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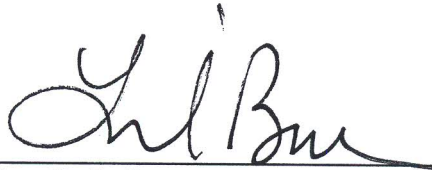
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IN RE: LOCAL RULES AND PROCEDURES FOR)
 NON-BINDING COURT ORDERED MECKLENBURG COUNTY, C.S. **ADMINISTRATIVE ORDER**)
 ARBITRATION PROCEDURES IN THE)
 TWENTY SIXTH JUDICIAL DISTRICT)
 GENERAL CIVIL DISTRICT COURT DIVISION)

Pursuant to Rule 40(a), North Carolina Rules of Civil Procedure and Rule 2 of the General Rules of Practice for the Superior and District Courts, the attached rules governing Non-Binding Court Ordered Arbitration Procedures in the Twenty-Sixth Judicial District, General Civil District Court Division, are hereby amended and adopted effective for all civil cases pending on or filed after August 1, 2010.

These rules supersede all previous calendar rules of the General Civil District Court Division of the Twenty-Sixth Judicial District.

IT IS SO ORDERED, this the 5 day of January, 2011.



Lisa C. Bell
Chief District Court Judge

**Local Rules Governing Non-binding Court Ordered Arbitration in District Court
Civil Actions**

(Revised July 14, 2010)

LR 1: Actions Subject to Non-binding Court Ordered Arbitration

1.1 In the 26th Judicial District, District Court Division, By Order of the Court, all civil actions filed in the District Court division are subject to court-ordered non-binding arbitration (“arbitration”) under these rules, except:

- (a) All appeals from magistrate’s judgment for summary ejectment actions and actions in which the sole claim is an action on account.
- (b) Actions in which class certification is sought
- (c) Actions in which a request has been made for a preliminary injunction or a temporary restraining order
- (d) Actions involving family law matters including claims filed under N.C. Gen. Stat. Chapters 50, 50A, 50B, 51, 52, 52B, and 52C.
- (e) Actions involving title to real estate
- (f) Actions which are special proceedings
- (g) Actions for Declaratory Judgment

1.2 The Clerk of Superior Court will stamp all complaints seeking monetary damages of \$15,000 or less and do not fall within an exempt category with the arbitration-eligible stamp provided by the Administrative Office of the Courts. Stamped copies will be provided to the plaintiff and served upon the defendant.

1.3 A case shall be considered ready to set for arbitration when the ADR Coordinator determines the following has occurred:

- (a) **The docketing of an appeal from a magistrate’s judgment.**
- (b) **The filing of the last responsive pleading.**
- (c) **The expiration of the time allowed for the filing of such pleading.**

1.4 Any action that is subject to arbitration may be exempted or withdrawn from arbitration by the Court on its own motion or on the motion of a party to the case. Motions to exempt a case from arbitration are disfavored and will only be granted in cases with exceptional circumstances. Such motions must be made in writing no less than 10 days prior to the arbitration hearing. The original motion with proposed order and one copy, together with a self-addressed, postage-paid envelope shall be submitted directly to the ADR Coordinator in the Caseflow Management Division of the Trial Court Administrator's Office for subsequent delivery to the Chief District Court Judge.

LR 2: Administration and Notice of Calendaring to Parties/Attorneys

2.1 The ADR Coordinator shall publish an arbitration calendar for each term of Court for which cases are scheduled. Arbitration Calendars shall be published approximately 40 days in advance of the first day of each scheduled session.

2.2 Calendars shall be made available to counsel through the Clerk of Superior Court and through the Internet website address for the 26th Judicial District at www.nccourts.org. The availability of calendars so published shall constitute official notice to attorneys. Calendars may also be available through *The Mecklenburg Times*.

2.3 Form AOC-CV-800/801 will be mailed to unrepresented parties and out-of-county attorneys only, all other parties may be noticed as a courtesy. It is the responsibility of said parties to provide the Caseflow Management Division and the Clerk of Superior Court with a current mailing address.

2.4 Form AOC-CV-800/801 shall inform the parties their case has been selected for arbitration, assigned a date, time, and location for the arbitration hearing, and will provide the name of the assigned arbitrator to preside over the case. The notice will also inform the parties that they have twenty days in which to file a stipulation (Form AOC-CV-912M) as to their choice of different arbitrator or the one designated will remain. The parties must consent to the stipulation for the court to allow the stipulation.

LR 3: Continuances of Arbitration Hearings

3.1 It shall be the responsibility of counsel and unrepresented parties to be aware of cases appearing on arbitration calendars. Failure to receive paper notices shall not be cause for a continuance of the arbitration hearing date.

3.2 Motions for Continue of the arbitration hearing shall be submitted in writing on Form CCF-5 to the ADR Coordinator in the Caseflow Management Division of the Trial Court Administrator's Office no later than three (3) business days prior to the scheduled Arbitration hearing date. The original and one copy, together with a self-addressed, postage-paid envelope, shall be submitted to the ADR Coordinator. Faxed copies are not accepted and will not be signed. If the submitting party does not include a

self-addressed, postage-paid envelope, the documents will be placed in the basket in the Caseflow Management Division's Office, Suite 3420, for pick-up. The requesting party shall provide copies to the opposing parties once the approved order has been returned.

Continuance requests shall include all of the reasons for which the continuance is being sought. Failure of the requesting party to include known pertinent information in the original motion is not grounds for reconsideration or appeal of the ruling made by the ADR Coordinator.

Information regarding whether opposing counsel objects to the Motion or whether the case has been previously continued may be included in a Motion to Continue, but the lack of an objection by opposing counsel/party or the fact that the case has not been continued before shall not alone constitute good cause for the continuance of the arbitration hearing.

3.3 Opposing counsel or unrepresented parties shall be notified of the request for a continuance prior to the submission of the continuance request to the ADR Coordinator. Any motion that is received without written certification of such will be automatically denied. Any objections to the proposed continuance request shall be delivered to the ADR Coordinator on Form CCF-6 within two (2) days of the submission of the Motion to Continue. If an objection is not submitted to the ADR Coordinator within the two days specified, it will be assumed that the opposing party does not object to the request.

3.4 The ADR Coordinator will rule on Motions to Continue upon the expiration of the two-day objection period or sooner if the position of the opposing party is already known. It shall be the responsibility of the moving party to inform all other parties of outcome of the proposed motion, along with the new date and time for the arbitration hearing if applicable. Once the Motion to Continue has been made, it is the responsibility of the parties to inquire as to the status of outcome of the proposed motion if the information has not been received from the moving party.

3.5 Appeals of the decision rendered by the ADR Coordinator shall be submitted to the ADR Coordinator for subsequent delivery to the Chief District Court Judge. Opposing counsel or unrepresented parties shall be notified of the appeal prior to its delivery to the ADR Coordinator.

Objections to the appeal shall also be delivered, within two days of being notified of the appeal, to the ADR Coordinator for subsequent delivery to the Chief District Court Judge. Failure of counsel to follow the established process may result in automatic denial of the motion and/or the imposition of sanctions. The decision of the Chief District Court Judge is final.

3.6 The motion to continue may not be renewed at the arbitration hearing. The arbitrator does not have authority to grant such motions.

3.7 Absent exigent circumstances, continuances will not be granted unless for a crucial cause that could not have been reasonably foreseen. The advance notice provided to counsel/parties is deemed as a reasonable and sufficient opportunity to accommodate the majority of conflicts. Personal conflicts such as vacations (see Rule 26 of the General Rules of Practice for the Superior and District Courts), family commitments, and continuing legal education opportunities do not rise to the level of crucial cause that could not have been reasonable foreseen.

3.8 Continuance requests related to circumstances arising after the three (3) business day deadline shall also be submitted to the ADR Coordinator. The requirements of LR 3.3 again apply, but the ADR Coordinator will attempt to make contact with opposing counsel if his or her position is not known and a decision is required prior to the end of the specified two-day period. Once all relevant information has been received and reviewed, the ADR Coordinator will rule on the motion and notify moving counsel, who is then responsible for notifying opposing counsel or unrepresented party. Continuance requests received after the three (3) business day deadline for reasons known before that time will be summarily denied.

LR 4: Settlement of Cases

4.1 When a case is settled or a motion which precludes the case from being arbitrated is granted after placement on a published Arbitration Calendar, all attorneys of record or unrepresented parties shall notify the ADR Coordinator no later than 4:30 p.m. on the afternoon prior to the scheduled hearing. Once the ADR Coordinator has received and confirmed receipt of such information, the case may be removed from the arbitration calendar.

4.2 Cases scheduled for hearing, which are removed due to settlement or ruling of dispositive motion, shall be considered delinquent if the Order, Judgment or Disposition is not presented to the Court for signature or filing within 10 working days after the case was announced as settled.

LR 5: Arbitration Assessment Fee

5.1 Beginning in 2003, a fee of \$100 was imposed by the General Assembly to reimburse the State for the cost of providing the arbitrator. The arbitrator shall divide the fee equally among the parties and provide each counsel or unrepresented party a copy of the Assessment Fee Form (AOC-CV-805) at the close of the hearing. The assessment fee shall be paid to the Clerk of Court promptly upon completion of the hearing.

5.2 Failure of the parties to adhere to LR 4.1 shall result in the arbitration fee being assessed, a hearing being conducted, and an award being entered in their absence.

LR 6: Award and Appeal

6.1 Within three days of the arbitration hearing the arbitrator shall issue an award (Form AOC-CV-802). The parties shall have thirty days from the issuance of the award to file a request for a trial de novo (Form AOC-CV-803) with the Clerk of Superior Court.

6.2 If no request for a trial de novo is filed within the thirty-day limit, the ADR Coordinator shall present the file to the Clerk of Court for the entry of judgment.

LR 7: Local Requirements related to Arbitration

7.1 All motions, orders, forms or any other filing which involves non-binding court ordered arbitration shall be directed to the attention of the ADR Coordinator. If the matter is one in which only the Chief District Court Judge may rule upon, it must still be sent to the ADR Coordinator for processing and subsequent submission by the ADR Coordinator to the Chief District Court Judge.

7.2 Forms not submitted to the ADR Coordinator and improperly filed with the Clerk of Superior Court will not be deemed as validly filed.

7.3 All forms, motions and orders must be sent with the original and one copy, together with a self-addressed, postage-paid envelope. Additional mailings to opposing parties shall be made by the requesting party once the approved order has been returned. Faxed copies are not accepted, and will not be signed.

7.4 If an opposing party chooses to file a written objection to any motion, the objection shall be served on opposing party or counsel prior to being delivered to the ADR Coordinator in accordance with LR 3.3

LR 8: Local Requirements for Arbitrator Eligibility

8.1 The ADR Coordinator will maintain a list of qualified arbitrators, which shall be a public record. It is the responsibility of the ADR Coordinator to update such list as needed, making changes when a vacancy occurs or when an increased caseload deems it necessary to add to the list.

8.2 In order to ensure that the arbitrator list is comprised of the highest quality individuals, the ADR Coordinator shall oversee the training and shall monitor the ongoing effectiveness of each arbitrator. The ADR Coordinator shall maintain individual arbitrator statistics including, but not limited to, the number of hearings conducted, their appeal rate and their averages.

8.3 The ADR Coordinator shall maintain a separate list of attorneys who wish to be become arbitrators once the current list has an available slot. When a vacancy or need to add an arbitrator occurs, the ADR Coordinator shall contact the attorneys on the list, in the order that they appear on such list. Each attorney, depending on the number of new arbitrators needed, will be given the opportunity to begin training at that time.

LR 9: Local Requirements for Arbitrator Training

9.1 In order to be placed on the arbitrator list, the attorney must provide proof that they have met all basic eligibility requirements as set forth in the North Carolina Rules of Court governing Court-Ordered Arbitration.

9.2 In addition to the requirement that an arbitrator be a member in good standing with the North Carolina State Bar and have been licensed to practice law for five years, the attorney must also provide proof that a substantial amount of his/her practice has been in civil litigation for a minimum of two of the five required years.

9.3 The attorney shall successfully complete all required training and receive a signed Certificate of Completion after verification from the ADR Coordinator prior to taking the Oath of Office.

9.4 Required training to be completed in order for addition to Arbitrator List:

- (a) Check out and review AOC Training Video from the ADR Coordinator.
- (b) Receive and review Arbitrator Benchbook from the ADR Coordinator.
- (c) Review State and Local Rules
- (d) Review Canons of Ethics for Arbitrators
- (e) Complete 8 hour training session with court selected Arbitrator(s)

9.4 After successful completion of training, the attorney shall take the signed Certificate of Completion and present it to the District Court Judge at the next available civil calendar call in order to have the Oath administered. Calendar calls are held in Courtroom 6330 on Monday mornings at 9:00 am. It is the responsibility of the attorney to check the published calendar for verification court is in session during the selected week. The attorney shall then notify the ADR Coordinator of which calendar call he or she plans to attend in order to take the Oath. The Oath is located in the back of the Arbitrator Benchbook, but will not be administered without the Certificate of Completion signed by the ADR Coordinator.

9.5 Arbitrators serve at the pleasure of the Court. Arbitrators can and will be removed from the Court Approved list of Arbitrators if their performance falls below a satisfactory statistical level of an appellate rate of 40% or higher, or failure to abide by any and all of the Rules Governing Court Ordered Arbitration, or violation of any and all Canons of Ethics for Arbitrators, or by violation of any and all of the rules set forth in the document herein.