing of this motion I have thoroughly reviewed the discovery material supplied to me in this case by the office of the District Attorney.

Signature of Movant

Date

OR

I, the undersigned attorney of record, do hereby certify to the court that as of this date, more than four weeks have passed from the date of Indictment and the District Attorney has failed to provide me with any discovery material in this case.

Signature of Movant

Date

Rule 4: Calendaring Prior to Trial

4.1 At least once each month, in intervals of no greater than five weeks, the Senior Resident Superior Court Judge shall schedule a criminal session primarily devoted to administration of the criminal calendar, and time permitting, the remaining portion devoted to jury trials. This session shall be known as the "Case Management Session." All remaining criminal sessions, not deemed as "Case Management Session," will be reserved, to the extent reasonably possible, for the trial of cases. Unless prevented by circumstances created by the rotation of judges, each Case Management Session should be held before a Resident Superior Court Judge.

4.2 Each case shall be calendared for three specific Case Management Session settings following the Initiation Date. The defendant, defense counsel and the State, shall be present at each such setting of court.

4.3 The first administrative calendar setting ("First Setting") shall occur during the first Case Management Session following the First Setting. (It is expected that the Second Setting shall be no later than eight (8) weeks from the Initiation Date.) The following matters shall be accomplished at the Second Setting: (This list is not all inclusive as to what may be accomplished.)

- Hearing of pre-arraignment motions;
- Pre-trial discussions between counsel;
- Pre-trial conference with Judge (if requested);
- Status inquiry, including possible disposition by guilty plea;
- A determination, if not made earlier, as to whether a case will be declared "Exceptional"; and
- Hearings required under Rule 24 of the Rules of Court for Capital cases.

4.5 The third administrative calendar setting ("Third Setting") shall occur during the next Case Management Session following the Second Setting. (It is expected that the Third Setting shall be

no after than twelve (12) weeks from the Initiation Date.) The following matters shall be accomplished at the Third Setting: (This list is not all inclusive as to what may be accomplished.)

- Pre-trial conference, if not held at Second Setting;
- Possible disposition by guilty plea, or Arraignment and entry of not guilty plea;
- Scheduling of deadline for filing pre-trial motions;
- Calendaring of pre-trial motion hearing date; and
- Calendaring of trial date or,
- Entry of scheduling order for Exceptional Case.

Rule 5: Motions

5.1 All pre-arraignment motions, as defined by Statute or law, shall be filed no later than seven (7) days prior to the Second Setting and will be heard at the Second Setting.

5.2 All pre-trial motions shall be filed and heard no later than on dates established at the Third Setting. Hearing dates for motions are firm hearing dates. Each attorney should bring his/her personal calendar to the Third Setting so that existing conflicts may be considered. Barring unusual circumstances or agreement by the parties to hear them earlier, pre-trial motions shall be heard during the **Case Management Session** which immediately precedes the established trial date.

5.3 Except for extreme circumstances which could not have been reasonably foreseen, all motions, whether pre-arraignment or pre-trial, filed outside the established deadlines shall be subject to summary dismissal by the Presiding Judge. This provision does not apply to motions which are appropriately directed to the judge presiding at trial.

Rule 6: Plea Offers

6.1 In every case, the District Attorney or the Assistant District Attorney responsible for a case [the **Responsible Prosecutor (RP)**] shall extend a written plea offer to defense counsel of record no later than six (6) weeks after the Initiation Date of a case.

6.2 Defense counsel of record has a responsibility to convey all plea offers to the Defendant.

Rule 7: Scheduling of Plea

7.1 During each **Case Management Session**, the Presiding Judge shall schedule the hearing of guilty pleas at a time-certain.

Rule 8: Pre-Trial Conference

8.1 During each **Case Management Session** the Presiding Judge shall schedule a plea conference at a time-certain.

Rule 9: Trial Settings

9.1 The Presiding Judge shall establish trial dates at the Third Setting. This phase of the Third Setting shall occur at 2:00 P.M. or as otherwise set by the Court, on the date of such setting. The District Attorney shall produce and maintain a six month schedule of the weeks during which Assistant District Attorneys are scheduled for jury sessions of Superior Court. Defense counsel are responsible for having personal calendars available at the Third Setting in order to inform the Court of any personal or professional scheduling conflicts.

9.2 The established trial date shall be a firm date. Continuance will not be granted, even if all parties agree, unless for a crucial cause that could not have been reasonably foreseen, and the fair administration of justice requires a continuance.

9.3 At the Third Setting, the Court shall enter a Scheduling Order in all cases except Exceptional Cases. The Scheduling Order shall set forth the deadline for the filing of pre-trial motions, the date for the hearing of pre-trial motions and the trial date. A sample Scheduling Order is attached to these Rules as Exhibit "B". Scheduling orders for Exceptional Cases may contain deadlines for additional case events as necessary and appropriate.

9.4 Any request for a priority or peremptory setting based upon out-of-town witnesses, expert witnesses or other scheduling concerns should be addressed to the Judge at the Third Setting.

9.5 Any case which is not reached for trial during the scheduled session of court shall be rescheduled for trial by the Senior Resident Superior Court Judge, or the Presiding Judge, upon conferring with counsel.

Rule 10: Printed Calendars

10.1 Not less than ten (10) days prior to each **Case Management Session**, the District Attorney shall prepare and publish a calendar of case setting as described in Rule 4. This calendar shall be separated into First Settings, Second Settings and Third Settings.

10.2 The order of cases called within each **Case Management Session** shall be: (a) Defendants with Attorneys' of record; (b) Defendants with no attorney of record. The calling of cases with attorneys of record will be alphabetically by attorney. The "attorney of record" will be based solely upon the record in the Clerk's file.

10.3 The Calendar for the **Non-Case Management** Sessions of court shall be prepared and published by the District Attorney as provided in NCGS 7A-49.3.

Rule 11: Motions for Continuances

11.1 All motions for continuance must be in writing, filed and delivered to the office of the Senior Resident Superior Court Judge and opposing counsel not later than noon on Wednesday preceding the session in which the trial is calendared. Oral motions or motions filed out of time must show good cause for the failure to file a timely written motion.

11.2 Every continuance motion must state the following:

- the age of the case;
- whether the defendant is in jail;
- whether the defendant has co-defendants and the names of any co-defendants;
- the number of times the case has previously appeared on a trial calendar;
- the opposing counsel has been consulted regarding the continuance;
- whether opposing counsel consents; and
- the moving party's position on when the trial should be rescheduled if continued.

11.3 The Senior Resident Superior Court Judge will issue a ruling on the motion after consideration of the reason for the continuance request, the age of the case, the pre-trial detention status of the defendant, and the number and type of other trial matters present on the trial calendar for the session. In the event the senior Resident superior court judge is unavailable due to rotation travel, a Resident Superior Court Judge or any other judge designated by the Senior Resident Superior Court Judge may rule on continuance motions.

11.4 No case shall be continued without rescheduling the trial to date certain except in a case of extreme or unusual circumstances.

Rule 12: Miscellaneous Provisions

12.1 Motions filed seeking appropriate relief shall be heard during **Case Management Sessions**. IN the event the motion is to be heard on its merits, the judge will establish the hearing date and cause all parties to be given notice.

12.2 Nothing contained herein shall be used in such a way as to deprive any defendant of any right provided by law.

ENACTED THIS DATE, FEBRUARY _____, 1998.

John Mull Gardner
Senior Resident Superior Court Judge

I consent to the terms of this order.

William C. Young, District Attorney

(EXHIBIT "A")

State of North Carolina
County of _____

In the General Court of Justice
Superior Court Division
File # _____

STATE OF NORTH CAROLINA

vs.

**Discovery Certificate
(DC)**

Defendant

I am the prosecutor assigned to prosecute the above-captioned case.

I certify that I provided discovery in the following manner to the defendant of matters required under N.C.G.S. 15A-903 et seq:

- A. By providing the attorney for the defendant with a copy of the State's investigative file, reports of evidence examinations and the criminal history of the Defendant as received by this office.
- B. By providing the attorney for the defendant with a partial copy of the State's investigative file, reports or evidence examination and the criminal history of the defendant as received by this office.
- C. By providing formal discovery of matters pursuant to N.C.G.S. 15A-903 et seq. In addition to this disclosure, I recognize my continuing duty of disclosure. I will make good faith efforts to disclose to the Defendant any and all exculpatory materials available to the State.

This done on _____, _____ .

_____, Prosecutor

Certificate of Service

I certify that I served a copy of this Discovery Disclosure Certificate and the accompanying Discovery by:

- delivering a copy personally to _____; attorney for the Defendant, or by;
- placing a copy in the mail to _____, attorney for the Defendant or by;
- leaving a copy with the receptionist at the office of the attorney for the defendant, or by;
- placing a copy in the mailbox of _____ maintained by the Clerk of Superior Court.

Dated this the ____ day of _____, _____ .

_____, Prosecutor

(EXHIBIT "B")

State of North Carolina
County of _____

In the General Court of Justice
Superior Court Division
File # _____

STATE OF NORTH CAROLINA)
)
)
)
)
)
)
)

vs

Scheduling Order

IT APPEARING to the undersigned Superior Court Judge that the following is the administrative history of this case.

The First Setting for the above captioned matter was held in open court on _____, _____. At that Setting the Court found that Defense Counsel had entered a general appearance, and the State had provided Discovery Disclosure Certificate filed in this matter,

The Second Setting was held on _____, _____. At that Setting the Court determined that a plea offer had been communicated to defense counsel and all pre-arraignment motions on file were heard.

The Third Setting for this case was held on _____, _____. On that date the Defendant entered a plea of not guilty to the charges in this matter.

THEREFORE, THE COURT SETS THE FOLLOWING SCHEDULING DATES FOR THIS CASE:

- (1) All pretrial motions (except those required to be heard before the Trial Judge) shall be filed with the clerk and served upon opposing counsel on or before _____.
- (2) Any filed pretrial motions shall be heard on _____, _____.
- (3) Trial of this case is scheduled for the week of _____, _____.

This done on _____, _____.

Superior Court Judge

**STANDING ADMINISTRATIVE ORDER
27-B DISTRICT COURT
CLEVELAND COUNTY**

The previous "Civil Court Calendar Rules" promulgated by Chief District Court Judge George W. Hambrick are hereby amended in part, with the balance continued in effect. Any matters not amended are deemed continued in effect. When time permits, the undersigned intends to publish more complete civil rules. Reference is made to the General Rules of Practice for the Superior and District Courts, adopted pursuant to N.C.G.S. 7A-34, as amended, which govern practice statewide.

TRIAL CALENDAR, NON-JURY MATTERS: The office of the Clerk of Superior Court shall prepare a non-jury calendar at least four weeks prior to the trial date. The trial calendar shall consist of all cases that have been filed at least five months, together with any cases the Chief District Court Judge or the presiding judge may designate. Attorneys and parties without attorneys may request that cases or matters be added to the trial calendar by petitioning the presiding judge or the Chief District Court Judge. There will be no additions to a non-jury calendar unless such is ordered by the presiding judge or Chief District Court Judge. If such is ordered, the Clerk may prepare an additions calendar up to five days before the term is scheduled to begin.

The trial calendar shall be made public and copies mailed by the office of the Clerk of Superior Court, no later than four weeks prior to the beginning of a session, to all attorneys of record, all parties who have no attorney of record, the judge scheduled to preside, and to the Chief District Court Judge. Cases for trial may not be added to the trial calendar after it is published, except by order of the presiding judge or the Chief District Court Judge. Attorneys may not add cases to a non-jury calendar by filing a Notice of Hearing. When a case on the trial calendar is settled, all attorneys of record must notify the Clerk of Superior Court within twenty-four hours after settlement and advise who will prepare and present the judgment and when the same will be filed.

All Magistrate's appeals shall be placed on the trial calendar prepared next after the appeal is received by the Clerk of Superior Court. Appeals from the Magistrate shall have priority over other matters calendared.

JURY SESSIONS: The prior order of Judge Hamrick remains in effect.

For any civil case, request for peremptory settings for compelling reasons must be made to the Chief District Court Judge. (See General Rules of Practice for the Superior and District Courts, adopted pursuant to N.C.G.S. 7A-34, as amended, Rule 2(f)).

DOMESTIC SESSIONS: At least two weeks prior to the day the domestic term is scheduled to begin, an attorney may request that one or more cases be placed on the calendar. This is to be done by filing with the Clerk, for each case, a Calendar Request Form. Copies of this form are available at the office of the Clerk of Superior Court, and one will be attached to this memorandum. The form should be completed to show the term of court desired, type of case

(support, alimony, etc.) and estimated length of hearing. The Clerk will clock in the form when received, which will determine the order of placement on the calendar. Up to twenty (20) cases will be calendared for the first day of each domestic term. No cases will be calendared specifically for later dates. The presiding judge, at calendar call, will set a tentative order of hearing for all matters set. As noted earlier in my memorandum published with the July - September schedule, the Monday morning calendar call is to commence at 9:00 A.M.

The first twenty calendar requests received shall determine the full calendar. Any calendar requests received after a full calendar is set will result in that case being calendared for the next available domestic term.

By Wednesday afternoon before a given term is to begin, or earlier if the twenty case maximum has been reached, the Clerk of Superior Court, in conjunction with the office of the Chief District Court Judge, will publish a calendar. A copy of the calendar is to be placed in the box at the Clerk of Superior court's office for each attorney with a calendared matter. Consistent with statutory notice requirements, each attorney calendaring a case should notify opposing counsel by Notice of Hearing, once he or she learns the calendar request has been accepted for a given term. The time requirements in this rule are not meant to lessen or supersede any statutory notice requirements, such as N.C.G.S. 50-13.5 (d) (1).

Injunctive matters (10-day hearings) by rule are permissible additions to the printed calendar, as are any uncontested divorces.

Attorneys are asked to cooperate with each other with regard to reaching informal understandings as to when their matter might best be heard. The order of cases as they appear on the calendar may not be related to the order of trial the presiding judge sets, so counsel should be responsible for monitoring the court's progress as the term proceeds.

The following language shall be placed on all final trial calendars: "Attorneys and parties without counsel are expected to be present at the opening of court on the first day to state the anticipated time required for trial and advise the judge of any other pertinent information, such as settlement possibilities or other matters to be taken up. Counsel or parties without counsel are responsible for monitoring the court's progress during the term for the purpose of ascertaining whether or not their case will be tried earlier than scheduled during the term, due to settlements, continuances, dismissals and other situations."

The last page of the calendar shall contain the following: "This final calendar was delivered or mailed to all attorneys of record or to parties without counsel of record at their last known address by the undersigned Deputy Clerk on the _____ day of _____, 1995." The Clerk so certifying will sign.

The Clerk of Superior Court in Cleveland County shall furnish each attorney in the county with a copy of these rules. The Clerk shall furnish any attorney outside the district a copy of these rules upon request and shall maintain a register showing the name and address of each person given a copy of such rules.

These rules are established pursuant to the General Rules of Practice for the Superior and District Court adopted by the Supreme Court pursuant to N.C.G.S. 7A-34, and are applicable to the District Court of Cleveland County. These rules are to be construed and enforced in such a manner as to avoid technical delays and to permit just and prompt consideration and determination of all business before the court. These rules are subject to amendment from time to time by the Chief District Court Judge, in writing and duly published.

This the 8 day of June, 1995.

J. KEATON FONVIELLE
CHIEF DISTRICT COURT JUDGE

CALENDAR REQUEST FORM
DOMESTIC COURT

CLEVELAND COUNTY

FILE NO. _____

TRIAL DATE _____
REQUESTED

VS.

ESTIMATED LENGTH OF HEARING
_____ DAYS _____ HOURS

TYPE OF CASE

CHILD SUPPORT	<input type="checkbox"/>
CUSTODY	<input type="checkbox"/>
CONTEMPT MOTION	<input type="checkbox"/>
ALIMONY	<input type="checkbox"/>
EQUITABLE DIST.	<input type="checkbox"/>
DIVORCE/BED & BOARD	<input type="checkbox"/>

NAMES OF ATTORNEYS

PLAINTIFF _____
FIRM _____
ADDRESS _____

DEFENDANT _____
FIRM _____
ADDRESS _____

TELEPHONE # _____

TELEPHONE # _____

DATE OF REQUEST _____

NAME OF ATTORNEY _____
REQUESTING CASE
TO BE CALENDARED

IN RE:

**RULES AND CASE MANAGEMENT
PLAN FOR MATTERS INVOLVING
EQUITABLE DISTRIBUTION OF
MARITAL PROPERTY**

ORDER

This order is entered to improve the administration of justice in equitable distribution matters by providing rules and uniformity of forms for cases filed in the 27-B Judicial District. The order will also provide rules for pretrial conferences and timetables for the completion of certain events from the filing of the action through trial. This order supersedes and replaces the prior Equitable Distribution order entered by Judge George W. Hamrick.

1. The purpose of these Local Rules is to accomplish the following:
 - (a) narrow the issues for trial;
 - (b) assist and encourage the settling of the case resulting in better use of attorney and trial time; and
 - (c) establish a court review procedure to insure the steady progress of the matter to final resolution.

2. The affidavit forms attached hereto as Exhibit 1 shall be the affidavit used for equitable distribution cases in the 27-B Judicial District. The affidavit to be filed by a party must be identical in form to the affidavit as shown in Exhibit 1. For good cause shown, affidavits may be amended prior to and during the trial in the judge's discretion. Affidavits filed prior to the effective date of this order need not be refilled in the form of Exhibit 1. Some of the forms contain spaces for completion by both parties. The responding party shall complete those forms on a reproduction of the initiating party's affidavit.

3. At the time of filing of a claim for equitable distribution, the moving party shall also file an Equitable Distribution Status Sheet, a copy of which is attached hereto as Exhibit 2. Service of a copy of this status sheet on the opposing party is not required. The Clerk of Court shall affix the status sheet to the inside front jacket of the file to track the events of the case as they occur.

4. At the time of filing of a claim for equitable distribution, the filing party shall schedule an initial pretrial conference to be held within 90 days of the filing of a claim. Notice of said hearing shall be served on the opposing party with notice of the claim for equitable distribution as provided in the Rules of Civil Procedure. At said hearing, the Court shall determine the status of the case, determine the date of separation, set a date for completion of discovery, set a date for completion of affidavits, rule on any pending

motions and schedule a discovery conference. If all discovery and affidavits are completed at the time of this hearing the Court shall schedule a final pretrial conference.

5. At the discovery conference, the Court shall determine the status of the case, set the dates for completion of discovery and affidavits (if necessary), rule on any pending motions, and schedule a final pretrial conference.

6. At the final pretrial conference, the Court shall review the affidavits, determine the need for further discovery, prescribe deadlines for such discovery, rule on any pending motions or any pending matter necessary to effect a fair and prompt disposition of the case, enter a pretrial order, and schedule a final hearing on equitable distribution. Attorneys shall have their clients present in court for consultation during the final pretrial conference. The participation of clients in discussions with the judge shall be in the pretrial conference shall be in the form of the Pretrial Order attached hereto as Exhibit 3 unless otherwise ordered by the Court.

7. The timetable for the filing of affidavits shall be that as prescribed in N.C.G.S. 50-21 (a).

8. During all pretrial conferences attorneys should be familiar with their time schedules, vacations and other conflicts to avoid delay in scheduling further proceedings.

9. The initial pretrial conference, discovery conference, and final pretrial conference may be continued by the Court for good cause shown. An order of continuance shall be in writing and shall schedule the matter for a specific term of court.

10. At a trial for an absolute divorce in which a claim for equitable distribution is being reserved for later determination, the Court shall review the status of the equitable distribution claim and enter such orders or schedule such hearings or conferences to ensure compliance with these rules.

11. Upon motion of either party or upon the Court's own initiative, the Court shall impose an appropriate sanction on a party when the court finds that:

- (a) the party has willfully obstructed or unreasonably delayed, or attempted to obstruct or unreasonably delay, any equitable distribution proceeding, including failure to make any discovery pursuant to Rule 37 of the Rules of Civil Procedure; and
- (b) the willful obstruction or unreasonable delay of the proceedings is, or would be, prejudicial to the interests of the opposing party.

Delay consented to by the opposing party is not grounds for sanctions.

12. Upon motion of either party or upon the Court's own initiative, the Court may impose sanctions as authorized by statute for a party's failure to abide by the terms of these Local Rules.

13. In the event a claim for equitable distribution is ordered to be placed on the “off docket”, the Court shall indicate in the off docket order the reason for placing the matter off the active docket. An order returning the case to the “active docket” shall also schedule a hearing to review the status of the file and such order shall be served on the other party.

14. **IN CLEVELAND COUNTY**, hearings and conferences prescribed by these Rules shall be scheduled during Civil Domestic terms of District Court, such Equitable Distribution terms as may be scheduled, or, with permission of the presiding judge, Civil Non-Jury terms. Pretrial matters may also be scheduled on those Friday “E.D.” terms as may be designated by the Chief District Court Judge.

15. **IN LINCOLN COUNTY**, hearings and conferences prescribed by these Rules shall be scheduled for Civil Non-Jury terms of District Court or during Thursday civil sessions. Hearings or conferences scheduled for Thursday sessions shall be subject to Local Rules regarding time limitations for such proceedings.

16. **IN CLEVELAND COUNTY**, once a trial judge has accepted assignment of an equitable distribution case, then all subsequent hearings, conferences, and trials prescribed by these Rules shall be before that judge. Another trial judge may be assigned by, and in the discretion of, the Chief District Court Judge upon motion by either party or upon the Court’s own initiative.

17. **IN LINCOLN COUNTY**, the parties should make reasonable efforts to schedule all subsequent proceedings before the trial judge who hears the initial conference. When schedules, conflicts or other matters interfere, another trial judge may hear subsequent proceedings.

18. To assist in the control of the equitable distribution docket, the Clerk of Court in Cleveland and Lincoln Counties will mark the outside of the file jackets or maintain docket control sheets in such a manner so that pending equitable distribution cases may be readily identified. Closed files will also be marked accordingly.

19. These Rules shall be effective for all claims for equitable distribution of marital property filed on or after January 1, 1996.

20. **FOR EQUITABLE DISTRIBUTION ACTIONS PENDING AS OF THE EFFECTIVE DATE OF THESE RULES.** An entry of judgment of absolute divorce reserving a claim for equitable distribution shall schedule a discovery conference to be held no later than 60 days after entry of divorce. At such discovery conference, the Court shall determine the status of the case, set a date for completion of discovery and affidavits (if necessary), rule on any pending motions, and schedule any further pretrial conferences including, but not limited to, a final pretrial conference to be otherwise conducted in accordance with these Rules.

This, the 12th day of December, 1995

J. Keaton Fonvielle
Chief District Court Judge

NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

_____,)
Plaintiff)
vs.)
_____,)
Defendant)

**EQUITABLE DISTRIBUTION AFFIDAVIT
OF THE PLAINTIFF/DEFENDANT**

THE AFFIANT, after being duly sworn as shown below, states as follows:

1. I am filing this affidavit for its use in entering a final judgment of equitable distribution of marital property.
2. I have read and understand the "Instructions" which accompany this affidavit, and the information contained in this affidavit is true, accurate and complete.
3. I have made a full and complete disclosure of all marital and separate property known to me.
4. This affidavit consists of this sheet and the attached _____ pages.

This the _____ day of _____, _____.

Plaintiff/Defendant

Sworn to and subscribed before me
this the _____ day of _____, _____.

Notary Public
My Commission Expires: _____

EXHIBIT 1

EQUITABLE DISTRIBUTION AFFIDAVIT INSTRUCTIONS TO PARTIES

1. READ THESE INSTRUCTIONS CAREFULLY. Your affidavit must be fully and accurately prepared. Submission of this affidavit is required by the 27-B Judicial District Court Local Rules relating to equitable distribution. A copy of the Rules is available in the Office of the Clerk of Superior Court. If you are not represented by an attorney, you should obtain a copy of those rules so that you may comply with them and assure that you do not prejudice your case. Your interests in this law suit will be harmed if your affidavit does not contain all the information required and if that information is not accurate.
2. The local court rules regarding equitable distribution contain time limits for the completion and filing of affidavits. Please consult with your attorney or review the rules to ensure that your affidavit is timely prepared and filed. If you are not represented by an attorney, the Rules of Court apply equally to you and it is your responsibility to fully comply with these instructions. **THE DEADLINES OUTLINED IN THE LOCAL RULES OF COURT ARE IMPORTANT.**
3. READ THE AFFIDAVIT FORM CAREFULLY. If you have any questions, or are unsure how to list certain information, ask your attorney first so that your affidavit will be complete and correct before it is placed in final typed form. Failure to fully comply with these instructions may result in your affidavit not being allowed into evidence by the Court.
4. The affidavit, when filed, must be typed and your signature must be notarized. You must have the original for the court file, a copy to serve on the opposing party and a copy for yourself.
5. Some of the forms contain spaces for completion by both parties. The responding party shall complete those forms on a reproduction of the initiating party's affidavit.
6. Part I is a summary. Complete this part after completing the remainder of the affidavit.
7. Only "marital property" should be listed in Part II. Be certain that you understand from your attorney what is and is not separate property.
8. Only "separate property" should be listed in Part III. Be certain that you understand from your attorney what is and is not separate property.
9. Part IV should be completed only if you are seeking an unequal distribution of marital property. You should delete this part if you are seeking an equal distribution.
10. If you need additional form pages, obtain more from your attorney or the Clerk of Court. Do not complete blank sheets to attach to the forms.

11. The page following these instructions is a list of different categories of property. YOUR LISTING MUST FOLLOW THE ORDER INDICATED.
12. When listing household goods give as complete a description as possible. For example, under “furniture” do not list “living room suite”. Instead, list the items of furniture in the suite. Smaller items such as pots and pans, linens, dishes, silverware, etc. may be grouped for description and valuation.
13. Remember to accurately compute the “Total” in the columns that require a total.
14. Remember that your affidavit is a sworn statement. Omissions or misstatements of fact in your affidavit may subject you to sanctions by the Court.
15. If you are the second party completing the affidavit and you disagree with the first party’s classification of an item of property as marital or separate, indicate your disagreement by placing asterisks in your valuation column and then adding the item of property to the appropriate form within your affidavit.
16. If you are the second party completing the affidavit and there are additional items of property within one or more categories contained in the first party’s affidavit, draw a double line beneath the last item of property listed in the first party’s affidavit and add the additional items you claim.
17. The following is a list of abbreviations used in the affidavit.

FMV	=	Fair Market Value
DOM	=	Date of Marriage
DOS	=	Date of Separation
Poss.	=	Possession
H	=	Husband
W	=	Wife
Jt.	=	Joint
Prop. Dist.	=	Proposed Distribution

DESCRIPTION OF ASSETS

ITEMS AND CATEGORIES

- I. REALTY
 - A. Residence
 - B. Rental
 - C. Commercial/Business
 - D. Recreational/Vacation
 - E. Time Share
 - F. Other

- II. TRANSPORTATION
 - A. Automobiles
 - B. Trucks
 - C. Vans
 - D. Motorcycles
 - E. Boats
 - F. Airplanes
 - G. Other

- III. BANK ACCOUNTS/IRA ACCOUNTS
 - A. Checking Accounts
 - B. Savings Account
 - C. IRA Accounts
 - D. Certificates

- IV. STOCKS/BONDS/LIFE INSURANCE POLICIES
 - A. Stocks
 - B. Bonds and Debentures
 - C. Mutual Funds
 - D. Options
 - E. Futures
 - F. Other

- V. ARTWORK/METALS/COLLECTIBLES
 - A. Artwork
 - B. Gold
 - C. Silver
 - D. Jewelry
 - E. Firearms
 - F. Coins
 - G. Other

- VI. BUSINESS/PROFESSIONAL INTERESTS
 - A. Closely Held Corporation

- B. Partnership
- C. Sole Proprietorship
- D. Unincorporated Association
- E. Other

VII. ANIMALS

- A. Dogs
- B. Cats
- C. Birds
- D. Horses
- E. Cattle
- F. Swine
- G. Sheep/Goats
- H. Other

VIII. INTELLECTUAL PROPERTY

- A. Inventions and Trade Secrets
- B. Copyrights and Patents
- C. Trademarks and Trade Names

IX. HOUSEHOLD GOODS

- A. Furniture
- B. Pictures, Prints and Other Wall Hangings
- C. Appliances
- D. Electronics/Entertainment
- E. Linens
- F. Books
- G. Kitchen Utensils/China/Silverware/Crystal
- H. Outdoor Furniture
- I. Sporting Goods
- J. Household Tools
- K. Lawn Mowers
- L. Yard/Garden Tools
- M. Other

X. TOOLS OF TRADE/EQUIPMENT

- A. Tools
- B. Equipment/Machinery
- C. Farm Equipment/Implements

XI. ANY OTHER PROPERTY

**PART 1.
SUMMARY**

Marital Property (Part II)	H Net FMV DOS	H Net FMV Present	W Net FMV DOS	W Net FMV Present
I. Realty				
II. Transportation				
III. Bank/IRA Accounts				
IV. Stocks/Bonds/Insurance				
V. Artwork/Metals/Collectibles				
VI. Business/Professional Interests				
VII. Animals				
VIII. Intellectual Property				
IX. Household Goods				
X. Tools/Equipment				
XI. Other				
TOTAL (Marital)	\$ _____	\$ _____	\$ _____	\$ _____

SEPARATE PROPERTY (Part III)

TOTAL (Separate) \$ _____ \$ _____ \$ _____ \$ _____

PENSION/RETIREMENT ACCOUNTS (Part IV)

TOTAL (Pension/Retirement) \$ _____ \$ _____ \$ _____ \$ _____

MARITAL DEBT (Part V) (Not considered in Part II above)

TOTAL (Debt) \$ _____ \$ _____ \$ _____ \$ _____

NOTE: This page is a summary of the values given in the rest of the Affidavit. Complete this page after the rest of the Affidavit is completed.

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

_____ COUNTY

FILE NO: _____ CvD _____

_____,)

Plaintiff)

vs.)

_____,)

Defendant)

**PRE-TRIAL ORDER FOR
EQUITABLE DISTRIBUTION**

THIS MATTER coming on to be heard and being heard upon pretrial conference before the undersigned presiding Judge upon pleadings seeking a determination of marital property and an equitable distribution of such property as shall be determined to be marital;

AND IT APPEARING that the parties have reached an agreement on certain facts and on certain issues and have delineated the areas of agreements and disagreements;

AND IT APPEARING that by their signatures affixed hereto, each party stipulates that he or she agrees with the facts and issues classified as agreed upon and stipulates that facts and issues classified as being in dispute are accurately reflected and that there are no other issues to be determined by the Court;

AND IT FURTHER APPEARING that each party by signing this Pre-Trial Order warrants and avows that he or she had disclosed the existence of all property, both separate and marital, to which he or she may have claim at the date of valuation of marital property, regardless of to whom such property may be titled or in whom actual ownership may be designated. Said disclosure has been full and honest and is free from taint and fraud;

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

1. The Court has jurisdiction over the parties and subject matter of this action.
2. Plaintiff and Defendant were married on _____.
3. The Plaintiff and Defendant are the parents of _____ children whose name and birth dates are as follows:

_____	_____
_____	_____
_____	_____

EXHIBIT 3

1. The date Plaintiff and Defendant separated is _____.
2. The date of valuation is _____.
_____ (if checked)
3. The parties agree that an equal distribution is an equitable distribution.
4. Schedule A is a list of marital property upon which there is **AGREEMENT** as to **VALUE** and **DISTRIBUTION** (as between Plaintiff and Defendant).
5. Schedule B is a list of marital property upon which there is **AGREEMENT** as to **DISTRIBUTION** and **DISAGREEMENT** as to **DISTRIBUTION**.
6. Schedule C is a list of marital property upon which there is **AGREEMENT** as to **VALUE** and **DISAGREEMENT** as to **DISTRIBUTION**.
7. Schedule D is a list of marital property upon which there is **DISAGREEMENT** as to **DISTRIBUTION** and **DISAGREEMENT** as to **VALUE**.
8. Schedule E is a list of items about which there is **DISAGREEMENT** as to **WHETHER** the item is **MARITAL PROPERTY**.
9. Schedule F is a list of items about which there is **DISAGREEMENT** as to **WHETHER** the item is **MARITAL PROPERTY**.
10. Schedule G is a list of items with **MIXED, MARITAL AND SEPARATES CHARACTERISTICS**.
11. Schedule H is a list of **HUSBAND'S CONTENTIONS WHY AN EQUAL DIVISION IS NOT AN EQUITABLE DISTRIBUTION**.
12. Schedule I is a list of **WIFE'S CONTENTIONS WHY AN EQUAL DIVISION IS NOT AN EQUITABLE DISTRIBUTION**.
13. Schedule J is a list which both parties agree includes **SEPARATE PROPERTY OF THE HUSBAND**.
15. Schedule K is a list which both parties agree includes **SEPARATE PROPERTY OF THE WIFE**.
16. Schedule L is a list of debts upon which there is **AGREEMENT** as to the **AMOUNT** and whether each debt is **MARITAL**.
17. Schedule M is a list of debts upon which there is **DISAGREEMENT** as to the **AMOUNT** or **WHETHER** each debt is **MARITAL**.
18. Plaintiff and Defendant have added any additional schedules needed to state any other issues to be decided by the Court. They are labeled Schedules _____, _____, and _____.
19. The parties shall submit affidavits of expert witnesses intended to be called at trial to counsel for the opposing party no later than _____. Seven (7) days from the receipt of such affidavit, counsel for each party shall advise the other as to whether stipulations can be entered into concerning the admission of the respective expert witnesses' affidavits or whether the experts will need to be present at trial to testify.
20. The Presiding Judge shall rule on the following:
 - (a) What is the value of the items in Schedule B?
 - (b) Which party shall be the owner of the items on Schedule C?
 - (c) What is the value of and which party shall be the owner of the items of Schedule D?

- (d) Are the items on Schedule E and F marital property and if so, what are their values?
- (e) Are the items on Schedule G marital, separate or mixed and their values, and if the items are mixed, what portion of each item is marital and what portion is separate?
- (f) If the parties do not agree that equal is equitable , the Judge shall rule on an equitable division.
- (g) The Judge shall rule on issues raised in Supplemental Schedules attached hereto.

This matter is set for trial on _____, 19_____.

This the _____ day of _____, 19_____.

Judge Presiding

CONSENTED TO:

Plaintiff

Defendant

Attorney for the Plaintiff

Attorney for the Defendant

**SCHEDULE A
MARITAL PROPERTY UPON WHICH THERE IS
AGREEMENT AS TO VALUE AND DISTRIBUTION**

ASSET

DISTRIBUTION

VALUE

SCHEDULE A (continued)

ASSET

DISTRIBUTION

VALUE

SCHEDULE A (continued)

ASSET

DISTRIBUTION

VALUE

SCHEDULE B
MARITAL PROPERTY UPON WHICH THERE IS
AGREEMENT AS TO DISTRIBUTION AND DISAGREEMENT AS TO VALUE

ASSET

DISTRIBUTION

VALUE
H Contention W Contention

SCHEDULE B (continued)
MARITAL PROPERTY UPON WHICH THERE IS
AGREEMENT AS TO DISTRIBUTION AND DISAGREEMENT AS TO VALUE

ASSET

DISTRIBUTION

VALUE
H Contention W Contention

SCHEDULE C
MARITAL PROPERTY UPON WHICH THERE IS
AGREEMENT AS TO VALUE AND DISAGREEMENT AS TO DISTRIBUTION

ASSET	DISTRIBUTION	VALUE
	H Contention W Contention	

SCHEDULE D
MARITAL PROPERTY UPON WHICH THERE IS
DISAGREEMENT AS TO DISTRIBUTION AND DISAGREEMENT AS TO VALUE

ASSET

DISTRIBUTION

VALUE
H Contention W Contention

**SCHEDULE E
WIFE CLAIMS SEPARATE
HUSBAND CLAIMS MARITAL**

ASSET

PRESENT POSSESSION

VALUE
H Contention W Contention

**SCHEDULE F
HUSBAND CLAIMS SEPARATE
WIFE CLAIMS MARITAL**

ASSET

PRESENT POSSESSION

VALUE
H Contention W Contention

**SCHEDULE G
PROPERTY WHEN MIXED, MARITAL AND
SEPARATE CHARACTERISTICS**

ASSET

PRESENT POSSESSION

VALUE
H Contention W Contention

SCHEDULE H
PLAINTIFF'S CONTENTION AS TO WHY
EQUAL DIVISION IS NOT AN EQUITABLE DISTRIBUTION

SCHEDULE I
DEFENDANT'S CONTENTION AS TO WHY
EQUAL DIVISION IS NOT AN EQUITABLE DISTRIBUTION

SCHEDULE J
PARTIES AGREE INCLUDES SEPARATE
PROPERTY OF THE HUSBAND

**SCHEDULE K
PARTIES AGREE INCLUDES SEPARATE
PROPERTY OF THE WIFE**

**SCHEDULE L
MARITAL DEBTS
AGREEMENT AS TO AMOUNT**

**SCHEDULE M
DEBTS**

DISAGREEMENT AS TO STATUS OR AMOUNT

Husband's Contentions

Wife's Contentions

_____)
)
 In Re:)
 The Matter of the Release of)
 Confidential Information to)
 Sheriffs in Connection With)
 Application for)
 Concealed Handgun Permits)
 _____)

STANDING ORDER

This Standing Order is entered for the following reasons:

1. G.S. 14-415.12 requires a Sheriff to issue a concealed handgun permit to an applicant who, among other things, does not suffer from a physical or mental infirmity that prevents the safe handling of a gun [G.S. 14-415.12(a) (3)], and to deny a permit to an applicant who is currently, or has previously been adjudicated to be, lacking in mental capacity or mentally ill [G.S. 14-415.12 (b) (6)].
2. In determining whether to issue a concealed handgun permit to an applicant, the sheriff reasonably needs to determine whether the applicant has been the subject of an involuntary commitment proceeding under Article 5 of Chapter 122C of the General Statutes and, if so, to examine the confidential information in the court files and court records of each such proceeding.
3. G.S. 122C-207 provides that court records made in all proceedings pursuant to Article 5 of Chapter 122C of the General Statutes are confidential and are not open to anyone, including the Sheriff, except as provided in G.S. 122C-54 (d); G.S. 122C-54 (d) provides that an individual seeking confidential information contained in the court files or court records of such a proceeding may file a written motion in the cause setting out why the information is needed, and that a district court judge may enter an order to disclose that information upon making the finding contained in Paragraph 5 of this Standing Order.
4. G.S. 14-415.13 requires each applicant for a concealed handgun permit to submit to the sheriff, among other things, a release that authorizes and requires disclosure to the sheriff of any records concerning the mental health or capacity of the applicant; it is appropriate to treat such a release as a motion in the cause within the meaning of G.S. 122C-54 (d).
5. It is appropriate under the circumstances, and it is in the best interests of each applicant for a concealed handgun permit and of the public, to have the information specified in this Standing Order concerning involuntary commitment proceedings under Article 5 of Chapter 122C of the General Statutes disclosed to the sheriff in connection with each application for a concealed handgun permit.

Based on these findings, the undersigned concludes that the interests of all applicants for concealed handgun permits and of the public, and the efficient and proper processing of permits for concealed handgun permits, require that this Standing Order be issued authorizing the release of the information specified, and that this Standing Order function as the order of a district court judge in each involuntary commitment proceeding in which an applicant for such a permit has been named respondent.

Therefore, it is ORDERED that the clerk of superior court of each county in this District is authorized and directed, upon presentation of a release properly executed in accordance with G.S. 14-415.13 (a) (5) by an applicant for a concealed handgun permit:

1. To inform the Sheriff with whom the application was filed whether or not there is, in the records of the clerk, the record of any involuntary commitment proceeding under Article 5 of Chapter 122C of the General Statutes in which the applicant was named as a respondent,
2. If so, to reveal to the Sheriff any confidential information in the court files and court records of each such proceeding that the Sheriff may reasonably require in order to determine whether or not to issue a concealed handgun permit to the applicant, and
3. To place in each court file from which information is revealed to the Sheriff a copy of the applicant's release and a copy of this Standing Order, and to note in the file the date on which and the person to whom information is revealed pursuant to this Standing Order.

Entered this the 20th day of December, 1995.

Chief District Court Judge

IN RE:

**27-B JUDICIAL DISTRICT
CONTINUANCE POLICY**

ORDER

This order is intended to assist in utilizing the resources of the 27-B Judicial District more effectively and efficiently by applying uniform standards of calendar management and evaluation of continuance requests in a fair and consistent manner.

Rule 1: Motion for Continuance – Criminal Cases

Criminal cases should be disposed of at the earliest opportunity, including the first trial setting. However, when 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 are made on or after 84 days (twelve weeks) from the first calendaring before a judge shall be granted for extraordinary cause only.

1.1 Appropriate Court Official

Requests for continuance on matters at the first calendaring may be granted by the (assistant) District attorney. After the first calendaring rulings on any request for continuance made on the day of court for the session in which the case is calendared shall be the responsibility of the presiding trial judge of that court. The Chief District Court Judge, if available, shall address motions for continuance made prior to the session of court during which the case is calendared. In the alternative, continuance motions may be made to the judge to be presiding over the session of court during which the case is calendared.

1.2 Court Conflicts

The various levels of court should work together to try to move cases as expeditiously as possible. 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 keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts, juvenile cases shall take precedence over all other matters.

1.3 Documentation of Continuance

All orders of continuance shall be documented in or on the file, and shall include the name of the moving party, any objections to the continuance, and the basis for the continuance.

All requests for continuance for matters beyond 84 days from the first calendar date shall be by written motion. However, oral motions may be allowed when the reason for the continuance did not become known until immediately preceding the start of court.

1.4 Notification of Opposing Counsel/Unrepresented Parties/Witnesses

All applications for continuance shall be made as soon as a conflict is identified, and all affected – opposing counsel, unrepresented parties, subpoenaed witnesses, or court staff charged with subpoenaing witnesses – shall be notified as soon as possible by the moving party.

1.5 Objections to Motion for Continuance

All parties should have an opportunity to be heard on a motion to continue.

1.6 Case Rescheduling

Upon granting a motion for continuance, the judge should reschedule the case, taking into consideration the availability of counsel, defendant, and witnesses.

1.7 Time Standards

All criminal and motor vehicle cases should be disposed within 120 days from the first appearance in District Court.

1.8 Motions to Strike – Orders for Arrest and Continuance of Case

When a defendant is “called and failed” for a failure to appear, any motion made to strike the order for arrest and forfeiture shall be made in open court with the State represented. If the case has pending for more than 84 days since the first court setting, the request for a continuance should ordinarily be denied absent a showing of a compelling reason to continue the case.

Rule 2: Motions for Continuance – General Civil and Magistrate Appeal Cases

Civil cases should be heard at the earliest opportunity, including the first trial setting. 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 case beyond the established time standards shall only be granted for extraordinary cause.

2.1 **Appropriate Court Official**

All applications for continuance shall be made to the District Court Judge presiding over the session of court for which the case is calendared, or his/her designee. If the trial judge is not known at the time the request is made, the application should be addressed to the Chief District Court Judge.

2.2 **Court Conflicts**

The various levels of court should work together to try to move cases as expeditiously as possible. 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 keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts juvenile cases shall take precedence over all other matters.

[Commentary: All attorneys are reminded of the requirements of Rule 2(e) of the General Rules of Practice regarding their appearance, or the appearance of a partner, associate, or another attorney familiar with the case, if there is another court that requires his or her presence in court simultaneously.]

2.3 **Documentation of Continuance**

All requests for continuance shall be by written motion. However, oral motions may be allowed when the reason for the continuance did not become known until immediately preceding the start of court.

[Commentary: This proviso for an oral motion is only for emergency situations, such as severe family illness or death of a party, one of the attorneys, or critical witnesses; and the absence of that person will make it impossible for the trial or hearing to proceed.]

2.4 **Notification of Opposing Counsel/Unrepresented Parties/Witnesses**

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 prior to ruling on the motion. 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.

[Commentary: The burden is on the moving party to advise the court and opposing counsel of any motion for a continuance. The goal of this provision is to avoid any continuance surprises and to provide notice as expeditiously as possible to the court and to the opposing party and/or their counsel.]

2.5 **Objections to Motion for Continuance**

All parties should have an opportunity to be heard on a motion to continue

When a motion to continue is made more than seven (7) working days prior to trial, opposing counsel and/or unrepresented parties shall have a period of four (4) working days, following completion of distribution, to communicate objections to the motion for continuance to the moving party and the presiding District Court Judge or his/her designee. Objections not raised in writing within this time period are deemed waived.

When a motion to continue is made within seven (7) working days of the trial term (other than an oral motion as provided in Rule 2.3 above), the moving party shall include in the written motion a statement that the opposing counsel or party has been contacted and a short statement on opposing party's position on the motion (including whether the opposing party or counsel consents or objects, and whether or not he or she desires to be heard on the motion). If the moving party is unable to contact the opposing counsel or unrepresented parties, the motion shall state what efforts were made and why contact was not possible.

[Commentary: The writing requirement of this rule may be in the form of a letter.]

2.6 **Evaluation of Motions for Continuance**

Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- the effect on children and spouses if the issue is continued and not resolved;
- the impact of a continuance on the safety of the parties or any other persons;
- the age of the case;
- the status of the trial calendar for the session;
- the order in which the case appears on the trial calendar, including whether the case is peremptorily scheduled;
- the number of previous continuances;
- the extent to which counsel had input into the scheduling of the trial date;
- the due diligence of counsel in promptly filing a motion for continuance as soon as practicable;
- whether the reason for continuance is a short-lived event which would resolve prior to the scheduled trial date;
- 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 requested;
- the position of opposing counsel or unrepresented parties; for a future session;
- whether the parties themselves consent to the continuance;
- present or future inconvenience or unavailability of witnesses/parties;
- consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued;

- compliance with any law relating to the scheduling and trial of civil cases (such as summary ejectment appeals); and
- any other factor that promotes the fair administration of justice

2.7 Case Rescheduling

Upon granting a motion for continuance, the judge should reschedule the case to a specific trial date after receiving input from all parties.

2.8 Time Standards

All general civil and magistrate appeal cases should be disposed within 24 months of filing, with 90% of all cases disposed within 12 months of filing.

Rule 3: Motions for Continuance – Domestic Cases

Domestic cases should be heard at the earliest opportunity, including the first trial setting. 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.

3.1 Appropriate Court Official

All applications for continuance shall be made to the District Court Judge presiding over the session of court for which the case is calendared. If the trial judge is not known at the time the request is made or is unavailable, the application should be addressed to the Chief District Court Judge or his or her designee.

3.2 Court Conflicts

The various levels of court should work together to try to move cases as expeditiously as possible. 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 keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts juvenile cases shall take precedence over all other matters.

[Commentary: All attorneys are reminded of the requirements of Rule 2(e) of the General Rules of Practice regarding their appearance, or the appearance of a partner, associate, or another attorney familiar with the case, if there is another court that requires his or her presence in court simultaneously.]

3.3 Documentation of Continuance

All requests for continuance shall be by written motion. However, oral motions may be allowed when the reason for the continuance did not become known until immediately preceding the start of court.

[Commentary: This proviso for an oral motion is only for emergency situations, such as severe family illness or death of a party, one of the attorneys, or critical witnesses; and the absence of that person will make it impossible for the trial or hearing to proceed.]

3.4 Notification of Opposing Counsel/Unrepresented Parties/Witnesses

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 prior to ruling on the motion. 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.

[Commentary: The burden is on the moving party to advise the court and opposing counsel of any motion for a continuance. The goal of this provision is to avoid any continuance surprises and to provide notice as expeditiously as possible to the court and to the opposing party and/or their counsel.]

3.5 Objections to Motion for Continuance

All parties should have an opportunity to be heard on a motion to continue.

When a motion to continue is made more than seven (7) working days prior to trial, opposing counsel and/or unrepresented parties shall have a period of four (4) working days, following completion of distribution, to communicate objections to the motion for continuance to the moving party and the presiding District Court Judge or his/her designee. Objections not raised in writing this time period are deemed waived.

When a motion to continue is made within seven (7) working days of the trial term (other than an oral motion as provided in Rule 3.3 above), the moving party shall include in the written motion a statement that the opposing counsel or party has been contacted and a short statement on opposing party's position on the motion (including whether the opposing party or counsel consents or objects, and whether or not he or she desires to be heard on the motion). If the moving party is unable to contact the opposing counsel or unrepresented parties, the motion shall state what efforts were made and why contact was not possible.

[Commentary: The writing requirement of this rule may be in the form of a letter.]

3.6 Evaluation of Motions for Continuance

Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- the effect on children and spouses 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 the 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 session;
- the order in which the case appears on the trial calendar, including whether the case is peremptorily scheduled;
- the number of previous continuances OR the number, moving party, and grounds for previous continuances;
- the extent to which counsel had input into the scheduling of the trial date;
- the due diligence of counsel in promptly filing a motion for continuance as soon as practicable;
- whether the reason for continuance is a short-lived event which would resolve prior to the scheduled trial date;
- 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 requested;
- 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;
- consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued; and
- any other factor that promotes the fair administration of justice.

3.7 Case Rescheduling

Prior to granting a motion for continuance, the appropriate judge official should reschedule the trial or pre-trial of the contested issues to a specific date after receiving scheduling input from all parties.

3.8 Time Standards

All domestic cases should be disposed within 18 months of filing, with 90% disposed within 12 months. Issues of child support should be resolved and a temporary or permanent order entered within 60 days of service. Post-disposition issues, such as contempt and motions to modify existing orders, should be resolved within 60 days of the filing of such actions.

Rule 4: Motions for Continuance – Juvenile Cases

For an abused or neglected child, the courts are his or her source of protection and the source of services. For a delinquent child or youth, the courts provide the opportunity for rehabilitation. The goal of a case management plan for juvenile court is to put the courts in the best position to ensure the safety of children, and to give them the best possible chance of living in stable, permanent families. Therefore continuances should be allowed only when it serves the child's best interest. Participants must come to court prepared to meet statutory obligation that is required for resolution of these matters.

Accordingly, juvenile cases, including motions for review in abuse and neglect matters, should be disposed at the earliest opportunity, including the first setting for hearing. Requests for continuances that are made after the first setting for hearing on the merits of the case shall only be granted for extraordinary cause.

4.1 Appropriate Court Official

All applications for continuance shall be made to the District Court Judge presiding over the session of court for which the case is calendared. If the trial judge is not known at the time the request is made or is unavailable, the application should be addressed to the Chief District Court Judge or his or her designee.

4.2 Court Conflicts

The various levels of court should work together to try to move cases as expeditiously as possible. 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 keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts juvenile cases shall take precedence over all other matters.

4.3 Documentation of Continuance

All orders for continuance shall be documented in writing, and shall include the name of the moving party, any objections to the continuance, and the basis for the continuance.

4.4 Notification of Opposing Counsel/Unrepresented Parties/Witnesses

All applications for continuance shall be made as soon as a conflict is identified, and all affected – opposing counsel, unrepresented parties, subpoenaed witnesses, or court staff charged with subpoenaing witnesses – shall be notified as soon as possible by the moving party.

4.5 **Objections to Motion for Continuance**

All parties should have an opportunity to be heard on a motion to continue.

4.6 **Evaluation of Motions for Continuance**

Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- the best interest for the child;
- the opportunity to exercise the right to effective assistance of counsel;
- the age of the case and the seriousness of the charge;
- the incarceration status of the juvenile
- the effect on children and spouses if the issue is continued and not resolved;
- the impact of a continuance on the safety of the parties or any other persons;
- the status of the trial calendar for the session;
- the number, moving party, and grounds for previous continuances;
- the due diligence of counsel in promptly filing a motion for continuance as soon as practicable and notifying opposing counsel and witnesses;
- whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- the presence of witnesses, including the juvenile;
- the availability of witnesses for the present session, or for a future session;
- the availability of counsel;
- consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued; and
- any other factor that promotes the fair administration of justice.

4.7 **Case Rescheduling**

Upon granting a motion for continuance, the judge shall reschedule the case for a specified date, taking into consideration the availability of counsel, parties and witnesses.

4.8 **Time Standards**

All undisciplined juvenile cases should be disposed within 30 days of service of the petition. All delinquency cases involving misdemeanor offenses should be disposed within 90 days of service of the petition and those involving felony offenses within 120 days of service of the petition.

All adjudication of abuse and neglect cases should be within 60 days of service of the petition. All termination of parental rights cases should be disposed within 120 days after service of the petition.

A copy of this Order shall be kept on file by the Clerks of Superior Court in Cleveland and Lincoln Counties and shall be distributed to all practicing attorneys in the 27-B Judicial District.

This order shall become effective January 5, 1998 and shall apply to all motions for continuance made on or after said date.

This, the 27th day of October, 1997.

J. Keaton Fonvielle
Chief District Court Judge