

# Motion and Order to Waive Mediation Instructions

## **Motion to Waive Mediation**

You must complete this form and take (or mail) the original and three copies for filing with Clerk of Court in the county in which your case is filed. There is a \$20 filing fee for filing any motion.

The Clerk will stamp the original and all three copies of your Motion. The original will be filed in your Court file, and the Clerk will give you (or mail you) back the three copies. (*Note that if you are filing by mail, please include a self-addressed and stamped envelope for the Clerk's use in mailing back the copies to you*). Keep one copy for your records, send one copy of the filed Motion to the other party, and send one copy of the filed Motion along with the original Order (with the caption portion completed) to:

Honorable Edgar L. Barnes  
Chief District Court Judge  
P.O. Box 366  
Elizabeth City, NC 27907

***Remember:** You must serve the other party with anything that you file with regards to your case. Complete the Certificate of Service indicating who, how and when the other party was served, attach a copy of the document you are serving to the Certificate of Service and file the original Certificate of Service with the Clerk.*

## **Order Waiving Mediation**

Once the Chief Judge has considered your Motion, he will either grant, deny, or refer your Motion for a hearing. We will send you a copy of the Order and file the original with the Clerk for you. When you receive your copy of the Order, you must then complete the Certificate of Service and serve the other party with a copy of that Order.

- **If granted:** Our office will file the original Order with the Clerk's office and send you a copy. You must then complete the Certificate of Service and serve the other party. (Make sure to file the original Certificate of Service with the Clerk attached to a copy of what you are serving).
- **If a hearing is necessary:** If the Chief Judge feels that a hearing is necessary to determine whether a waiver of mediation should be granted or denied, he will complete the information indicating the date, place and time of a hearing. Our office will file the original Order with the Clerk's office for you and return a copy of the Order to you. Again, you must complete the Certificate of Service and serve a copy on the other party. (Make sure to file the original Certificate of Service with the Clerk attached to a copy of what you are serving).
- **If denied:** If your Motion is denied, your case must proceed through Custody Mediation. Our office will file the original Order with the Clerk's office for you and return a copy of the Order to you for you file and for serving on the other party. You must complete the Certificate of Service and file the original with the Clerk attached to a copy of what you are serving.

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. \_\_\_\_\_-CVD-\_\_\_\_\_

\_\_\_\_\_  
Plaintiff

vs.

\_\_\_\_\_  
Defendant

**MOTION TO  
WAIVE MEDIATION**

Pursuant to N.C.G.S. §50-13.1 and Rule 4(b) of the First Judicial District Rules for Custody and Visitation Mediation, the undersigned party/attorney moves that mediation of this custody/visitation case through the mandatory custody mediation program be waived, and in support of this motion states (*check all that apply*):

- The party making this motion lives more than one hundred (100) miles away from the Court. *[This exception is within the Court’s discretion. NOTE: Telephone conferencing/WebEx conferencing is available as an option.]*
- The parties have agreed to private mediation subject to approval from the Court.
- The other party has abused/neglected the minor child(ren) involved in this case.
- The other party  suffers from alcoholism  abuses drugs  abuses me.
- The other party suffers from severe psychological, psychiatric, or emotional problems.
- Other:  
\_\_\_\_\_  
\_\_\_\_\_
- Documents supporting the above allegations are attached hereto.

Date _____	Signature of Movant: _____	<input type="checkbox"/> Plaintiff/Attorney <input type="checkbox"/> Defendant/Attorney
	Printed Name: _____	
	Address: _____ _____	
	Telephone: _____	

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. \_\_\_\_\_-CVD-

\_\_\_\_\_  
Plaintiff  
:  
vs.  
:  
\_\_\_\_\_  
Defendant  
:  
\_\_\_\_\_

**CERTIFICATE OF SERVICE**  
**OF MOTION TO**  
**WAIVE MEDIATION**

I certify that a copy of this **Motion** served on \_\_\_\_\_

*(name of person being served)*

by  US Mail  Hand Delivery

at the following address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
*(signature of movant)*

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. \_\_\_\_\_-CVD-

\_\_\_\_\_  
Plaintiff  
:  
:  
:  
vs. :  
:  
:  
\_\_\_\_\_  
Defendant :  
:  
:  
\_\_\_\_\_

**ORDER**  
**GRANTING/DENYING**  
**CUSTODY MEDIATION**

- The Court concludes that the movant has shown good cause to waive mediation under the mandatory custody mediation program, and the motion is allowed.
- Mandatory custody mediation is waived because the case is being referred to private custody mediation. If private mediation is unsuccessful, then the case is to be returned to Court for referral to the mandatory custody mediation program.
- The motion is denied and it is ordered that this case be referred to the custody mediation program for mediation of all unresolved custody and visitation matters in the case.
- Other:

\_\_\_\_\_  
\_\_\_\_\_

<i>Date</i>	<i>Name of District Court Judge(Type or Print)</i>	<i>Signature of District Court Judge</i>
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**NOTICE OF HEARING**

**NOTICE TO THE DEFENDANT(S)/PLAINTIFF(S):**

You are hereby notified that this Motion To Waive Custody Mediation will be heard on the date, time and at the location set out below. You must be present if you wish to be heard

<i>Date of Hearing</i>	<i>Time of Hearing</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Location of Hearing</i>
<i>Date</i>	<i>Name of District Court Judge (Type or Print)</i>	<i>Signature of District Court Judge</i>

STATE OF NORTH CAROLINA  
COUNTY OF \_\_\_\_\_

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. \_\_\_\_\_-CVD-

\_\_\_\_\_  
Plaintiff  
:  
:  
:  
vs.  
:  
:  
\_\_\_\_\_  
Defendant  
:  
:  
\_\_\_\_\_

**CERTIFICATE OF SERVICE**  
**OF ORDER TO**  
**WAIVE MEDIATION**

I certify that a copy of this **Order/Notice of Hearing** served on \_\_\_\_\_

*(name of person being served)*

by  US Mail     Hand Delivery

at the following address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
*(signature of movant)*

## **1<sup>st</sup> DISTRICT CLERKS**

Honorable Paula J. Harrison  
Camden County Clerk of Court  
P.O. Box 219  
Camden, NC 27921  
252-336-4000

Honorable Michael John McArthur  
Chowan County Clerk of Court  
P.O. Box 588  
Edenton, NC 27932  
252-368-5000

Honorable Raymond F. Matusko  
Currituck County Clerk of Court  
P.O. Box 175  
Currituck, NC 27929  
252-232-6200

Honorable Dean Tolson  
Dare Clerk of Court  
P.O. Box 1849  
Manteo, NC 27954  
252-475-5200

Honorable Nell F. Wiggins  
Gates County Clerk of Court  
P.O. Box 31  
Gatesville, NC 27938  
252-357-1365

Honorable Todd W. Tilley  
Perquimans County Clerk of Court  
P.O. Box 33  
Hertford, NC 27944  
252-404-5000

Honorable Katherine S. Cartwright  
Pasquotank County Clerk of Court  
P.O. Box 449  
Elizabeth City, NC 27907-0449  
252-331-4600