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HAYWOOD CO., C.S.C.

BY _____

DISTRICT COURT CONTINUANCE POLICY FOR CIVIL/DOMESTIC RELATIONS/JUVENILE CASES
ADMINISTRATIVE ORDER

Pursuant to the May 1, 1996 Order of the Supreme Court of North Carolina and the authority delegated to the Chief District Court Judge as to the management of court dockets within the District Court Division, it is the policy of this Court to provide justice for citizens without unnecessary delay. For all civil, domestic relations, and juvenile cases the Court strives to dispose of cases expeditiously and efficiently so as not create an undue burden on the resources of the court, litigants, and other case participants.

Now therefore, IT IS HEREBY ORDERED as follows:

1. Continuances in District Court Civil Cases

- A. Civil cases shall be disposed of at the earliest opportunity. When compelling reasons for continuances are presented which would affect the fundamental fairness of the trial process, a continuance may be granted for good cause.
- B. All requests for continuances in civil District Court cases shall be made in the form of written motions (including the use of AOC-CV-222 or Form 30A of the Local Civil Rules). The motion shall be filed as soon as possible after the moving party is aware of facts they believe justify a continuance. Oral motions may be allowed in limited circumstances when the reason for the continuance did not become known until immediately preceding the opening of the Court session.

2. Continuances in Domestic Relations Cases

- F. All general civil cases should be disposed of within 12 months of filing.
- xii. Any other factor that promotes the fair administration of justice
 - xi. Compliance with any law relating to the scheduling and trial of civil cases attorneys, or witnesses if the case is continued
 - x. Consideration of the financial consequences to the public, the parties, the
 - ix. Present or future inconvenience or unavailability of witnesses/parties
 - viii. The Period of delay caused by the continuance requested
 - vii. Whether the basis for the motion is the existence of another Court setting motion for continuances as soon as was practicable
 - vi. The due diligence of counsel or the unrepresented parties in promptly filing a date
 - v. The extent to which counsel/parties had input into the scheduling of the trial
 - iv. The number of previous continuances
 - iii. The status of the trial calendar for that session
 - ii. The age of the case
 - i. The impact of a continuance on the safety of the parties or other persons not to grant the continuance:
- E. If a party objects to a continuance request in a general civil case, the presiding District Court Judge shall consider the following factors in determining whether or 1 year after the filing of the complaint.
- D. Continuances of "older cases" are specifically disfavored in Civil District Court. "Older cases" in Civil District Court shall be defined as follows: civil cases with issues other than child custody, child support or equitable distribution pending more than 1 year after the filing of the complaint.
- C. All parties should have an opportunity to be heard on a motion to continue. When a motion to continue is made more than 7 working days prior to trial, opposing counsel and/or unrepresented parties shall have a period of 4 working days, following service of the motion, to communicate objections to the motion for continuance to the moving party and the presiding District Court Judge or his/her designee. Objections not raised in writing within this time period are deemed to be waived. When a motion to continue is made within 7 working days of the trial (other than an oral motion as provided in Rule 1(B) above), the moving party shall include in the written motion a statement that the opposing counsel or party has been contacted and a short statement on the opposing party's position on the motion (including whether the opposing party or counsel consents or objects, and whether or not he or she desires to be heard on the motion). If the moving party is unable to contact the opposing counsel or unrepresented parties, the motion shall state what efforts were made and why contact was not possible.

- A. Domestic cases (involving child custody, child support and equitable distribution cases) should be disposed of at the earliest opportunity. When compelling reasons for continuances are presented which would affect the fundamental fairness of the trial process a continuance may be granted for good cause.
- B. All requests for continuances in domestic cases shall be made in the form of written motions (including the use of AOC-CV-222 or Form 30A of the Local Civil Rules). The motion shall be filed as soon as possible after the moving party is aware of facts they believe justify a continuance. Oral motions may be allowed in limited circumstances when the reason for the continuance did not become known until immediately preceding the opening of the Court session.
- C. All parties should have an opportunity to be heard on a motion to continue. When a motion to continue is made more than 7 working days prior to trial, opposing counsel and/or unrepresented parties shall have a period of 4 working days, following service of the motion, to communicate objections to the motion for continuance to the moving party and the presiding District Court Judge or his/her designee. Objections not raised in writing within this time period are deemed to be waived. When a motion to continue is made within 7 working days of the trial (other than an oral motion as provided in Rule 2(B) above), the moving party shall include in the written motion a statement that the opposing counsel or party has been contacted and a short statement on the opposing party's position on the motion (including whether the opposing party or counsel consents or objects, and whether or not he or she desires to be heard on the motion). If the moving party is unable to contact the opposing counsel or unrepresented parties, the motion shall state what efforts were made and why contact was not possible.
- D. In domestic cases involving the issues of child custody and child support, a case will be considered an "older case" any time at which the issue of custody or support is pending more than 120 days from the filing of the complaint or the most recent motion. In domestic cases involving the issue of equitable distribution, a case will be considered an "older case" any time at which the issue of equitable distribution has been pending for more than 1 year from the filing of the complaint.
- E. If a party objects to a continuance request in any domestic case, the presiding District Court Judge shall consider the following factors in determining whether or not to grant the continuance:
- i. The effect on children and spouses if the issue is continued and not resolved
 - ii. Whether there is a temporary order in effect dealing with the issue that is the subject of the continuance request
 - iii. The impact of the continuance on the safety of the parties or any other persons
 - iv. Whether the issue has been identified statutorily as an issue which should be addressed expeditiously and/or within a certain time frame
 - v. The age of the case or motion

- vi. The number of prior continuances along with the moving party and grounds for prior continuances
 - vii. The due diligence of counsel or the unrepresented parties in promptly making a motion to continue as soon as practicable
 - viii. Whether the basis for the motion to continue is the existence of a legitimate conflict with another court setting
 - ix. The period of delay caused by the continuance being requested
 - x. The position of opposing counsel or unrepresented parties
 - xi. Present or future inconvenience or unavailability of the witnesses/parties
 - xii. Consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued
 - xiii. Any other factor that promotes the fair administration of justice
3. Continuances in Juvenile cases (Abuse, Neglect, Dependency and Delinquent cases)
- A. For abused, neglected or dependent juveniles, the District Courts are his or her source of protection and the source of services. For a delinquent juvenile, the District Courts provide the opportunity not only for services, but for rehabilitation and renewal.
 - B. The goal of a case management plan for juvenile courts is to put the courts in the best position to ensure the safety of children and protect the rights of parents. Furthermore, it is essential to provide children and parents involved in juvenile cases the best possible chance of living in stable, permanent families. Therefore, continuances should be allowed only when it serves the child's best interest. Participants must come to court prepared to meet each statutory obligation that is required for resolution of these matters. All juvenile cases, including motions for review in abuse/neglect/dependency cases and delinquency cases should be disposed of at the earliest opportunity. Requests for continuances that are made after the first setting for hearing on the merits of the case shall only be granted for extraordinary cause.
 - C. All undisciplined juvenile cases should be disposed within 60 days of the service of the petition. All juvenile delinquency cases should be disposed of within 120 days of the service of the petition.
 - D. All adjudication of abuse/neglect/dependency cases should take place within 60 days of the service of the petition. All termination of parental rights (TPR) cases should be disposed of within 120 days after service of the petition.
 - E. Factors to be considered by the Court in determining whether to grant or deny a motion for a continuance in a juvenile case should include:
 - i. The best interest of the child or children
 - ii. The opportunity to exercise the right to effective assistance of counsel
 - iii. The age of the case

- iv. The incarceration/detention status of a juvenile
 - v. The effect on children and parents if the issue is continued and not resolved
 - vi. The impact of a continuance on the safety of the parties or any other persons
 - vii. The number, moving party, and grounds for previous continuances
 - viii. The due diligence of counsel or unrepresented parties in promptly making motions to continue as soon as practicable
 - ix. The period of delay caused by the continuance requested
 - x. The presences of witnesses – including the juvenile
 - xi. The availability of witnesses for the present session or a future session
 - xii. Whether the basis of the motion is the existence of a legitimate conflict with another court setting
 - xiii. Consideration of financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued
 - xiv. Any other factor that promotes the fair administration of justice
4. The presiding District Court Judge shall always retain the ultimate authority to grant or deny a motion to continue.
 5. Court Conflicts in all civil/domestic/juvenile cases
 - A. All parties and all court officials should work together to try and move cases in an expeditious manner.
 - B. Attorneys shall notify the Court of any other Court conflict(s) as they become known and shall keep the Court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving Court conflicts, all parties, attorneys, and the Court shall follow Rule 3.1 of the North Carolina General Rules of Practice entitled "Guidelines for Resolving Scheduling Conflicts."
 6. To the extent that this order conflicts with any statutory provision applicable to a particular continuance motion or request, the statutory provision shall control.
 7. At least quarterly, the Chief District Court Judge shall generate and review a report of pending cases and any data the Administrative Office of the Courts (AOC) can make available regarding the number of court dates for each case. To promote the consistent application of this continuance policy, these reports should be reviewed and discussed with all other District Court Judges in the district, along with members of the bar and other court-related agencies to ensure that all cases are disposed of in a timely fashion and without unnecessary delay.

8. This order is hereby adopted and shall be incorporated into the Local Rules for the 30th Judicial District – District Court Division. This order shall be published on the Administrative Office of the Courts' Local Rules website.

9. This order shall replace the order entered on October 15th, 1998. This order shall be effective and shall apply to all civil, domestic, and juvenile cases pending in District Court in the 30th Judicial District effective October 1, 2022.

Entered this the 26th day of August, 2022.



Roy T. Wijewickrama
Chief District Court Judge
30th Judicial District