

CIVIL RULES OF DISTRICT COURT OF THE 19A DISTRICT COURT DISTRICT

Rule 1: CASE MANAGEMENT PLAN

1.1 The calendaring and docket management of civil cases will be under the supervision of the Chief District Court Judge

1.2 Upon the filing of a Complaint, a calendar notice shall be submitted with the Complaint calendaring the case for not more than 60 days from the date of filing. Unless a subsequent calendar notice is filed, the 60 day setting shall be for a status review only.

1.3 The Clerk of Superior Court shall maintain a ready calendar for District Court. One hundred eighty (180) days after a complaint is filed, the Clerk shall place that case on a ready calendar, unless the time is extended by written order of the Chief District Court Judge.

1.4 The Chief District Court Judge or his designee shall maintain a case tracking system and periodic reviews of all cases will be made by the Chief District Court Judge or his designee of the status of all cases pending in the district.

RULE 2: JURY TRIAL CALENDARS

2.1 When a complaint or other pleading is filed in which a trial by jury is requested, the phrase "Jury Trial Demanded" (or equivalent language) shall be endorsed on the face of the pleadings.

2.2 An attorney of record may request that his case be placed upon the trial calendar by making said request in writing to the Chief District Court Judge and delivering a copy to the opposing counsel or parties of record. The said request must be made no later than six (6) weeks before the scheduled session.

2.3 The jury cases for trial will be selected from the ready calendar giving priority to those cases so designated under the rules, to those bearing the lowest number and to those requested by the attorneys of record.

2.4 All cases originally heard before the magistrate and appealed to the district court for a jury trial shall be placed on the next available tentative trial calendar by the Chief District Court Judge or his designee.

2.5 The said calendar thus prepared will constitute the tentative trial calendar for the designated civil session. Any additions shall be made by the Chief District Court Judge or his designee after a written request is made no later than four (4) weeks prior to the first day of court except as to those matters and things placed upon said calendar for disposition by consent of all

parties or order by the Chief District Court Judge or Judge assigned to preside over the session, upon his own motion.

2.6 Within seven (7) days of the publication of the tentative trial calendar, an attorney of record may file a written request for continuance and serve all counsel of record with a copy as prescribed by Rule 5(6), Rules of Civil Procedure. The motion shall be promptly set for hearing, with notice to all counsel, before the Chief District Court Judge or Judge assigned to hold said session.

2.7 The final trial calendar will be published at least four (4) weeks prior to the first day of the session.

2.8 During that Period of four (4) weeks after the publishing of the final trial calendar the matter of any continuance is for the judge assigned to preside over the jury session.

2.9 All attorneys of record are encouraged to complete discovery as soon as practicable within the rules and to prepare pre-trial orders to include such stipulations as are possible to expedite the trial of their cause.

2.10 The jury shall be summoned to report on Monday morning at 9:00 a.m. unless otherwise ordered by the presiding judge.

2.11 District Court is to convene at 9:30 a.m. on Monday or the opening day of each session and thereafter on each day at 9:30 a.m. It is expected that all attorneys with cases calendared for motion or trial will be present at the convening of court on the day the said matters are calendared and will remain in the courtroom or its general area unless excused by the presiding judge. There will continue to be a calendar call each Monday of each session.

2.12 When a case on a published calendar (ready, tentative or final) is settled, all attorneys of record must notify the Judicial Assistant within twenty-four (24) hours of the settlement and advise who will prepare and present the judgment, and when.

2.13 Calendars for District Court must be published and distributed by the Judicial Assistant to each attorney of record (or party where there is no attorney of record) and presiding Judge no later than four (4) weeks prior to the first day of court.

RULE 3: PRE-TRIAL CONFERENCES AND ORDERS IN JURY MATTERS

3.1 Pre-trial conferences in cases appearing on the final trial calendar shall be held at such times as scheduled by the Judge assigned to preside over a jury session.

3.2 Failure of counsel to file a proper pre-trial order in accordance with the Rules of Civil Procedure or the directions of the Presiding Judge will constitute a violation of these rules and sanctions may be imposed.

RULE 4: CONTINUANCES IN JURY TRIAL MATTERS

4.1 All motions for continuance shall be in writing, specify with particularity the reason for continuance, and state when the case may be rescheduled for trial.

4.2 After a case appears on a Final Trial Calendar, any motion for continuance will be granted only for cause arising after the publication date of the Final Trial Calendar. Motions for cause will be heard by the Trial Judge presiding at the session upon convening of the court.

4.3 Cases may be continued to a subsequent Tentative or Final Trial Calendar.

RULE 5: PREEMPTORY, PRIORITY AND REMANDED CASES IN JURY TRIAL MATTERS

5.1 Requests for a preemptory setting for cases involving persons who must travel long distances or numerous expert witnesses or other extraordinary reasons for such a request must be made in writing to the Chief District Court Judge. A preemptory setting shall be granted only for good and compelling reasons.

5.2 Cases entitled to a priority setting under the General Statutes shall be brought to the attention of the Chief District Court Judge in writing, with copies to all counsel of record, and shall cite the statutory authority for such setting.

5.3 When a case is remanded for trial by the Appellate Division, the Appellant's counsel shall promptly notify the Chief District Court Judge who shall place the case on the next published Tentative Trial Calendar.

RULE 6: NON-JURY CALENDARS AND MOTIONS (NON-DOMESTIC RELATIONS)

6.1 An attorney of record may request that a case be placed on a non-jury trial calendar by filing a Calendar Notice with the Clerk of Superior Court and delivering a copy to opposing counsel or parties of record in accordance with the appropriate statutory provisions. A suggested Calendar Notice is attached.

6.2 If all attorneys or parties of record agree, a case may be placed on a non-jury calendar with less than ten (10) days' notice.

6.3 The Chief District Court Judge or a district court judge designated by him may on his own motion add cases from the ready calendar to his trial calendar but shall notify all counsel or parties of record of such setting no later than four (4) weeks prior to the session.

6.4 An attorney of record may request that a motion be placed on a non-jury calendar by filing a Calendar Notice with the Clerk of Superior Court and delivering a copy to the opposing counsel or parties of record in accordance with the appropriate statutory provisions. A suggested Calendar Notice is attached.

RULE 7: NON-JURY DOMESTIC RELATIONS

All district court cases involving family financial issues, including equitable distribution, child support, alimony, post-separation support action, or claims arising out of contracts between parties under G.S. 50-20(d), 52-10, 52-10.1 or 52B are subject to Cabarrus County Local Rules Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases.

7.1 An attorney of record may request that a case be placed on a non-jury trial or motion calendar by filing a calendar request with the Clerk of Superior Court prior to the session and by notifying opposing counsel or parties of record in accordance with the appropriate statutory provisions.

7.2 In all child support and post separation cases, both parties shall bring to the hearing records of their earnings for the past two years including tax returns, pay stubs, or other records.

7.3 Any claims for child support shall be calendared for hearing within forty-five (45) days of the filing of said claims, unless a written extension is granted by a district court judge. Form 19A-CSE1, Notice and Order to Appear and an Order to Produce Records, shall be served simultaneously with said pleadings.

7.4 All orders for child support shall comply with the provisions of G.S. 110-136.3(a).

7.5 Immediately following a hearing wherein child support is ordered or modified by the court, the attorney for the party receiving child support shall complete a child support transmittal order.

7.8 An application for a temporary restraining order, preliminary injunction, emergency child custody order, or protective order pursuant to the Domestic Violence Act must be made in a written verified motion which sets forth the facts giving rise to the need for extraordinary relief. The verified motion may be accompanied by affidavits of third parties.

RULE 8: EQUITABLE DISTRIBUTION CLAIMS

8.1 **Application and Effective Date.** These rules shall apply to all pending equitable distribution claims and to all equitable distribution claims filed hereafter. The effective date of this rule is March 1, 2004.

8.2 **Responding party:** the spouse against whom the first claim for equitable distribution has been filed.

- A. Moving party: the spouse who first files a claim for equitable distribution.
- B. Responding party: the spouse against whom the first claim for equitable distribution has been filed.

8.3 **Financial Affidavit:** Each party who files a claim for equitable distribution shall file with the Clerk of Superior Court and serve upon the other party a Financial Affidavit using the form attached hereto. The moving party shall attach the Financial Affidavit to his/her pleading. The responding party shall file and serve the Financial Affidavit either (a) with the Answer or (b) 72 hours **prior** to the date and time of any hearing on the other party's motion, whichever occurs **first**.

8.4 **Inventory Affidavit.** Within ninety (90) days after the service of a claim for equitable distribution, the party who asserts that claim shall prepare and file an Equitable Distribution Inventory Affidavit in the office of the Clerk of Superior Court, and shall serve upon the opposing party a copy of the Affidavit. The Affidavit shall be substantially similar in form and content to that Affidavit attached to these Rules, marked Exhibit "A" and incorporated herein by reference at this point.

Within thirty (30) days after service of the Inventory Affidavit, the responding party shall prepare and serve an Inventory Affidavit upon the other party. The responding party shall complete the Affidavit served by the moving party, shall fill in all applicable blanks with the indicated information, file the Affidavit in the Office of the Clerk of Superior Court, and serve a copy on the moving party.

The affidavit shall be the result of a good faith effort by each party to list each and every item of marital and separate property (including debts), and the party's best opinion as to the date of separation fair market value of each item. The affidavits are subject to amendment and are not binding at trial as to completeness or value. They are subject to the provisions of Rule 11 of the Rules of Civil Procedure, and are deemed to be in the nature of answers to interrogatories propounded to the parties. A party failing to submit the information required by these rules and the provision of G.S. 50-21 (a) shall be subject to the provisions of Rules 26, 33, and 37 of the Rules of Civil Procedure.

8.5 **Scheduling and Discovery Conference.** Within one hundred twenty (120) days of filing of the initial pleading asserting a claim for equitable distribution, the moving party shall apply to the court for the initial scheduling and discovery conference. If the moving party fails to make such application, the responding party may do so. In order to assist with the calendaring and hearing of such matters, the chief district court judge shall designate so many days as he deems necessary each month to be devoted to scheduling and discovery conferences.

In order to further ensure an orderly procedure for scheduling such initial conferences, the following calendaring rules shall apply:

- A. In all proceedings for absolute divorce in which a claim for equitable distribution is asserted, the judge presiding over the divorce trial shall enter an order directing that the moving party prepare and serve an inventory affidavit with a definite number of days [not to exceed 60], and that the responding party thereafter prepare and serve an affidavit on the moving party within thirty (30) days. The judge shall set a time for an initial scheduling and discovery conference on a date certain, not to exceed 120 days from the entry of the decree of absolute divorce.
- B. In all other Chapter 50 proceedings in which a claim for equitable distribution is asserted, the judge holding any motion or other hearing, shall review the file to determine the status of the equitable distribution claim, and shall enter such orders as necessary to direct the filing of inventory affidavits and to set a date for the initial scheduling and discovery conference.
- C. In all other cases, the judge preparing the case management calendar shall enter an order setting the matter for the initial scheduling and discovery conference, and shall order that the parties either have the necessary inventory affidavits prepared and served prior to the conference, or that they appear and show cause why the claim for equitable distribution should not be dismissed.

By the date of the initial scheduling conference, both parties shall have prepared and exchanged inventory affidavits as provided in these rules. At the scheduling conference, the court shall determine a schedule of discovery as well as consider and rule upon any motions for appointment of expert witnesses, and rule upon any other applications, including any application to determine the date of separation. Represented parties need not be present at the initial scheduling conference. At the conclusion of the conference, an order shall be entered setting out the date by which discovery shall be completed, the date by which all pending motions are to be heard, and set out a schedule for the initial pretrial conference as well as any other matters the court deems necessary.

8.5 Initial Pretrial Conference. Both counsel and parties shall be present at the initial pretrial conference, which shall be held in the courtroom unless the court directs otherwise. The court shall review the status of discovery, the status of any pending motions, the need for any further discovery and/or appraisals, and shall set a date on or after which a final pretrial conference shall be held and shall set a date on or after which the case shall proceed to trial. The initial pretrial conference should be held within 150 days of the scheduling conference, and the trial should be held within 150 days of the initial pretrial conference. The judge who presides over the initial pretrial conference shall conduct the trial of the matter of its merits, unless ordered otherwise by the Chief District Court Judge.

8.6 Reference Procedure. In any equitable distribution claim, the court may in its discretion and pursuant to Rules 53 and 16(5) of the Rules of Civil Procedure, order a reference before proceeding further or before entering final judgment. The court may provide for an apportionment of the costs of said reference and its scope as it deems to be in furtherance of the efficient administration of justice.

8.7 **Final Pretrial Conference.** The final pretrial conference shall be conducted pursuant to the Rules of Civil Procedure and the General Rules of Practice in the District Court not more than 14 days before trial. Counsel and the parties shall be present for the conference, which shall be held in the courtroom in the discretion of the court. The court shall rule on any matters reasonably necessary to effect a fair and prompt disposition of the case in the interests of justice. Among other actions, the court shall determine that the pretrial order has been completed, and shall make all necessary inquiries of the parties in open court regarding their understanding and the voluntariness of all stipulations contained in the pretrial order. Before or during the final pretrial conference all exhibits shall be marked, and copies of the same shall be exchanged. The court shall enter such other orders relating to the conduct of the trial of the matter as the court deems necessary and proper in the interests of justice. The pretrial order shall be typewritten and shall be substantially similar to the form pretrial order attached to these rules and marked Exhibit “B” and incorporated herein by reference.

8.8 **Sanctions.** Upon motion of either party or upon the court’s own motion, the court shall impose appropriate sanctions as set out in Rules 26, 33 and 37 of Rules of Civil Procedure, and G.S. 50-21(e), when the court finds that a party has willfully obstructed or unreasonably delayed, or has attempted to obstruct or unreasonably delay, discovery proceedings, including failure to make discovery pursuant to Rule 37 of the Rules of Civil Procedure, or finds that the party has willfully obstructed or unreasonably delayed or attempted to obstruct or unreasonably delay any pending equitable distribution proceeding, and further finds that the willful obstruction or unreasonable delay of the proceedings is or would be prejudicial to the interests of the opposing party.

8.9 **Continuances.** All hearing and trial dates set by the court are firm dates, and scheduled matters shall not be continued except for unforeseeable and exigent circumstances. For good cause shown, however, and in accordance with the continuance policy listed below, the court may continue any motion hearing or trial scheduled pursuant to these rules, and extend any time limitation set out in these rules.

8.10 **Publication of Rules.** Effective 1 January 1998, every party filing a pleading setting out the initial claim for equitable distribution in that case, shall serve a copy of this rule on the opposing party or counsel together with the pleading. It is not necessary that such service include copies of either Exhibits “A” or “B”, the Inventory Affidavit and Pretrial Order. Those forms are available for copying in the office of the Clerk of Superior Court.

Equitable Distribution Forms

1. 19A ED Form A. Inventory Affidavit
2. 19A ED Form B. Pretrial Order
3. 19A ED Form C. Order Setting Scheduling Conference
4. 19A ED Form D. Scheduling Conference Order
5. 19A ED Form E. Initial Pretrial Conference Order

RULE 9: BANKRUPTCY CASES

9.1 Civil actions in which one of the parties is adjudicated bankrupt will be disposed of in accordance with the following authority and procedure;

- (a) Rule 401 of the Federal Bankruptcy Act
- (b) 11 U.S. Code 362
- (c) 11 U.S. Code 1301
- (d) Whitehurst v. Virginia Dare Transport Co.
- (e) N.C.G.S. 1-23

9.2 Any request to continue, hold, or in any other way delay disposition of a case due to bankruptcy of one of the parties, must be accompanied by a certificate of bankruptcy filing or stay or proceeding from the United States Bankruptcy Court having jurisdiction.

9.3 After a reasonable notice, the judge may remove the civil action without prejudice. Said notice may be in writing via letter, or in the form of a calendar notice.

RULE 10: Sanctions

10.1 Failure to comply with any section of these rules shall subject an action to dismissal at the discretion of the presiding judge.

10.2 When an attorney is notified to appear for the setting of a calendar, pretrial conference, hearing of a motion or for trial, he must, consistent with ethical requirements, appear or have a partner, associate or another attorney familiar with the case present. Unless an attorney has been excused in advance by the judge before whom the matter is scheduled and has given prior notice to his opponent, a case will not be continued.

10.3 When the attorney for a litigant is ordered to prepare an order or judgment for the Court's signature, and such order or judgment is not presented within ten (10) working days, the

judge may (1) refuse to sign the order or judgment tendered, or (2) dismiss the action, or (3) sign the opposing party's tendered order or judgment, or (4) set the matter for a de novo hearing, or (5) cite the responsible attorney for contempt, or (6) take such other action as appears appropriate under the circumstances.

RULE 11: PREPARATION OF FORMS

11.1 Attorneys shall be responsible for reproduction of forms which are required by these rules.

11.2 Reproduction may be by any process which results in clearly legible copies of standard letter size.

RULE 12: MOTIONS FOR CONTINUANCE--CRIMINAL CASES

Criminal cases should be disposed of at the earliest opportunity, including the first trial setting. 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 are made after 90 days from the first calendaring before a judge shall only be granted for extraordinary cause.

12.1 Appropriate Court Official

Rulings on any request for continuance made on the day of court for the session in which the case is calendared shall be the responsibility of the presiding trial judge of that court. The Chief District Court Judge shall establish a written policy identifying the appropriate court official to address the motions for continuance made prior to the session of court during which the case is calendared.

12.2 Court Conflicts

The various levels of court should work together to move cases as expeditiously as possible. 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 keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts juvenile cases shall take precedence over all other matters.

12.3 Documentation of Continuance.

All orders for continuance shall be documented in or on the file, and shall include the name of the moving party, any objections to the continuance, and the bases for the continuance.

12.4 Notification of Opposing Counsel/Unrepresented Parties/Witnesses

All applications for continuance on behalf of the state or the defendant shall be made as soon as a conflict is identified, and all impacted -- opposing counsel, unrepresented parties, subpoenaed witnesses, or court staff charged with subpoenaing witnesses -- shall be notified as soon as possible by the moving party. It is anticipated that applications for a continuance made to the District Attorney's Office would serve as notice to all possible state's witnesses. Written notice given to the District Attorney's Office ten (10) or more days prior to trial shall be deemed to be a reasonable time prior to trial although a shorter notice may be sufficient depending upon all circumstances.

12.5 Objections to Motion for Continuance

All parties should have an opportunity to be heard on a motion to continue.

12.6 Evaluation of Motions for Continuance

Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- the opportunity to exercise the right to effective assistance of counsel;
- the age of the case and seriousness of the charge;
- the incarceration status of the defendant;
- the effect on children and spouses if the issue is continued and not resolved;
- the status of a continuance on the safety of the parties or any other persons;
- the status of the trial calendar for the session;
- the number, moving party, and grounds for previous continuances;
- The due diligence of counsel in promptly making a motion for continuance as soon as practicable and notifying opposing counsel and witnesses;
- the period of delay caused by the continuance requested;
- the presence of witnesses, including the defendant;
- the availability of witnesses for the present session, or for a future session;
- whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- the availability of counsel;
- consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued; and,
- any other factor that promotes the fair administration of justice.

12.7 Case Rescheduling

Upon granting a motion for continuance, the judge should reschedule the case, taking into consideration the availability of counsel, defendant, and witnesses.

12.8 Time Standards

All criminal and motor vehicle cases should be disposed of within 120 days from the first appearance in District Court.

RULE 13: MOTIONS FOR CONTINUANCE -- GENERAL CIVIL AND MAGISTRATE APPEAL CASES

Civil cases should be disposed of at the earliest opportunity, including the first trial setting. 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 case beyond the established time standards shall only be granted for extraordinary cause.

13.1 Appropriate Court Official

All applications for continuance shall be made to the District Court Judge presiding over the session of court for which the case is calendared, or his/her designee. If the trial judge is not known at the time the request is made, the application should be addressed to the Chief District Court Judge or his/her designee.

13.2 Court Conflicts

The various levels of court should work together to try to move cases as expeditiously as possible. 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 conflicts as they become known and shall keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts, juvenile cases shall take precedence over all matters.

13.3 Documentation of Continuance

All requests for continuance shall be by written motion unless such continuance is consented to in advance by opposing party or his/her attorney. However, oral motions may be allowed when the reason for the continuance did not become known until immediately preceding the start of court.

13.4 Notification of Opposing Counsel/Unrepresented Parties/Witnesses

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 prior to ruling on the motion. 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.

13.5 Objections to Motion for Continuance

All parties should have an opportunity to be heard on a motion to continue.

When a motion to continue is made more than seven (7) working days prior to trial, opposing counsel and/or unrepresented parties shall have a period of four (4) working days, following completion of distribution, to communicate objections to the motion for continuance to the moving party and the presiding District Court Judge or his/her designee. Objections not raised in writing within this time period are deemed waived.

When a motion to continue is made within seven (7) working days of the trial term (other than an oral motion as provided in Rule 13.3, above), the moving party shall include in the written motion a statement that the opposing counsel or party has been contacted and a short statement on opposing party's position on the motion (including whether the opposing party or counsel consents or objects, and whether or not he or she desires to be heard on the motion). If the moving party is unable to contact the opposing counsel or unrepresented parties, the motion shall state what efforts were made and why contact was not possible.

13.6 Evaluation of Motions for Continuance

Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- the effect on children and spouses if the issue is continued and not resolved;
- the impact of a continuance on the safety of the parties or any other persons;
- the age of the case;
- the status of the trial calendar for the session;
- the order in which the case appears on the trial calendar, including whether the case is peremptorily scheduled;
- the number of previous continuances;
- the extent to which counsel had input into the scheduling of the trial date;
- the due diligence of counsel in promptly filing a motion for continuance as soon as practicable
- whether the reason for continuance is a short-lived event which would resolve prior to the scheduled trial date;
- 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 requested;

- the position of opposing counsel of unrepresented parties; for a future session;
- whether the parties themselves consent to the continuance;
- present or future inconvenience or unavailability of witnesses/parties;
- consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued;
- compliance with any law relating to the scheduling and trial of civil cases (such as, summary ejectment appeals); and,
- any other factor that promotes the fair administration of justice.

13.7 **Case Rescheduling**

Upon granting a motion for continuance, the judge should reschedule the case to a specific trial date after receiving input from all parties.

13.8 **Time Standards**

All general civil and magistrate appeal cases should be disposed of within 24 months of filing, with 90% of all cases disposed of within 12 months of filing.

RULE 14: MOTIONS FOR CONTINUANCE -- DOMESTIC CASES

Domestic cases should be disposed at the earliest opportunity, including the first trial setting. 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.

14.1 **Appropriate Court Official**

All applications for continuance shall be made to the District Court Judge presiding over the session of court for which the case is calendared, or his/her designee. If the trial judge is not known at the time the request is made, the application should be addressed to the Chief District Court Judge, or his or her designee.

14.2 **Court Conflicts**

The various levels of court should work together to try to move cases as expeditiously as possible. 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 conflicts as they become known and shall keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts, juvenile cases shall take precedence over all matters.

14.3 Documentation of Continuance

All requests for continuance shall be by written motion. However, oral motions may be allowed when the reason for the continuance did not become known until immediately preceding the start of court.

14.4 Notification of Opposing Counsel/Unrepresented Parties/Witnesses

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 prior to ruling on the motion. 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.

14.5 Objections to Motion for Continuance

All parties should have an opportunity to be heard on a motion to continue.

When a motion to continue is made more than seven (7) working days prior to trial, opposing counsel and/or unrepresented parties shall have a period of four (4) working days, following completion of distribution, to communicate objections to the motion for continuance to the moving party and the presiding District Court Judge or his/her designee. Objections not raised in writing within this time period are deemed waived.

When a motion to continue is made within seven (7) working days of the trial term (other than an oral motion as provided in Rule 14.3, above), the moving party shall include in the written motion a statement that the opposing counsel or party has been contacted and a short statement on opposing party's position on the motion (including whether the opposing party or counsel consents or objects, and whether or not he or she desires to be heard on the motion). If the moving party is unable to contact the opposing counsel or unrepresented parties, the motion shall state what efforts were made and why contact was not possible.

14.6 Evaluation of Motions for Continuance

Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- the effect on children and spouses 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 the 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 session;

- the number of previous continuances OR the number, moving party, and grounds for previous continuances;
- the extent to which counsel had input into the scheduling of the trial date;
- the due diligence of counsel in promptly filing a motion for continuance as soon as practicable
- whether the reason for continuance is a short-lived event which would resolve prior to the scheduled trial date;
- 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 requested;
- the position of opposing counsel of unrepresented parties;
- whether the parties themselves consent to the continuance;
- present or future inconvenience or unavailability of witnesses/parties;
- consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued;
- any other factor that promotes the fair administration of justice.

14.7 **Case Rescheduling**

Prior to granting a motion for continuance, the appropriate judicial official should reschedule the trial or pretrial of the contested issues to a specific date after receiving scheduling input from all parties

14.8 **Time Standards**

All domestic cases should be disposed of within 18 months of filing, with 90% disposed of within six months. Issues of child support should be resolved and a temporary or permanent order entered within 60 days of service. Post-disposition issues, such as contempt and motions to modify existing orders, should be resolved within 60 days of the filing of such actions.

RULE 15: MOTIONS FOR CONTINUANCE -- JUVENILE CASES

For an abused or neglected child, the courts are his or her source of protection and the source of services. For a delinquent child or youth, the courts provide the opportunity for rehabilitation. The goal of a case management plan for juvenile court is to put the courts in the best position to ensure the safety of children, and to give them the best possible chance of living in stable, permanent families. Therefore, a continuance should be allowed only when it serves the child's best interest. Participants must come to court prepared to meet each statutory obligation that is required for resolution of these matters.

Accordingly, juvenile cases, including motions for review in neglect and abuse matters, should be disposed at the earliest opportunity, including the first setting for hearing. Requests for continuances that are made after the first setting for hearing on the merits of the case shall only be granted for extraordinary cause.

15.1 **Appropriate Court Official**

All applications for continuance shall be made to the District Court Judge presiding over the session of court for which the case is calendared. If the trial judge is not known at the time the request is made or is unavailable, the application should be addressed to the Chief District Court Judge, or his or her designee.

15.2 **Court Conflicts**

The various levels of court should work together to try to move cases as expeditiously as possible. 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 conflict(s) as they become known and shall keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts, juvenile cases shall take precedence over all other matters.

15.3 **Documentation of Continuance**

All orders for continuance shall be documented in writing, and shall include the name of the moving party, any objections to the continuance, and the basis for the continuance.

15.4 **Notification of Opposing Counsel/Unrepresented Parties/Witnesses**

All applications for continuances shall be made as soon as a conflict is identified, and all impacted -- opposing counsel, unrepresented parties, subpoenaed witnesses, or court staff charged with subpoenaing witnesses -- shall be notified as soon as possible by the moving party.

15.5 **Objections to Motion for Continuance**

All parties should have an opportunity to be heard on a motion to continue.

15.6 **Evaluation of Motions for Continuance**

Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- the best interest of the child;
- the opportunity to exercise the right to effective assistance of counsel;
- the age of the case and the seriousness of the charge
- the incarceration status of the juvenile
- the effect on children and spouses if the issue is continued and not resolved;
- the impact of a continuance on the safety of the parties or any other persons;
- the status of the trial calendar for the session;

- the number, moving party, and grounds for previous continuances;
- the due diligence of counsel in promptly making a motion for continuance as soon as practicable and notifying opposing counsel and witnesses;
- the period of delay caused by the continuance requested;
- the presence of witnesses, including the juvenile;
- the availability of witnesses for the present session, or for a future session;
- whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- the availability of counsel;
- consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued; and,
- any other factor that promotes the fair administration of justice.

15.7 **Case Rescheduling**

Upon granting a motion for continuance, the judge shall reschedule the case for a specified date, taking into consideration the availability of counsel, parties, and witnesses.

15.8 **Time Standards**

All undisciplined cases should be disposed of within 30 days of service of the petition. All delinquency cases involving misdemeanor offenses should be disposed of within 90 days of service of the petition and those involving felony offenses, within 120 days of service of the petition.

All adjudication of neglect and abuse cases should be within 60 days of service of the petition. All terminations of parental rights (TPRs) should be disposed of within 120 days after service of the petition.