

14th JUDICIAL DISTRICT: DURHAM COUNTY  
FAMILY COURT DOMESTIC RULES  
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## **RULE 1: GENERAL RULES**

1.1 **Purpose.** The purpose of these Rules is to institute a Family Court case management plan that provides for the fair, just, and timely resolution of domestic matters in the District Court Division of the 14th Judicial District, Durham County. These Rules are in compliance with Rule 40(a) of the North Carolina Rules of Civil Procedure, and Rule 2(a) of the North Carolina General Rules of Practice for Superior and District Courts and are to be administered under the direction of the Family Court Administrator.

1.2 Family Court operates under the premise that one judge is assigned to all matters pertaining to one family. Family Court encourages and supports alternative dispute resolution (ADR) methods for families to resolve their legal differences outside of a contested hearing whenever possible.

1.3 Issues to be addressed in Family Court include divorce, child support and custody, equitable distribution, spousal support, paternity claims, domestic violence (under circumstances set out in Rule 3.3(a), motions for contempt of any order involving these issues and all issues arising from separation agreements, prenuptial agreements and any other claims that fall under N.C.G.S. Chapter 50.

1.4 **Application.** These Rules will not cover every situation. 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 office is authorized to act in their discretion, subject to consultation with the presiding judge or the Chief District Court Judge in applying these rules.

1.5 **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.

1.6 **Communications 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. Self-represented parties and attorneys may not have, or attempt to have, any communication in writing or in person with the judge assigned to their case unless the requesting party/attorney informs the judge of any attorney or self-represented litigant involved and all ways in which contact was attempted with the opposing attorney/party before initiating the communication. Violations of the *ex parte* communication rule may, in the discretion of the assigned judge, result in sanctions.

1.7 **Responsibilities of Attorneys and Self-Represented Parties.** Attorneys and self-represented parties must keep the Family Court staff informed at all times of any changes in their mailing addresses, email addresses, telephone numbers, and fax numbers. Failure to inform the Family Court office of a new address and telephone number will not be grounds to continue the case if notices are not received. Attorneys must subscribe to receive the domestic calendar directly via email through the subscription available at [nccourts.org](http://nccourts.org). The Family Court staff shall post the calendar on the website, and send emails with the calendar.

1.8 **Forms.** Where forms are specified to be used, counsel and parties shall use either the specified forms or a form that substantially corresponds with a specified court form. Forms can be found on the [nccourts.org](http://www.nccourts.org) website under the "Local Rules" heading at <http://www.nccourts.org/Courts/CRS/Policies/LocalRules/Default.asp>.

1.9 **Amendments.** These Rules and all amendments hereafter shall be filed with the Clerk of Superior Court in the 14th Judicial District and may be cited accordingly as Family Court Domestic Rules, 14th Judicial District (14FCDR). These Rules supersede and replace all previous local rules controlling actions in Domestic Court. The effective date of these Rules is set forth on the last page of these rules and apply for all existing and newly filed cases, as reasonably appropriate.

1.10 **Location of Rules.** The Rules and the forms cited are available for downloading from the North Carolina Administrative Office of the Courts website at [http://www.nccourts.org/Courts/CRS/Policies/Local Rules](http://www.nccourts.org/Courts/CRS/Policies/LocalRules). The Family Court staff will maintain a copy of these Rules, which will be furnished to any attorney or the public upon request.

1.11 **Secured Leave.** The vacation policy of the 14th Judicial District Family Court shall be governed by Rule 26: "Secure Leave Periods for Attorneys" of the General Rules of Practice for the Superior and District Courts N.C.G.S. §7A-34. Notices of secured leave must be filed with the local clerk's office and brought to the Family Court office no less than ninety (90) days before the requested dates and shall not include any dates where a hearing or deposition has already been scheduled. The Family Court office shall enter all properly filed notices of leave on the Family Court Calendar and shall not schedule a matter during an attorney's leave time.

## **RULE 2: TIME STANDARDS FOR FAMILY COURT CASES**

2.1 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."

**(a) Child Custody:**

<b>Event</b>	<b>Time from Filing of Complaint</b>
<u>Temporary Orders Entered, if Requested by One or Both Parties:</u> In 98% of cases	within 90 days
<u>Mediation Orientation Scheduled:</u> In 100% of cases	within 45 days
<u>Mediation Session(s) Completed:</u> In 98% of cases	within 150 days
<u>Orders Entered:</u> In 98% of cases	within 180 days

**(b) Child Support**

<b>Event</b>	<b>Time from Filing of Complaint</b>
<u>Temporary Orders Entered, if requested by one or both parties (that do not involve paternity determination):</u> In 100% of cases	within 60 days
<u>Permanent Orders Entered</u> In 100% of cases	within 365 days

**(c) Post-Separation Support**

<b>Event</b>	<b>Time from Filing of Complaint</b>
<u>Orders Entered:</u> In 98% of cases	within 150 days

**(d) Permanent Alimony and Equitable Distribution Matters**

<b>Event</b>	<b>Time from Filing of Complaint</b>
First Status Conference	within 120 days
Completion of ADR session(s)	within 210 days

Final Pretrial Conference

within 240 days

Orders Entered:

In 100% of cases

within 365 days

2.2 **Additional Time Standard for Individual Issues or Events.** In addition to the case resolution goals in Rule 2.1, the Court sets a goal that motions to modify existing orders (except cases that require custody mediation) and motions for contempt should be resolved within 90 days from filing said motions.

### **RULE 3: DOMESTIC CASE FILINGS AND JUDICIAL ASSIGNMENTS**

3.1 **Initial Filing and Judge Assignments.** All family court cases must be filed with the Clerk of Superior Court for Durham County in the Family Court office on the sixth floor of the Durham County Courthouse. One original document and two copies must be presented. Prior to the filing of a Complaint, a Family Court staff person shall review the paperwork and ensure all required documents are included:

- a) Summons and Complaint;
- b) Domestic Civil Action Cover Sheet (AOC-CV-750);
- c) Affidavit for Judicial Assignment and Notice of Hearing (DUR-DOM-01);
- d) Servicemembers Civil Relief Act Affidavit (AOC-G-250);
- e) If a filing includes a claim for child custody, a "Notice to Attend Orientation and Parenting Apart Class" (DUR-DOM-06);
- f) If the filing includes a claim for child support, Child Support Cover Sheet (Non-IV-D only) (AOC-CV-640).

3.2 **Judicial Assignment.** Family Court staff shall assign the case to a District Court Judge presiding in Family Court. Judicial assignments are to be made on a random basis and shall be made without influence from parties, attorneys or the judges; however, the Chief District Court Judge may make judicial assignments in his/her own discretion for good cause. The moving party shall serve a copy of the completed Affidavit for Judicial Assignment and Notice of Hearing (DUR-DOM-01) on the opposing party. All subsequent motions and hearings shall be set before the assigned judge so long as they are in the Family Court rotation.

3.3 **Matters Not Subject to Judicial Assignment.** Cases which shall **NOT** be assigned to a Family Court Judge in the domestic court rotation include the following:

- a) **Domestic Violence Civil Court.** All civil N.C.G.S. § 50B cases shall be assigned to the Domestic Violence Court (Courtroom 5A); however, if there is an existing, open Family Court action between the parties prior to the court review date, any 10-day return on a Domestic Violence Protective Order shall be heard in Family Court before the assigned judge.
- b) **Juvenile Court Cases (Termination of Parental Rights)** All actions to terminate parental rights are special proceedings and shall be heard in Juvenile Court unless there is an existing Family Court case which shall be assigned to a Family Court Judge.

3.4 **Notice of Other Actions.** Attorneys and unrepresented parties must notify the judge and opposing party of any other pending actions that may affect a pending case including bankruptcy and other civil, juvenile or criminal matters in this district or other districts.

3.5 **Recusal of a Judge.** Recusal and disqualification of a judge is governed by Canon 3 of the Code of Judicial Conduct. Motions requesting the recusal of the assigned judge must be filed and served on the opposing party and a copy delivered to the Family Court office. Family Court staff will consult with the assigned judge to determine if he/she will hear the motion or refer it to another judge. The date and time of the hearing will be scheduled and noticed by Family Court staff. If the motion for recusal is granted, the Family Court staff shall randomly assign a new judge.

#### **RULE 4: GENERAL CALENDARING RULES**

4.1 **Case Tracking.** The Family Court Division of the Trial Court Administration Office 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.

4.2 **Family Court Staff's Role to Generate and Set Calendar.** Except for any cases set on the calendar by the presiding judge, the Family Court staff has the responsibility and discretion to set matters on the court calendar for hearing. Family Court staff will use their best efforts to manage the calendar so that it is efficient, impartial to all parties, and in keeping with the letter and spirit of these Rules. Cases on the calendar shall have an estimated length of time for the hearing and be designated as an "A1" case, an "A2" case or a "B" case.

- “A1” cases are cases that have been identified by either the judge or the case coordinators as having priority on the calendar. The reason could be that the issue is nearing or is past the time-standard for resolution, or the case has already been continued a number of times, or a party had to travel from a distance to be in court.
- “A2” cases are shorter matters that can be disposed of in the first 30 – 60 minutes of each daily calendar call in the morning and afternoon.
- “B” cases are a backup to A1 cases. If parties are ready to proceed and want to be on an earlier calendar, they can become the backup case for an A1 case so that if the A1 case comes off the calendar close to trial, the B case will be given priority.

4.3 **Status or Pretrial Conferences Required.** All domestic matters shall be set for a status and/or pretrial conference, except for show cause hearings, motions for temporary relief, motions for attorney fees, and absolute divorces. (See Rule 14)

4.4 **Moving Party's Responsibilities.** When an attorney or self-represented party files a complaint or motion, the Family Court staff shall schedule any requested and appropriate court dates. The moving party is responsible for sending written notification to the opposing party or counsel using the Affidavit for Judicial Assignment and Notice of Hearing (DUR-DOM-01). This completed form must be filed with the Clerk’s Office with a completed Certificate of Service.

The moving party shall first communicate with opposing counsel, if any, about his/her availability for prospective court dates. It is the policy and expectation of Family Court that parties will work together to suggest court dates that are convenient for both parties so that the matter will be heard and resolved when scheduled. Family Court staff is responsible for setting the dates.

4.5 **Continuous Calendaring.** All pending actions must be set for an upcoming event, whether status conference, custody mediation, or some type of court date. The Family Court staff will review pending actions and notice cases without pending court dates for a status conference or pretrial conference to review the status of the case so that cases are handled in a timely manner. Family Court staff shall set for hearing any case that exceeds time standards set out in Rule 2.1 and shall highlight those case for judicial review.

4.6 **Consolidated Cases.** When cases have been consolidated for trial, they will be treated 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 original file.

4.7 **Settlement of Contested Issues.** Family Court encourages the settlement of issues and cases at the earliest opportunity. If a resolution has been reached, reduced to writing, signed by the parties and respective attorneys, and submitted to the case coordinator or the presiding judge prior to the court date, parties and counsel are **not** required to appear as scheduled. If a resolution has been reached but is not in writing by the time of the court date, the parties and their counsel are required to appear as scheduled and either sign a Memorandum of Judgment/Order (**AOC-CV-220**) or read the terms of the agreement into the record. The Court will then schedule another court date for Entry of Order with the expectation that the final order will be prepared, signed by the parties and attorneys (if necessary) and the judge.

4.8 **Trial Settings.** The assigned judge will set cases for trial at the pretrial conference if the case has not already been calendared for trial by Family Court staff.

4.9 **Dismissal for Missed Court Appearances.** Any case or issue 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 is not present and ready to proceed, or has failed to notify the court of any circumstances which would preclude the attorney or party from being present.

**RULE 5: MOTIONS, TEMPORARY HEARINGS, PEREMPTORY HEARINGS,  
AND EMERGENCY HEARINGS**

5.1 **Motions for Contempt.** A party filing a Motion for Order to Show Cause and Motion for Contempt must file **DUR-DOM 32** with Family Court staff and said motion shall be before the assigned judge without a pretrial conference. The Notice of Hearing with the Order to Show Cause Order (**DUR-DOM-33**) shall be served in accordance with N.C.G.S. §5A-23.

5.2 **Temporary Hearings.** Temporary hearings relating to child support, custody, post separation support and interim distributions will be scheduled as soon as possible to meet the time standards. Temporary hearings are generally limited to **one-hour per issue or two hours maximum.** (Example: one hour for temporary custody and one hour for temporary child support for a total of two hours. If one issue settles the remaining issue will be heard in one hour.) A party may file for the court's approval for an additional hour in regards to temporary custody (**DUR-DOM-07**). This is in the discretion of the court to grant said motion. If granted by the court, the temporary custody matter will be heard in two hours, if there are any remaining temporary issues then the remaining issues will be continued. Each party shall be given 30 minutes (or 1 hour if multiple issues) for direct examination of the party's witnesses, cross-examination of the opposing party's witnesses, and opening and closing statements.



It is anticipated that at the majority of these hearings, evidence will be presented upon affidavits. Judges may or may not count the time it takes to read affidavits in the time limit for temporary hearings. Parties are limited to five (5) affidavits which must be served on the opposing party no later than 5:00 P.M. on the fifth full business day prior to the scheduled hearing except as otherwise provided.

Rebuttal affidavits, (i.e., affidavits that are served in response), must be served upon the opposing party no later than three (3) business days before the scheduled hearing and parties are limited to five (5) rebuttal affidavits, assuming that the party has not filed a prior affidavit. Also, parties must send the affidavits by the quickest means feasible, including fax, email or hand delivery. Only affidavits which are introduced as evidence for consideration by the court shall be filed and those shall be filed at the time of the hearing.

5.3 **Peremptory Hearings.** If the case involves people traveling from a long distance or expert witnesses or other extraordinary circumstances, a party may request a peremptory setting by filling out the Request and Order for Peremptory Setting (**DUR-DOM-03**) and sending a copy to the opposing party or counsel. A party must give the request form to the Family Court staff. The Family Court staff shall place the request before the assigned judge who will make a decision out of session. The judge's decision shall be given to the moving party who must notify the opposing party or counsel. A peremptory setting will be granted only for good and compelling reason.

5.4 **Ex Parte Hearings.** *Ex parte* communications and hearings are allowed by the Rules of Civil Procedure or North Carolina law. An attorney or party seeking an *ex parte* order, must contact Family Court staff before taking any action to contact the assigned judge. A Request for *Ex Parte* Emergency Custody Consideration (**DUR-DOM-04**) is available at the Family Court office.

An *ex parte* request may only be heard in Family Court if there is an underlying family court matter related to the parties and the *ex parte* request. If the assigned judge is not available, any district court judge may consider the *ex parte* motion.

A return hearing shall be scheduled by the Family Court staff within 10 days of the *ex parte* hearing in domestic violence cases and as otherwise held by the Rules of Civil Procedure for all other matters. As these hearings are considered temporary in nature, affidavits may be used. Affidavits must be served three (3) business days prior to the hearing, unless the return of the *ex parte* order was not entered or served at least five (5) business days prior to the hearing. Further, rebuttal affidavits must be served one (1) business day prior to the hearing.

5.5 **All Other Motions.** Family Court staff shall set any motion not referenced above, including all discovery and non-evidentiary motions, for hearing upon request of either party.

## **RULE 6: ABSOLUTE DIVORCE AND SUMMARY JUDGMENT DIVORCE**

6.1 **Judicial Assignment.** All complaints for absolute divorce, will be given a judicial assignment. It shall be the responsibility of the filing party asserting claims to file the Affidavit for Judicial Assignment and Notice of Hearing (**DUR-DOM-01**). [A declaration to “reserve” or “preserve” claims is not considered to be a legal claim. A claim must contain facts that constitute a cause of action. See *Stirewalt v. Stirewalt*, 114 NC App 107.] Once the opposing party has been served with the Civil Summons and Complaint, the attorney or unrepresented party shall contact the Family Court staff who will set the divorce hearing on a Friday or other day as the calendar allows, based on the assigned judge.

6.2 **Summary Judgment Divorce.** A Motion for Summary Judgment may be filed after the opposing party has been served with the Civil Summons and Complaint and the period within which to file a responsive pleading has passed. The party moving for Summary Judgment shall file and serve by first-class mail a Motion for Summary Judgment, Calendar Request and Notice of Hearing (**DUR-DOM-02**) and Certificate of Service showing the motion was mailed to the opposing party at least fourteen (14) calendar days prior to the hearing date. When filing for Summary Judgment, the moving party must submit to the Family Court staff proof of service, a Certificate of Absolute Divorce (**AOC-CV-711**) and the original and two copies of the proposed Judgment of Divorce. (See Rule 56 of the N.C Rules of Civil Procedure)

6.3 **Service By Publication.** Service by publication is only allowed after due diligence is made to obtain personal service. If service is obtained by publication, the moving party is responsible for filing the appropriate affidavit of service by publication and affidavit of due diligence (**DUR-DOM-26**).

6.4 **Mandatory Attendance.** Attendance at the hearing for Summary Judgment Divorce is mandatory for the moving party or the attorney for the moving party.

## **RULE 7: CHILD SUPPORT**

7.1 **New actions or modifications.** Whenever a claim is filed for initial determination or modification of support claims, Family Court staff must schedule hearing dates in accordance with the following rules, and shall make reasonable efforts to comply with the Family Court scheduling goals as set forth in Rule 2.1.

7.2 **Notice of Hearing**: Any claims seeking child support must have an Affidavit of Judicial Assignment and a Notice of Hearing (**DUR-DOM-01**) filed for either a pretrial conference or temporary hearing within thirty (30) days.

7.3 **Financial Affidavit and Employer Wage Affidavit**: In all cases involving child support, each party shall serve upon the other a completed Financial Affidavit (**DUR-DOM-08**) and a completed Employer Wage Affidavit (**DUR-DOM-09**). See Rule 12 for more information about this requirement.

7.4 **Temporary Child Support Hearings**. Any temporary hearing for child support must be affirmatively requested in the complaint or answer/counterclaim. See Rule 5.2.

## **RULE 8: CHILD CUSTODY**

8.1 **New actions or modifications**. Whenever a claim is filed for paternity, initial determination or motion for modification of child custody or visitation, the case manager must schedule hearing dates in accordance with the following rules, and shall make reasonable efforts to comply with the Family Court scheduling goals as set forth by the North Carolina Family Court Advisory Committee.

8.2 **Paternity**. Paternity must be established before custody or visitation can be determined.

8.3 **Custody Mediation Orientation**. See Rule 9.

8.4 **Temporary Child Custody Hearing**. A hearing on temporary custody must be affirmatively requested in the complaint or answer/counterclaim. See Rule 5.2.

8.5 **Pretrial Conference**. See Rule 14.3(c).

## **RULE 9: CUSTODY MEDIATION AND PARENT EDUCATION**

9.1 **Mandatory Attendance and Purpose of Custody Mediation**. All parties named in a child custody and/or visitation case, including initial filings and modifications, are required to participate in the Custody Mediation Program. The purpose of the Custody Mediation Program is to provide the parties the opportunity to resolve the contested custody and/or visitation in a structured, confidential setting with the assistance of a neutral, professional mediator.

9.2 **Mediation Orientation and Parenting Apart Class**. All parties must attend a 2-hour "Orientation and Parenting Apart Class" (hereinafter referred to as "Orientation"). It is the responsibility of the moving party to notice the responding party to attend

Orientation on a date that is within 45 days of the date of filing using (DUR-DOM-06). The moving party must sign the parties up for orientation in the blue notebook located in the Family Court reception area at the time of filing the Notice.

Orientation is conducted in a group setting, and combines the required mediation orientation and the parent education class. Children, attorneys, and other third parties not named in the action are not allowed to attend Orientation. Parties who have attended Orientation within the last 5 years are not required to take it again if they return to mediation due to a motion to modify custody. Failure to appear for the first noticed Orientation will result in a "2<sup>nd</sup>/final" notice which will be sent from the Family Court Mediation Office. A party who fails to appear for the 2<sup>nd</sup>/final noticed Orientation may be subject to contempt of the Court, which may include sanctions and/or fines.

9.3 **Mediation Session.** Once all parties have attended Orientation, they are required to attend one private mediation session. The Custody Mediator will notify each party with a Notice to Attend Mediation Session. Failure to appear for the first scheduled Mediation Session may subject the absent party to be held in contempt and subject to sanctions and/or fines.

9.4 **Long-Distance Arrangements.** Special options for completing Orientation and/or the Mediation Session may be available for parties residing a long distance from the courthouse (150 miles or more), providing the long-distance party contacts the Mediation Office with the request in advance. For cases where a party resides in another country, mediation may be waived in the discretion of the presiding judge or Chief District Court Judge.

9.5 **Parenting Agreements.** If the parties are able to reach a full parenting agreement, the Custody Mediator will prepare a draft and distribute copies to all parties and their respective attorneys. Parties will be given approximately two weeks to review the agreement, request revisions, and sign the finalized draft, providing all revisions are agreed upon. Parties are encouraged to get any and all legal advice and questions answered prior to signing. Parties are informed that the Mediator is not an attorney and cannot give legal advice. Agreements are signed in person in the Family Court office, unless arrangements are made with the mediator for parties to sign in front of a Notary Public due to long distance travel.

Final signed agreements will be presented to the Court. The Court must 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". The Mediator will file the final Order and Parenting Agreement with the Clerk of Superior Court and distribute copies to the parties and/or counsel.

If a partial parenting agreement is reached, the Mediator will prepare a final draft of the partial agreement and inform the case manager that a final resolution was not reached. The mediator will list the unresolved issues on the "Order Approving Partial Parenting Agreement" and the Case Coordinator will schedule a final pretrial conference for the unresolved matters.

9.6 **No Agreement Reached at Mediation.** If the parties do not finalize an agreement through mediation, the mediator shall inform Family Court staff, who will schedule a pretrial conference.

9.7 **Motions to Modify Custody.** At the time of filing the motion for modification, the filing party must sign all parties up for the next mediation orientation, with the exception of parties who have completed the orientation within the last 5 years. If all parties have completed mediation orientation within the last 5 years, the filing party must provide the mediation office with a copy of the motion for modification, which must include the mailing address (and phone numbers, if known) of all parties. The mediation office will then send the notice of the private mediation session to all parties.

9.8 **Waiving the Custody Mediation Requirement.** In some instances, mediation may not be appropriate or in the best interest of the parties or their children. In these instances, mediation may be waived for "good cause" as defined in N.C.G.S. §50-13.1(c). Examples of situations that may give rise to a waiver of mediation include: allegations of abuse or neglect of the minor child; allegations of parental alcoholism, drug abuse, or spouse abuse; or allegations of a parent's psychological, psychiatric, or emotional problems; undue hardship for a parent; a party who resides a long distance from the courthouse; or an agreement by the parties to use private mediation, subject to the approval of the Court.

A party who seeks to waive mediation must complete and submit Motion and Order to Waive Custody Mediation (AOC-CV-632) to the Family Court staff and serve a copy on the opposing party or their attorney before the date of the orientation and/or the first mediation session. Within five days of service, if the nonmoving party has not filed an objection to the request for waiver, the Court may enter an order to waive mediation. If an objection is filed, the issue shall be scheduled for hearing.

9.9 **Inadmissibility.** All verbal or written communications from either or both of the parties to the Mediator or between the parties in the presence of the mediator made in a proceeding pursuant to these Rules are absolutely privileged and inadmissible in Court. Neither the 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.

9.10 **Parent Education.** Family Court offers opportunities for family members to attend parent education through the one-hour Parenting Apart class that is held at the time parties attend mediation orientation and the four-hour Parenting Apart classes offered by service providers in the community. All parties in a contested custody action shall attend the one-hour Parenting Apart class, and all parties who do not reach a complete Parenting Agreement in mediation shall attend the four-hour Parenting Apart class, if available. If mediation was waived in your case, the Court can still require parties to attend parent education classes.

## **RULE 10: POST SEPARATION SUPPORT AND ALIMONY**

10.1 **Notice of Hearing:** Notice of the status conference or temporary hearing must be made at the time of the filing. The moving party must serve financial affidavits on the opposing party. See Rule 12.

10.2 **Financial Affidavit and Employer Wage Affidavit.** In all cases involving a claim for post separation support and/or alimony, each party shall serve upon the other a completed Financial Standing Affidavit (**DUR-DOM-08**) and completed Employer Wage Affidavit (**DUR-DOM-09**). See Rule 12 for additional information.

10.3 **Post Separation Support.** A Post Separation Support hearing is a temporary hearing and therefore affidavits may be used. See Rule 5.2.

## **RULE 11: EQUITABLE DISTRIBUTION**

11.1 **Notice of Hearing:** Notice for the status conference must be served on the opposing party at the time of the filing.

11.2 **Initial Disclosures.** Both parties must have either the Equitable Distribution Inventory Affidavit (EDIA) (**DUR-DOM-10**) or the Certification of Initial Disclosures (**DUR-DOM 12**) filed and served upon the other party no later than the status conference date. See Rule 13 for additional information about the required Equitable Distribution Affidavits. If a party filed a Certification of Initial Disclosures, the party must provide the EDIA at the time of the hearing.

11.3 **Interim Distribution.** If a claim is made for Interim Distribution pursuant to N.C.G.S. § 50.20(i1), the Family Court staff will schedule an Interim Distribution hearing before the assigned judge within forty-five days of the request for hearing. Service must be made on the opposing party or counsel with an Affidavit of Judicial Assignment and Notice of Hearing (**DUR-DOM-01**) for the Interim Distribution and a copy of the pleading seeking an interim distribution.

11.4 **Equitable Distribution Affidavit.** If the parties require a permanent hearing to resolve an equitable distribution claim, an Equitable Distribution Affidavit (**DUR-DOM-11**) must be served on the opposing party and must be typewritten. See Rule 13.3.

## **RULE 12: MANDATORY USE OF FINANCIAL AFFIDAVITS**

12.1 **Application.** This rule applies to all support cases involving child support, post separation support and/or alimony. As used in this rule the term "support" means all three of those types of cases.

12.2 **Financial Affidavits.** A party seeking support or from whom support is sought must complete and serve upon the other party a completed Financial Affidavit (**DUR-DOM-08**). The moving party shall serve his or her Financial Affidavit and required attachments along with the pleading seeking support. The moving party must also serve a blank Financial Affidavit upon the party from whom support is sought. The responding party or counsel must serve their completed Financial Affidavit on the moving party with their responsive pleading and required attachments at the pre-trial conference, status conference or 5 days prior to the temporary hearing, whichever occurs first. The Court may, in its discretion, postpone or waive these filing requirements.

Required Attachments: Any time a Financial Affidavit is required, the parties shall exchange their last two years of federal and state tax returns, including attachments. If any party has not filed a return, said party shall serve their W-2, 1099, K-1, or all underlying income information. If self-employed, the documents must include profit and loss sheets, general ledgers, balance sheets, any accounting software ledgers and the like, which would reflect income, benefits that would be used for income purposes in the child support calculation, and business expenses. Upon request of the self-employed party the parties will execute an order of protection regarding said documents, precluding the other party from disseminating or using the business records for any other purpose or share them with anyone outside of their attorney, legal agents and the like.

Service of the affidavits and supporting materials can be sent by mail, fax or email. Once the affidavit is served, a Certificate of Service (**DUR-DOM-30**) must be filed immediately with the Court. Once the required attachments have been served, a Certification of Initial Disclosures (**DUR-DOM-13**) must be filed. The Affidavits and attachments do not get filed with the Court.

12.3 **Employer Wage Affidavits.** Each party must submit to their employer(s) an Employer Wage Affidavit (**DUR-DOM-09**) for completion. Both parties must serve on the opposing party or counsel the completed Employer Wage Affidavit at or before the

temporary hearing, status conference, or 5 days prior to the temporary hearing, whichever occurs first. Service of the affidavit can be by mail, fax or email. A Certificate of Service (DUR-DOM-30) must be immediately filed with the court.

### **RULE 13: EQUITABLE DISTRIBUTION AFFIDAVITS**

13.1 **Equitable Distribution INVENTORY Affidavit "EDIA" (DUR-DOM-10)**. On or before the date of the status conference, but not later than ninety (90) days after the filing of the action for equitable distribution, the moving party must prepare and serve upon the opposing party an Equitable Distribution Inventory Affidavit (DUR-DOM-10). Immediately upon service a Certificate of Service (DUR-DOM-30) must be filed with the Court.

13.2 **Required Attachments**. The purpose of this rule is to speed up the information exchange so each party can verify ownership and values of various assets and debts and possibly arrive at stipulated values. The parties are encouraged to voluntarily exchange all other relevant information. Along with EDIA, the moving party must also serve on the opposing party the following documents that are in the possession or control, or the ability to obtain, and which relate to any item(s) on the Equitable Distribution Inventory Affidavit. For any asset or liability listed on the EDIA for which a party does not produce documents, the party must indicate the reason for the omission and identify the location of such documents, if known. Any information provided to the court and/or filed with the Clerk of Superior Court shall comply with the Identity Theft Protection Act of 2005. Immediately upon service of the documents a Certification of Initial Disclosures (DUR-DOM-12) must be filed with the Court.

- a) **Realty**: Without regard to how a property is titled, if there is any real estate listed by either party on an EDIA (for example, a home, land, rental property, or vacation property) the parties must exchange copies of any appraisals which exist at the time of filing or which have been obtained before the Status Conference, any current deeds of trust still in effect, and promissory notes relating to the deeds of trust (or mortgages). Most county Register of Deeds offices have an online public record search. For any counties not online, a good faith effort must be made to provide a copy of all relevant deeds if in a party's possession;
- b) **Transportation**: Without regard to how the asset is titled, if a vehicle, boat, airplane or other similar asset is listed, the other party must provide copies of certificates of title and copies of any current secured loan or lien documents which may encumber that asset;



- c) Brokerage and Investment Account Statements: Without regard to how accounts are titled, copies of all stock, brokerage or other investment accounts, must be provided for the quarter before the date of separation, the quarter after the date of separation, and if the parties have been separated for more than one month, for all time since the date of separation and through the date of the Status Conference;
- d) Bank Accounts: Without regard to how these accounts are titled, a party must provide, checking account statements, savings account statements, money market account statements, passbook statements and certificate of deposit statements for the three months immediately before the date of separation; and, if the parties have been separated for more than one month, a copy of all statements for all months since the date of separation and through the date of the Status Conference is required;
- e) Pensions, Deferred Compensation Retirement Benefits, IRAs, and the like: (1) The parties must provide copies of pension or retirement account statements for the period (usually the year ending or a quarterly statement) immediately preceding the date of separation. If there are outstanding loans against retirement the parties shall provide documents evidencing the nature and details of those obligations and the statements showing the balance owed on the date of separation. If a party has deferred compensation, including but not limited to stock options, copies of the option agreements and schedules shall be provided. If the parties have been separated for more than one month, a copy of all statements for all months since the date of separation and through the date of the Status Conference is required;
- f) Marital Debt: If marital debt is listed, the party must provide account statements showing the amount of debt existing on the date of separation and, if the parties have been separated for more than one month, a copy of all statements for all months since the date of separation and through the date of the Status Conference is required;
- g) Credit History Report: Each party must obtain a credit history from at least one of the three credit reporting companies (Experian, TransUnion, or Equifax), which are available at no charge at <https://www.annualcreditreport.com> and provide a copy to the other side.

13.3 Equitable Distribution Affidavit (DUR-DOM-11). The Equitable Distribution Affidavit must be served on the opposing party and must be typewritten. This Affidavit is binding on the party at trial unless an amendment by the judge is allowed. This affidavit must be served within thirty (30) days of failed alternative dispute resolution or thirty (30) days of the final pretrial conference, whichever is later, and no later than

forty-five days (45) prior to trial. Immediately upon service a Certificate of Service (**DUR-DOM-30**) must be filed with the court.

13.4 **Reference.** In any equitable claim, the Court may, pursuant to Rule 53 and Rule 16(a)(5) of the North Carolina Rules of Civil Procedure, order a reference before proceeding further, or before entering final judgment. The Court may provide for the apportionment of the costs of said references, filing deadlines and scope as it deems to be in the furtherance of the disposition of the claim.

#### **RULE 14: CONFERENCES**

14.1 **Court-set Schedule.** The Family Court staff and the judge shall schedule such status conferences, discovery conferences, pretrial conferences, or reviews as necessary to comply with these Rules.

14.2 **Status Conferences.** The purposes of the status conference are to:

- a) Make sure the case is proceeding toward resolution in a timely and orderly fashion and to ensure the exchange and submission of required documents;
- b) Set deadlines for discovery and upcoming events (**DUR-DOM-15**);
- c) Apprise participants of the dispute resolution requirements, and to provide information on community resources to the family.

Family Court staff will set a date for status conferences at the time alimony or equitable distribution actions are filed. Each case must have a discovery schedule order and/or a discovery pretrial conference, unless waived, with the assigned judge.

A party does not have to attend the status conference if a Discovery Conference Order (**DUR-DOM-14** or **DUR-DOM-15**) and **AOC-CV-825** or **AOC-CV-826** are signed by both parties or their attorneys and delivered to Family Court staff before the status conference. Otherwise, attorneys and any self-represented litigants must appear. The Family Court staff may generate a show cause order with a court hearing set before the assigned judge if either a party has not completed and exchanged the EDIA (**DUR-DOM-10**) or if a party does not attend the status conference. At the show cause hearing, the judge may impose sanctions against the non-complying party or parties including attorneys of record.

14.3 **Pretrial Conferences (PTC).**

- a) Purpose. The purpose of a PTC is to assist the attorneys and self-represented litigants with issues of trial preparation by narrowing the issues for trial or

disposition of the case, by setting deadlines to complete necessary discovery, to facilitate the exchange of information with a view toward streamlining the litigation, to determine the need for reference, to finalize the exchange of lists of proposed witnesses, to determine which facts can be stipulated and agreed upon by the parties, to develop lists of and facilitate the exchange of stipulated exhibits, to agree upon and to set a trial date.

- b) Exchange of Trial Information. At a pretrial conference the Court shall enter a Pretrial Conference Order (**DUR-DOM-16, DUR-DOM-17, or DUR-DOM-18**), if one has not yet been entered. Upon request of either party the court will address requests for additional discovery, finalize and/or modify any discovery conference order already entered if additional discovery is to be completed, and set a date for trial of the matter. An attorney may request a waiver of his/her client's appearance if a hardship is set forth and the presiding judge consents.

## **RULE 15: CONTINUANCE REQUESTS**

15.1 **General Rule.** The Court may grant a continuance for good cause if a party shows compelling reasons which would affect the fundamental fairness of the trial. The Court will make the decision based on the factors listed below.

15.2 **Conflicts.** The various levels of court should work together to move cases as quickly as possible, in accordance with Rule 3.1 of the General Rules of Practice for the Superior and District Courts. Attorneys shall notify the Court and opposing counsel or self-represented party of any other court conflict(s) as they become known. If the conflict is known before the court date, then the attorney shall communicate with the Family Court staff to resolve the conflict. Juvenile cases shall take precedence over all other matters.

15.3 **Motions to Continue a Hearing.** All requests for a continuance must be by written motion using the Motion and Order to Continue form (**DUR-DOM-05**) and shall be delivered to the Family Court staff. A moving party must set forth reasons for the continuance. However, oral motions to the assigned judge may be allowed when the reason for the continuance did not become known until immediately preceding the start of court.

15.4 **Notification of the Request.** It is considered the best practice to seek a continuance at least thirty (30) days in advance of the hearing, but the written motion must be filed at least five (5) business days before the hearing date. The motion shall be filed and immediately served upon the non-moving party by the fastest means available, including mail, facsimile, email or hand delivery. A copy of the filed and served motion should be given to Family Court staff. The non-moving party has five (5) days to respond to the motion. If an objection is not submitted to the Family Court staff

within the five (5) days specified, it will be assumed that the opposing party does not object to the request. The continuance motion shall be considered by the assigned judge as soon as possible.

**15.5 Factors to Be Considered for Motions to Continue.** When deciding whether to grant or deny a motion for continuance, the Court must consider:

- a) The effect on children and spouses if the issue is continued and not resolved;
- b) Whether there is in effect a temporary order dealing with the issue that is the subject of a continuance request;
- c) The impact of a continuance on the safety of the parties or any other persons;
- d) Whether the issue has been identified statutorily as an issue which should be addressed expeditiously, i.e., child support, post-separation support;
- e) The age of the case or motion and whether a continuance will push the case beyond the above-described time standards;
- f) The status of the trial calendar for the sessions;
- g) The number of previous continuances OR the number, moving party, and grounds for previous continuances;
- h) The extent to which counsel had input into the scheduling of the trial date;
- i) The due diligence of counsel in promptly making a motion for continuance as soon as practicable;
- j) Whether the reason for continuance is a short-lived event which would resolve before the scheduled court date;
- k) Whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- l) The period of delay caused by the continuance request;
- m) The position of opposing counsel or self-represented parties;
- n) Whether the parties themselves consent to the continuance;
- o) Present or future inconvenience or unavailability of witnesses/ parties, the attorneys or the witnesses if the case is continued; and
- p) Any other factor that promotes the fair administration of efficiency and justice.

**15.6 New Date.** If the Court grants the motion to continue, Family Court staff shall reschedule the hearing to a specific date. Requests for dates/times from counsel are matters which may be persuasive, but not binding, on this process; secure leave obtained per the Rules of Court will be honored in setting a new court date and weighed in determining whether a continuance is appropriate.

## **RULE 16: PARENTING COORDINATORS AND GUARDIANS AD LITEM**

16.1 **General Rule.** The purpose of this Rule is to provide for the consistent, fair and just appointment and establishment of a Parenting Coordinator and Guardian ad Litem process for the 14<sup>th</sup> Judicial District.

### **16.2 Parenting Coordinators.**

#### **A. Role of Parenting Coordinator.**

1. The role of the Parenting Coordinator shall be specified in the Order Appointing Parenting Coordinator (**DUR-DOM-23**) and shall be limited to matters that will aid the parties to identify disputed issues; reduce misunderstandings; clarify priorities; explore possibilities for compromise; develops methods of collaboration in parenting; and comply with the Court's order for custody, visitation or guardianship.

2. A judge may authorize a Parenting Coordinator to decide issues regarding implementation of the parenting plan that are not specifically governed by the Court order and which the parties are unable to resolve.

3. The parties must comply with the Parenting Coordinator's decisions on matters authorized in the Order Appointing Parenting Coordinator and in the custody order until the Court reviews the decision.

4. The Parenting Coordinator, any party to the case or the attorneys for any party may request an expedited hearing to review a Parenting Coordinator's decision. The motion for review must put the parties on notice of the specific decision(s) for which review is sought, and the motion must be served on all parties as well as the Parenting Coordinator. The movant must schedule the hearing in accordance with the rules herein and must comply with the North Carolina Rules of Civil Procedure in noticing this hearing.

5. Only the presiding judge may issue subpoenas to a Parenting Coordinator to appear and testify at the hearing pursuant to N.C.G.S. 50-92(b). However, the judge will rarely do so upon request by either parent.

#### **B. Appointment.**

1. **Appropriateness.** The Court may appoint a Parenting Coordinator in accordance with N.C.G.S. 50-90 and N.C.G.S. 50-91 if it finds it is in the best interest of any minor child(ren) in the case, and the Parties are able to pay for the cost of the Parenting Coordinator.

2. **Appointees.** Parenting Coordinators shall be chosen from a list maintained by the Family Court office for Durham County. Persons not on the approved Durham County list may be appointed upon consent of the parties if he/she qualifies to serve as a Parenting Coordinator by education, experience and certification as provided by statute. To be included on the approved list one must:

- (1) meet the statutory requirements;
- (2) provide a current resume or curriculum vitae;
- (3) provide proof of licensure/certification in parenting coordinator's area of practice; and
- (4) participate in ongoing seminar which will provide continuing education, group discussion, and peer review and support on a monthly basis. Contact information for peer groups is available in the Family Court office;
- (5) file a Request for Inclusion on the Parenting Coordinator List (**DUR-DOM-22**) with the Family Court office for Durham County for approval by the Chief District Court Judge;
- (6) disclose parenting coordination fees to the Family Court office.
- (7) shall not provide any other professional services or counseling to either party or the minor children involved in the case.

**C. Fees and Expenses.** Parenting Coordinators are entitled to reasonable compensation and retainers as required in their contracts. The Parenting Coordinator may request a hearing from the Court in the event of a fee dispute with a party after filing a Motion in Contempt and following the scheduling rules outlined herein.

**D. Appointment Conference.** Once the court has made the decision to appoint a Parenting Coordinator or the parties have consented to appoint a Parenting Coordinator, an appointment conference must be held. The appointment conference must be scheduled within thirty (30) days of entry of the Order providing for the appointment of a Parenting Coordinator (e.g. Custody order, Order Granting Motion to Appoint a Parenting Coordinator). The party first asserting a claim for custody shall schedule this conference pursuant to the Rules herein on scheduling. The parties, their attorneys, and the proposed Parenting Coordinator must all attend the appointment conference.

**E. Communication, Reports and Record Keeping.** The Parenting Coordinator shall maintain records in accordance with N.C.G.S. 50-98. Meetings and communications with the Parenting Coordinator shall be authorized by N.C.G.S. 50-96.

- F. **Termination or Modification of Appointment.** The Court may modify or terminate the Order Appointing Parenting Coordinator for good cause shown upon a Motion of either party (**DUR-DOM-24**); at the request of the Parenting Coordinator; upon agreement of the parties and the Parenting Coordinator; or upon the Court's own motion.
- G. **Grievances.** A Parenting Coordinator shall not be liable for damages pursuant to N.C.G.S. 50-100.

### 16.3 **Guardian ad Litem (GAL).**

A. **Role of Guardian Ad Litem.** The Guardian Ad Litem shall investigate all issues made in the pendency of a custody case in which the appointment has been made. The Guardian Ad Litem shall perform interviews with the minor child(ren) in the case, the parties, the parties' collaterals and any professionals in the case that provide services to the minor child(ren) and parties in an effort to provide a global overview of the case for the presiding judge.

#### B. **Appointment.**

1. **Appropriateness.** The Court may appoint a Guardian Ad Litem if the case is considered to be in the minor child(ren's) best interest to do so. The Court may make this decision on his or her own motion or ruling on a Motion before the Court on this request. The parties to the case may consent to the appointment of a Guardian Ad Litem.

A Guardian Ad Litem may be appointed to investigate and make recommendations on the best interests of the children or may be appointed to investigate and report to the court. This is at the discretion of the Court based on the circumstances of the case.

2. **Motion.** A party or attorney for a party must file a Motion (**DUR-DOM-26**) requesting the appointment of a Guardian Ad Litem and have the motion set for hearing pursuant to the Rules herein on scheduling matters before the Court. The Motion shall contain the name, date of birth and gender of the child(ren) together with the reason(s) the appointment of a Guardian Ad Litem is being sought. The motion and notice of the hearing shall be served on the opposing party or opposing party's counsel if represented.

3. **Appointees.** Guardians Ad Litem shall be chosen from a list maintained by the Family Court office for Durham County. Persons not on the approved Durham County list may be appointed upon consent of the parties if he/she qualifies to serve as a Guardian Ad Litem by education and experience. To be included on the approved list one must:

- (1) provide a current resume or curriculum vitae;

- (2) participate in Guardian Ad Litem training which could provide continuing education, group discussion, and peer review and support on a monthly basis. Contact information for peer groups is available in the Office of the Family Court office; or
- (3) continuously practices in the area of family law, counseling or other related field for more than five (5) years;
- (4) someone trained in juvenile court as a Guardian Ad Litem or practiced in juvenile court as a Guardian Ad Litem Attorney and continuously practiced in this area;
- (5) file a Request for Inclusion on the Guardian Ad Litem List (**DUR-DOM-25**) with the Family Court office for Durham County for approval by the Chief District Court Judge.
- (6) disclose Guardian Ad Litem fees to the Family Court office.
- (7) A Guardian Ad Litem shall not provide any other professional services or counseling to either party or the minor child(ren).

**C. Fees and Expenses.** Guardians Ad Litem are entitled to reasonable compensation and retainers as required in their contracts. The Guardian Ad Litem may request a hearing from the Court in the event of a fee dispute with a party. The Court shall determine the sharing of costs associated with the appointment of the Guardian Ad Litem if a party makes the request. Otherwise, all costs associated with the appointment of the Guardian Ad Litem shall be shared equally.

**D. Best Interest Investigation.** The Guardian Ad Litem shall present the minor child's preference to the parties and the Court but shall also provide a recommendation on the best interests of the child(ren). Written recommendations shall be provided to both parties/attorneys in a case at least two weeks prior to any hearing/trial unless the parties agree to a different date of submission. Under no circumstances shall a report be filed with the Court and placed into the Court file until presented into evidence.

**Investigation Only.** The Guardian Ad Litem shall present the families circumstances to the Court and shall not provide specific recommendations on best interest. A written report shall be provided to the court under seal and both parties/attorneys shall receive copies of the report. The court shall review and have authority to review without the report being placed into evidence.

The Court or parties/attorneys shall complete and sign the Order to Appoint a Guardian Ad Litem (**DUR-DOM-27**) and shall specify what the role is of the Guardian Ad Litem in the process.



- E. **Communication and Reports.** The Guardian Ad Litem shall communicate with all parties involved in a custody dispute.
- F. **Termination or Modification of Appointment.** The Court may modify or terminate the Order Appointing Guardian Ad Litem for good cause shown upon a Motion of either party (**DUR-DOM-28**); at the request of the Guardian Ad Litem; upon agreement of the parties and the Guardian Ad Litem; or upon the Court's own motion.

**RULE 17: ENTRY OF ORDERS.**

17.1 **Preparation.** Orders must be prepared by the party designated by the judge to prepare the order. The order must be given to opposing counsel (or the opposing party) no later than fifteen days (15) after the judge makes the decision unless said party has not received a requested DVD/transcript from the hearing in a timely fashion. If a party desires the DVD/transcript, said request shall be made within three (3) days of the close of evidence. The opposing party must respond in writing with any objections, modifications or additions to the proposed order within seven days (7) from the date the proposed order was transmitted. If there is agreement on the terms of the order, the order shall be submitted to the judge for signature with approval by the other party or attorney if represented along with an Order Submission Coversheet (**DUR-DOM-21**) as soon as possible, with reasonable efforts to submit the order prior to the entry of order date.

In the event that the parties disagree about the terms of the order, a copy of the proposed order and letters setting out the disputed issues shall be submitted to the Court for review at least five (5) days prior to the entry of order date and those issues shall be discussed and resolved at a hearing set for entry of order/ unless the judge resolves the issue based upon written submissions. If the parties disagree, both parties must appear for entry of order or announcement of the Court's decision on matters which the Court has taken under advisement. Said entry of order date will be given as a precautionary matter at the close of evidence and shall be scheduled no later than forty-five (45) days.

Should the judge choose to draft his own Order, said Order shall be disbursed within thirty (30) days from the close of evidence.

17.2 **Time Requirements.** Consistent with the North Carolina Family Court Time Standards, in no event shall an order be entered later than thirty (30) days following the judge's decision in court.

## **RULE 18: USE OF TECHNOLOGY**

18.1 **Use of Technology.** The Court may allow oral argument and/or testimony on any motion or claim by video or telephone conference so long as the judge and all attorneys, parties and witnesses can hear and be heard by all others at all times. The witness must be sworn for any testimony given in a manner as agreed upon by the parties or ordered by the court. There is a preference for video conferencing to ensure the identity of the participant. Should video conferencing not be available, it is the responsibility of the party offering the witness to verify the identity of the witness to the court's satisfaction. This rule is not intended to supersede any Rule of Civil Procedure, Rule of Evidence or other existing law, and is to be used under exceptional circumstances, including cost burdens, health issues and the like.

18.2 **Attorney Telephone Conferences.** The Court may, in its discretion, order or allow oral argument on any motion by 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.

18.2 **Testimony by Absent Witness.** The Court may allow testimony by video conferencing so long as the judge and all attorneys, parties and witnesses can hear and be heard by all others at all times. If you want a witness to appear by video conference, you must make a motion no later than the final pretrial conference. You will be responsible for supplying and setting up the device to use the courtroom technology for the witness to testify by video conferencing. Video testimony shall not unduly delay court proceedings and may be terminated at the judge's discretion.

## **RULE 19: INTERPRETERS**

19.1 **Foreign Language Interpreters.** Durham County Family Courts follow the protocol established by the Administrative Office of the Courts, the administrative arm of the N.C. Judicial Branch. Please see [http://www.nccourts.org/LanguageAccess/Documents/Courts\\_Schedule\\_Interpreter\\_Chart2016.pdf](http://www.nccourts.org/LanguageAccess/Documents/Courts_Schedule_Interpreter_Chart2016.pdf)

19.2 **Court Provided Interpreters.** The court system provides free interpretation services for all Family Court matters. A party requesting an interpreter must file the request that is submitted in Rule 19.3 to Family Court staff at least ten (10) days prior to the proceeding/hearing.

19.3 **Foreign Language Interpreter Request.** For Spanish Language Interpreters, submit a Request for Spoken Foreign Language Court Interpreter <http://www.nccourts.org/LanguageAccess/Documents/InterpreterRequestForm.pdf>

at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar. Requests should be submitted electronically to the Language Access Coordinator (LAC) from the website at <http://www.nccourts.org/LanguageAccess>. If you have additional difficulty submitting the completed form online, please save to your computer and attach the request form to an email addressed to the appropriate county LAC in the following format: [Interpreter@nccourts.org](mailto:Interpreter@nccourts.org).

Language Other Than Spanish (LOTS) Court Interpreter Submit a Request for Spoken Foreign Language Court Interpreter at least 10 business days prior to the scheduled proceeding, or as soon as the proceeding is placed on the court calendar. Requests should be submitted electronically to OLAS from the website at <http://www.nccourts.org/LanguageAccess>. If you have additional difficulty submitting the completed form online, please save and attach the request form to an email addressed to [OLAS@nccourts.org](mailto:OLAS@nccourts.org).

#### **RULE 20: REMANDED CASES**

20.1 **Remands.** When cases are remanded for trial by the Appellate Division, appellant's counsel shall promptly notify the Family Court office so that the case can be scheduled for a pretrial conference.

#### **RULE 21: SANCTIONS**

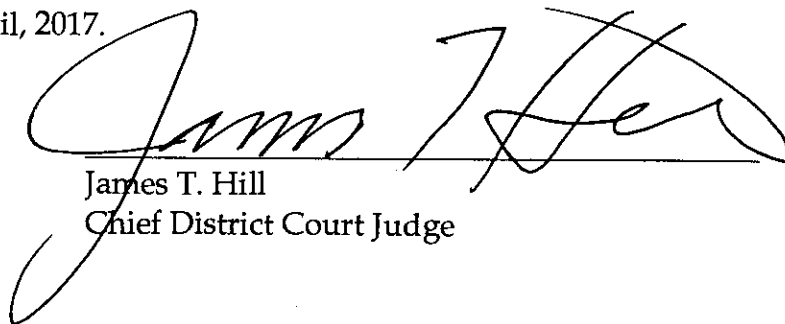
21.1 **Sanctions.** Failure to comply with any section of these Rules may subject the parties, and/or their attorneys to sanctions allowed by law and deemed appropriate by the Court, including but not limited to: dismissal of any claim or part of any claim for relief; disallowance of evidence and/or testimony; fines; or payment of costs or the opposing party's reasonable legal fees.

21.2 **Orders and Payment of Fines.** Any mandatory sanctions noted above shall be imposed automatically and are non-negotiable absent a showing of extraordinary cause. The Court must enter an Order that specifically states the amount of the sanction, the specific violation and the party responsible for such violation. All fines imposed pursuant to this section must be paid directly to the Clerk of Superior Court of Durham County by the violating party no later than 5:00 p.m. on the day such sanction is ordered or as the judge orders. Repeated violations by a party may result in the imposition of higher fines or other sanctions.

**RULE 22: PERIODIC REVIEW OF LOCAL RULES AND FAMILY LAW RULES COMMITTEE**

22.1 These rules will be reviewed every other year. A committee of local family law attorneys, Family Court staff, the Trial Court Administrator and presiding Family Court Judges shall review the efficacy of these rules and make suggestions for revisions. The Chief District Court Judge shall call the meeting the first week of December in odd number years.

Entered this the 27 day of April, 2017.



James T. Hill  
Chief District Court Judge

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