

**3A JUDICIAL DISTRICT  
FAMILY COURT DOMESTIC RULES  
TABLE OF CONTENTS**

Rule 1: General .....	2
Rule 2: Domestic Case Filings.....	4
Rule 3: General Calendaring Rules.....	5
Rule 4: Child Support.....	7
Rule 5: Custody & Visitation.....	11
Rule 6: Post-Separation & Alimony .....	13
Rule 7: Equitable Distribution.....	14
Rule 8: Motions .....	17
Rule 9: Mandatory Custody Mediation.....	18
Rule 10: Continuance Requests.....	20
Rule 11: Telephone Conferences.....	22
Rule 12: Trial Exhibits and Subpoenas.....	22
Rule 13: Orders and Judgments.....	23
Rule 14: Managing and Closing Cases.....	24
Rule 15: Remanded Cases.....	25
Rule 16: Family Court Advisory Committee.....	25
Rule 17: Amendments and Modifications.....	25
Appendix – Pitt County Family Court Domestic Forms List.....	26

## **Rule 1: General**

- 1.1 Purpose.** The purpose of these Rules is to provide a framework for the fair, just, and timely resolution of legal problems affecting families and children in this district, whether court intervention is initiated by a family member or a governmental agency. The Rules are to complement the North Carolina Rules of Civil Procedure, North Carolina Rules of Evidence, and General Rules of Practice for Superior and District Courts.
- 1.2 Application.** It is recognized that these Rules are not complete in every detail and will not cover every situation that may arise. In the event that these Rules fail to address a specific matter, they should be construed in such a manner as to avoid technical or unnecessary delay and to promote the ends of justice. The Family Court Staff is authorized to act in its discretion subject to consultation with the presiding Judge or the Chief District Court Judge in applying these Rules.
- 1.3 Compliance.** Parties and attorneys shall comply with these Rules. Although a party is not required to have an attorney, any party who is not represented by an attorney must comply with these Rules and keep Family Court informed of his/her current address.
- 1.4 Citation.** These Rules and all amendments hereafter shall be filed with the Clerk of Superior Court in Judicial District 3A and the Administrative Office of the Courts. These Rules may be cited accordingly as **Three A Judicial District Family Court Rules (3ADCR)**.
- 1.5 Availability of Rules.** The Family Court Staff will maintain a supply of Rules and associated forms to be furnished to attorneys and the public upon request.
- 1.6 Forms.** Except as specifically required herein, where local forms are required by these Rules, counsel or pro se parties may use either the forms provided or a form of their own which substantially corresponds to the specified court form.
- 1.7 Communication with Judges.** Attorneys and unrepresented parties shall not communicate ex parte with a Judge in the course of official proceedings, except as permitted by law and then only in writing (if a copy of the writing is furnished simultaneously to the other party), or orally, upon adequate notice to opposing party.

Before the occurrence of any ex parte communication concerning a case between an attorney or unrepresented party and a Judge, the attorney or unrepresented party must first inform the Judge of any other attorneys that may be involved in the case at hand, or of another case that might have

overlapping issues. In addition, attorneys and unrepresented parties shall not engage in (a) conduct intended to disrupt a court, including but not limited to failing to comply with known local customs of courtesy or practice of the Bar or of a particular court without giving opposing counsel timely notice of the intent not to comply, or (b) undignified or discourteous conduct.

**1.8 Applicability.** These rules apply to all domestic relations matters to be heard by the Family Court, whether an initial filing or a subsequent motion, **except** for involuntary commitments, IV-D, U.R.E.S.A., U.I.F.S.A., juvenile and domestic violence matters.

**1.9 Time Standards for Family Court Cases.** The North Carolina Family Court Advisory Committee has established a case management plan to aid in the just, fair and timely resolution of cases filed. Unless otherwise specified, “days” are calendar days. In the event there is an inordinate time to perfect service of process, the time frames may be extended. The Judge may also extend the time frames for good cause shown. The time frames below represent maximum time limits that are “goals.”

<b>Event</b>	<b>Time from Filing of Complaint</b>
<b>Child Support</b>	
Temporary Hearing Scheduled	45 Days
Temporary Orders Entered	45 Days
Entry of Permanent Order	270 Days
<b>Custody</b>	
Temporary Hearing Scheduled	45 Days
Temporary Orders Entered	45 Days
Mediation Orientation Scheduled	45 Days
Mediation Completed	150 Days
Permanent Hearing Scheduled	150 Days
Entry of Permanent Order	180 Days
<b>Post-Separation Support</b>	
Temporary Hearing Scheduled	60 days
Entry of Order	90 days
<b>Alimony</b>	
Appointment of Mediator	120 Days
Completion of ADR	210 Days
Final Pre-Trial Conference	240 Days
Trial	270 Days
Entry of Permanent Order	365 Days

### Equitable Distribution

Appointment of Mediator	120 Days
Completion of ADR	210 Days
Final Pre-Trial Conference	240 Days
Trial	270 Days
Entry of Permanent Order	365 Days

- 1.10 Sanctions.** Failure to comply with any section of these Rules or the Rules of Civil Procedure shall subject the parties and/or their counsel to sanctions allowed by law and deemed appropriate at the discretion of the presiding Judge, including but not limited to: dismissal of any or part of any claim for relief or pleadings, disallowance of evidence and/or testimony, a fine, payment of costs or the opposing party's reasonable legal fee.

### Rule 2: Domestic Case Filings

- 2.1 Commencement.** All domestic matters, whether an initial filing, a counterclaim containing new issues or a subsequent motion, shall be commenced by contacting the Family Court Staff to obtain the judicial assignment and all dates pertaining to the filing. The party seeking relief, or the attorney representing the parties shall inform Family Court Staff in writing whether there is a pending or resolved domestic case, domestic violence, or juvenile case involving the same family and/or issues, and the name of the Judge, if any, previously assigned to such case. This contact may be in person, over the telephone or by fax prior to filing the pleadings with the Clerk of Superior Court of Pitt County. Once these assignments and dates are made by the staff in person, by telephone or fax, it is the responsibility of the filing party or counsel to record this information on a Judicial Assignment and Notice of Hearing (Form #2). The Judicial Assignment and Notice of Hearing shall be filed within three (3) days from the giving of the date by Family Court. If the Judicial Assignment and Notice of Hearing is not filed within three (3) days the date(s) will be released for other cases to be scheduled.
- 2.2 Filings.** Judicial Assignment and Notice of Hearing, summonses, and Complaint shall be taken to the Clerk's Office for filing. All subsequent motions in domestic cases, after obtaining the Judge assignment, and any and all dates pertaining to the filing from the Family Court Staff, shall be filed in the Office of the Clerk of Superior Court. The Clerk of Superior Court shall provide a case number at the time of an initial filing and shall place the number upon the summons and other documents. All subsequent pleadings and papers filed by the Clerk and all subsequent communications to opposing counsel or parties or court personnel shall contain the proper case number. The filing party or attorney shall cause a copy of the pleadings and

the Judicial Assignment and Notice of Hearing to be placed in the Family Court box in the Clerk of Superior Court's office or delivered to the Family Court Office after filing by fax, email, mail or hand delivery.

- 2.3 Mailing of Filings.** All domestic matters and subsequent motions shall be mailed or hand-delivered to the Clerk of Superior Court's Office for filing, provided that a Judge assignment and any and all dates pertaining to the filing have been obtained over the telephone or by fax from the Family Court Staff. Once these assignments are made via the telephone or fax, the filing party or counsel shall record this information on Form #2, Notice of Hearing, and mail or deliver the filing to the Clerk. The filing party must cause a copy of the Judicial Assignment and Notice of Hearing to be placed in the Family Court box in the Clerk of Superior Court's office, faxed, emailed or hand-delivered to the Family Court Office after filing.
- 2.4 Court Sessions.** The Chief District Court Judge shall designate Family Court Sessions and assign Judges for such sessions. Emergency matters may be heard by the Judge assigned to the case in any courtroom regardless of the session to which the Judge is assigned for the day or week. If, due to illness, vacation, or other cause, the Judge assigned to a case is not available to hear ex parte or other emergency matters, those matters may be heard by another District Court Judge.

### **Rule 3: General Calendaring Rules**

- 3.1 Case Tracking.** The Family Court Administrator shall establish and maintain a case tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts, and in accordance with these rules.
- 3.2 Notices.** The moving party shall:
- (1) confer with the Family Court Staff prior to filing a pleading or Motion to obtain a date and time for the appropriate hearing, conference, or orientation; and,
  - (2) serve the opposing party or counsel with the file stamped pleading or Motion and filed stamped Notice of Hearing with the scheduled dates, times and amount of time needed for the hearing or conference in the manner and within the time limits as set forth in the statutes; and,
  - (3) file all notices with the Clerk's office for inclusion in the case file; and,
  - (4) provide a copy of the pleading or Motion and Form #2, or a Notice of Hearing which substantially corresponds to Form #2 to the Family Court Staff.

If the party or counsel receiving the Notice objects 1) to the matter being heard, or 2) to being heard at the date or time designated in the Notice or 3) to the amount of time needed for the hearing, he or she shall contact the moving party, or counsel for the moving party, and attempt to reconcile any conflict regarding the scheduling of the matter as soon as possible. If the parties reach an agreement for having the matter heard at a different date or time, the moving party shall confer with Family Court to determine if the proposed hearing date and time is available and advise the Family Court of the agreement to change the hearing date or time before the assigned judge within the time standards set forth in Rule 1.9, if applicable, and another Notice setting forth the agreed upon date and time shall be sent by the moving party to the opposing party and Family Court. If the parties cannot agree on a new date and time for the hearing, the party receiving the Notice shall file and serve a Motion to Continue pursuant to Rule 10. The Judge can make a ruling on the Motion to Continue without a hearing; however, the Judge shall give both parties an opportunity to be heard on the request to postpone the matter. At the request of either party a short hearing may be scheduled on the Motion to Continue. The parties are not required to participate in this hearing and the hearing may be conducted by telephone and need not be recorded.

Any party requesting more time for a final hearing on any issue than set is forth in the Notice of Hearing shall advise the assigned Judge at the Pre-Trial or Settlement Conference or file a written motion fifteen (15) days prior to the hearing setting forth the reasons for the request, whichever shall first occur. The opposing party shall file a response to a written motion in writing within ten (10) days of the hearing. The Judge shall make a ruling on the request within seven (7) days of the hearing and advise the parties in writing of the decision. If the parties fail to advise the Court that additional time will be needed for a hearing, the hearing will proceed within the time allotted.

**3.4 Scheduling Court Events.** All filed and pending Family Court matters actions shall be monitored and scheduled set for a status conference, a hearing, or other appropriate dates as necessary to resolve any issues in the case. The Family Court Staff will review pending actions and notice cases without upcoming court dates for a status conference, hearing, or appropriate appearance to ensure that the Court addresses matters in a timely manner.

**3.5 Consolidated Cases.** 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 for trial shall be filed in all pertinent court files and all pleadings or documents filed thereafter shall be captioned with the oldest file number only.

- 3.6 Dismissal for Missed Court Appearances.** Any case or issue in any case noticed for a conference or hearing is subject to dismissal for failure to prosecute if, at the time the matter is called for hearing, the attorney or party are not present and ready to proceed, or have failed to notify the court of any circumstances which would preclude the attorney or party from being present.
- 3.7 Settlement of Contested Issues.** Parties are encouraged to engage in settlement discussions at every opportunity. The Family Court recognizes the importance to the family of bringing closure to these disputes, of minimizing misunderstandings that frequently occur when resolutions are not yet committed to writing, and of the Court's responsibility to assist the parties in resolving these disputes. Unless agreements have been reduced to writing, signed by the parties, their attorneys, and the assigned Judge prior to the time of the court date, parties and counsel are required to appear as scheduled. If a resolution has been reached but not drawn up by the time of the court date, the parties and their counsel are required to appear as scheduled and execute a Memorandum of Judgment Order. **The Court will then set another court date with the expectation that the order will be prepared, signed and filed with the Court prior to or at the proceeding.**

#### **Rule 4: Child Support**

- 4.1 Temporary Child Support.** The time frame to have a temporary hearing on child support is forty five (45) days from the filing of the Complaint or Motion. A hearing on temporary child support should be calendared with a hearing on temporary child custody when child custody is also at issue.

A hearing for temporary child support shall be given one (1) hour. Each party shall be allocated thirty (30) minutes or one-half of the time if the Court has established a different length of time for the hearing for the presentation of their evidence and case (direct examination of the party's witnesses, cross-examination of the opposing party's witnesses, examination of affidavits, and opening and closing statements). Any party requesting additional time for a temporary child support hearing shall file a written motion at least ten (10) days prior to the hearing setting forth the reasons for the request. The opposing party shall file a response in writing within five (5) days of the hearing. The Judge shall make a ruling on the request within forty eight (48) hours of the hearing and advise the parties in writing of the decision.

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. It is the policy of Family Court to establish temporary child support even when the custody mediation is ongoing and custody has

yet to be resolved. To ensure compliance with North Carolina regulations, a temporary child support order shall be expected to be entered in each new child support case within sixty (60) days of filing of the Complaint.

**4.2 Required Attachments to Pleading or Motion for Temporary Child Support.** The party filing a complaint or motion seeking the establishment of child support or the modification of an existing child support order shall attach to the pleading or motion the following:

1. Completed and verified Child Support Financial Affidavit (Form # 3), unless a deviation is requested and a Financial Affidavit is filed pursuant to Rule 4.7,
2. Judicial Assignment and Notice of Hearing (Form # 2), and
3. Notice and Certification of Initial Mandatory Disclosure (Form # 7).

**4.3 Initial Disclosures for Temporary Child Support.** Every party to an action for child support (other than matters being handled in IV-D Child Support Court by the Department of Social Services) has the duty to provide the following documents designated in this rule to the other parties and/or their counsel.

**A. If the North Carolina Child Support Guidelines apply, produce the following financial documents:**

- i. Income tax returns for the preceding two (2) years including W-2 and K-1 forms, and all schedules and attachments.
- ii. Pay stubs/earning statements for the past twelve (12) months. If a tax return has not been filed for the preceding year, a copy of all W-2 and K-1 forms for that year, and if not yet available then pay stubs/earning statements showing gross income for that year.
- iii. All documents reflecting current work related child care expenses and costs for the Guidelines calculation of child support, or for which reimbursement is sought.
- iv. All documents reflecting current healthcare insurance costs and premiums for the Guidelines calculation of child support, or for which reimbursement is sought.
- v. All documents reflecting any extraordinary expenses for the Guidelines calculation of child support, or for which reimbursement is sought (examples: private school tuition or extra-curricular activities).
- vi. All documents regarding any obligation for child support for any other child(ren) not the subject of this action.



vii. All other documents reflecting “income” as it is defined in the North Carolina Child Support Guidelines from all sources beginning January 1 of the year the Pleading or Motion is filed through the date of disclosure. This disclosure includes but is not limited to: income from salaries, wages, commissions, bonuses, ownership or operation of a business, partnership, or corporation, VA disability, social security benefits, workers compensation benefits, unemployment insurance benefits, disability pay and insurance benefits, and alimony or maintenance received from persons other than the parties to the instant action.

**B. Additional Initial Mandatory Disclosures for Self-Employed Parties, Non-Guideline Cases (High-Income), and Deviation Cases.** In any case where a party is self-employed and/or where the North Carolina Child Support Guidelines do not apply due to high incomes, or in a case where a party is seeking a deviation from the guidelines produce the party must produce the following documents to the other parties and/or their counsel:

- i. All documents listed above in Rule 4.3 (A) for guideline child support cases.
- ii. Individual and Business Bank Statements for the last twelve (12) months including cancelled checks, check registers, either online statements or standard statements, and evidence of checks paid.
- iii. Credit card statements for the last twelve (12) months for any credit card for which you are an authorized user.
- iv. Business tax returns for the past two (2) years, including K-1 and all attachments and schedules.

**C. Organization of Initial Disclosure Documents.** The required documents should be organized and segregated into logical and understandable groups.

#### **4.4 Deadline for Initial Financial Disclosure.**

**A. Moving Party:** The moving party who is seeking the establishment or modification of child support shall file and serve a Notice and Certification of Initial Mandatory Disclosures (Form # 7) and produce their initial financial disclosure documents listed in Rule 4.3 above to the other party and/or their counsel, with the initial filing of the Complaint or Motion to Modify. Alternatively, the parties may agree in writing (e-mail, fax) to a specific date to mutually exchange their Initial Financial Disclosure information.

**B. Responding Party:** The responding party shall file and serve a Notice and Certification of Initial Mandatory Disclosures (Form # 7) and produce their initial financial disclosure documents listed in Rule 4.3 above to the other party and/or their counsel, within fifteen (15) days after they are served but, in no event later than ten (10) days prior to the temporary child support hearing. Alternatively, the parties may agree in writing (e-mail, fax) to a specific date to mutually exchange their Initial Financial Disclosure information.

**4.5 Responding Party Child Support Financial Affidavit (Form #3).** Within fifteen (15) days of being served but in no event later than ten (10) days prior to the temporary child support hearing, the responding party (opposing party) shall have their completed and verified Child Support Financial Affidavit (Form #3) filed and served on the moving party.

**4.6 Financial Affidavit for Self-Employed Parties, Non-Guideline Cases (High-Income), and Deviation Cases.**

**A. Moving Party:** The moving party who is seeking the establishment of child support to be other than a guideline support case shall file serve their completed Financial Affidavit (Form # 4) on the other parties and/or their counsel, within fifteen (15) days after service on the other party but, in no event later than ten (10) days prior to the temporary child support hearing. Alternatively, the parties may agree in writing (e-mail, fax) to instead select a date to mutually exchange their Financial Affidavit (Form # 4).

**B. Responding Party:** The responding party shall file their completed Financial Affidavit (Form # 4) within fifteen (15) days after they are served with the Pleading or Motion for child support but, in no event later than ten (10) days prior to the temporary child support hearing. Alternatively, the parties may agree in writing (e-mail, fax) to instead select a date to mutually exchange their Financial Affidavit (Form # 4).

**4.7 Affidavits in a Temporary Child Support Hearing.** Parties may elect or the Court may order temporary child support to be established by affidavit. Additionally, even with a hearing, some or all evidence may be presented based upon affidavits. All affidavits shall be filed by the propounding party and faxed or hand delivered to the opposing party at least fifteen (15) days prior to the scheduled hearing. Rebuttal affidavits shall be served upon the opposing party no later than ten (10) days before the scheduled temporary hearing. The Court may, in its discretion, postpone or waive these filing, hearing and timeline requirements. Fact affidavits must be signed, dated, and verified and contain the address and phone number of the affiant.

**4.8 Permanent Hearing.** The time frame for a permanent child support ordered entered is two hundred seventy (270) days from the filing of the Complaint

or Motion. The filed Financial Affidavits with supporting documentation may be modified up to thirty (30) days prior to trial. Previously filed financial affidavits are admissible and only supplemented if changes have occurred. Any amended affidavits that are timely filed and served shall be admissible as evidence at the permanent hearing.

**All social security numbers shall be redacted from all documents filed with the Court unless otherwise required.**

### **Rule 5: Custody & Visitation**

**5.1. Calendaring Mediation Orientation.** The Family Court Staff shall set all custody issues, both initial establishment and modification, for Custody Mediation Orientation within forty-five (45) days of the filing any initial or modification request involving custody or visitation. The parties shall proceed with mediation in accordance with Rule 9 of these rules. An Order to Attend Custody Mediation, (Form #5), shall be prepared by Family Court Staff and signed by the assigned Judge to be served on the parties. As used herein, "Custody" includes custody, visitation, and parenting issues. A date for Custody Mediation Orientation will be assigned in all cases unless waived pursuant to Rule 9.8.

**5.2 Temporary Custody Hearings.** Upon request of either party, the Family Court Staff will set a temporary hearing date to be held within forty-five (45) days of the filing of a claim for custody or visitation. The moving party shall serve upon the opposing party or counsel the pleading and the Notice of Hearing (Form #2) setting the temporary hearing date.

Unless otherwise ordered by the Court for good cause shown, temporary custody hearings shall be limited to three (3) hours. Each party shall be allocated one-half of that time to be used for direct examination of the party's witnesses, cross-examination of the opposing party's witnesses, examination of affidavits, and opening and closing statements. Fact affidavits will be allowed if both parties agree or upon Court order. These affidavits must contain the address and phone number of the affiant. All affidavits shall be filed by the propounding party and faxed or hand delivered upon the opposing party at least ten (10) business days prior to the scheduled hearing. Rebuttal affidavits shall be served upon the opposing party no later than five (5) days before the scheduled temporary hearing unless modified by Court order. The Court may, in its discretion, change or waive these filing, hearing and timeline requirements.

Any party requesting additional time for a temporary hearing shall file a written motion ten (10) days prior to the hearing setting forth the reasons for the request. The opposing party shall file a response in writing within five (5) days of the hearing. The Judge shall make a ruling on the request within

forty eight (48) hours of the hearing and advise the parties in writing of the decision.

**5.3 Custody Hearing.** The time frame to have a permanent hearing on child custody is one hundred fifty (150) days from the filing of the Complaint or Motion.

**5.4 Lengthy Hearings.** Absent a written objection filed thirty (30) days before the scheduled trial date, all final custody trials will be subject to a trial of no more than twenty (20) hours and the parties will be deemed to have so stipulated. Stipulations to lesser amounts of time shall be signed by the attorneys and parties. The clerk shall keep time and inform the parties, upon request, of the allotted time used for each side and how much is available for each. Absent court order the time shall be divided equally between the parties. Time used for opening and closing statements, and for objections and ruling on objections, shall be included in the overall time limitation.

Any objection to these time limits shall be in writing, shall be filed, and must give specific reasons as to why the case needs more time than twenty (20) hours. The written objection must include a list of proposed witnesses, a summary of the purpose of the witnesses' testimony and an estimate of the total time to try the case.

In any case where a written objection to the time limits has been filed, the court shall schedule the case for a bifurcated hearing. Absent a court order, the parties shall alternate witnesses. The moving party shall go first and must call the moving party as the first witness if the party is to testify at all in the case. Direct examination is limited to one hour. The non-movant is then given up to one hour for cross examination of that witness. Then the non-movant shall call the next witness, which must be the non-movant if that party is to testify at all in the case. Direct examination is limited to one hour. The movant is then given up to one hour for cross examination. At the conclusion of the testimony of the first two witnesses the Judge shall enter a temporary custody order.

Thereafter the court shall conduct a pretrial conference. Each party must provide to the court and to the opposing party, a proposed pre-trial order, an affidavit of each witness intended to be called with a summary of that witnesses' expected testimony. The trial judge shall rule on which witnesses may testify and what limitations, if any, should be imposed on their testimony so that evidence which is irrelevant or cumulative may be minimized and set the schedule for the remainder of the trial.

In cases where a final custody order has been already entered and the movant is alleging a change of circumstances, the judge shall decide at the pretrial conference whether or not to alternate the called witnesses between

the parties. At the close of the movant's evidence in the case the judge shall disregard the non-movant's witnesses testimony in determining whether the movant has met the initial burden of showing a substantial change of circumstances affecting the welfare of the child or children. In cases where no final custody order has been entered, absent court order the parties shall alternate the calling of the witnesses.

## **Rule 6: Post-Separation Support & Alimony**

**6.1 Post-Separation Support.** Upon request of the moving party, the Family Court Staff shall set the issue of post-separation support for hearing to be held within forty-five (45) days of the filing of the Complaint. The parties shall exchange, file and serve Financial Affidavits (Form #4), Notice and Certification of Initial Mandatory Disclosures, and mandatory disclosure documents fifteen (15) days prior to the hearing. A hearing for post-separation support shall be given one (1) hour. Each party shall be allocated thirty (30) minutes or one-half of the time if the Court has established a different length of time for the hearing for the presentation of their evidence and case (direct examination of the party's witnesses, cross-examination of the opposing party's witnesses, examination of affidavits, and opening and closing statements). Any party requesting additional time for a post-separation support hearing shall file a written motion at least ten (10) days prior to the hearing setting forth the reasons for the request. The opposing party shall file a response in writing within five (5) days of the hearing. The Judge shall make a ruling on the request within forty eight (48) hours of the hearing and advise the parties in writing of the decision. If at the post-separation support hearing both parties and the presiding Judge agree, the parties may proceed with a hearing for the establishment of an order for alimony.

**6.2 Initial Mandatory Disclosures for Post-Separation Support and Alimony.** Each party to an action for post-separation or alimony has the duty to provide the following documents designated in this rule to the other party and/or their counsel.

- i. Income tax returns for the preceding two (2) years including W-2 and K-1 forms, and all schedules and attachments.
- ii. Pay stubs/earning statements for the past twelve (12) months.
- iii. Individual and Business Bank Statements for the last twelve (12) months including cancelled checks, check registers, either online statements or standard statements, and evidence of checks paid.

iv. Credit card statements for the last twelve (12) months for any credit card for which you are an authorized user.

v. Business tax returns for the past two (2) years, including K-1 and all attachments and schedules.

vi. All other documents reflecting “income” from all sources beginning January 1 of the year the Pleading or Motion is filed through the date of disclosure. This disclosure includes but is not limited to: income from salaries, wages, commissions, bonuses, ownership or operation of a business, partnership, or corporation, VA disability, social security benefits, workers compensation benefits, unemployment insurance benefits, disability pay and insurance benefits, and alimony or maintenance received from persons other than the parties to the instant action.

**6.3 Alimony Hearing.** The time frame to have an alimony hearing is two hundred seventy (270) days from the filing of the Complaint or Motion. The parties shall exchange, file and serve updated Financial Affidavits (Form #4) with supporting documentation thirty (30) days prior to the alimony hearing.

## **Rule 7: Equitable Distribution**

**7.1 Appointment of Mediator.** Prior to filing a pleading asserting a claim for Equitable Distribution, the moving party must confer with the Family Court Staff who will set a date for the appointment of a mediator at a Scheduling and Discovery Conference within one hundred twenty (120) days of the date the pleading was filed. It is the responsibility of the moving party to serve the opposing party or counsel for the opposing party with the pleading asserting Equitable Distribution and the Notice of Hearing setting the Scheduling and Discovery Conference (Form #2). Unless the parties have agreed on a mediator before the Scheduling and Discovery Conference the Court shall appoint a mediator at the conclusion of that conference.

**7.2 Equitable Distribution Inventory Affidavits.** Within ninety (90) days after service of a claim for equitable distribution, the party who first asserts the claim shall prepare and serve upon the opposing party an equitable distribution inventory affidavit listing all property and debts claimed by the party to be marital property and all property and debts claimed by the party to be separate property, and the estimated date-of-separation fair market value of each item of marital and separate property. Within thirty (30) days after service of the inventory affidavit, the party upon whom service is made shall prepare and serve an inventory affidavit upon the other party. The inventory affidavits prepared and served pursuant to this rule shall be subject to amendment and shall not be binding at trial as to completeness

or value. The court may extend the time limits for good cause shown. A Certificate of Service evidencing the service of the Affidavits shall be filed with the Clerk of Court in lieu of filing the Affidavits.

**7.3 Scheduling and Discovery Conference.** Pursuant to NCGS § 50-21(d), a Scheduling and Discovery Conference before the assigned Judge shall be held within one hundred twenty (120) days of the filing of the initial pleading or motion in the cause for equitable distribution. The purpose of the Status Conference is to ensure that the case is proceeding toward resolution in a timely and orderly fashion. Unless otherwise permitted by the Court, the case will be ordered to family financial mediation pursuant to the Supreme Court Rules Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases, as may be amended from time to time. Participation at the status conference is mandatory for all attorneys of record and pro se litigants). It is strongly recommended that the attorneys and parties meet before the Scheduling and Discovery Conference to discuss stipulations, discovery, expert witnesses and other matters that can be resolved at this Conference.

At the Status Conference, the assigned Judge will:

- (1) Determine the status of the Equitable Distribution Inventory Affidavits. Each party shall complete and file his or her Equitable Distribution Affidavit prior to the Status Conference pursuant to NCGS § 50-21(a).
- (2) Complete a Scheduling and Discovery Order, which shall include but not be limited to, set a schedule for discovery, rule upon any motions for appointment of expert witnesses, determine the date of separation, set dates for disclosure of expert witnesses, set date for the Initial Pretrial Conference within ninety (90) days of the Scheduling and Discovery Conference and set the date for the Final Pretrial Conference within one hundred twenty (120) days of the Scheduling and Discovery Conference or as otherwise set by the assigned Judge (Form #8).
- (3) Complete AOC Form #824, Order for Mediated Settlement Conference including the date for completion of the ADR within ninety (90) days of the Status Conference.
- (4) Complete AOC Form #825, Designation of Mediator, setting forth their chosen method of ADR, the name of the Neutral selected and the date for completion of the ADR within ninety (90) days of the Status Conference.

**7.4 Initial Pretrial Conference.** The Initial Pretrial Conference will be set within ninety (90) days of the Scheduling and Discovery Conference or as is otherwise set by the assigned Judge. Attendance at initial pretrial conferences is mandatory for all attorneys of record and pro se litigants. At the initial pretrial conference the Court shall make inquiry as to the status of the case and shall enter a date for the completion of discovery, the completion of the mediated settlement conference, if applicable, and the

filing and service of motions. In addition, the Court shall enter an Order for the preparation and completion of a Pretrial Order in Equitable Distribution. Counsel of record and the parties shall cooperate in providing and exchanging such information as is necessary for the timely completion of the proposed Pretrial Order for discussion at the Final Pretrial Conference. The Pretrial Order shall be in the general form as approved and set forth in the Appendix to these Rules; however, counsel or the parties may make such reasonable modifications to the form by mutual agreement as will assist the Court in understanding and resolving the issues for determination in equitable distribution. At the Initial Pretrial Conference, the Court may address any requests for additional discovery and set a date for trial of the matter or such additional pretrial conferences as are necessary.

**7.5 Final Pretrial Conference.** The Final Pretrial Conference will be set within one hundred twenty (120) days of the Scheduling and Discovery Conference or as otherwise set by the assigned Judge. Attendance at Final Pretrial Conferences is mandatory for all attorneys of record and all parties. The purpose of the Final Pretrial Conference shall be to discuss, determine, and narrow the issues for the trial or disposition of the equitable distribution case and to finalize the entry of the Pretrial Order in Equitable Distribution. The party who first asserts or makes the claim for equitable distribution shall be responsible for preparing the initial proposed Pretrial Order. Service and delivery of the initial proposed Pretrial Order on the opposing party shall be done not less than ten (10) days before the date of the Final Pretrial Conference. Within five (5) days after service or actual receipt of the proposed Pretrial Order (whichever is later), the opposing party shall then serve on the proposing party any comments, objections, amendments, additions, or other information as necessary or required for the completion of the Pretrial Order for presentation, discussion, and entry at the Final Pretrial Conference. If not entered at the Final Pretrial Conference, the Court shall enter such orders as necessary or required to provide for the timely completion and entry of the Pretrial Order in Equitable Distribution.

**7.6 Interim Distribution.** It is the responsibility of the party seeking an Interim Distribution hearing to obtain a date for the hearing from the Family Court Staff and to serve the opposing party or counsel with a Notice of Hearing for the Interim Distribution (Form #2) and evidence that opposing party has been notified of the specific property sought to be distributed. The Family Court Staff will schedule an Interim Distribution Hearing before the assigned Judge within thirty (30) days of the date of filing or date of the request.

**7.7 Equitable Distribution Trial.** The time frame to have an Equitable Distribution trial is two hundred seventy (270) days from the filing of the Complaint or Motion seeking equitable distribution.



## **Rule 8: Motions**

**8.1 Motions in the Cause for Contempt.** All motions in the Cause for Contempt shall be filed with the Clerk of Superior Court. If an Order to Show Cause is signed, the Family Court Staff shall set the case for hearing in front of the assigned Judge. The Order to Appear and Show Cause shall contain the date, time and place for the hearing. A copy of the order shall be faxed or placed in the Family Court box in the office of the Clerk of Superior Court by the party filing the Motion or seeking the order to show cause. A hearing for motions in the cause for contempt shall be given one (1) hour unless additional time has been requested. Any party requesting additional time for a contempt motion shall file a written motion ten (10) days prior to the hearing setting forth the reasons for the request. The opposing party shall file a response in writing within five (5) days of the hearing. The Judge shall make a ruling on the request within forty eight (48) hours of the hearing and advise the parties in writing of the decision) Each party shall be allocated thirty (30) minutes or one-half of the time if the Court has established a different length of time for the hearing for the presentation of their evidence and case (direct examination of the party's witnesses, cross-examination of the opposing party's witnesses, examination of affidavits, and opening and closing statements).

**If a party fails to appear for an advisement of right to counsel hearing, he or she shall be deemed to have expressly waived any right to assigned counsel and any right to request a continuance or delay of the hearing to hire counsel.**

**8.2 All Other Motions.** Any motion not referenced above, including all discovery and non-evidentiary motions, shall be set for hearing by the Family Court Staff. It is the responsibility of the moving party to obtain a hearing date from the Family Court Staff and provide notice of the hearing date to all counsel and parties entitled to notice. For administrative purposes, motions in cases may be removed from the active docket when the issues have not been scheduled for hearing.

**8.3 Ex Parte Orders.** Ex parte orders shall be sought only for such circumstances as are allowed by the Rules of Civil Procedure, statute or other law. A copy of the pleading requesting an ex parte order shall be delivered to the Family Court office along with the proposed ex parte order for review by the Judge prior to the hearing. If the filing is in a new case in which a hearing has not been held, the Family Court staff will schedule a hearing on the ex parte request before any District Judge. The case will then be assigned to a different District Court Judge. If the ex parte request is in a case in which a judge has been assigned and hearings have been held, the Family Court Staff will schedule a hearing on the ex parte request before the assigned judge.

The ex parte order shall contain the date, time and place for the hearing and a copy of the order shall be faxed or placed in the Family Court box in the office of the Clerk of Superior Court by the party obtaining the order. Return of the hearing on ex parte orders shall be held within ten (10) days of the signing of the Order before the assigned Judge. A lawyer or a party participating in an adversary proceeding is prohibited from communicating as to the merits of the case with a Judge before whom the proceeding is pending if the communications occur outside of official proceedings. The opposing counsel or unrepresented party shall be copied on any allowable ex parte communication with the Judge.

Ex parte communications shall not be abused, and it is the preferred practice to contact counsel for the opposing party, if that party is represented, or to the party if unrepresented before an ex parte request is made. When seeking an ex parte ruling, parties shall inform the court of the identity of opposing counsel of record or of any counsel that is known to have been consulted; and the Judge shall make inquiry, before issuing an ex parte ruling, about the existence of opposing counsel.

## **Rule 9: Mandatory Custody Mediation**

- 9.1 Participation.** The parties to any custody and/or visitation case, including initial filings, modifications or enforcement, shall participate in mandatory mediation, either through the mediation program of the Administrative Office of the Courts or through private mediation, prior to any pretrial conference or other hearing of these issues, other than temporary issues, unless waived by the Court. If the parties elect to use private mediation, the election shall be in writing and shall contain the name of the mediator. If the parties cannot agree to a mediator, the Court shall appoint a certified custody mediator. The private mediator, whether appointed or chosen by the parties, shall comply with the reporting requirements of this Rule and the timelines set forth in Rule 1.9.
- 9.2 Scheduling.** The initial mediation orientation is scheduled in accordance with 5.1. The Custody Mediator will schedule individual sessions at the time of the orientation.
- 9.3 Attendance.** The parties to any custody and/or visitation case must attend and participate in an orientation session, a one-hour parent education session, and at least one mediation session to fulfill the Court's order to participate in mediation, whether through private or court mediation. Any party who fails to attend and participate in mediation as ordered shall be subject to the contempt powers of the Court.

**9.4 Parenting Agreements.** If the parties are able to reach a Parenting Agreement, the Mediator will prepare a draft and distribute copies to all parties and their attorneys, advising the parties to review the agreement with their attorneys. A time will be scheduled for the parties to return to sign the final draft. Final signed agreements shall be presented to the Court. The Court shall review each agreement signed by the parties and, if appropriate, make the Parenting Agreement an order of the Court by signing the Order Approving Parenting Agreement. Family Court Staff will file the final Order and Parenting Agreement with the Clerk of Superior Court and distribute copies to the parties and/or counsel. The mediator shall also advise the Family Court Staff in writing that an Order Approving Parenting Agreement has been entered.

If the parties elect to use private mediation, the private mediator may elect to prepare the agreement or may delegate the preparation of the agreement to an attorney. The private mediator shall advise the Family Court Staff in writing that an Agreement has been reached by the parties.

**9.5 Partial Parenting Agreements.** If a partial agreement is reached, the Custody Mediator will prepare a final draft of the partial agreement and follow the process set out in Rule 9.4.

**9.6 No Agreement Reached at Mediation.** If the parties fail to agree, the Custody Mediator will notify the Family Court Staff, who will set the matter for hearing.

**9.7 Modifications.** These rules also apply to modification or enforcement of existing custody orders, visitation orders, or Parenting Agreements. If the parties have attended an orientation session within less than two (2) years from the date of filing of the motion, the mediator shall schedule the parties for a mediation session as soon as possible; otherwise, the parties shall be scheduled for Custody Mediation Orientation and then a mediation session. The moving party is responsible for contacting the Family Court Staff and notifying the opposing party or counsel of the orientation or mediation session date.

**9.8 Waiving the Custody Mediation Process.** In some instances, mediation may not be appropriate or in the best interests of the parties or their children. In these instances, a party may move to waive mediation for “good cause”. Good cause is defined as including, but not being limited to, the showing of undue hardship to a party; an agreement between the parties for voluntary mediation, subject to court approval; allegations of abuse or neglect of the minor child; allegations of alcoholism, drug abuse, or domestic violence; or allegations of psychological, psychiatric or emotional problems. Parties desiring an exemption shall complete and submit a Motion and Order to Waive Custody Mediation (Form AOC-CV-632) to the Family Court Staff

prior to the date of the orientation or first session. The opposing party or counsel shall file a response within five (5) days if they oppose the Motion to Waive Custody Mediation. The Family Court Staff shall hold the Motion to Waive for the aforementioned five (5) days or until receiving a response from the opposing party or counsel in writing. The Court will make a decision based on the submission with or without a hearing.

- 9.9 Inadmissibility.** All verbal or written communications from either or both the parties to the Custody Mediator or between the parties in the presence of the Custody Mediator made in a proceeding pursuant to these rules are absolutely privileged and inadmissible in Court. Neither the Custody Mediator nor any party or other person involved in mediation under these rules shall be called to testify as to communications made during or in furtherance of such mediation sessions, provided there is no privilege as to communications made in furtherance of a crime or fraud, nor as to conduct constituting a crime

## **Rule 10: Continuance Requests**

- 10.1 General Rule.** Domestic cases should be addressed at the earliest opportunity. However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process, a continuance may be granted for good cause. Requests for continuances that will delay the resolution of the contested issues beyond the established time standards shall only be granted for extraordinary cause.
- 10.2 Conflicts.** The various divisions of Court should work together to move cases as expeditiously as possible. Conflicts shall be resolved as set forth in Rule 3.1 of the General Rules of Practice. Age of case, subject matter, and priority of setting should be given as much primacy as the level of court when resolving conflicts. Attorneys shall notify the Court and opposing counsel of any other Court conflict(s) as they become known and shall communicate with attorneys and Judges of this district and other Judges to ordinarily resolve such conflicts.
- 10.3 Motions.** All applications for continuance shall be by written motion (Form #9). However, oral motions may be allowed when the reason for the continuance did not become known until immediately preceding the start of court.
- 10.4 Notification of the Request.** All parties must be notified of a motion to continue. A copy of the motion to continue must be distributed to all counsel of record and/or unrepresented parties at the same time the motion is delivered to the Family Court Staff. In addition to the service requirements set out in the statute, distribution of the motion must be made by the

quickest means feasible, including facsimile transmission, electronic mail or hand delivery.

**10.5 Input from All Parties.** All parties should have an opportunity to be heard on a motion to continue. If the request is received within five (5) business days of the hearing date, and there is no input regarding the opposing party's or counsel's position, the Court may be unable to address the request prior to the hearing and will address the request at the time of the scheduled hearing time.

**10.6 Responsibility of the Party Requesting the Continuance.** The burden is on the party requesting the continuance to contact the opposing counsel or party prior to submitting the motion to the Family Court Staff, and include the opposing party's/counsel's position on the request as:

- Joining in the request;
- Consenting to or not objecting to the request; or
- Opposing the request.

If the opposing party cannot be reached or fails to respond, that should be noted on the request as well as a statement on the efforts made and why contact was not possible.

**10.7 Responsibility of Party Opposing the Request for Continuance.** A party or counsel opposing the request has the burden of submitting a written response to the Family Court Staff immediately upon receipt of the Motion for Continuance.

**10.8 Factors to be Considered.** Factors to be considered by the Court when deciding whether to grant or deny a motion for continuance should include:

- The effect on children and parties if the issue is continued and not resolved;
- Whether there is in effect a temporary order dealing with the issue that is the subject of a continuance request;
- The impact of a continuance on the safety of the parties or any other persons;
- Whether the issue has been identified statutorily as an issue which should be addressed expeditiously, i.e., child support, post-separation support;
- The age of the case or motion;
- The status of the trial calendar for the sessions;
- The number of previous continuances or the number, moving party, and grounds for previous continuances;
- The extent to which counsel or party had input into the scheduling of the trial date;

- The due diligence of counsel or party in promptly making a motion for continuance as soon as practicable;
- Whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- The period of delay caused by the continuance request;
- The position of opposing counsel or unrepresented parties;
- Whether the parties themselves consent to the continuance;
- Present or future inconvenience or unavailability of witnesses/parties, the attorneys or the witnesses if the case is continued;
- Any other factor that promotes the fair administration of justice.

**10.9 New Date.** Prior to granting a motion for continuance, the Family Court Staff or the Judge should reschedule the conference, hearing or trial to a specific date after receiving scheduling input from all parties.

### **Rule 11: Telephone Conferences**

**11.1 Telephone Conferences.** The Court may, in its discretion, order or allow oral argument on any motion by speaker phone conference call or telephone conference call, provided that all participants to the conference can be heard by all other parties at all times during the conference call. Counsel shall schedule such conference calls at a time convenient to all parties and the Judge. The Judge may direct which party or parties shall bear the cost of the conference call.

**11.2 Telephone Testimony.** The Court may, in its discretion, allow witnesses to testify by telephone. The opposing party should be given adequate notice of a party's desire to allow a witness to testify by telephone. If the opposing party opposes the request, the attorneys should conference with the presiding Judge in advance of the date of the hearing to determine whether or not the telephone testimony will be permitted.

### **Rule 12: Trial Exhibits, Subpoenas and Expert Reports**

**12.1 Exhibits.** Exhibits to be used at trial must be (1) stamped as either "Plaintiff's exhibit" or "Defendant's exhibit" as is appropriate, (2) numbered, it being acceptable if the exhibits are numbered without regard to when they are presented at trial, and (3) listed on a document showing the number and a shorthand statement of what the exhibit represents. Unless the Court orders otherwise or attorneys agree otherwise in writing, the list and a copy of exhibits must be provided to the opposing counsel or party seven (7) days before the trial or hearing. Counsel shall have sufficient copies for all parties, the Clerk of Court and the presiding Judge.

**12.2 Subpoenas.** When a subpoena is issued to a witness or other person, the attorney or party issuing the subpoena must, **at the same time**, serve, by fax and/or mail, a copy of the subpoena upon opposing counsel or party pursuant to the Rules of Civil Procedure.

**12.3 Reports of Experts.** The parties (or their legal counsel) shall exchange reports of experts, including, but not limited to, appraisals, business valuations, psychological evaluations, custodial evaluations and forensic accounting reports not less than thirty (30) days prior to the hearing or trial at which the documents shall be utilized as an exhibit. Notwithstanding this provision, if the trial court sets an earlier date to exchange said reports during a pretrial conference or by stipulation/consent of the parties, the earlier date shall control.

The purpose of this provision is to allow the parties to have the opportunity to review the reports in advance of trial so that the reports may be used in consideration of pretrial resolution and so that each party has an adequate opportunity to depose the author of the report ahead of the hearing or trial date.

It is not the purpose of this provision to allow one party to gain access to the other party's report in order to use it to decide whether or not to hire his or her own expert, nor is it the purpose of this provision to allow one party to use the report of the opposing party to assist his or her own expert in arriving at a more favorable result. Reports having to do with the same subject matter shall be completed by both parties' experts and exchanged simultaneously between the parties. If one party refused to exchange his or her report at the date set forth above, that party shall be precluded from introducing said report at hearing or trial unless the Court finds that the party refusing to exchange had just cause to do so. "Just cause" shall be within the discretion of the Court, but shall not be easily attained.

### **Rule 13: Orders and Judgments**

**13.1 Orders and Judgments.** Judges shall announce a ruling 1) in custody actions within fourteen (14) days of the hearing, 2) in alimony and post-separation and alimony actions within twenty one (21) days of the hearing and 3) in equitable distribution actions within forty five (45) days of the hearing. The Judge shall designate the counsel to prepare the Order or judgment unless prepared by the Court. The Order shall be submitted to the Judge by the date assigned by the court. Every effort will be made for Orders to be entered within the time frames set forth in Rule 1.9. The party preparing the proposed order or judgment shall provide a copy of the proposed document to the opposing party within twenty one (21) days after

the ruling. The opposing party shall have fourteen (14) days to submit objections to the proposed order or judgment. The parties shall have seven (7) days to reach an agreement on the order or judgment. If an agreement is not reached on the proposed order or judgment both parties shall submit proposed orders or judgments with an Order Submission Form to the assigned Judge who shall enter an order or judgment within seven (7) days of receipt of the proposed orders. Orders in which opposing counsel have made no response within fourteen (14) days of receipt shall be placed in the Family Court Office for signature by the assigned Judge. A file stamped copy of each order, judgment or dismissal shall be provided to the Family Court Staff by the party preparing such document.

- 13.2 Delinquent Orders or Judgments.** Orders or judgments identified as being delinquent may be addressed at the discretion of the assigned Judge, and sanctions may be imposed as deemed appropriate and as allowed by law.

#### **Rule 14: Managing and Closing Cases**

- 14.1 Managing Cases.** The Family Court Staff shall monitor the pending docket and manage the cases so that all issues can be expeditiously resolved. Attorneys shall cooperate in assisting the Family Court Staff in identifying the issues to be heard in cases in which they are involved.

- 14.2 Closing Cases.** In Family Court matters, when a judgment or order is entered which renders moot issues not addressed in the order, the Clerk shall close the moot issues administratively upon being informed of the judgment or order resolving the main issue. Therefore, the Clerk shall administratively enter as closed and remove from the pending docket the following issues which are moot:

- (1) The entry of a final Equitable Distribution Order shall close any request for an Interim Distribution;
- (2) The entry of an Alimony Order shall close any request for Post-Separation Support;
- (3) The entry of a Divorce Judgment shall close a request for Divorce from Bed and Board, whether the Divorce is entered in the main action or in a collateral action between the parties. To complete the record, the Clerk may place a certified copy of the Divorce Judgment in the case in which the Divorce from Bed and Board is pending if the Divorce was granted in a separate action;
- (4) A final Custody Order shall close any request for Temporary Custody;
- (5) Orders or Judgments resolving all other issues shall close any request for such other relief as may be appropriate or similar requests for unspecified additional relief.



## **Rule 15: Remanded Cases**

- 15.1 Remands.** When cases are remanded for trial by the Appellate Division, appellant's counsel shall promptly notify the Family Court Staff that the case can be scheduled for any remaining issues.

## **Rule 16: Family Court Advisory Committee**

- 16.1 Family Court Advisory Committee.** A Family Court Advisory Committee shall be established whose function shall be to periodically review these Rules, to serve as a liaison between Family Court and the community, to bring issues affecting families to the attention of Family Court, to inform Family Court of services and programs within the community available to assist families in crisis, to communicate and inform Family Court of the current and emerging needs of families in the community and to make recommendations to Family Court as to how the Court can best serve families in the community within the framework of Family Court. The Family Court Advisory Committee shall meet at least every six months (i.e. March and September each year). The Chief District Court Judge, or his designee, shall appoint members who shall serve one year terms from the dates of their appointment.

## **Rule 17: Amendments and Modifications**

- 17.1 Amendments and Modifications.** These rules are subject to amendment or modification as experience indicates and requires.

**Appendix**  
**Pitt County Family Court Domestic Forms**

Form #2	Judicial Assignment and Notice of Hearing
Form #3	Child Support Financial Affidavit
Form #4	Financial Affidavit
Form #5	Order to Attend Custody Mediation
Form #6	Equitable Distribution Inventory Affidavit
Form #7	Notice and Certification of Initial Mandatory Disclosure
Form #8	Equitable Distribution Scheduling and Discovery Order
Form #9	Request for Continuance
Form #10	Pre-Trial Order