

**LOCAL RULES FOR
COURT ORDERED ARBITRATION
IN THE
35TH JUDICIAL DISTRICT**

RULE 1. COURT ORDERED ARBITRATION

1.1 By order of the Chief District Court Judge all general civil actions to include Magistrate appeals, filed in the District Court for the 35th Judicial District in which there is a claim for monetary relief not exceeding \$15,000 total, exclusive of interest, costs and attorney fees, are subject to court-ordered arbitration under these rules.

RULE 2. ACTIONS SUBJECT TO ARBITRATION

2.1 *By Order of the Court.*

(1) All civil actions filed in the district court division are subject to court-ordered arbitration under these rules in accordance with the authority set forth in N.C.G.S. §7A-37.1(c), except actions:

- (i) Which are assigned to a magistrate, provided that appeals from judgments of magistrates are subject to court-ordered arbitration under these rules except appeals from summary ejection actions and actions in which the sole claim is an action on an account;
- (ii) In which class certification is sought;
- (iii) In which a request has been made for a preliminary injunction or a temporary restraining order including claims filed under N.C.G.S. Chapter 50C;
- (iv) Involving family law matters including claims filed under N.C.G.S. chapters 50, 50A, 50B, 51, 52, 52B and 52C;
- (v) Involving title to real estate;
- (vi) Which are special proceedings; or
- (vii) In which the sole claim is an action on an account.

RULE 3. NOTICE TO PARTIES

3.1 Notice of selection for a court ordered arbitration shall be provided by the Arbitration Coordinator to all counsel/unrepresented parties on the Notice of Case Selection for Arbitration form AOC-CV-800.

3.2 Any party noticed of selection for court ordered arbitration has the duty to notify the Arbitration Coordinator immediately if that action does not qualify and that the action should be removed from arbitration.

RULE 4. TIME STANDARDS

4.1 Absent exigent circumstances, all cases selected for arbitration shall be scheduled for hearing within sixty (60) days.

4.2 Placement of a case into court ordered arbitration shall not be a basis for the delay of other proceedings including the completion of discovery and the filing of hearing of motions.

RULE 5. SELECTION OF AN ARBITRATOR

5.1 The parties may elect to select an arbitrator by agreement. The selection of an arbitrator shall be made within 20 days after the date of notice of case selection for arbitration. A list of qualified arbitrators shall be maintained for public inspection with the Arbitration Coordinator.

5.2 If the parties cannot agree, an arbitrator shall be selected by the Arbitration Coordinator and notice of the arbitrator so selected shall be provided to the parties on the Notice of Hearing.

a. Court selection of an arbitrator shall be made at random from the list of qualified arbitrators.

b. If an arbitrator is unable, or unwilling to serve on the date and time of the hearing, the Arbitration Coordinator shall replace the arbitrator selected.

5.3 Any party may move for the disqualification of the appointed arbitrator for good cause. The motion to disqualify an arbitrator shall be in written form, and provided to the Arbitration Coordinator no later than ten (10) days before date of the Notice of Hearing.

a. Disqualification of an arbitrator shall not be a basis to delay the hearing date and time already established. Upon the disqualification of the arbitrator, another arbitrator shall be selected by the Arbitration Coordinator.

RULE 6. MOTIONS FOR CONTINUANCE

6.1 All requests for continuance shall be directed to the Arbitration Coordinator by written motion on a Motion for Continuance form and shall set forth with particularity the reason for the continuance, and consent if given by opposing party(ies). [The Motion for Continuance form shall be distributed by the Arbitration Coordinator]

a. Motions shall be presented as soon as counsel/unrepresented parties become aware of the reason for the motion for continuance.

6.2 Opposing counsel/unrepresented parties must be notified of the motion for continuance prior to the delivery of the request to the Arbitration Coordinator. The

manner and date of notice to opposing counsel/unrepresented parties shall be indicated on the motion.

6.3 Motions for continuance shall be ruled upon by the Arbitration Coordinator.

6.4 The Arbitration Coordinator, under the supervision of the Chief District Court Judge, has sole authority to continue the arbitration hearing.

RULE 7. ARBITRATION HEARINGS

7.1 The Arbitration Hearing shall be held on a date, time and place established by the Arbitration Coordinator. Hearing time shall be limited to one hour.

7.2 At least ten (10) days prior to the hearing, parties shall exchange a Pre-Arbitration Submission Form. This form shall be distributed to all parties by the Arbitration Coordinator.

7.3 Witnesses may be compelled to testify under oath or affirmation and produce evidence by the same authority and to the same extent as if the hearing were trial. Any party may call adverse witnesses to testify who are the author or custodians of any document produced at the hearing. (To include a witness through whom the document might otherwise have been introduced.)

7.4 The North Carolina Rules of Evidence do not apply, except as to privilege, in the hearing but shall be considered as a guide.

7.5 Upon completion of the arbitration hearing, an Arbitration Award shall be filed with the court by the arbitrator.

RULE 8. NOTICE OF SETTLEMENT

8.1 Any settlement reached prior to the scheduled arbitration hearing must be reported by the parties to the Arbitration Coordinator. The parties must file dismissals or consent judgments prior to the scheduled hearing to close the case without a hearing. If the dismissals or consent judgments are not filed before the scheduled hearing, the parties should appear at the hearing to have their agreement entered as the award of the arbitrator.

- a. Both parties are responsible for notifying the Arbitration Coordinator that a consent judgment or dismissal has been filed. In the event a consent judgment or

dismissal is not filed with the clerk and notice provided to the Arbitration Coordinator more than 24 hours prior to the scheduled arbitration hearing, all parties shall be liable for the arbitrator fee.

RULE 9. AUTHORITY AND DUTIES OF ARBITRATOR

9.1 The arbitrator shall;

- Have the same authority as a trial judge to govern the conduct of hearings, except the power to punish for contempt.
- Be empowered and authorized to administer oaths and affirmations in arbitration hearings.
- Consider all evidence presented at the hearing and give it the weight and effect as determined appropriate. An arbitrator is not required, however, to receive repetitive or cumulative evidence.
- Not have any ex parte communications between the parties or their counsel.
- Declare the hearing concluded when all evidence is in and any arguments that have been permitted, are concluded.

RULE 10. PARTICIPATION OF PARTIES, ATTORNEY(S) AND OTHER PARTICIPANTS

10.1 All parties shall be present at hearings in person or through representatives authorized to make binding decisions on their behalf in all matters.

a. All parties may be represented by counsel.

b. Parties may appear pro se, as permitted by law. In accordance with applicable state law, only parties that are natural persons may appear pro se at arbitrations. Any business, corporation, limited liability corporation, unincorporated association or other professional parties, including but not limited to, businesses considered to be a separate legal entity shall be represented by counsel in accordance with the North Carolina General Statutes.

10.2 If a party fails to appear, the hearing will proceed and an award will be made by the arbitrator against the absent party.

10.3 A party that failed to obtain a continuance and failed to appear for the arbitration hearing for reasons beyond their control may file a written motion for rehearing with the Arbitration Coordinator within the time allowed for demanding a trial de novo.

- The Chief District Court Judge will rule upon the motion without hearing and provide notice to the party.

RULE 11. AWARD

11.1 The arbitrator shall prepare, sign and file the Arbitration Award with the Clerk of Superior Court.

- No later than three (3) days after the arbitration hearing is concluded.

11.2 The award must resolve all pending issues raised by the pleadings and all parties in the action.

RULE 12. TRIAL DE NOVO

12.1 An appeal of the award of the arbitrator must be made within thirty (30) days of the filing of the award with the court on AOC-CV-803 entitled Arbitration Request for Trial De Novo and filed with the Clerk of Superior Court.

RULE 13. JUDGMENT

13.1 The parties may file a stipulation of dismissal or consent judgment at any time before the entry of judgment on the award.

13.2 If there is no appeal of the arbitration award, dismissal or consent judgment filed by the parties during the thirty (30) day period, the Clerk of Superior Court shall enter judgment on the award.

- The Clerk of Superior Court shall forward copies of the judgment to all parties.

RULE 14. SANCTIONS AND CONTEMPT

14.1 Any party failing to attend or refusing to participate in good faith and in a meaningful manner at the arbitration hearing shall be subject to such sanctions as are deemed appropriate and allowed by law.