

25TH JUDICIAL DISTRICT – RULES OF COURT

Article 5. Rules for Family Court – Domestic Cases

Dom Rule 1. Scope/Overview/Purpose.

- 1.1 Purpose and scope. The purpose and scope of these rules is to implement in the 25th Judicial District the principles of a unified Family Court including a comprehensive case management plan for all domestic cases. These principles include: assignment of cases involving a family to one judge, establishing and maintaining case management of all cases, implementing strict deadlines for disposition of such cases, encouraging specialization of judges through training and experience, utilizing and referring families to community resources, encouraging less adversarial resolution processes for family court issues, create a more family friendly system and maintain fairness and due process in the implementation of these goals.
- 1.2 Overview. From the moment of filing to the time of disposition cases are aggressively managed by the Court and case management staff. Time guidelines are established and cases are resolved as quickly as possible using accepted case management principles. Issues are referred to Alternative Dispute Resolution Programs to maximize the possibility of resolution in non-adversarial processes. The parties are provided information about techniques and resources available in the community to lessen the negative effects of family disputes on the parties and their children. Conferences are held to narrow issues and promote greater efficiency in the use of court resources.
- 1.3 Definitions.
- a) “Custody case” – An action or motion in the cause which includes an issue of establishing or modifying a custody or visitation order.
 - b) “Domestic case” – Any claim for absolute divorce, divorce from bed and board, annulment of marriage, child custody/visitation, child support, alimony, post-separation support, equitable distribution, domestic violence, paternity or related enforcement action.
 - c) “Notice of Prior Judicial Assignment(s)” – Document filed with case manager and clerk upon filing of pleading or motion in a domestic case (with exceptions set forth in these rules) setting forth the name(s) of any judge(s) who have previously heard any substantial issue involving the same family in any previously heard or currently pending juvenile or domestic action.

- d) “Family Court Case Management Notice” – Document prepared by case manager and delivered to party filing certain domestic claims assigning a family court judge, informing parties of rights and obligations and informing the parties of upcoming court events.
- e) “Juvenile action” – A case filed alleging that a Juvenile is emancipated, abused, neglected, dependant, delinquent or undisciplined or pursuant to the Parental Control Act or Minor Consent for Abortion Act.
- f) “Clerk” – The Clerk of Superior Court, any Assistant Clerk or Deputy Clerk.
- g) “Family Court Judge” – District Court Judge assigned to Family Court in designated Family Court District to hear matters involving domestic cases, juvenile actions and commitment hearings.
- h) “Parenting agreement” – An agreement reached between parties in a custody case regarding some or all of issues involving custody and/or visitation as mediated by the Custody Mediation Program. If adopted by the Court by a judge’s signature, such agreement is a child custody order for all legal purposes.

Dom Rule 2. The Basic Process of Case Management.

2.1 The filing process.

- a) Cover sheets. Except as herein provided, an original and one copy (filed with case manager) of a completed AOC Cover Sheet shall accompany the filing of any Complaint, Motion, Answer ,other Pleading or Order as required by Rule 5 of the *General Rules of Practice*. Exceptions are: involuntary commitments, pro se domestic violence cases, IV-D show cause/enforcement cases, UIFSA cases and Clerk’s automated child support enforcement cases. Attorneys and parties shall exercise special care to indicate the existence of all issues in the pleadings upon which they wish to proceed. The Cover Sheet should also specify whether a party requests a jury trial on any issues. **The issues indicated in the cover sheet shall govern the issues upon which the parties shall proceed. Requests for jury trial must also be indicated on the Cover Sheet. The Court shall review the cover sheet with the parties/attorneys at the Initial Status Conference to verify that it is accurate and make any appropriate changes.** The Clerk shall assign a case number at the time of filing and all subsequent pleadings, filings and correspondence between parties and/or their attorneys shall contain the proper case number. The Cover Sheet shall also include the address and telephone number of the opposing party(ies), if known.
- b) Notice of Prior Judicial Assignment/Family Court Case Management Notice. Except as herein provided, all new domestic cases and motions in the cause of closed cases shall be accompanied by the filing of an *Notice of Prior Judicial Assignment(s)* with the case manager and the filing of a *Family Court Case Management Notice*

(obtained from the case manager) with the Clerk. Where available, this process of exchange of information and forms between a filing party/attorney and the case manager may be done by e-mail and/or “fax” transmission. The filing of the *Family Court Case Management Notice* may be delayed **to the next business day** if the case manager is unavailable at the time of filing (See specific rules). Exceptions are: claims for absolute divorce (with no other claims except change of name, incorporation of separation agreement), involuntary commitments, pro se domestic violence cases, IV-D cases, UIFSA cases and Clerk’s automated child support enforcement cases. Answers filed in absolute divorce claims which deny a significant fact relevant to a divorce shall include filing of the *Notice of Prior Judicial Assignment* as noted above.

2.2 Judge assignment; One Judge, one family. Except those cases mentioned in **Dom Rule 2.2 b)** above, in filing new domestic cases and motions, the party seeking relief shall provide a copy of the Cover Sheet and *Notice of Prior Judicial Assignment(s)* to the Case Manager. The case manager shall immediately assign the case to a Family Court Judge and schedule the matter for the next appropriate court event as provided by these rules. The case manager will complete a *Family Court Case Management Notice* form. Those cases previously assigned to or heard by a particular Family Court Judge (including all juvenile or domestic violence matters) shall be assigned to such Judge. Where **ex parte** or other emergency relief is requested at the time a matter is filed, the case manager should, whenever possible, assign the case to the Family Court judge who will hear the “10 day” or return hearing where the judge granting the **ex parte** or emergency relief will not be available for the return hearing.

2.3 Emergency and Ex Parte matters. Emergency or Ex Parte matters may be heard by the judge assigned regardless of the session at which the Judge may be presiding. If the Judge assigned to the case is not available to hear an Ex Parte or other emergency matter, any other Family Court Judge in that county may hear the matter. If no other Family Court Judge is available in the county, the matter may be heard by the Chief District Court Judge or by another Judge designated by the Chief District Court Judge.

2.4 Case Management.

a) Case tracking. The Family Court Administration Staff shall establish and maintain a case tracking system. They shall schedule family court cases for court events as may be necessary and appropriate based on the issues raised in the pleadings and these rules. Upon the assignment of a case to a Judge, all motions and hearings shall be scheduled by the case manager before the Judge assigned except as may be necessary in Emergency or Ex Parte matters.

b) Court events. All pending claims should be scheduled for some action or event from the time the matter is filed until an Order is entered resolving the claim. Depending upon the type of claim as hereinafter provided, such events shall include: Mediation or other Alternative Dispute Resolution (ADR) Process, Initial status conference, interim status conferences, pretrial conferences, trial and pending order setting.

- c) Attorneys to be consulted. In order to avoid conflicts, when setting dates and times for future court events, the Court and the case manager shall, if practical, attempt to consult the attorneys representing the parties for input in setting such dates and times.

2.5 Status conferences.

- a) Scheduling. The case manager shall schedule all Child Custody, Equitable Distribution and Alimony claims for an initial status conference **within sixty (60) days** of the filing of the claim. Subsequent status conferences shall be scheduled by the Court or case manager until such time as the matter is ready for the Final Pretrial Conference. The scheduling of Alternative Dispute Resolution processes shall not delay scheduling of the matter for status and pretrial conferences.
- b) Initial Status Conference before judge. The Initial Status Conference shall be before the assigned judge whenever possible. Subsequent status conferences will be facilitated by the case manager unless otherwise directed by the assigned judge.
- c) Purpose. The following tasks are to be accomplished at the Initial Status Conference:
- Give the Court a quick view of the case and to classify the case in terms of its complexity or anticipated resource needs;
 - Check the accuracy of the Cover Sheet to make sure that: 1) the parties' addresses are clearly noted; 2) all claims are accurately noted; and 3) jury trial requests are clearly and appropriately noted. New Cover Sheets shall be filed when changes are made and changes shall be noted for the Clerk;
 - Verify that the parties have complied with statutory requirements to file Affidavit of Status of Minor Child and list Social Security numbers of children for child custody and child support claims;
 - Make decisions about the most appropriate Alternative Dispute Resolution Program for a case;
 - Make decision whether to permit parties to file Short Form Inventory affidavits;
 - The Court shall establish a Discovery Plan pursuant to Rule 26 (f) of the *NC Rules of Civil Procedure* or enter other appropriate orders relating to discovery;
 - In the event service has not been obtained at the time of the Initial Status Conference, the Court may enter appropriate orders directing the party seeking service to take specified appropriate steps authorized by law to achieve service;
 - Schedule subsequent status conferences as needed to evaluate settlement options and efforts and to direct the progress of the case as to Discovery issues and deadlines, expert witness appointment, timelines for task completion and any other preparatory steps necessary to move the matter to trial readiness; and
 - Schedule the matter for Pretrial Conference.

2.6 Pretrial Conferences.

- a) Scheduling. Except as herein provided, all claims for child custody, alimony, orders to show cause for contempt and equitable distribution which are not resolved or settled by mediation or other alternative dispute resolution program must have a Pretrial Conference before the matter can be scheduled for trial. Matters are placed on the Ready Calendar upon completion of a Pretrial Conference. Matters not requiring a Pretrial Conference include: uncontested divorces, hearings for emergency or temporary relief, attorney fees, domestic violence claims, UIFSA, IV-D, child support enforcement matters and certain uncontested child custody matters approved by a case manager.
- b) Purpose. In general, the purposes of a pretrial conference include executing a Pretrial Order, exploring settlement options, defining and organizing the order of presentation of evidence, identifying all witnesses and determining as far as possible the expected length of the trial. The pretrial order should detail all stipulations between the parties and clearly designate all issues remaining for trial.

2.7 The Ready Docket / Scheduling cases for trial. Matters for trial shall be calendared on a Master Ready Trial Docket at a Pretrial Conference held for each claim. Priority will be given based upon the age of the claim and the time standards set for the disposition of the type of claim. For each trial session the case manager will prepare a Trial Calendar which shall include that portion of the highest priority claims on the Ready Docket which can reasonably be addressed during the term. This number of cases shall be determined by the case manager and the assigned judge. The case manager will continue to update the Trial Calendar as events occur affecting the order or times of trials. Attorneys may file a Calendar Request to have a case scheduled for a particular date after a matter has been placed on the Ready Docket.

2.8 Custody Mediation and Other Alternative Dispute Resolution Programs. All claims for child custody must first attempt mediation except as excused by the Court. All claims for Alimony and Equitable Distribution must first attempt an Alternative Dispute Resolution Process before being set for trial. Claims for child support may be set for Alternative Dispute Resolution if ordered by a judge or agreed by the parties.

2.9 Notice is responsibility of moving party. It is the responsibility of the moving party to give notice to the opposing party or counsel immediately of the date, time and place of events set by the case manager and the Court. Notice must comply with these rules and the NC Rules of Civil Procedure to be effective and must be on a proper *Notice of Hearing* or *Family Court Case Management Notice* form. The notices must also be filed in the appropriate case file.

2.10 Time standards. Unless excused by further Orders of the Court detailing the extraordinary cause necessitating further delay, Mediation, Alternative Dispute Resolution Processes, Discovery, Trial and Order Preparation shall be accomplished within the time deadlines

established by the NC Rules of Civil Procedure, these rules or Orders of the Court. See specific rules as hereinafter set forth.

2.11 Orders are finalized. In every Family Court case, all Orders shall be prepared and executed by the Court **within 30 days** of the completion of the trial or settlement of the claim(s). Unless otherwise ordered by the Court, the party preparing an Order shall give the opposing party or attorney a reasonable opportunity to review the Order prior to submitting it to the Court for signature. The reviewing party shall immediately review the proposed Order and indicate approval or specific objection to its terms to the preparing attorney. If a dispute arises as to what should or should not be included in the Order, the parties shall note their respective positions in writing when the matter is submitted to the Court for signature. The Court will then make further directions as it deems appropriate under the circumstances. The case manager shall maintain a tracking system for this time requirement and shall schedule the case on a Pending Order Docket before the assigned or presiding Judge for possible sanctions in the event the time deadline is not met. If the Court finds that either party or attorney has failed to take reasonable measures to either prepare the order or cause the order to be signed, a sanction shall be imposed for such failure. See also **Gen Rule 7** regarding Settlements in Civil/Domestic Cases and **Dom Rule 2.12** herein for rules relating to Pending Order Docket.

2.12 Pending Order Docket. In every domestic case wherein, after the case has been tried or settled, an order is to be prepared by a party, attorney for a party or the Court, the matter may be scheduled by the clerk or the case manager on a "Pending Order Docket" before the assigned judge, but in no event **more than thirty (30) days** from the trial or settlement. If the Order has been filed prior to such time, the matter shall be removed from the Pending Order Docket. If the Order has not been filed prior to such time, both parties and their attorneys, if any, shall appear on said date to show good cause, if any there be, for the failure to have the Order filed within the times prescribed by these Rules or the Court. See **Dom Rule 2.11**. The assigned judge, presiding over the Pending Order Docket may:

- a) Allow additional time for the responsible party or attorney to prepare and file the order and reset the matter on the next Pending Order Docket before the assigned judge;
- b) Impose any appropriate sanction(s) on a part or attorney where good cause has not been shown;
- c) If it appears that other parties or attorneys need to appear to show cause for the delay in the entry of the Order or to facilitate the entry of the Order, the Court may continue the case to the next Pending Order Docket and order their appearance;
- d) Enter any additional orders necessary to facilitate the preparation of the Order;
- e) If it appears that the case has not been finally resolved, enter appropriate orders necessary to cause the matter to be mediated or tried as soon as possible;
- f) If the assigned Judge is responsible for the preparation of the Order, he/she shall take necessary steps immediately to complete the Order. If additional administrative time

is needed to do so, he/she shall contact the Chief District Court Judge immediately for assignment to administrative session to finish the Order.

- 2.13** Continuances. In general, the continuance policies set forth in **Gen Rule 4** apply to cases in Family Court. The time standards set forth under these rules place additional restrictions on such continuances. The burden is on the requesting party to contact the opposing party or counsel prior to submitting the motion. Requests for continuances are first addressed to the case manager who will, if necessary, bring the request to the attention of the assigned judge. The request should include information as to whether the opposing party joins in or consents to the request or opposes it or whether the opposing party or counsel could not be reached or did not respond to the request. Any party opposing a request has the burden of submitting a written response, if possible, to the case manager immediately upon receipt of the request for continuance. If a matter is continued, the Order of Continuance will be served upon all parties and will serve as notice of the new court date. Hearings and conferences scheduled for a time certain may be rescheduled by the case manager or the assigned judge to a later or earlier time with proper notice to all parties. Wherever possible the case manager will consult with the parties and/or their attorneys about scheduling time preferences to avoid conflicts.
- 2.14** Jury trials in divorce, paternity, alimony and divorce from bed and board cases. Upon completion of the Pretrial Conference and the execution of the Pretrial Order, the Court shall set the issues in a divorce, paternity, alimony or divorce from bed and board case at the next appropriate jury term in the County where such action is pending if a jury trial is demanded (must be on Cover Sheet). If possible, the judge assigned shall preside over the trial. However, if such judge is not available, the matter may be heard by any judge. Upon verdict determining the fault issues, the judge hearing the evidence at the jury trial should enter the alimony award, if an award is appropriate.
- 2.15** Consolidated cases. Whenever practical and possible, new pleadings shall be filed in pending cases between the same parties instead of filing claims in a new action. When cases have been consolidated for trial, they will be regarded as one case for calendaring purposes and will appear under the oldest case number. A copy of the order consolidating the cases shall be filed in all pertinent court files and all pleadings or documents filed thereafter shall be captioned with the oldest file number only.
- 2.16** Appearances required. Unless excused by the Court or the case manager, attorneys and unrepresented parties shall be present for all scheduled Status Conferences. Parties and their attorneys shall be present for all Pretrial Conferences unless excused by the assigned judge. Sanctions shall be imposed for failure to attend unless such failure is excused by the Court for good cause.
- 2.17** Peremptory settings. Request for a peremptory setting shall be submitted to the case manager in writing using the *Request for Peremptory Setting* form with a copy served upon the opposing party or counsel. The opposing party or counsel shall respond to the case manager **within seven (7) days** if they oppose the request for peremptory setting or the date sought. When consented to or after receiving a response from the opposing party

or counsel or after the passage of **ten (10) days**, whichever comes first, the cases manager shall place the request before the assigned judge who shall render his or her decision. A preemptory setting shall be granted only for good and compelling reason. The judge's decision shall be transmitted to the moving party who shall then notify the opposing party or counsel.

- 2.18** Calendars. Except for certain child support matters (Clerk's show cause and all IV-D matters) and uncontested divorces and domestic violence matters, the case managers are responsible for scheduling all domestic matters and shall create calendars for Summary Hearings, Motions and Trials or other hearings **no later than four (4) weeks** prior to the first day of such court. Calendars shall be posted in an area easily accessible to the public in or immediately adjacent to the Clerk's office or the office of the case manager. Notice of calendaring shall be given within the time frame above to each attorney, unrepresented party and the assigned judge. Cases may be added on to such calendars after the four (4) week deadline as long as notice required by applicable statutes is given or with the consent of the parties or by order of the Court. See special rules for uncontested divorces under **Dom Rule 10**.
- 2.19** Remanded cases. When cases are remanded for trial by the Appellate Division, appellant's counsel shall promptly notify the case manager so that the case can be scheduled for a pretrial conference. The case manager shall schedule the matter for pretrial conference before the assigned judge with notice to all parties.
- 2.20** Telephone conferences authorized. The Court may, in its discretion, order or allow oral argument on any non-evidentiary motion by speaker phone conference or telephone conference call, provided that all participants to the conference can be heard by all other parties at all times during the call. The Judge may further order which party or parties shall bear the cost of the call. Such conferences shall be recorded unless the parties consent otherwise.
- 2.21** Issues rendered moot closed administratively. When an order is filed which renders moot issues not addressed in the order, the Clerk shall administratively enter as closed such issues without further written court order. Such issues include:
- a) Entry of final custody order renders moot any request for temporary custody.
 - b) Entry of final Equitable Distribution order renders moot any request for interim distribution.
 - c) Entry of Alimony order renders moot any request for Post Separation Support.
 - d) Entry of Divorce judgement renders moot any request for Divorce from bed and board.
 - e) Entry of order resolving all other issues shall render moot any request for "such other relief as may be appropriate" or similar request for unspecified relief as well as any request for attorney fees which remains unheard.

NOTE: To complete the record, the Clerk may place a certified copy of an order in another case file where the entry of the order in one case renders the issue in another case moot as set forth above.

2.22 Communications between Family Court Case Managers and Judges.

- a) Oral and written communications between family court case managers and judges regarding pending cases shall be limited to administrative issues regarding:
- Consolidation of a family's multiple cases;
 - Scheduling hearing and trial dates;
 - Court-ordered services to families (including availability, scheduling and attendance of appointments);
 - Court deadlines and timely filing of court documents, reports, orders, etc.;
 - Motions for exemption from mediation, ADR;
 - Continuance motions, requests for peremptory settings;
 - Sanction proceedings and hearings for failures of party or attorney to comply with rules.
- b) Case managers shall refrain from communicating information to judges that may jeopardize or compromise judicial neutrality in any way. This includes but is not limited to communications regarding the merits of a case and personal opinion or bias of any individual involved in the case.
- c) If a case manager is unsure whether or not certain information is appropriate to communicate to a judge, he or she shall discuss and obtain feedback from:
- Other case managers;
 - Family Court Administrator; or
 - Family court judges not assigned to the case in issue to determine the best course of action.
- d) If a case manager determines that information should not be orally communicated to the judge, he or she shall:
- Refrain from passing on the information in any form; and
 - Inform litigants and attorneys of their right to file motions to bring the information in question before the Court.
- e) Case managers shall maintain a record of their communications with judges regarding pending cases.

2.23 Other Claims; Where no special rules set forth. No specific rules are set out herein for certain domestic claims such as paternity actions, divorce from bed and board, etc.. The same case management principles shall apply to all domestic actions and these general rules shall apply to all such claims.

Dom Rule 3. Child Custody/Visitation Claims.

3.1 Procedures upon filing.

- a) Filing with case manager. Initial moving party **MUST**, prior to the Clerk filing, deliver a copy of the **Cover Sheet** and *Notice of Prior Judicial Assignment(s)* to the case manager. See limited exception under next rule.
- b) Filing with clerk. Except as herein provided, the clerk shall not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case manager. The filing party must complete and file with Clerk the following: **Cover Sheet** (with pre-approval designation of case manager), **Pleading setting forth claim** (complaint, motion, answer, etc.), *Family Court Case Management Notice*, **Affidavit as to status of minor child** (AOC FORM CV 609) and **Summons**. EXCEPTION: If the case manager is not available within a reasonable time to pre-approve a filing, a party may file without such approval and designate on the Cover Sheet that the case manager was unavailable. The filing party must then comply with **Dom Rule 3.1 a)** above before the end of the **next business day**. The Clerk shall inform the party of the requirements of this rule. Filing by mail shall not excuse a party from compliance with these filing requirements.
- c) Case manager assigns and schedules. Upon receipt of the properly executed cover sheet and *Notice of Prior Judicial Assignment*, the case manager shall:
 - Indicate filing approval on Cover Sheet,
 - Assign the case to a Family Court Judge,
 - Schedule the parties for a parent education class,
 - Schedule the parties for custody mediation orientation or mediation session (unless a *Motion for Exemption from Custody Mediation* is filed),
 - Schedule the matter for an Initial Status Conference,
 - Schedule the matter for a temporary custody hearing (**within 45 days**), if requested,
 - Distribute to the moving party a “Custody Mediation Package”, if available, and
 - Distribute to the moving party three (3) copies of *Family Court Case Management Notice* stating the name of the assigned judge and the dates of any scheduled court event in the case.

- d) Notice given by moving party. Upon filing the action and receiving from the office of the case manager the *Family Court Case Management Notice*, the filing party shall cause the opposing party to be served with the pleading pursuant to the *NC Rules of Civil Procedure*. The filing party shall further serve the opposing party with the *Family Court Case Management Notice*. Service of such *Notice* shall constitute notice of hearing for all court events indicated on the *Notice* including mediation dates.
- e) Temporary child custody hearing. Either party to a custody/visitation dispute, including a motion in the cause wherein a temporary hearing is requested, may request that a temporary hearing be held. Requests should be made to the case manager at the time such pleading is filed. Hearings following the entry of **ex parte** Orders on the issue of child custody/visitation shall constitute temporary hearings and no additional temporary hearings shall be scheduled unless an emergency issue arises justifying entry of further emergency orders. Rules relating to summary hearings shall apply. See **Dom Rule 16**.
- f) Temporary hearing following entry of emergency / ex parte order. Per state law, such hearings must be held **within 10 days** of entry of emergency order. Procedures and scheduling shall be the same as those for other temporary child custody hearings. See **Dom Rule 16**.
- g) Uncontested child custody/visitation issues. Whenever the case manager learns that a claim involving child custody/visitation issues is uncontested, that is, no answer or other mandatory responsive pleading has been filed within the time prescribed by law or a responsive pleading has been filed admitting or consenting to all of the allegations of the claimant, the case manager shall set the matter for hearing and take steps to cancel any scheduled mediation sessions or parent education classes.
- h) Other claims. In addition to the requirements under this rule, a party filing an action with other claims (child support, alimony, post separation support, Equitable Distribution, etc.) must comply with the requirements of the other rules herein pertaining to those claims.

3.2 Case management. Upon completion of the procedures set forth in **Dom Rule 3.1** above, the case manager shall maintain the schedule of the assigned judge and monitor the court events of each case. Whenever possible, the assigned judge shall conduct a brief Initial Status Conference. After an Initial Status Conference occurs, the case shall be scheduled for further status conferences before the case manager or for a Pretrial Conference. If a matter is successfully mediated, the case manager shall monitor the matter until it is resolved by formal order or parenting agreement in accordance with these rules. If a matter is otherwise successfully resolved prior to completion of the scheduled mediation process, the case manager shall monitor the matter until an appropriate court order is filed in accordance with these rules. If a matter is not resolved by the time of the Pretrial Conference, the assigned judge shall set the matter on the Ready Docket for further calendaring by the case manager. Upon completion of the hearing, the case manager shall continue to monitor the case until a final Order is executed by the Court and filed.

3.3 Mediation.

- (a) Mediation mandatory. Except as provided in **Dom Rule 11**, Mediation is mandatory for all custody issues.
- (b) Exemption from custody mediation. Upon filing a claim for child custody/visitation or any time thereafter before the mediation orientation date (or mediation date if no orientation date was scheduled) a party may move the Court to be exempt from mediation of the custody issue through the Custody Mediation Program. See **Dom Rule 11.4** for specific procedures.

3.4 Parent education classes mandatory. In all initial custody actions, parents will be scheduled to attend parent education classes presented by the Family Court Administrator Office. If a matter is uncontested as indicated by responsive pleadings or the lack of such pleadings, the parties may be excused from attending such classes.

3.5 Pretrial Conference. See **Dom Rule 17** for specific rules relating to Pretrial Conferences. At a Pretrial Conference, the assigned judge shall:

- a) Encourage and explore further settlement possibilities;
- b) Attempt to obtain binding stipulations as to length of trial;
- c) Encourage the stipulation into evidence of facts, reports, records and other documents whose authenticity is not at issue;
- d) Define and organize the order and presentation of evidence;
- e) Identify all witnesses;
- f) Determine as far as possible the expected length of trial;
- g) Require parties to put all stipulations in writing in Pretrial Order;
- h) Clearly designate all issues remaining for trial in Pretrial Order;
- i) Require parties to execute Pretrial Order;
- j) Set matter on Ready Calendar.

3.6 Time standards. The following time standards shall apply to all child custody issues:

- TEMPORARY ORDERS – 100% of cases – **within 45 days** of request.
- MEDIATION ORIENTATION – 100% of cases – **within 45 days** of filing.
- MEDIATION completed – 100% of cases – **within 120 days** of filing.
- TRIALS completed – 90% of cases – **within 150 days** of filing.
100% of cases – **within 180 days** of filing.

Dom Rule 4. Child Support Establishment Claims / Motions to Modify Child Support (non-IVD).

4.1 Procedures upon filing.

- a) Filing with case manager. Initial moving party must, prior to the Clerk filing, deliver a copy of the **Cover Sheet** and *Notice of Judicial Prior Assignment(s)* to the case manager. See exception under next rule.

- b) Filing with clerk. Except as herein provided, the clerk shall not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case manager. The filing party must complete and file with Clerk the following: **Cover Sheet** (with pre-approval designation of case manager), **Pleading setting forth claim** (complaint, motion, answer, etc.), *Family Court Case Management Notice*, completed **Child Support Affidavit** and **Summons**. EXCEPTION: If the case manager is not available within a reasonable time to pre-approve a filing, a party may file without such approval and designate on the Cover Sheet that the case manager was unavailable. The filing party must then comply with **Dom Rule 4.1 a)** above before the end of the **next business day**. The Clerk shall inform the party of the requirements of this rule. Filing by mail shall not excuse a party from compliance with these filing requirements.
- c) Case manager assigns and schedules. Upon receipt of the properly executed Cover Sheet and *Notice of Prior Judicial Assignment*, the case manager shall:
- Indicate filing approval on Cover Sheet.
 - Assign the case to a Family Court Judge.
 - Schedule the matter for a temporary child support hearing (**within 45 days**), if requested. See rules for Summary Hearings.
 - Schedule non-complex establishment actions and motions to modify on Clerk Child Support Docket during session when assigned judge is presiding, but **no earlier than sixty (60) days** from filing (to accomplish service) and notify the Clerk of such setting.
 - Schedule the matter for a Pretrial Conference if case manager determines such conference is necessary.
 - Distribute to the moving party three (3) copies of *Family Court Case Management Notice* stating the name of the assigned judge and the dates of any scheduled court event in the case.
- d) Notice given by moving party. Upon filing the action and receiving from the office of the case manager the *Family Court Case Management Notice*, the filing party shall cause the opposing party to be served with the pleading pursuant to the NC Rules of Civil Procedure. The filing party shall further serve the opposing party with the *Family Court Case Management Notice* and a completed *Child Support Financial Affidavit*. Service of the *Notice* shall constitute notice of hearing for all court events indicated on the *Notice* including mediation dates.
- e) Temporary support hearings. A hearing to establish a temporary child support order must be held **within forty-five (45) days** after filing of the claim, if requested by one or both parties. NOTE: If at the temporary hearing, both parties and the presiding judge agree, the parties may proceed with a hearing for the establishment of a permanent order of child support. The rules established for Summary Hearings shall apply except that in resolving such issues, the Court shall only consider affidavit

evidence (including *Employer Wage Affidavit*) unless the Court specifically directs otherwise. See **Dom Rule 16** for Summary Hearing rules.

- f) Affidavits must be filed and served; Affidavits admissible. No later than **five (5) business days** prior to any temporary hearing and **twenty (20) days** prior to a final hearing, both parties must file with the Court and serve on the opposing party or counsel an up to date and completed *Employer Wage Affidavit*. The responding party or counsel must also file and serve a completed *Child Support Financial Affidavit* no more than **five (5) business days** prior to the temporary hearing. Any original or certified copies of these affidavits properly served shall be admissible at the temporary hearing. Unless there is serious dispute as to the authenticity or accuracy of the *Employer Wage Affidavit* it shall be admissible in any action or proceeding without further certification or authentication. Any party who wishes to raise an objection as to the admissibility to such affidavit at the final hearing must notify the submitting party in writing of such objection **within ten (10) days** of the hearing. Unless a protective order is entered, any party who is self-employed or whose entire income is not verifiable through an employer shall serve the other party with a copy of his/her most current Federal Tax Return following the same time deadlines set forth above for the *Employer Wage Affidavit*. Failure to timely file and serve accurate up to date *Child Support Financial Affidavits*, *Employer Wage Affidavits* or Tax Returns shall result in the imposition of a sanction if such failure necessitates a significant delay in the hearing of the matter or undue prejudice to a party.
- g) Other claims. In addition to the requirements under this rule, a party filing an action with other claims (child custody, alimony, post separation support, Equitable Distribution, etc.) must comply with the requirements of the other rules herein pertaining to those claims.

4.2 Case management. In non-complex matters, cases are set on Clerk's child support docket before the assigned judge, if possible. If judge presiding over such session determines that such matter is too complex or will take too long to try during such session, the case manager shall be notified and the matter shall be set for Pretrial Conference. If a child support matter is not resolved prior to the scheduled Pretrial Conference, the conference will be held. The case manager may set any matter for hearing without a Pretrial Conference.

4.3 Alternative Dispute Resolution. At any time prior to disposition of any child support claim, the parties may agree to submit the issue to Alternative Dispute Resolution process. The Court, in its discretion, may order a matter to Mediation along with other family financial issues.

4.4 Final Pretrial Conference. At such conference the judge shall:

- a) Encourage and explore further settlement possibilities;
- b) Attempt to obtain stipulations as to length of trial;
- c) Encourage the stipulation into evidence of facts, reports, appraisals, records and other documents whose authenticity is not in dispute;

- d) Define and organize the order and presentation of evidence;
- e) Identify all witnesses;
- f) Determine as far as possible the expected length of trial;
- g) Require parties to put all stipulations in writing in Pretrial Order;
- h) Clearly designate all issues remaining for trial in Pretrial Order;
- i) Verify that both parties have filed accurate, up to date, information on their *Child Support Financial Affidavits* and *Employer Wage Affidavits*;
- j) Require parties to execute Pretrial Order;
- k) Set matter on Ready Calendar and/or schedule for hearing.

- 4.5** Time Standards. The following time standards shall apply to child support issues:
- TEMPORARY ORDERS (if requested) – 100% of cases – **within 45 days** of request unless paternity at issue. NOTE: If custody at issue, temporary support order, if requested, should be entered at the same time as or subsequent to the time the temporary custody order is entered.
 - PERMANENT ORDERS – 100 % of cases – **within 180 days** of service of pleading requesting support.

Dom Rule 5. Equitable Distribution Claims.

5.1 Procedures upon filing.

- a) Filing with case manager. Initial moving party **MUST**, prior to the Clerk filing, deliver a copy of the **Cover Sheet** and *Notice of Prior Judicial Assignment(s)* to the case manager. See exception under next rule.
- b) Filing with clerk. Except as herein provided, the clerk shall not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case manager. The filing party must complete and file with Clerk the following: **Cover Sheet** (with pre-approval designation of case manager), **Pleading setting forth claim** (complaint, motion, answer, etc.), *Notice of Prior Judicial Assignment* and **Summons**. EXCEPTION: If the case manager is not available within a reasonable time to pre-approve a filing, a party may file without such approval and designate on the Cover Sheet that the case manager was unavailable. The filing party must then comply with **Dom Rule 5.1 a)** above before the end of the **next business day**. The Clerk shall inform the party of the requirements of this rule. Filing by mail shall not excuse a party from compliance with these filing requirements.
- c) Case manager assigns and schedules. Upon receipt of the properly executed cover sheet and *Notice of Prior Judicial Assignment*, the case manager shall:
 - Indicate filing approval on Cover Sheet;
 - Assign the case to a Family Court Judge;
 - Schedule the matter for an interim distribution/preservation hearing, if requested;

- Schedule the matter for an Initial Status Conference **within sixty (60) days**;
 - Distribute to the moving party an “Alternative Dispute Resolution Program Package”, if available;
 - Distribute to the moving party three (3) copies of the *Family Court Case Management Notice* stating the name of the assigned judge and the dates of any scheduled court events in the case;
 - Distribute to the moving party the *Equitable Distribution Inventory Form*.
- c) Notice given by moving party. Upon filing the action and receiving from the office of case manager the *Family Court Case Management Notice*, the filing party shall cause the opposing party to be served with the pleading pursuant to the NC Rules of Civil Procedure. The filing party shall further cause to be served on the opposing party a copy of the *Family Court Case Management Notice*. Service of such *Notice* shall constitute notice of hearing for all court events indicated on the *Notice*.
- d) Interim Distribution/Preservation Hearing. Either party to an Equitable Distribution dispute may request that an interim order of distribution/preservation of marital and/or separate property be made. Request should be made to the case manager at the time of the filing of the pleading or motion making the request. Upon the making of the request, the case manager shall schedule the matter for Summary Hearing on such issues and the rules relating to summary hearings shall apply. See **Dom Rule 16** for specific rules related to Summary Hearings.
- e) Affidavits must be filed and served.
- *Equitable Distribution Inventory.* No less than **ten (10) days** prior to the date of the Initial Status Conference, but not later than **sixty (60) days** after the service of the request for Equitable Distribution, each party shall prepare and serve upon the opposing party an *Equitable Distribution Inventory*. The *Inventory* shall list all of the property and debts known by the parties to have existed at the date of separation and owned by the party or parties. The *Inventory* is intended to be a beginning point in the discovery of and development of the parties’ net marital and separate estates. The *Inventory* shall be subject to amendment and shall not be binding at trial as to completeness or value. *NC Rule of Civil Procedure 11* shall apply.
 - *Equitable Distribution Affidavit.* No less than **ten (10) days** prior to the date of the Pretrial Conference, but not later than **one hundred twenty (120) days** after the service of the request for Equitable Distribution, each party shall prepare and serve upon the opposing party a typewritten *Equitable Distribution Affidavit* or *FORM ED-EZ* (if approved by the the Court at the Initial Status Conference). The *Equitable Distribution Affidavit* must be on an approved form. In addition to the paper filing, the parties are encouraged to exchange the *Equitable Distribution Affidavit* on 4” formatted disc.

- Sanctions for failure to file Affidavits. Failure to timely file and serve affidavits in accordance with this rule may result in the responsible party's proffered testimony not being allowed into evidence by the Court and may result in the imposition of other sanctions. The Court may extend the time limits for the filing of the affidavit(s) for good cause.

f) Other Claims. In addition to the requirements under this rule, a party filing an action with other claims (child custody, child support, alimony, post separation support, etc.) must comply with the requirements of the other rules herein pertaining to those claims.

5.2 Reference. In any Equitable Distribution claim, the Court may, in its discretion, order a reference of factual issues and apportion the cost of such pursuant to Rules 57 and 16 (a) (5) of the *North Carolina Rules of Civil Procedure*.

5.3 Case management. Upon filing, an Equitable Distribution claim is scheduled for an Initial Status Conference. At this conference, the attorneys and parties without attorneys appear before the assigned judge for a brief meeting to give an overview of the case so the court can determine the resources and time which will probably have to be allocated to the matter. Parties wishing to file a short form Equitable Distribution Affidavit (FORM ED – EZ) should make such request at this session. Guidelines and deadlines for Discovery are set at this session and the matter is scheduled for some type of Alternative Dispute Resolution Program. See **Dom Rule(s) 12 – 15** for specific ADR rules. The judge reviews the parties' *Equitable Distribution Inventory* forms and sets guidelines regarding the filing of the *Equitable Distribution Affidavit*. The matter may be scheduled for further status conferences before the case manager or judge to manage the case to trial.

5.4 Status conferencing. Parties and their attorneys shall participate in Status Conferences in accordance with **Dom Rule(s) 2.4** and **2.13**.

5.5 Alternative Dispute Resolution / Family Financial Settlement Processes. All Equitable Distribution cases shall be referred to ED Mediation or another approved Alternative Dispute Resolution and/or Family Financial Settlement Process unless an Order exempting the case is entered. The parties must agree upon a mediator or arbitrator by the time of the Initial Status Conference scheduled by the case manager. A failure to agree upon a mediator or arbitrator by that time shall result in the appointment by the Court of a Certified Mediator. The parties shall comply with the provisions of the Rules of the Supreme Court Implementing Settlement Procedures in Equitable Distribution and Family Financial Cases and the rules herein pertaining to Alternative Dispute Resolution. See **Dom Rule(s) 12 – 15** for further specific rules related to ADR procedures.

5.6 Pre-trial conferences and settlement conferences. At such conference the judge shall:

- a) Encourage and explore further settlement possibilities;
- b) Attempt to obtain stipulations as to trial length;

- c) Encourage the stipulation into evidence of facts, reports, appraisals, records and other documents whose authenticity is not at issue.
- d) Define and organize the order and presentation of evidence;
- e) Identify all witnesses;
- f) Determine as far as possible the expected length of trial;
- g) Require parties to put all stipulations in writing in Pretrial Order;
- h) Clearly designate all issues remaining for trial in Pretrial Order;
- i) Verify that both parties have filed accurate, up to date, information on their *Equitable Distribution Affidavits*;
- j) Require parties to execute Pretrial Order;
- k) Set matter on Ready Calendar.

5.7 Time standards. The following time standards shall apply to Equitable Distribution cases:

- STATUS CONFERENCE – 100% of cases – **within 90 days** of filing.
- INTERIM DISTRIBUTION/PRESERVATION HEARING – 100% of cases – **within 60 days** of request.
- ADR complete – 100% of cases – **within 210 days** of filing.
- FINAL PRETRIAL CONFERENCE – 100% of cases – **within 240 days** of filing.
- FINAL ORDER ENTERED – 90% of cases – **within 270 days** of filing
100% of cases – **within 365 days** of filing

Dom Rule 6. Post Separation Support and Alimony Claims.

6.1 Procedures upon filing.

- a) Filing with case manager. Initial moving party must, prior to the Clerk filing, deliver a copy of the **Cover Sheet** and *Notice of Prior Judicial Assignment(s)* to the case manager. See exception under next rule.
- b) Filing with clerk. Except as herein provided, the clerk shall not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case manager. The filing party must complete and file with Clerk the following: **Cover Sheet** (with pre-approval designation of case manager), **Pleading setting forth claim** (complaint, motion, answer, etc.), *Family Court Case Management Notice*, completed **Alimony Financial Affidavit** and **Summons**. EXCEPTION: If the case manager is not available within a reasonable time to pre-approve a filing, a party may file without such approval and designate on the Cover Sheet that the case manager was unavailable. The filing party must then comply with **Dom Rule 6.1 a)** above before the end of the **next business day**. The Clerk shall inform the party of the requirements of this rule. Filing by mail shall not excuse a party from compliance with these filing requirements.

- c) Case manager assigns and schedules. Upon receipt of the properly executed cover sheet and *Notice of Prior Judicial Assignment*, the case manager shall:
- Indicate filing approval on Cover Sheet,
 - Assign the case to a Family Court Judge;
 - Schedule the matter for a post separation support hearing, if requested;
 - Schedule the matter for an Initial Status Conference **within sixty (60) days**. If a Post Separation Support hearing is held, an Initial Status Conference shall be completed at such hearing, if time permits, as to the Alimony claim;
 - Distribute to the moving party an “Alternative Dispute Resolution Program Package”, if available;
 - Distribute to the moving party three (3) copies of the *Family Court Case Management Notice* stating the name of the assigned judge and the dates of any scheduled court events in the case;
 - Distribute to the moving party a blank *Employer Wage Affidavit* and a blank *Alimony Financial Affidavit*;
- d) Notice given by moving party. Upon filing the action and receiving from the office of the case manager the *Family Court Case Management Notice*, the filing party shall cause the opposing party to be served with the pleading pursuant to the NC Rules of Civil Procedure. The filing party shall further serve the opposing party with the *Family Court Case Management Notice*. Service of such *Notice* shall constitute notice of hearing for all court events included in the *Notice*.
- e) Post Separation Support hearings. The party moving for Post Separation Support may request a Summary hearing. Request shall be made to the case manager at the time of the filing of the pleading or motion making the request. Upon the making of the request, the case manager shall schedule the matter for Summary Hearing on such issues and the rules relating to summary hearings shall apply. See **Dom Rule 16** for specific rules related to Summary Hearings. If time permits, the court will conduct an Initial Status Conference regarding the alimony claim at the time of the summary hearing.
- f) Affidavits must be filed and served. Affidavits admissible. No later than **five (5) business days** prior to any hearing for Post Separation Support and **twenty (20) days** prior to a hearing for Alimony, both parties must file with the Court and serve on the opposing party or counsel an up-to-date and completed *Employer Wage Affidavit*. The responding party or counsel must also file and serve a completed *Alimony Financial Affidavit* no more than **five (5) business days** prior to the Post Separation Support hearing. Any original or certified copies of these affidavits properly served shall be admissible at the Summary Hearing for Post Separation Support. Unless there is serious dispute as to the authenticity or accuracy of the *Employer Wage Affidavit* it shall be admissible in any action or proceeding without further certification or authentication. Any party who wishes to raise an objection as to the admissibility to

such affidavit at the Alimony hearing must notify the submitting party in writing of such objection **within ten (10) days** of the hearing. Unless a protective order is entered, any party who is self-employed or whose entire income is not verifiable through an employer shall serve the other party with a copy of his/her most current Federal Tax Return following the time deadlines set forth above for the *Employer Wage Affidavits*.

- g) Sanctions for failure to file Affidavits. Failure to timely file and serve accurate, up to date, *Alimony Financial Affidavit*, *Employer Wage Affidavit* or Federal Tax Returns pursuant to these rules shall result in the imposition of an immediate sanction if such failure results in a significant delay of the matter or unfair prejudice to a party. In addition, failure to timely file and serve affidavits in accordance with this rule may result in the responsible party's proffered testimony not being allowed into evidence by the Court and may result in the imposition of other sanctions as provided by Rule 37 of the *NC Rules of Civil Procedure*. The Court may extend the time limits for the filing of the affidavit(s) for good cause.
- h) Other claims. In addition to the requirements under this rule, a party filing an action with other claims (child custody, child support, equitable distribution, etc.) must comply with the requirements of the other rules herein pertaining to those claims.

6.2 Case management. Upon filing, an Alimony claim is scheduled for an Initial Status Conference. If a summary hearing for Post Separation Support is requested and scheduled, the case manager may set the Initial Status Conference for the Alimony claim at the same time. At this conference, the attorneys and parties without attorneys appear before the judge for a brief meeting to give an overview of the case so the judge can determine the resources and time which will probably have to be allocated to the matter. Guidelines and deadlines for Discovery are set at this session and the matter is scheduled for some type of Alternative Dispute Resolution Program. See **Dom Rule(s) 12 – 15** for specific rules related to ADR procedures. Further status conferences may be set before the case manager to manage the case to trial.

6.3 Alternative Dispute Resolution / Family Financial Settlement Processes. All Alimony cases shall be referred to an approved Alternative Dispute Resolution and/or Family Financial Settlement Process unless an Order exempting the case is entered. The parties must agree upon a mediator or arbitrator by the time of the Initial Status Conference scheduled by the case manager. A failure to agree upon a mediator or arbitrator by that time shall result in the appointment by the Court of a Certified Mediator. The parties shall comply with the provisions of the Rules of the Supreme Court Implementing Settlement Procedures in Equitable Distribution and Family Financial Cases and the rules herein pertaining to Alternative Dispute Resolution. See **Dom Rule(s) 12 –15** for specific rules related to ADR procedures.

6.4 Pre-trial conferences and settlement conferences. At such conference the judge shall:

- a) Encourage and explore further settlement possibilities;
- b) Attempt to obtain stipulations as to trial length;
- c) Encourage the stipulation into evidence of facts, reports, appraisals, records and other documents whose authenticity is not at issue.
- d) Define and organize the order and presentation of evidence;
- e) Identify all witnesses;
- f) Determine as far as possible the expected length of trial;
- g) Require parties to put all stipulations in writing in Pretrial Order;
- h) Clearly designate all issues remaining for trial in Pretrial Order;
- i) Verify that both parties have filed accurate, up to date, information on their *Alimony Financial Affidavits*;
- j) Require parties to execute Pretrial Order;
- k) Set matter on Ready Calendar.

6.5 Time standards. The following time standards shall apply to Post Separation Support and Alimony cases:

- POST SEPARATION SUPPORT – 75% of cases – **within 60 days** of filing.
100% of cases – **within 90 days** of filing.
- ALIMONY 1st STATUS CONF. – 100% of cases – **within 90 days** of filing.
- ADR complete – 100% of cases – within 210 days of filing.
- FINAL PRETRIAL CONF. – 100% of cases – **within 240 days** of filing.
- FINAL ALIMONY ORDER – 90% of cases – **within 270 days** of filing.
100% of cases – **within 365 days** of filing.

Dom Rule 7. Domestic Violence Cases [Reserved].

7.1 Community resource referral and screening processes.

7.2 Filing, service and notice requirements.

7.3 Case management.

7.4 Time standards.

Dom Rule 8. Enforcement of Orders/Orders to Show Cause (not including IV-D and Clerk child support enforcement matters).

8.1 Filing, service and notice requirements.

- a) Filing with case manager. Initial moving party must, prior to the Clerk filing, deliver a copy of the **Cover Sheet** and *Notice of Prior Judicial Assignment(s)* to the case manager. See exception under next rule.
- b) Filing with clerk. Except as herein provided, the clerk shall not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case manager. The filing party must complete and file with Clerk the following: **Cover Sheet** (with pre-approval designation of case manager), **Motion or other pleading**

setting forth request for Show Cause Order, Order to Show Cause with return of service and *Family Court Case Management Notice*. EXCEPTION: If the case manager is not available within a reasonable time to pre-approve a filing, a party may file without such approval and designate on the Cover Sheet that the case manager was unavailable. The filing party must then comply with **Dom Rule 8.1 a)** above before the end of the **next business day**. The Clerk shall inform the party of the requirements of this rule. Filing by mail shall not excuse a party from compliance with these filing requirements.

- c) Case manager assigns and schedules. Upon receipt of the properly executed cover sheet and *Notice of Prior Judicial Assignment*, the case manager shall:
- Indicate filing approval on Cover Sheet;
 - Assign the case to a Family Court Judge;
 - Schedule the matter for an Initial Status Conference at the **first available time** and schedule the matter for hearing on the Order to Show Cause;
 - Distribute to the moving party three (3) copies of the *Family Court Case Management Notice* stating the name of the assigned judge and the dates of any scheduled court events in the case;
- d) Notice given by moving party. Upon filing the action and receiving from the office of the case manager the *Family Court Case Management Notice*, the filing party shall cause the opposing party to be served with the Motion or other pleading and the Order to Show Cause pursuant to the *NC Rules of Civil Procedure*. The filing party shall further serve the opposing party with the *Family Court Case Management Notice*. Service of such *Notice* shall constitute notice of hearing for all court events included on the *Notice*. NOTE: Special notice provisions shall be applicable to these cases. The responding party shall be informed on the *Family Court Case Management Notice* form of his/her right to counsel and appointed counsel, if indigent. Further, the responding party shall be informed that the Court at the Initial Status Conference will inquire about eligibility for court-appointed counsel and that failure to attend such conference shall constitute a waiver of the right of court-appointed counsel.
- e) Other claims. In addition to the requirements under this rule, a party filing an action with other claims must comply with the requirements of the other rules herein pertaining to those claims.

8.2 Case management/Status-Pretrial Conference. The Initial Status Conference will serve as a pretrial hearing for Show Cause actions. If the matter involves alleged contempt with regards to a Child Custody and/or Visitation Order, the case manager may direct that the matter be referred to the Custody Mediation Program for mediation services. If a party to be charged with contempt appears unrepresented by counsel, the assigned judge shall consider the party's eligibility for court appointed counsel. Failure of a party to appear after being served with an Order to Show Cause and *Family Court Case Management*

Notice at the Initial Status Conference shall constitute a waiver of said party's right to court appointed counsel. If both parties are represented by counsel by the time of the scheduled Initial Status Conference and neither party has filed objection to the time limits mentioned below, the case manager or the judge may schedule the matter for mediation and/or Summary Hearing without an Initial Status Conference. The judge conducting the Initial Status Conference shall order the matter set for hearing at such conference and the case manager shall set the time/date.

- 8.3** Time limits. Except as hereinafter provided, the Court shall limit the time of such hearing to **no more than one (1) hour** and whenever possible, the matter shall be set at the same time as Summary Hearings are scheduled. A party objecting to the time limitation established by this Rule shall file and serve written objections at least **five (5) days** prior to the Initial Status Conference. The objection should set forth the specific reasons why such limits should not apply in such case. If the objections noted outweigh the interests of the efficient use of court time and the early docketing of such matters (made possible by such time limitations) the Court may authorize the expansion of the time allotted for the hearing of such matters.
- 8.4** Time standards. The following time standards shall apply to Show Cause matters (not including IV-D and Clerk Child Support Enforcement matters):
- STATUS CONFERENCE – 100% of cases – **within 30 days** of service.
 - ORDER ENTERED – 100% of cases – **within 90 days** of service.

Dom Rule 9. Motions Practice

- 9.1** Motions requiring evidence. Motions filed requiring the presentation of evidence shall be managed and scheduled in accordance with the rules for specific claims set forth above or at anytime deemed appropriate by the case manager.
- 9.2** Non-evidentiary motions. Non-evidentiary motions regarding domestic issues shall be set for hearing by the case manager **within sixty (60) days** of the filing of such motion.
- a) Filing, service and Notice Requirements
- Filing with case manager. The moving party shall, prior to the Clerk filing, deliver a copy of the **Cover Sheet** and *Notice of Prior Judicial Assignment(s)* to the case manager. The case manager shall give the filing party three (3) copies of the *Family Court Case Management Notice* stating the name of the assigned judge and the date of the scheduled hearing on the motion. See exception under next rule.
 - Filing with the Clerk. Except as herein provided, the Clerk shall not accept for filing any motion until the documents to be filed have been reviewed by the case manager. The filing party must complete and file with the Clerk the

following: **Cover Sheet** (with pre-approval designation of case manager), **Motion** and *Family Court Case Management Notice*. EXCEPTION: If the case manager is not available within a reasonable time to pre-approve a filing, a party may file without such approval and designate on the Cover Sheet that the case manager was unavailable. The filing party must then comply with the provisions above regarding filings with the case manager before the end of the **next business day**. The Clerk shall inform the filing party of this requirement.

- Notice given by moving party. Upon filing the motion and receiving from the case manager the *Family Court Case Management Notice*, the filing party shall cause the opposing party to be served with the motion pursuant to the NC Rules of Civil Procedure. The filing party shall further cause to be served on the opposing party a copy of the *Family Court Case Management Notice*. Service of such notice shall constitute notice of hearing for all such court events indicated on the *Notice*.
- b) Scheduling. Non-evidentiary motions shall be scheduled by the case manager when filed. In its discretion, the Court may utilize conference calls to resolve such motions. See **Dom Rule 2.17**.
- c) Time Standards. The following time standards shall apply to the hearing of non-evidentiary motions:
 - ORDER ENTERED – 100% of cases – **within 60 days**.

Dom Rule 10. Absolute Divorces.

10.1 Procedures upon filing.

- a) Filing with case manager. Initial moving party and answering party must, prior to the Clerk filing, deliver a copy of the **Cover Sheet** to the case manager. Responding party raising other claims or denying significant facts related to absolute divorce must also file *Notice of Prior Judicial Assignment*. See exception under next rule. Upon receipt of a properly executed Cover Sheet, the case manager shall indicate filing approval on the Cover Sheet.
- b) Filing with clerk. Except as herein provided, the clerk shall not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case manager. The filing party must complete and file with Clerk the following: **Cover Sheet** (with pre-approval designation of case manager), *Family Court Case Management Notice* (if divorce contested or other issues raised in responding pleading), **Pleading setting forth claim** (complaint, motion, answer, etc.) and **Summons**. EXCEPTION: If the case manager is not available within a reasonable time to pre-approve a filing, a party may file without such approval and designate on the Cover Sheet that the case manager was unavailable. The filing party must then

comply with **Dom Rule 10.1 a)** above before the end of the **next business day**. Filing by mail shall not excuse a party from compliance with these filing requirements.

- c) Case management. Unless contested, parties filing divorce actions shall be responsible for scheduling such matters for hearing. The Clerk shall maintain and publish a calendar of such matters properly noticed for hearing. Matters may be added to such calendar until seven days before the hearing time. Matters shall not be added on such calendar after such time. The case manager shall monitor such cases to insure time deadlines are met. If an uncontested divorce claim is not scheduled **within 150 days** of the filing of such matter, the case manager may schedule the matter for hearing and send notice to the parties/attorneys. Upon the filing of a responsive pleading indicating that a divorce is contested, the case manager shall assign the case to a judge, execute a *Family Court Case Management Notice* (give three (3) copies to party contesting divorce allegations for service) and set the matter for a Pretrial Conference before the assigned judge. The court will set a trial time and date at the Pretrial Conference or set the matter on the Ready Calendar.
- d) Notice given by moving party. Upon filing the action, the filing party shall cause the opposing party to be served with the pleading pursuant to the NC Rules of Civil Procedure. The filing party shall further serve the opposing party with *Notice of Hearing* as may be required by the NC Rules of Civil Procedure. The party filing a pleading contesting an absolute divorce shall cause the opposing party to be served with a *Family Court Case Management Notice*.
- e) Other claims. In addition to the requirements under this rule, a party filing an action with other claims must comply with the requirements of the other rules herein pertaining to those claims.

10.2 Summary judgement motions recommended. It is recommended **but not required** that uncontested actions for absolute divorce be resolved by the filing of Summary Judgement Motion pursuant to Rule 56 of the *NC Rules of Civil Procedure*. Such motions shall be scheduled at the time for uncontested divorces. NOTE: Uncontested actions for absolute divorce with accompanying claims for Incorporation of Separation Agreement and/or resumption of prior name may also be resolved by Summary Judgement hearing. Divorce actions with “uncontested” child custody issues must be presented with testimony and are not appropriate for Summary Judgement hearing. With approval of the case manager or the Court, such custody matters may be scheduled during the time for the hearing of uncontested divorces.

10.3 Time deadlines. The following time standards shall apply to divorces:

- TRIAL/FINAL ORDER (non-jury, contested and uncontested) – 100% of cases – **within 6 months**
- TRIAL/FINAL ORDER (jury) – 100% of cases – **within 12 months**.

Dom Rule 11. Custody Mediation Rules.

11.1 Goals. The goals of mediation are as follows:

- a) To reduce the acrimony between the parties to a custody case;
- b) To develop agreement in custody cases in the child's best interest;
- c) To provide the parties informed choices and to guide the parties in making decisions in custody case issues;
- d) To teach the parties how to resolve custody/visitation issues and thereby reduce relitigation of custody issues;
- e) To provide a structured, confidential, non-adversarial and non-coercive setting for cooperative resolution of issues in custody cases;
- f) To minimize stress and anxiety to which the parties and children are subjected.

11.2 Mandatory. The parties to any custody and/or visitation case, including initial filings or modification actions shall participate in mandatory mediation prior to a trial of such matter unless waived by the Court. In enforcement or Show Cause actions involving custody/visitation issues, the issue of whether to submit the matter to mediation shall be addressed at the Initial Status Conference. The Court may order the parties to mediation prior to the Show Cause Hearing.

11.3 Scheduling. A mediation orientation session must be scheduled for parties who have not previously attended such a session. The orientation session is scheduled with a Parent Education Class by the case manager. The Custody Mediation Program will schedule individual mediation sessions at the time of the orientation session. Parties who have previously attended an orientation session shall be scheduled for mediation through the Custody Mediation Program. The Custody Mediation Program may reschedule mediation dates for good cause. If the dates change, the Custody Mediation Program shall notify the parties of the change. Custody cases in which no answer or other required responsive pleading has been filed within the prescribed time set by law may be set for trial by the case manager without mediation notwithstanding the fact that the matter has not been otherwise exempted from mediation.

11.4 Exemption from mediation. For good cause and/or for reasons defined in NC General Statutes 50-13.1 (c), on the motion of either party or of the Court, the Court or the case manager may excuse the parties from mediation. Attorneys or parties desiring an exemption from mediation shall file with the Clerk and the case manager and serve on the opposing party a Motion for Exemption from Mediation. The opposing party shall have **fourteen (14) days** to object in writing to the case manager. After such time the case manager shall cause such matter to be reviewed by the assigned judge who will rule upon the Motion without a hearing. The case manager shall cause a copy of the Court's order to be filed and served on both parties. If the request is denied, the case manager shall cause such matter to be scheduled for mediation and shall serve written notice of the times and places of such mediation on all parties. If a case is exempted from mediation because the parties have chosen another method of Alternative Dispute Resolution or have hired their own mediators, the judge or case manager shall set the time deadlines for

such other process. If a case already scheduled for mediation is later exempted, the mediator must be informed immediately.

- 11.5** Confidentiality. Except for the initial group orientation session, mediation proceedings shall be held in private and shall be confidential. All verbal or written communications from either party to the mediator or between the parties in the presence of the mediator are privileged and inadmissible in any proceedings between the parties or in discovery. Neither the mediator nor any party involved in mediation sessions shall be competent to testify to communications made during mediation sessions. Any subpoena served on a mediator shall be deemed quashed when it is filed and no mediator may be required to comply with any subpoena. No mediator shall be deposed concerning anything that was said or done by any party during the mediation process. Nothing herein shall prohibit any person from presenting testimony in a criminal case regarding evidence of criminal conduct occurring during a mediation session that is the subject of prosecution in such criminal case.
- 11.6** Sanctions for failure to comply with mediation rules. If a party fails to attend a scheduled mediation session or a session designated to sign a parenting agreement, the Custody Mediation Program shall contact the case manager and the case manager shall schedule a sanction hearing before the assigned judge. The non-attending party shall be noticed for such sanction hearing by the Custody Mediation Program. If the non-attending party fails to show good cause for not attending the scheduled session, the Court shall impose an immediate sanction.
- 11.7** Finalizing mediation/Settlements.
- a) Parenting agreement: copies distributed. Upon reaching a parenting agreement in a custody case, the Custody Mediation Program shall make copies of the agreement. The original shall be retained by the Custody Mediation Program and copies shall be given to each party and their attorneys, if any, with a letter of instructions which includes the time and date for the parties to return.
 - b) Review period. Each party shall be responsible for taking the parenting agreement along with the letter of instructions to their respective counsel, if any, for review prior to the return date. The signing session shall be set **within twenty-one (21) days**.
 - c) Signing session. At the designated return time, the Custody Mediation Program will meet with the parties to sign the parenting agreement. If changes to the parenting agreement are agreed upon an amended parenting agreement shall be prepared and signed. If the parties are unable to agree to the terms of a parenting agreement at the return time, the Custody Mediation Program may schedule the case for additional mediation sessions or it may declare the case to be unsuccessful or inappropriate in mediation.
 - d) Judge signs. If the parties sign a parenting agreement pursuant to these rules, the Custody Mediation Program shall present the agreement to the assigned judge for

execution. Once the judge has signed the agreement, the Custody Mediation Program shall make copies, file the original with the clerk and send each party and their attorneys, if any, a signed, file-stamped copy. The Custody Mediation Program shall immediately inform the case manager that the matter has been resolved

- e) Settlements; notification required. If during the period when a custody case is assigned to the Custody Mediation Program before a parenting agreement is finalized, the case is otherwise settled, the parties or their attorneys shall designate the party or attorney responsible for preparing the order. The party responsible for preparing the consent order shall notify the case manager **and** the Custody Mediation Program no later than the **next business day** after the settlement has been reached of such fact. *Parties will continue to be responsible for attending all scheduled sessions set by the Custody Mediation Program unless notification of the settlement is given to the Program.* The case manager shall then schedule the case on a Pending Order Docket in the County where the case is pending and notify the parties and their attorneys of the date.
- f) Settlement; must file CIV FORM Z. If a case is otherwise settled as discussed above, the party or attorney responsible for preparing the consent order shall file CIV FORM Z along with the consent order which states whether the terms of a parenting agreement mediated by the Custody Mediation Program were contained in whole or in part in the consent order.
- g) Partial settlement; Pretrial Hearing set. Upon the execution of a parenting agreement which resolves some, but not all of the issues in a custody case, the Custody Mediation Program shall notify the case manager and the attorneys on CIV FORM X. The case manager shall then set the matter for Pretrial Hearing.

Dom Rule 12. Alternative Dispute Resolution Rules.

12.1 Policy. The Administrative Office of the Courts has chosen the 25th Judicial District to serve as a designated Family Court District and as a district approved for Alternative Dispute Resolution (ADR) processes created by G.S. 7A-38.4 of the *NC General Statutes and the Rules* Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases adopted by the NC Supreme Court to implement the program. Accordingly, these local rules are adopted to implement a menu of ADR techniques to be used in all Equitable Distribution proceedings filed in this district with the goal of expediting and improving the process of resolving such cases. By agreement of the parties or by order of the Court, these rules may also apply to other family financial proceedings filed in this district.

12.2 Approved Methods. The following techniques for resolving family financial issues are available in the 25th Judicial District:

- a) Mediated Settlement Conferences. In this technique, a mediator assists the parties in reaching their settlement.

- b) Early Neutral Evaluation. In this technique, a neutral evaluator chosen by the parties offers advisory evaluation of a case at an early stage.
- c) Arbitration. In this technique, an arbitrator makes a non-binding decision following a summary presentation of evidence by each party.
- d) Other. Other techniques or procedures agreed upon by the parties and approved by the Court.

12.3 Counsel to consult. Upon being retained to represent any party in an Equitable Distribution, alimony or post-separation support action (or child support action if approved by Court or case manager), counsel shall advise his/her client regarding the ADR procedures approved by these rules. At or prior to the Initial Status Conference, counsel shall consult with his/her client and the other party regarding the use of ADR and shall attempt to reach agreement on the choice of an ADR procedure and a Neutral (mediator, evaluator, arbitrator, etc.) as authorized by these rules.

12.4 Claims for Exemption. For good cause, on motion of either party or the Court, the Court or the case manager may excuse the parties from the ADR process. Attorneys or parties desiring an exemption from the ADR process shall file with the Clerk and the case manager and serve upon the opposing party a Motion for exemption from the ADR process. The opposing party shall have **seven (7) days** to object in writing to the case manager. After such time the case manager shall cause such matter to be reviewed by the assigned judge who will rule upon the Motion without a hearing. The case manager shall cause a copy of the Court's Order to be filed and served upon the parties.

12.5 Selection of ADR procedure. At the Initial Status Conference, an approved ADR procedure shall be designated by the parties or the court. The following procedures shall be followed:

- a) Parties choosing Mediated Settlement Conference. If the parties agree to a Mediated Settlement Conference, they shall submit FORM AOC-CV-824 and AOC-CV-825 to the Court and the case shall proceed in accordance with the rules herein related to such conferences. See **Dom Rule 13.**
- b) Parties choosing Early Neutral Evaluation. If the parties agree to an Early Neutral Evaluation, the designation of the Neutral and the rate of compensation, they shall file FORM AOC-CV-826 and the case shall proceed in accordance with the rules herein related to such evaluations. See **Dom Rule 14.**
- c) Parties choosing Non-binding Arbitration. If the parties agree to non-binding Arbitration, the designation of a Neutral and the rate of compensation, they shall file FORM AOC-CV-826, and the case shall proceed in accordance with the rules herein related to such arbitrations. See **Dom Rule 15.**

- d) Parties agreeing on other procedure of ADR. If the parties agree to some other ADR procedure, they shall request permission from the Court to employ the procedure and shall present the Court with a set of rules governing the procedure. If approved by the Court, the case shall proceed in accordance with the rules herein and the agreed upon rules.
- e) Parties not in agreement as to procedure. In the event the parties do not reach agreement on the ADR procedure to be used, the neutral to be employed and/or the rate of compensation of the neutral, at the Initial Status Conference, the Court or the case manager shall designate a Mediated Settlement Conference as the ADR procedure by filing FORM AOC-CV-824 and assign a Mediator from a list of approved mediators. See **Dom Rule 13.**

- 12.6** Time for proceedings. The Notice for Alternative Dispute Resolution shall state that the ADR proceeding shall be completed **at least thirty (30) days** prior to the Final Pretrial Conference.
- 12.7** Place of proceedings. Unless all parties and the Neutral otherwise agree, the ADR proceeding will be held in the courthouse or other public or community building in the District. The Neutral shall be responsible for reserving a place, setting a time and making other arrangements for the proceeding and for giving timely notice to all attorneys and unrepresented parties, in writing, of the time and location of the proceeding.
- 12.8** Pre-proceeding submissions. Pre-proceeding submissions, if any, shall be governed by the specific rules for the particular ADR proceeding or as requested by the Neutral.
- 12.9** Extension of deadline for completion. A party or Neutral may move the Court with proper notice to all parties to extend the completion of the ADR proceeding for good cause shown. A party objecting to the extension shall promptly communicate its objection to the Court.
- 12.10** No delay of other proceedings. The ADR proceeding called for in this Rule shall not be cause for the delay of other proceedings in the case, including but not limited to the conduct or completion of discovery, the filing or hearing of motions or the trial of the case.
- 12.11** Statements, Conduct inadmissible. As per NC GS 7a-38.4(k), “Evidence of statements made and conduct occurring in a settlement proceeding shall not be subject to discovery and shall be inadmissible in any proceeding in the action or other actions on the same claim. However, no evidence otherwise discoverable shall be inadmissible merely because it is presented or discussed in a settlement proceeding. No [neutral] shall be compelled to testify or produce evidence concerning statements made and conduct occurring in a settlement proceeding in any civil proceeding for any purpose, except proceedings for sanctions under this section, disciplinary hearings before the State Bar, disciplinary proceedings of any agency established to enforce standards of conduct for mediators or other neutrals, and proceedings to enforce laws concerning juvenile or elder abuse.”

- 12.12** Immunity clause. As per NC GS 7A-38.4(i), “Mediators and other neutrals acting pursuant to this section shall have judicial immunity in the same manner and to the same extent as a judge of the General Court of Justice, except mediators and other neutrals may be disciplined in accordance with enforcement procedures adopted by the Supreme Court pursuant to NC GS 7A-38.2.”
- 12.13** Ex parte communication prohibited. There shall be no ex parte communication outside the ADR proceeding between the Neutral and any counsel or party on any matter related to the proceeding, except with regard to scheduling matters. Nothing in this rule prevents the Neutral from engaging in ex parte communications, with the consent of the parties, for the purpose of assisting settlement negotiations.
- 12.14** Attendance. All parties and at least one counsel of record for each party whose counsel has appeared in the action shall attend the ADR proceeding until it is concluded. No neutral shall prolong a conference unduly. Any person may have the attendance requirement excused or modified, including allowing the person to participate by phone, by agreement of both parties and the neutral or by order of the Court. Ordinarily, attorneys for the parties may be excused from attending only after they have appeared at the first session.
- 12.15** Right to trial. ADR proceedings under these rules shall not impair the right of the litigants to demand trial.
- 12.16** Scope of ADR. The ADR proceeding shall address issues of Equitable Distribution and may address all other family financial issues existing between the parties as agreed upon by the parties or as otherwise required by these rules. Child custody and visitation issues may be included in the settlement proceedings ordered pursuant to these rules only if the parties and the Neutral have agreed to include them and the parties have been exempted from or completed the court ordered custody mediation.
- 12.17** Conclusion of ADR proceeding. The essential terms of the parties’ agreement shall be reduced to writing as a summary memorandum at the conclusion of the settlement proceeding unless the parties have executed final documents. The parties and their counsel shall use the summary memorandum as a guide to drafting such agreements and orders as may be required to give legal effect to its terms. **Within thirty (30) days** of their receipt of the Summary Memorandum (or prior to the Final Pretrial Conference, whichever occurs first), all final agreements and other dispositive documents shall be executed by the parties and notarized and judgements or voluntary dismissals shall be filed with the Court by such persons as the parties or the Court shall designate. In the event the parties fail to agree on the wording or terms of the final agreement or Court Order, the Neutral may schedule another session to determine whether or not further ADR is appropriate and would assist in effecting resolution or may notify the court, in writing, that the ADR proceeding has failed to produce a settlement. In any event, the Neutral shall file FORM AOC-CV-827 at the conclusion of the ADR proceeding.

12.18 List of Neutrals. The Office of the Family Court Administrator shall maintain lists of Neutrals, together with a brief biography containing the experience and qualifications of each Neutral. Any person who wishes to have a biography included in this list shall submit proof of the qualifications set out in this section on a form provided by the Dispute Resolution Commission or the Office of the Family Court Administrator. The required qualifications of Neutrals are as follows:

- a) Mediators. A certified mediator shall have those qualifications required by Rules 8 and 9 of the Rules Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases as adopted by the North Carolina Supreme Court pursuant to NC GS 7A-38.4. Mediators need not be certified if the parties agree.
- b) Evaluators. An evaluator shall be any individual agreed upon by the parties.
- c) Arbitrators. An arbitrator shall:
 - Be a member in good standing of the North Carolina State Bar and have at least five years experience as a judge, practicing attorney, law professor, arbitrator or mediator or have equivalent experience; and
 - Have completed some form of arbitration training program such as, but not limited to, arbitration training certified by the Administrative Office of the Courts or provided by the American Arbitration Association or have been approved as an arbitrator in a program providing arbitration services such as the American Arbitration Association; and
 - Be of good moral character and adhere to all ethical standards adopted either before or after the adoption of these rules.

12.19 Designation of mediator. The parties may select a mediator certified pursuant to these rules by agreement by filing FORM AOC-CV-825 (section 1), Designation of Mediator in Family Financial Case, at or prior to Initial Status Conference. In the event the parties wish to select a mediator who is not certified pursuant to these rules, the parties may nominate said person by filing with the Court FORM AOC-CV-825 (section 2), Nomination of Non-Certified Mediator, with the Court at or prior to the Initial Status Conference. The Court shall approve said nomination, if, in the Court's opinion, the nominee is qualified to serve as mediator and the parties and the nominee have agreed upon the rate of compensation. In the event the parties cannot agree upon the selection of a mediator, the parties shall file FORM AOC-CV-825 (section 3), Motion for Court Appointment of Mediator, at or prior to the Initial Status Conference and the Court shall appoint a certified mediator from the list of certified mediators who have agreed to accept court appointments in the 25th Judicial District. A copy of FORM AOC-CV-824 and AOC-CV-825 shall be delivered to the mediator by the parties **within five (5) days** of the entry of the Order.

12.20 Designation of evaluator or arbitrator. By agreement of the parties, any individual may be selected as Neutral Evaluator and any Arbitrator who satisfies the requirements of **Dom Rule 12.18** may be selected as an arbitrator.

12.21 Disqualification. Any party may move the Assigned Judge for an order disqualifying the Neutral and for good cause shown such order shall be entered. In the case of a disqualified mediator, a new mediator shall be assigned by the Court. Nothing herein precludes Neutrals from disqualifying themselves.

12.22 Compensation of the Neutral. Unless otherwise agreed to by the parties, costs of the ADR proceedings shall be paid in equal shares by the parties. Payment shall be made directly to the Neutral upon completion of the ADR proceeding. No party found by the Court to be unable to pay a full share of a Mediator's fee shall be required to pay a full share. Any party required to pay a share of a mediator fee may file FORM AOC-CV-828, Petition and Order for Relief from Obligation to Pay All or Part of Mediator's Fee in Family Financial Case. In ruling on such motions, the Judge may consider the income and assets of the movant and the outcome of the action. The Court shall enter an Order granting or denying the party's motion. In so ordering, the Court may require that one or more shares be paid out of the marital estate. Any mediator conducting a settlement conference pursuant to these rules shall accept as payment in full of a party's share of the mediator's fee that portion paid by or on behalf of the party pursuant to an order of the Court issued pursuant to this provision. The payment rate is as follows:

- a) By agreement. When the parties stipulate to the selection of a particular Neutral, compensation shall be agreed to among the parties and the Neutral.
- b) By the Court. When the Mediator is appointed by the Court, the Mediator shall be compensated by the parties at a rate of \$125 per hour for the conference and the parties shall pay the Mediator a one-time per case, non-refundable administrative fee of \$125, which accrues upon appointment, unless otherwise ordered by the Court. The administrative fee shall be paid in full unless, **within ten (10) days** after the date that the Mediator has been appointed, written notice is given to the Mediator and the case manager that the issues to be mediated have been fully resolved.

12.23 Sanctions for failure to attend. If any person required to attend an Alternative Dispute Resolution procedure fails to attend without good cause or violates these rules, the Court may impose upon that person any lawful sanction, including but not limited to the payment of attorney fees, mediator fees, expenses and loss of earnings incurred by persons attending the conference.

Dom Rule 13. Additional Rules for Mediated Settlement Conferences.

13.1 Authority of Mediator.

- a) Control of conference. The Mediator shall at all times be in control of the conference and the procedures to be followed including, by way of illustration, terminating, declaring an impasse or rescheduling for a subsequent conference. The Mediator shall not require the parties to participate in more than **three (3) hours** of mediation, which

may be spread over more than one (1) session unless all have agreed to continue mediation.

- b) Private consultation. The Mediator may meet and consult privately with any party or parties or their counsel during the conference.

13.2 Duties of Mediator.

- a) Scheduling notice and brochure.

- Upon receipt of FORM AOC-CV-824 and 825, the Designation of Mediator in Family Financial Case, the Mediator shall schedule the mediated settlement conference and conduct it prior to the conference completion deadline set out in the Court's order. The Mediator shall make an effort to schedule the conference at a time that is convenient with all participants at an agreed upon location or in the absence of an agreement in a public facility. In the absence of agreement, the Mediator shall select a date and time for the conference.
- The Mediator shall notice the counsel of record and the parties, if pro se, of the time and location of the conference and the requirement of conference submissions.
- Before the conference, the Mediator shall distribute to the parties or their attorneys the Dispute Resolution Commission Brochure explaining the Mediated Settlement Conference process and the operations of the Commission. Case manager may give this information in lieu of the Mediator.

- b) Introductory statements. The Mediator shall define and describe the following to the parties at the beginning of the conference:

- The process of mediation;
- The differences between mediation and other forms of conflict resolution;
- The costs of the mediated settlement conference;
- The facts that the mediated settlement conference is not a hearing, the mediator is not a judge, and the parties retain their right to a hearing if they do not reach settlement;
- The circumstances under which the Mediator may meet alone with either of the parties or with any other person;
- Whether and under what conditions communications with Mediator will be held in confidence during the conferences;

- The inadmissibility of conduct and statements as provided by these rules;
 - The duties and responsibilities of the mediator and the parties; and
 - The fact that any agreement reached will be reached by mutual consent of the parties.
- c) Reporting results of conference. **Within ten (10) days** of the conclusion of the conference, the Mediator shall file FORM AOC-CV-827 to report to the Court whether an agreement was reached by the parties. If the case is settled or otherwise disposed of prior to the conference, the parties shall so advise the Mediator who shall file FORM AOC-CV-827 indicating the disposition of the case. If an agreement, whether partial or complete, was reached at the conference, the report shall state whether the issues will be concluded by Consent Judgment or Voluntary Dismissal and shall identify the persons designated to file such Consent Judgment or dismissals. If partial agreements are reached at the conference, the report shall state what issues remain for trial. The Mediator's report shall inform the Court of the absence without permission of any party or attorney from the Mediated Settlement Conference. [The Administrative Office of the Courts, in consultation with the Dispute Resolution Commission, may require the Mediator to provide statistical data in the report for evaluation of the Mediated Settlement Conference Program.]
- d) Mediator disclosures. The Mediator has a duty to be impartial and to advise all parties of any circumstances bearing on possible bias, prejudice or partiality.
- e) Declaring impasse. It is the duty of the Mediator to timely determine when mediation is not viable, that an impasse exists or that mediation should end.

13.3 Duties of Parties.

- a) Attendance. The parties shall attend the mediated settlement conference, but in no event shall a party be required to participate in more than **three (3) hours** of mediation, which may be spread over more than one (1) session.
- b) Conference submissions. Unless submitted prior to the conference at the request of the Mediator, each party shall bring to the mediated settlement conference a copy of the following documents:
- Financial affidavits, if any, filed or required to be filed;
 - Employer wage affidavits, if any, filed or required to be filed;
 - Inventory affidavits, if any, filed or required to be filed;
 - To the extent applicable, copies of credit card statements, bank account statements, investment account statements, mortgage and loan statements, appraisals of property, property tax statements, retirement account statements – setting forth date of separation values and current values.

Dom Rule 14. Additional Rules for Early Neutral Evaluation.

14.1 The Early Neutral Evaluation Conference.

- a) Nature of Early Neutral Evaluation (ENE). ENE is an informal, abbreviated presentation of facts and issues by the parties at an early stage. The Evaluator selected for the ENE offers the parties an advisory evaluation of the strengths and weaknesses of their case, providing a candid assessment of liability, settlement value and dollar value or range of potential awards if the case proceeds to trial. The Evaluator will also be responsible for identifying areas of agreement and disagreement and suggesting necessary and appropriate discovery.
- b) Pre-conference submissions. No later than **twenty (20) days** prior to the date established for the ENE conference to begin, the parties shall furnish the Evaluator with written information about their case and shall at the same time certify to the Evaluator that they served a copy of such summary on all other parties to the case. The information to be provided to the Evaluator and to the other parties hereunder shall be in the form of a summary of the significant facts and issues in the party's case, shall not be more than five (5) pages in length and shall have attached to it copies of any documents upon which the party relies.
- c) Replies and statements of compliance. No later than **ten (10) days** prior to the date established for the ENE conference to begin, any party may, but is not required to, send additional written information not exceeding three (3) pages in length to the Evaluator, responding to the submission of an opposing party. The response shall be served on all other parties and the party sending such response shall certify such service to the Evaluator.
- d) Conference procedure. Prior to or during the ENE conference, the Evaluator may, he/she deems it necessary, request additional written information from any party. At the conference, the Evaluator may address questions to the parties and give them an opportunity to complete their summaries with a brief oral statement.
- e) Modification of procedure. Subject to approval of the Evaluator, the parties may agree to modify the procedures required by the rules herein.

14.2 Evaluator's duties.

- a) Evaluator's opening statement. At the beginning of the conference, the Evaluator shall define and describe the following points to the parties:
 - The process of ENE;
 - The differences between ENE and other forms of dispute resolution;

- The anticipated costs of the ENE proceeding;
 - The facts that the ENE conference is not a trial, the Evaluator is not a judge, the Evaluator's opinions are not binding on any party and the parties retain their right to trial if they do not reach a settlement;
 - The inadmissibility of conduct and statements as provided by Rule 408 of the NC Rules of Evidence and by these rules concerning ENE;
 - The duties and responsibilities of the Evaluator and of the parties and other persons attending the conference; and
 - The fact that any settlement reached will be only by mutual consent of the parties.
- b) Additional report by evaluator. In addition to filing FORM AOC-CV-827 with the court, at the conclusion of the ENE conference, the Evaluator shall issue an oral report to the parties, advising them of his/her opinions of the case. Such opinion shall include a candid assessment of liability, estimated settlement value and the strengths and weaknesses of each party's claims if the case proceeds to trial. The oral report shall also contain a suggested settlement or disposition of the case and the reasons therefor.
- c) Evaluator disclosures. The Evaluator has a duty to be impartial and to advise the parties of any circumstances bearing on possible bias, prejudice or partiality.

Dom Rule 15. Additional Rules for Arbitration.

15.1 Exchange of information.

- a) Pre-hearing exchange of information. At least **ten (10) days** before the date set for the Arbitration hearing, the parties shall exchange:
- Lists of witnesses they expect to testify;
 - Copies of documents or exhibits they expect to offer in evidence; and
 - A brief statement of the issues and contentions.

Parties may agree in writing to rely on stipulations and/or statements, sworn or unsworn, rather than a formal presentation of witnesses and documents for all or any part of the hearing. A copy of all exchanged material shall also be forwarded to the Arbitrator.

- b) Exchanged documents considered authenticated. Any document exchanged in accordance with the above rule may be received in the hearing as evidence without further authentication; however, the party against whom it is offered may subpoena and examine as an adverse witness anyone who is the author, custodian or witness through whom the document might otherwise have been introduced. Documents not so exchanged may not be received if to do so would, in the Arbitrator's opinion, constitute unfair, prejudicial surprise.
- c) Copies of exhibits admissible. Copies of exchanged documents or exhibits are admissible in arbitration hearings.

15.2 Arbitration hearings.

- a) Arbitrator disclosures. The Arbitrator has a duty to be impartial and to advise the parties of any circumstances bearing on possible bias, prejudice or partiality.
- b) Witnesses. Witnesses may be compelled to testify under oath or affirmation and produce evidence by the same authority and to the same extent as if the hearing were a trial. The Arbitrator is empowered and authorized to administer oaths and affirmations in arbitration hearings.
- c) Subpoenas. Rule 45 of the *NC Rules of Civil Procedure* shall apply to subpoenas for attendance of witnesses and production of documentary evidence at an arbitration hearing under these Rules.
- d) Authority of arbitrator to govern hearings. Arbitrators shall have the authority of a trial judge to govern the conduct of hearings, except for the power to punish for contempt.
- e) Conduct of hearing. At the opening of the hearing, the Arbitrator shall make a written record of the place, time and date of the hearing, and the presence of the parties and counsel. The Arbitrator and the parties shall review the list of witnesses, exhibits and written statements concerning issues previously exchanged by the parties pursuant to the above rules. Plaintiff may then present exhibits and witnesses, who may be cross-examined. Defendant may then present exhibits and witnesses, who may be cross-examined. The arbitrator may, in his/her discretion, vary the order of presentation of evidence.
- f) Evidence. The *NC Rules of Evidence* shall not apply in an arbitration hearing, except as to privilege or protection, but shall be considered as a guide toward full and fair development of the facts. The Arbitrator shall consider all evidence presented and give it the weight and effect the Arbitrator determines appropriate.
- g) Conclusion of hearing. When the parties state they have no further exhibits or witnesses to offer, the Arbitrator shall declare the hearing closed. Counsel may make oral argument, but the filing of post-hearing briefs will ordinarily not be permitted. If

the Arbitrator decides to accept post-hearing briefs, such briefs must be submitted within **three (3) business days** after the hearing has been concluded or otherwise agreed among the parties and the Arbitrator. The Arbitrator shall file FORM AOC-CV-827 within **ten (10) days** after issuance of the decision.

15.3 The Decision.

- a) Issuance of award. The Arbitrator shall issue and mail to the parties a decision **within seven (7) business days** of the date of the closing of the hearing or the receipt of post-hearing briefs, whichever is later.
- b) Findings, conclusions, opinions. No findings of fact, conclusions of law or opinions supporting a decision are required.
- c) Scope of award. The decision must state all issues addressed in the arbitration.

15.4 Modification of procedure. Subject to approval of the Arbitrator, the parties may agree to modify the procedures required by these Rules for Arbitration.

Dom Rule 16. Special Rules for Summary Hearings, Temporary Hearings, Ex Parte Hearings.

- a) Limitations on issues. Summary Domestic sessions are limited to temporary hearings on issues of child custody, visitation, child support, interim distribution/preservation of marital property/debts, and post separation support. Follow up hearings after entry of emergency and ex parte orders will also be tried as summary hearings. These issues may be heard during summary sessions if raised in a party's complaint, counterclaim or motion in the cause alleging changed circumstances (for custody issues only). Claims for which a temporary order has already been entered shall not be scheduled or rescheduled during a Summary session unless based on further emergency relief.
- b) Hearing time limits. Unless ordered otherwise by the presiding or assigned judge, each party (or parties with the same position or interest) shall have **twenty (20) minutes**, including cross-examination and rebuttal, to present evidence. Time for hearing objections shall be assessed to the objecting party unless the Court rules otherwise. The Clerk shall assist the judge in maintaining a record of each party's time.
- c) Negotiations; Effect on time limits; Continuances. Parties may use the time scheduled for hearing for settlement negotiations; however, the time scheduled for hearing shall not be enlarged and the case shall not be continued or recalendared on another summary session as a consequence of such negotiations. Time used for negotiating shall be deducted equally from each party's time to present evidence if the negotiations are unsuccessful.
- d) Effect of failure or party/attorney to appear. If the party requesting the hearing fails to appear, the relief sought shall be denied. If his/her attorney fails to appear, the relief sought

shall be denied unless such party chooses to go forward without counsel. If the opposing or his/her attorney fails to appear at the designated time and place, the hearing shall not be delayed.

- e) Continuance motions. Ordinarily, hearings shall not be continued from the summary session calendars. Only the assigned judge or the Chief District Court Judge may continue a matter from the summary calendar. The case manager may, with consent of all of the parties and the assigned judge reschedule the matter for later in the same term. The fact that both parties agree to the removal of a matter shall not necessarily be good cause for a continuance.
- f) Continuances and conflicts. Continuance requests arising from court conflicts shall be denied unless there is a showing by the moving party that the conflict is with a Court of superior priority as defined by Rule 3 of the *General Rules of Practice* and the local rules herein and that the presiding judge of the Court having priority has been notified of the conflict and refuses to allow the attorney or party to be released for the summary session for the one hour hearing.

Dom Rule 17. Rules governing the conduct of Pre-Trial Conferences.

17.1 Parties/attorneys required to be present. Parties and attorneys are required to be present at a Pretrial Conference.

17.2 Parties to make submissions at Pre-Trial. Parties shall bring to the Pretrial Conference items of proof relevant to the presentation of the particular cause of action to be tried including, but not limited to the following

- a) List of expert witnesses with brief summary or their testimony;
- b) Appraisals;
- c) List of all witnesses;
- d) Proposed stipulations;
- e) Proposed matters of judicial notice;
- f) Up to date, accurate affidavits required by rules
- g) Financial documents regarding intangible personal property, such as bank statements, records, brokerage statements, reports, financial statements, pension/profit-sharing documents, credit card statements, other evidence of debt, etc.;
- h) Documents of title;
- i) Documents evidencing liens
- j) Documents relating to real estate;
- k) Tax consequence memorandum, if party asking Court to consider tax consequence of any aspect of distribution or allocation; and

- l) Other documents tending to show existence, value of marital property, divisible property and/or separate property of the parties.

17.3 Stipulations. The judge, at the pretrial hearing, shall actively encourage and solicit from the parties stipulations regarding matters about which the parties have no serious dispute. The judge shall also seek stipulations as to limitations on the number of witnesses, the length of their testimony, the issues for hearing, the order and manner of the presentation of evidence and the length of the trial. All stipulations agreed upon shall be set forth in writing and signed by the attorneys and/or the parties. Nothing herein shall prevent the judge from entering appropriate orders pursuant to the *NC Rules of Civil Procedure and Evidence* limiting a party's evidentiary presentation without such party's consent where such evidence is deemed by the Court to be repetitious, irrelevant, immaterial or otherwise lacking in sufficient probative value in light of the other evidence to be presented and the time restraints relevant to the trial of matters before the Court.

17.4 Special Pretrial Order Rules for Equitable Distribution Cases. The Pretrial Order in Equitable Distribution cases shall contain the following categories of information:

- a) Marital property upon which there is agreement as to value and distribution;
- b) Marital property upon which there is agreement as to value and disagreement as to distribution;
- c) Marital property upon which there is agreement as to distribution and disagreement as to value;
- d) Marital property upon which there is disagreement as to distribution and as to value;
- e) Property which the wife and husband agree is the separate property of the wife with contentions or agreements as to value;
- f) Property which the wife and husband agree is the separate property of the husband with contentions or agreements as to value;
- g) Property which the wife claims is her separate property and the husband disagrees and their contentions or agreements as to value;
- h) Property which the husband claims is his separate property and the wife disagrees and their contentions or agreements as to value;
- i) Property which a party contends has mixed marital and separate characteristics and their contentions or agreements as to value;
- j) Other divisible property with their contentions and agreements as to value;
- k) Any other relevant category of property not listed above;
- l) Marital debts, separate debts with amounts due, paid at relevant times;
- m) Contentions of each party, if any, as to why equal division is not equitable division;
- n) Any stipulations entered pursuant to **Dom Rule 17.3** above;
- o) Complete witness list;
- p) Date of separation; and
- q) Evidentiary stipulations.