

**LOCAL RULES
TWENTY-FIRST JUDICIAL DISTRICT
FORSYTH COUNTY, NORTH CAROLINA
FOR
EQUITABLE DISTRIBUTION ACTIONS**

[Effective September 15, 2007]

1. The following Forsyth County Equitable Distribution Local Rules supersede and replace all previously adopted local rules in the Twenty-first Judicial District with regard to the disposition of claims for equitable distribution. A copy of the North Carolina Supreme Court Implementing Settlement Procedures In Equitable Distribution And Other Family Financial Cases is attached hereto as Exhibit "A" and incorporated herein by reference. When there appears to be a conflict between these local Equitable Distribution rules and the N.C. Supreme Court rules, attached as Exhibit "A," the Supreme Court rules shall control. These Rules shall apply to all Equitable Distribution claims filed on or after September 15, 2007.

2. **Equitable Distribution Mediation Scheduling.** Upon filing a claim for equitable distribution, the attorney or *pro se* party requesting equitable distribution shall schedule a Status Conference with the Trial Court Coordinator (TCC), which will be set 90 days from the filing of the claim. The attorney or *pro se* party shall confer with the opposing party or their attorney, agree on the relevant information, and complete and return the Mediated Settlement Conference Form (*District 21 Form FFS 1*) to the TCC. The Mediated Settlement Conference Form may be filed with the TCC prior to the Status Conference and be exempt from attending the Status Conference, unless notified otherwise by the TCC. The TCC will then convert said Mediated Settlement Conference Form into a Mediated Settlement Conference Order, which will be signed by a Judge. If the parties do not agree and the TCC does not receive the Mediated Settlement Conference Form at the scheduled Status Conference or before, then the TCC shall select a mediator and complete the Mediated Settlement Conference Order.

The designated TCC for District 21 is:

Julia Frye
Forsyth County Hall of Justice
P. O. Box 20099
Winston-Salem, NC 27120
Telephone: 336-761-2478

3. **Content of Order.** The Court's Mediated Settlement Conference Order (*Form 824*), which shall be prepared by the TCC, shall (1) require the mediated settlement conference or other settlement proceeding to be held; (2) establish a deadline for the completion of the conference or proceeding; (3) designate the mediator by stating the name, address and telephone number of the mediator selected; (4) state the rate of compensation of the

mediator; (5) state that the mediator and opposing counsel have agreed upon the selection and rate of compensation if the mediator has been selected by the parties; (6) state the mediator is certified pursuant to these Rules if the mediator is appointed by the TCC without agreement of the parties; and (7) state that the parties shall be required to pay the mediator's fee at the conclusion of the settlement conference or proceeding unless otherwise ordered by the court.

4. **Appointment of Certified Family Financial Mediator by the Court.** The attorneys for the parties shall have a full discussion in good faith concerning the selection of a mediator before advising the Court that they cannot agree upon the selection of a mediator. If the parties cannot agree upon the selection of a mediator or do not return the Mediated Settlement Conference Form (*District 21 Form FFS 1*) by the scheduled Status Conference, the Court shall appoint a mediator.

The general procedure for judicial appointment shall be to appoint the next certified mediator on the appropriate list maintained at the Trial Court Coordinator's office. The mediator must have agreed to accept court appointed cases in this county, be familiar with these Local Mediation Rules, and comply with these rules as well as the Supreme Court Rules. Said list shall be updated quarterly to coincide with the release of the calendar. The Chief District Court Judge shall retain discretion to depart from the general procedure in particular circumstances such as the appointment of one mediator to multiple related cases, appointment of newly certified mediator from appointment, or to remove a mediator from the list who has not followed Local or Supreme Court Rules.

5. **The Mediated Settlement Conference.**

- A. **Where the Conference Is To Be Held.** The mediated settlement Conference shall be held in any location agreeable to the parties and the mediator. If the parties cannot agree to a location, the mediator shall be responsible for reserving a neutral place in the county where the action is pending and making arrangements for the conference and for giving timely notice of the time and location of the conference to all attorneys and pro se parties.
- B. **When Conference Is To Be Held.** Said conference shall be completed within 90 days after the Mediated Settlement Conference Order is entered unless said date is extended by the mediator a) for good cause, or b) by agreement of the parties, provided that no extension beyond 150 days from the entry of the order shall be allowed without court approval. The mediator shall inform the TCC of said extension. If the parties and the mediator are unable to agree on a date and time for the conference, the mediator shall set a date and time for the conference.
- C. **Request To Extend Deadline For Completion.** A Party or the mediator, may move the Court to extend the deadline for completion of the conference by filing a motion using AOC form (AOC-CV-835) or their own motion. Such motion shall state the reasons the extension is sought and shall be served by the moving party upon the other parties, the mediator and the TCC. If any party does not consent to the motion, said party shall promptly communicate its objection to the Court.

- D. Reporting Results of Conference.** The mediator shall report to the Court within 10 days of the completion of the conference, whether or not an agreement was reached by the parties. The report shall be made by filing the AOC form (AOC-CV-827) with the TCC. If the case is settled or otherwise disposed of prior to the conference, the mediator shall file the report indicating the disposition of the case, the person who informed the mediator that settlement had been reached, and the date and person who will present the final documents to the court. The original report shall be filed with the Clerk of Superior Court and a copy is to be filed with the TCC.
- E.** If an agreement was reached at the conference, the report shall state whether the action will be concluded by consent judgment or voluntary dismissal and shall identify the date and persons designated to file such consent judgment or dismissals. If partial agreements are reached at the conference, the report shall state what issues remain for trial.
6. **Equitable Distribution Pre-Trial Conference.** The moving party must prepare and provide to the opposing party a pre-trial order within _____ days prior to the pre-trial conference. The pre-trial conference shall be scheduled for the next available Equitable Distribution Session from the mediation completion date or within 30 days. The parties and their attorneys shall appear with a completed pre-trial order signed by the parties and their attorneys. The parties will be voir dired as to the pre-trial order and the order will be signed by the presiding Judge.
7. **Motions in the Cause for Contempt.** The TCC shall schedule all motions for contempt and Orders to Show Cause for trial before the assigned judge.
8. Except in cases of genuine emergency, all preliminary equitable distribution motions (*e.g.*, those for injunctive relief, relative to discovery, for a partial distribution of assets/debts, *etc.*) must be calendared before one of the Judges regularly assigned to hear equitable distribution cases by utilizing the calendar request forms prepared by the Clerk of Superior Court and by submitting the same directly to the TCC. Unless the Judge hearing such preliminary motions specifically determines otherwise, such Judge does not necessarily have to be the Judge who ultimately pre-tries or tries the case. However, after the case has been assigned to a particular Judge for a pre-trial conference, all subsequent matters shall be heard only by that Judge. The TCC shall have authority to calendar pre-trial conferences and/or equitable distribution trials as necessary on a monthly basis in order to ensure full court utilization. Requests for *ex parte* orders that deal with several family law issues including some relevant to equitable distribution and that are subject to review by the Court within ten (10) days may be addressed to any District Court Judge as authorized by the Chief District Court Judge.
9. Any trial or pre-trial conference that is continued by the Court upon motion of a party or on the Court's motion shall be re-calendared for the session specified by the Court in its order of continuance, a copy of which shall be provided to the TCC by the party drafting the same. However, any trial or pre-trial conference that is duly scheduled, but is not reached by the Court during a particular week, shall automatically be placed by the TCC on the

appropriate trial or pre-trial conference calendar before the same Judge during the said Judge's week on the following month and shall be listed on the calendar in the same priority order as other cases not reached during the same week ahead of other cases set initially for trial or pre-trial conference during the said subsequent month. The presiding Judge shall always have the prerogative to rank cases for hearing in such order as the Judge may deem appropriate.

10. Except in situations when a particular case has been placed on a particular calendar as the result of the case not being reached by the Court during the preceding month's session, or except as otherwise specially set by the Court, all cases shall be listed on the calendars in numerical order with the older cases being listed before the newer cases.
11. Pre-trial conferences and E.D. Motions shall be (and equitable distribution motions shall be) calendared at 9:30 A.M. on Mondays of equitable distribution weeks, and they shall be heard on said Mondays, unless the Presiding Judge shall set the pre-trial conferences and equitable distribution motions for hearing at specific times during that week. A printed calendar shall be mailed or otherwise made available to the parties or their respective counsel in advance by the TCC, and all parties and their respective counsel are expected to appear in court on the date and at the time indicated on the calendar.
12. Unless otherwise determined in advance, equitable distribution trials shall commence at 9:30 A.M. on Tuesdays of equitable distribution weeks, and the presiding Judge shall call the calendar of such cases for trial during a particular week at 9:30 A.M. on Monday of that week.
13. All pre-trial orders shall contain a statement reflecting that the Court personally examined in open court both parties with regard to their understanding of and continuing agreement to the terms of the pre-trial order and any stipulations contained therein.
14. Parties are strongly encouraged to have all marital property (other than closely held corporations, partnerships, sole proprietorships, businesses, and professional practices) with regard to which there is a dispute as to valuation appraised by an appraiser mutually selected by the parties and their respective counsel in advance of the trial. A party shall serve a copy of appraisal report(s) on the other parties on or before the Monday preceding the scheduled E.D. Pre-trial Conference.
15. With respect to actions in which business and/or professional practices are a marital asset(s), if either party obtains an appraisal, he or she shall advise the other party and serve a copy of the appraisal on or before the Monday preceding the scheduled E.D. conference.
16. All written exhibits, affidavits and appraisals shall be exchanged between the parties through counsel at least fifteen (15) days before the scheduled trial of an equitable distribution action. Within seven (7) days from the receipt of such written exhibits, affidavits and appraisals, counsel for each party shall advise the other as to whether stipulations may be entered into concerning the admission into evidence of the same at trial, or whether the witnesses themselves will need to be present at trial to testify in

person.

17. Expert Witnesses.

- A.** When it becomes reasonably apparent that at least one of the parties will use at least one expert witness at the equitable distribution trial, either party may request a scheduling conference with the presiding judge for the purpose of obtaining a discovery scheduling order specifically addressing the deadlines for expert testimony.
- B.** The scheduling order may contain any deadline deemed appropriate by the presiding judge, including but not limited to the deadlines to designate expert witnesses; to serve expert witness Interrogatory Answers; and to deliver to other party expert witness reports.

- 18. Unless specific permission to the contrary is obtained from the presiding trial Judge, all equitable distribution judgments (excluding Qualified Domestic Relations Orders) shall be submitted to the Court for entry within ten (10) working days of the announcement of the Court's decision or of the oral/written representation to the Court that the case has been settled.
- 19. The Judges regularly assigned to conduct pre-trial conferences and preside over equitable distribution trials have indicated that they are inclined to impose sanctions (including awards of reasonable counsel fees and/or striking certain defenses) against parties for dilatory tactics and willful failure to comply with these local rules.
- 20. A committee of ten (10 local attorneys who practice regularly in equitable distribution court (to be appointed by the Chief District Court Judge), the Chief District Court Judge and the Judge regularly assigned to hear equitable distribution cases shall meet twice per year (in the spring and in the fall) to review the continuing appropriateness of these Equitable Distribution Local Rules and to advise the Chief District Court Judge as the need for revisions herein arises. The chairperson of this committee shall be appointed by and shall serve at the pleasure of the Chief District Court Judge. The Clerk of Superior Court, the Trial Court Administrator, and the Equitable Distribution Courtroom Clerk shall be invited to attend all meetings of this committee.

This the 30 day of September, 2007.

William B. Reingold

The Honorable William B. Reingold
Chief District Court Judge
21st Judicial District