

**40th JUDICIAL DISTRICT
FAMILY COURT DOMESTIC RULES
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RULE 1: DEFINITIONS: As used in these Rules, the following terms mean:

- 1.1 ***Alternative Dispute Resolution (ADR):*** A procedure for settling a dispute by means other than litigation before a Judge, such as arbitration, mediation, or judicial settlement conference.
- 1.2 ***Child Support Enforcement (CSE/IV-D):*** The Buncombe County agency that handles all IV-D child support cases. It also acts to establish paternity as well as to establish, enforce, modify, collect and disburse child support in non IV-D cases upon request of the payee parent or upon Order of Court.
- 1.3 ***Child Support Guidelines:*** The formula and amount set forth by Statute that is used to determine the monthly financial obligation of each parent for their minor child or children.
- 1.4 ***Court:*** The District Court or a District Court Judge of the 40th Judicial District.
- 1.5 ***Custody Mediation:*** The process provided for by Statute, in which the parties in a dispute involving custody, visitation or other parenting issues, meet with a qualified mediator to attempt to resolve their issues and enter into a voluntary Parenting Agreement. This process may be Court ordered, or the parties may voluntarily attend mediation to resolve their child related issues.
- 1.6 ***Custody Mediator:*** A neutral, skilled professional, qualified by the Administrative Office of Courts to mediate cases involving unresolved issues of custody, visitation or their parenting issues regarding their minor children.
- 1.7 ***Domestic Cases:*** Cases involving claims under N.C.G.S. Chapter 50, and all other cases involving family law disputes, such as breach of a separation agreement if that breach involves their minor children. This does not include domestic violence cases (Chapter 50B), civil no-contact cases (Chapter 50C) or juvenile cases (Chapter 7B).
- 1.8 ***ED:*** Equitable distribution.
- 1.9 ***ED Affidavits:*** Local forms that are required to be completed and filed in cases involving equitable distribution claims.
 - (a) **Inventory ED Affidavit (Form 10)**. An initial Affidavit listing the parties' known:
 - (1) assets, with their estimated value and proposed distribution and
 - (2) debts, with their estimated amounts and proposed distribution. This Affidavit shall be filed and served by both parties no later than ten (10) days prior to the scheduled Initial Status Conference.
 - (b) **Final ED Affidavit (Form 11)**. A final Affidavit listing the parties' assets and liabilities, but with final valuations and proposed distributions as opposed to the initial estimates as required in the Inventory ED Affidavit. This Affidavit must be filed and served by both parties as set forth in the Order of Reference as rendered in their particular case.

- 1.10 **Evidentiary Hearing:** A Court hearing in which evidence is presented.
- 1.11 **ExParte Communication:** A communication with the Court, either written or verbal, by one party without the other party being present and/or without the other party's consent.
- 1.12 **Family Court Administrator (FCA):** The Administrator for the Family Court Program.
- 1.13 **Family Court Case Coordinator (FCCC):** A case manager for the Family Court Program. Each Judge in the Family Court Division has a FCCC who schedules all Court hearing dates, manages the cases through the system and tracks orders due and to be signed.
- 1.14 **Moving party:** The party who files an action or a motion and requests relief from the Court.
- 1.15 **N.C.G.S.:** The North Carolina General Statutes.
- 1.16 **Parenting Education/Mediation Orientation (PE/MO):** A two-hour group course. The first hour gives separating and/or divorcing parents some insight as to how their behavior surrounding their separation affects the children. The second hour is an introduction to and explanation of the custody mediation process. Both are designed to help parents who are separating or otherwise living apart learn how they can lessen the negative effects of their conflict on their children.
- 1.17 **Pro se party:** A party who represents himself or herself in a court case without an attorney.
- 1.18 **PSS:** Post separation support.
- 1.19 **Supervised Exchange:** A provision in some custody, visitation and domestic violence orders that requires a neutral third party to oversee the exchange of a child between parents and/or caretakers.
- 1.20 **Supervised Visitation:** A provision in some custody, visitation and domestic violence orders that requires a neutral third party to observe and monitor the visits between a child or children and a parent or caretaker.
- 1.21 **U.C.C.J.E.A.: Uniform Child Custody Jurisdiction and Enforcement Act:** Laws adopted by North Carolina, codified in the N.C.G.S. §50A-101 et seq., which provide a uniform set of jurisdictional rules and guidelines to avoid jurisdictional competition and conflict with courts of other States in matters of child custody, to discourage the use of the interstate system for continuing controversies over child custody and to facilitate the enforcement of custody decrees of other States.
- 1.22 **U.I.F.S.A.: Uniform Interstate Family Support Act:** Laws adopted by North Carolina, codified in the N.C.G.S. §52C-1-100 et seq., which establish procedures for the interstate

establishment, enforcement and/or modification of support or a determination of parentage.

RULE 2: GENERAL RULES

- 2.1 Purpose.** The purpose of these Rules is to provide a case management plan for the orderly, prompt and fair disposition of family domestic matters. The intent is to minimize delays and resolve cases in a less adversarial manner whenever possible. The Rules are promulgated in compliance with Rule 40(a), North Carolina Rules of Civil Procedure, and Rule 2 of the General Rules of Practice for Superior and District Courts.
- 2.2 Construction.** It is recognized that these Rules are not complete in every detail and will not cover every situation that may arise. In the event that these Rules fail to address a specific matter they should be construed in such a manner as to avoid technical or unnecessary delay and to promote the ends of justice.
- 2.3 Use of Forms.** Local forms for use by attorneys/pro se parties in accordance with these Rules are subject to change as legislation and/or policy dictate. Except as otherwise provided herein, where a form is specified for use by these Rules, attorneys or pro se parties may use either the form provided or a form which substantially corresponds to the specified local form and contains the same information. Both the local Rules and forms are available at: <http://www.nccourts.org>, then select “Buncombe County” and then “Local Rules”.
- 2.4 Prior Local Family Court Rules.** These Rules supersede all previous local Family Court Domestic Rules.
- 2.5 Title.** These Rules and all amendments thereto shall be filed with the Clerk of Superior Court in the 40th Judicial District and shall be referred to and cited as the 40th Judicial District Family Court Domestic Rules (28FCDR).
- 2.6 Location of Local Rules.** Copies of these Rules shall be maintained by the Family Court Administrator and made available to the public upon request. These Rules as well as the forms cited herein are available for downloading from the website of the North Carolina Administrative Office of the Courts at: <http://www.nccourts.org> and selecting “Buncombe County”, and then “Local Rules”.
- 2.7 Effective Date.** These Rules shall apply to all domestic cases effective May 1, 2009.

RULE 3: REPRESENTATION: ATTORNEYS AND PRO SE PARTIES

- 3.1 Attorney Contact Information.** Attorneys shall keep the Family Court Office informed at all times of any and all changes in their mailing addresses, email addresses, telephone and fax numbers.

- 3.2 Attorney Vacation Policy.** The vacation policy of the 40th Judicial District Family Court shall be the same policy as set forth in N.C.G.S. §7A-34, Rule 26. This policy was adopted in recognition of the heightened level of professionalism that an attorney is able to provide when the attorney enjoys periods of time that are free from the demands of professional responsibility as well as to enhance the overall quality of the attorney's personal and family life.
- 3.3 Pro se Litigants/Contact Information.** Although no party is required to have an attorney, a party who is not represented by legal counsel must follow all Court Rules, including these Local Rules, and is presumed to know and understand them. It is the responsibility of each *pro se* litigant to keep the Family Court Office informed at all times of his or her current mailing address, email address, telephone number and fax number, if any, as well as any changes thereto.
- 3.4 Withdrawal of Attorneys.** When an attorney files a Motion to Withdraw, he or she shall provide the complete last known address of his or her client in the Order of Withdrawal. An attorney who has made an appearance in a case is the attorney of record until such time as the Court enters an order allowing withdrawal.

RULE 4: CASE FILINGS AND JUDICIAL ASSIGNMENT

- 4.1 Commencement of Family Court Domestic Actions.** All domestic cases shall be commenced by filing a Complaint with the Clerk. All initial actions, except for IV-D and U.I.F.S.A., shall be accompanied by an AOC Cover Sheet (Form **AOC-CV-750**). The Clerk will assign a case number at the time of the initial filing and place the number on the Complaint and/or Motion and the Summons. All subsequent pleadings and papers filed with the Clerk shall contain the assigned case number as well as the assigned Judge, if applicable.
- 4.2 Form 1.** All new domestic cases, except for simple absolute divorces, IV-D, and U.I.F.S.A., shall be accompanied by a Notice of Hearing and Judicial Assignment (**Form 1**). This form shall indicate whether there is any pending or resolved domestic, domestic violence, or juvenile case involving the same family members or issues as the case being filed. Attorneys filing an action must obtain this information from their client and provide it on Form 1. Failure to truthfully provide this information may result in sanctions allowed by law and deemed appropriate by the Chief District Court or assigned Judge. A Form 1 shall also accompany any subsequently filed pleadings which require or request a hearing.
- 4.3 Judicial Assignment.** All new domestic cases that require a Form 1 as set forth above shall be assigned to a Family Court Judge by Family Court staff on a rotation basis at the time of filing, except if there is or has been a prior case involving the same parties with other family issues, then those cases shall be assigned to the Judge who was assigned to the prior case, whenever possible. All subsequent pleadings shall contain the Judge's name as well as the assigned case number. All subsequent motions, hearings and trials, including ex parte and emergency matters, shall be scheduled before the assigned Judge whenever possible.

4.4 Litigants' Responsibilities.

- (a) **Contact with Family Court Office and Forms.** It is the responsibility of the party filing any Complaint, Counterclaim, Motion or other pleading to contact the Family Court Office, provide them with a copy of the pleading(s) being filed and to obtain from the Family Court Office a judicial assignment and/or initial court dates at the time of filing;
- (b) **Service of Pleadings and Form 1.** The party filing any pleading and/or obtaining any court dates shall immediately serve a copy of any such pleading as well as written notice of the assigned court date(s) on the other party (parties). Any notice of hearings for any matter or other court dates shall be on a Form 1 or a notice that contains substantially the same information;
- (c) **Address of Opposing Party.** The moving party shall provide the address of the opposing party (parties) at the time of filing unless serving by publication;
- (d) **Filings and Service.** The moving party shall file all pleadings and notices with the Clerk and serve a copy of same on the other party (parties).
- (e) **Subsequent Filings.** All parties filing any pleading, documents, correspondence or other written material in the court file or with Family Court shall serve copies of same upon the other party (parties).

4.5 Multiple Cases. When Family Court staff become aware of multiple Family Court cases pending that involve the same parties and the same or similar issues, the Family Court Administrator or Case Coordinator, in conjunction with the assigned Family Court Judge, shall determine whether to consolidate any or all of these cases, and shall inform the parties and counsel of the determination and of any resulting Court date changes by written notice. When a child support action has been filed in Family Court (or when child support is included as an issue in a Family Court case), and there has been a prior Child Support Enforcement/IV-D action involving the same parties and child/children, the Family Court Administrator or Case Coordinator, in conjunction with the assigned Family Court Judge, shall determine whether to consolidate the child support issue with the CSE/IV-D case and shall inform the parties, counsel and the CSE/IV-D agency of the determination. When consolidated, the cases shall be consolidated into the lower number case, absent compelling reasons.

4.6 Consolidated Cases. When two or more cases have been consolidated, they shall be regarded as one case for calendaring purposes and shall appear under the oldest case number, absent compelling reasons. A copy of the order consolidating the cases for trial shall be filed in all pertinent court files. All pleadings, notices and/or documents filed thereafter shall include both (or all) case numbers, including orders signed by a Judge.

RULE 5: CALENDARING OF DOMESTIC CASES

5.1 Calendars Maintained. The calendars for the disposition of domestic cases shall be set and maintained by the Family Court staff in accordance with these Rules under the

supervision of the Chief District Court Judge; the calendars shall show what issues are to be heard during any given term. They shall be posted in the Family Court Office and outside of the Family Domestic Courtrooms no later than the Thursday preceding the sessions. Copies of the printed calendar for domestic terms will not be mailed, but will be made available in the Family Court Office and posted on the North Carolina Court System website (nccourts.org).

- 5.2 Initial Court Dates Scheduled.** Upon receipt of copies of the pleading(s) filed, Family Court staff shall assign a Judge and schedule an Initial Status Conference, hearing date or other court event(s) as required by these Rules based upon the issues raised in the Complaint or the Motion.
- 5.3 Failure to Obtain Dates at Filing.** If the filing party fails to contact the Family Court Office to obtain initial court dates at the time of filing, Family Court staff shall automatically assign a date or dates for the first court events and require that the moving party complete a Form 1 or, in the staff's discretion, Family Court staff will complete the Form 1. The moving party or attorney shall then serve a copy of the completed Form 1 on the opposing party or attorney no later than five (5) business days after receiving the notice from Family Court.
- 5.4 Settlement of Contested Issues.** Parties are encouraged to engage in settlement discussions at every opportunity. The Family Court recognizes the importance to the family of bringing closure to domestic disputes and of minimizing misunderstandings that frequently occur when resolutions are not yet committed to writing as well as the Court's responsibility to assist the parties in resolving these disputes. Unless agreements have been reduced to writing, signed by the parties, their attorneys (if applicable) as well as the assigned judge prior to the scheduled court event, parties and/or counsel are required to appear at all court events as scheduled. If an agreement has been reached but not yet reduced to writing and signed by all parties prior to a scheduled court event, the parties and counsel (if applicable) are required to appear as scheduled and either enter into a Memorandum of Judgment/Order or orally announce the terms of the Agreement to the Court. In the latter instance, the Court will then set a subsequent court date with the expectation that the final order will be prepared, signed and filed with the Court prior to or on the scheduled date.
- 5.5 Continuous Calendaring.** Consistent with the purpose of these Rules, that is, to keep cases moving forward to a final resolution, each pending case shall have a court date set for one of the following events unless and until a final order or judgment is signed and entered: Status Conference, summary/temporary matter hearing, Pretrial Conference, trial, motion hearing, or entry of order or judgment.
- 5.6 Calendar Call.**
- (a) **Schedule.** Calendar Calls shall be held on Tuesday mornings at 9:00 a.m. in Family Courtroom #2 on the 9th floor of the Buncombe County Courthouse. Calendar Call shall be for the term commencing the following week. In the event of a State holiday or other scheduling conflict, Calendar Call may be scheduled at a time other than

Tuesday morning or other than the week preceding the Court term, in which event notice will be given to all attorneys, or parties if unrepresented, who have cases on that calendar.

- (b) **Attendance.** Pro se parties are noticed to be present for Calendar Call. Attorneys are required to appear in person or to send a paralegal or may opt to timely forward their availability by proper Availability Form (**Form 7 or as required by the individual Judge**). The information submitted shall include the case caption, file number, estimated length of hearing/trial, the dates the attorney is available and the reason why the attorney is not available on the other dates of the term. Absent emergency, the Availability Form shall be received by delivery, FAX or email to the Family Court Office no later than 3:00 p.m. the day prior to Calendar Call or will not be considered at Calendar Call.

- 5.7 Dismissal for Lack of Prosecution.** Cases that have not had any pleadings filed or any action otherwise taken for one year may be dismissed without prejudice by the presiding or Chief District Judge.

RULE 6: SPECIAL HEARINGS

- 6.1 Peremptory Hearings.** Requests for a peremptory setting for matters that involve persons who must travel long distances or numerous expert witnesses or other extraordinary reasons must be made to the Court, in writing, using the Request for Peremptory Setting form (**Form 2**). This form shall be delivered to the Family Court staff with a copy simultaneously delivered to the opposing party or counsel. Upon receipt by the Court, the Peremptory Request form shall be held for five (5) days, during which time opposing party or counsel shall file a written response if he or she opposes the request for peremptory setting. After five (5) days, or after receiving a response from the opposing party or counsel, the request shall be reviewed by the assigned Judge, who shall render his or her written decision to both parties. A request for peremptory setting shall be granted only for good and compelling reason. A Judge may schedule a case for a peremptory hearing on his or her own motion at any time.
- 6.2 Temporary Hearings.** Temporary hearings shall include hearings for temporary child custody, temporary child support, post-separation support, ex parte returns on non-domestic violence cases and interim partial distributions pursuant to N.C.S.G. § 50-20(i1). Temporary hearings shall be limited to one hour and each party shall be allocated thirty (30) minutes to be used for direct examination of their witnesses, cross-examination of the opposing party's witnesses, examination of affidavits and other exhibits and documentary evidence by the Judge, and opening and closing arguments. It is anticipated that at the majority of these hearings, evidence will be presented based upon affidavits. All affidavits shall be filed by the propounding party and served upon the opposing party no later than 5:00 P.M. on the third (3rd) full business day prior to the scheduled hearing. For example, if a party has a hearing set for 9:30 A.M. on Wednesday, that party's affidavits are due to the opposing party/counsel no later than the preceding Friday at 5:00 P.M. Rebuttal affidavits, i.e., affidavits that are filed in response to

affidavits, shall be served upon the opposing party no later than twenty four (24) hours prior to the scheduled hearing.

- 6.3 Jury.** All issues to be determined by a jury in any domestic case shall either be referred to the civil jury calendar (managed by the Trial Court Administrator) or scheduled for a jury trial by the assigned District Court Judge if a designation of a jury term for a Judge sitting in Family Court has been made by the Chief District Court Judge. This shall be at the discretion of the assigned District Court Judge.
- 6.4 Remands.** When cases are remanded for trial by the Appellate Division, appellant's counsel shall promptly notify the Family Court Office so that the case can be scheduled for a hearing.

RULE 7: MOTIONS

- 7.1 Motion for Order to Show Cause.** At the time a Motion for Order to Show Cause is filed, the moving party shall deliver his or her Motion, together with a Form 1 (and a Form 12 if the Motion concerns a custody, visitation or parenting issue) and Order to Appear and Show Cause, to the Family Court Office, where staff will have the Motion addressed by a Judge to determine if a hearing should be scheduled. If the Order is signed, it will contain a hearing date. The moving party shall immediately serve the opposing party or counsel with the Motion, Order(s) scheduling any Court dates and all other forms completed by Family Court staff.
- 7.2 All Other Motions.** At the time any Motion is filed, the moving party shall deliver his or her Motion, together with a Form 1 (and a Form 12 if the Motion concerns a custody, visitation or parenting issue) to the Family Court Office to obtain a date for a hearing on the Motion. The moving party shall immediately serve the opposing party or counsel with the Motion, Form 1 scheduling any Court dates and all other forms completed by Family Court staff.

RULE 8: CUSTODY AND VISITATION

8A. General

- 8A.1 Definition for this Section.** "Custody" for the purpose of this Section includes custody, visitation, modification of custody and parenting issues. "Child" refers to both the singular "child" and plural "children".
- 8A.2 Consent Judgments.** Child custody determinations pursuant to these Rules shall be made in accordance with N.C.G.S. Chapter 50A. Consent determinations are favored but shall be made in accordance with civil actions filed pursuant to Chapter 50A and shall not be rendered by a confession of judgment.

- 8A.3 Commencement of Custody and Visitation Actions.** All actions for custody, both initial as well as modification of custody and/or visitation shall be commenced by filing a Complaint with the Clerk; all such actions shall include the information required by N.C.G.S. §50A-209 either in (a) a verified pleading or (b) attached Affidavit. A suggested form is AOC-CV-609. In addition, the moving party shall complete Forms 1 and 12. Simultaneously with the filing of the action, the moving party shall deliver the pleadings and required forms to the Family Court Office to obtain dates for court events, which will be added to Forms 1 and 12.
- 8A.4 Required Local Forms.** The moving party shall serve upon the opposing party or counsel the pleading(s) and the completed Forms 1 and 12 scheduling the upcoming court dates.
- 8A.5 Scheduling.** At the time of the filing of a custody or visitation matter, the parties shall be scheduled by Family Court staff to attend the next available Parent Education/Mediation Orientation group session(s). Additionally, the date for the hearing for the custody/visitation issue shall be scheduled at the time of filing. The date of the hearing shall be such that there is reasonable time for the parties to complete the custody mediation process, unless custody mediation is waived pursuant to Rule 8B.7. The Custody Mediator shall schedule the individual mediation session at the Mediation Orientation.

8B. Parent Education and Custody Mediation

- 8B.1 Mandatory Attendance.** The parties to all custody and visitation cases, including contempt and modification matters, shall complete a Parent Education and Mediation Orientation group session and shall participate in Custody Mediation prior to a hearing or trial on the issues, except for emergency matters, unless either or both events are waived by Court Order. Additionally, if the parties have completed the Custody Mediation process within the previous twelve (12) month period, they shall return to custody mediation for their pending issue, however do not have to attend the Parent Education or Mediation Orientation session. If the parties enter into a written Consent Agreement prior to the Custody Mediation session, they do not have to attend mediation, but shall still attend the Parent Education session.
- 8B.2 Parent Education.** A Parent Education group session is offered at least twice per month at the Courthouse by Family Court staff. Parties may fulfill the Parent Education requirement by attending this course or by attending a Parent Education course that has been approved by the Family Court Administrator. Both parties shall complete this requirement within forty-five (45) days from the date of filing the custody/visitation action, unless his or her attendance is waived by Court Order pursuant to Section 8B7.
- 8B.3 Custody Mediation.** Unless Custody Mediation is waived, the parties shall participate in a custody orientation group and at least one mediation session.

- 8B.4 Settlement at Mediation.** Cases that are resolved through mediation, either entirely or partially, shall have Parenting Agreements (or Partial Agreements) drafted by the Custody Mediator, which Agreements shall be signed by the parties. Upon review and acceptance of the Agreement by the Court, an Order shall be entered adopting the Parenting Agreement (or Parenting Partial Agreement) as an enforceable Order of the Court.
- 8B.5 Sanctions.** Absent waiver by Court order, if a party fails to attend the Parent Education and/or Mediation Orientation session and/or the mediation appointment on the scheduled or re-scheduled date, the Chief District Court Judge or assigned Judge shall impose upon that party a monetary sanction of a minimum of fifty dollars (\$50.00). Additionally an Order compelling compliance may be entered by the Court. If the Court finds that the party failed to attend the above events upon the advice of his or her attorney, said sanctions, including the monetary fine, may also be imposed on the non-compliant party's attorney. This sanction may also be imposed if an attorney, or party if acting pro se, fails to notify the Family Court staff of settlement or dismissal prior to the Parent Education and/or Mediation Orientation or a scheduled mediation appointment date.
- 8B.6 Scheduling Hearing for Sanctions.** A hearing date shall be assigned by Family Court staff for determination of sanctions before the Chief District Judge or the assigned Judge when parties fail to comply with scheduled events and or any sections of Rule 8.
- 8B.7 Waiver of Custody Mediation and/or Parent Education Session.** For good cause, on written motion of either party or on the Court's own motion, the Court may waive Custody Mediation and/or the Parent Education session. Parties (or their attorneys, if represented) requesting a waiver shall complete and submit a Motion to Waive Custody Mediation (**Form 6**), shall deliver the Motion to the Case Coordinator and serve a copy on the opposing party or his/her attorney prior to the date of the Parent Education session. The parties may also be exempted from mediation based upon the Mediator's assessment that the case is inappropriate for mediation. Court Ordered waiver of Custody Mediation is not a waiver of the Parent Education session; these two requirements are separate and the mediation itself may be waived without the waiver of the Parent Education session.
- 8B.8 Confidentiality.** The mediation proceeding shall be confidential. Except as otherwise provided by law, all verbal, non-verbal and written communications from either or both of the parties to the Mediator or between the parties in the presence of the Mediator made in a proceeding pursuant to these Rules are absolutely privileged and inadmissible in Court. Neither the Mediator nor any party or other person involved in mediation sessions may be called to testify as to communications made during or in furtherance of such mediation sessions, except that there is no privilege as to communications made in furtherance of a crime or fraud.

8C. Emergency Temporary Custody

- 8C.1 Application.** An application for an emergency temporary custody order shall be made in a written verified pleading which sets forth the facts giving rise to the need for

emergency relief. The verified pleading may be accompanied by affidavits of third parties.

8C.2 Judicial Assignment. The pleading, together with affidavits, if any, and a proposed order, shall be delivered to Family Court staff, who shall assign the case to a Family Court Judge on a rotation basis pursuant to Rule 4.3. If a Family Court Judge is not available to hear the emergency matter, it may be heard by any available District Court Judge. If it is heard by a Family Court Judge, that Judge may determine to reassign the case at his or her discretion.

8C.3 Notice of Request for Emergency Order and/or Hearing. A party making application for emergency relief must give actual and reasonable notice of the application and of any scheduled hearing to the attorney of record for the non-moving party, or, if the party is pro se, to the party, pursuant to law except for those circumstances in which the Court makes an evidentiary finding that either:

- (a) notice of the application for such order is likely to result in the very harm sought to be prevented if the respondent is given prior notice of complainant's efforts to obtain judicial relief; or
- (b) all reasonable means calculated to give the notice required were used but were unsuccessful.

8C.4 Ex Parte Temporary Custody. Pursuant to North Carolina law, an ex parte order for custody, which changes custody or the living arrangements of the child, shall be entered upon the pleadings only if the Court finds that either:

- (a) the child is exposed to a substantial risk of bodily injury or sexual abuse; or
- (b) that there is a substantial risk that the child may be abducted or removed from the State of North Carolina for the purpose of evading the jurisdiction of North Carolina courts; or
- (c) as otherwise allowable by law.

When seeking an ex parte ruling, parties shall inform Family Court staff of the identity of any opposing counsel representing the other party and Family Court staff shall make inquiry about the existence of opposing counsel before presenting the ex parte pleadings to the Court. Ex parte requests for relief shall not be abused.

8C.5 Hearing Subsequent to Entry of Ex Parte Custody Order. The Judge and/or Family Court staff shall schedule ex parte orders for hearing within 10 days of the issuance of the ex parte order. Notice shall be provided by the moving party to the opposing party and/or counsel.

RULE 9: CHILD SUPPORT

9.1 Commencement of Child Support Actions. Subject to Rule 9.2, all Complaints and Motions requesting the establishment or the modification of a child support order shall be

accompanied by a completed Financial Affidavit (**Form 4**) and Employer Wage Affidavit (**Form 5**) when filed. In addition, the moving party shall complete a Notice of Hearing (**Form 1**). Simultaneously with the filing of the action, the moving party shall deliver the pleadings and required forms to the Family Court Office to obtain dates for the hearing(s), which will be included on Form 1.

9.2 If Existing or Prior Child Support Enforcement/IV-D Action.

(a) **Motion to be Filed.** If child support for the child/children requested has previously been enforced by the Child Support Enforcement/IV-D Agency and/or has been heard in Child Support Court, any issue regarding child support shall not be subsequently scheduled in Family Court until a Motion to Set Child Support Enforcement/IV-D Hearing in Family Court (**Form 15**) is filed and an Order granting such Motion is obtained from the assigned Family Court Judge. The party who is requesting that the hearing be set in Family Court shall take said completed Motion (**Form 15**) to the Case Coordinator and shall simultaneously serve a copy on:

- (1) the opposing party or his/her attorney and
- (2) The Child Support Enforcement/IV-D Agency.

The opposing party or his attorney and the CSE/IV-D Agency shall have ten (10) days to file a Statement to oppose the matter being heard in Family Court. After the ten (10) day period has passed, the Court shall enter an Order granting or denying the Motion.

- (b) **Service of Order.** Once the Motion is granted or denied, the moving party shall serve a copy of the Order on the opposing party or his/her attorney and the CSE/IV-D Agency within ten (10) days from the date the Order is entered.
- (c) **Consolidation of Cases.** In such cases, the child support issue may also be consolidated with an existing prior CSE/IV-D file pursuant to Rule 4.5.

9.3 Local Forms Required by Moving Party. The moving party shall then serve upon the opposing party or counsel:

- (a) the pleading;
- (b) his or her completed Financial Affidavits (**Forms 4 and 5**); and
- (c) the completed Notice of Hearing (**Form 1**) scheduling the upcoming court date(s) and, if applicable, the Motion as set forth in section 9.2.

9.4 Local Forms Required by Responding Party. The responding party shall file and serve upon the opposing party or counsel his or her completed Financial Affidavits (**Forms 4 and 5**) either with his or her responsive pleading, at the Pretrial Conference, or seven (7) days prior to the commencement of the term in which child support is scheduled to be heard, whichever date is earlier.

9.5 Scheduling. If temporary child support is requested, Family Court staff shall set a hearing for temporary child support within forty-five (45) days. Otherwise, a hearing shall be scheduled on the assigned Judge's next available calendar. If child support is requested in conjunction with custody, the child support hearing shall be held

simultaneously with the custody hearing pursuant to the scheduling procedures as set forth in Rule 8A.5.

RULE 10: POST SEPARATION SUPPORT (PSS) AND ALIMONY

- 10.1 Commencement of Post-Separation Support and Alimony Actions.** All Complaints and Motions requesting post-separation support and/or alimony shall be accompanied by a completed Financial Affidavit (**Form 4**) and Employer Wage Affidavit (**Form 5**) when filed. In addition, the moving party shall complete a Notice of Hearing (**Form 1**). Simultaneously with the filing of the action the moving party shall deliver the pleadings and required forms to the Family Court Office to obtain dates for the hearing(s), which shall be included on Form 1.
- 10.2 Local Forms Required by Moving Party.** The moving party who files for post-separation support and/or alimony shall serve upon the opposing party or counsel the pleading, his or her completed Financial Affidavits (**Forms 4 and 5**), and the completed Notice of Hearing (**Form 1**).
- 10.3 Local Forms Required by Responding Party.** The responding party shall file and serve upon the opposing party or counsel his or her responsive pleadings (if any). In addition, his or her completed Financial Affidavit (**Form 4**) and Employer Wage Affidavit (**Form 5**) shall be filed and served either with his or her responsive pleading, at the Pretrial Conference or seven (7) days prior to the commencement of the term in which alimony and/or PSS is scheduled to be heard, whichever date is earlier.
- 10.4 Additional Required Form by Both Parties.** Both parties must file with the Court and serve on the opposing party or counsel a completed Affidavit in Support of (or in Response to) Claim for PSS/Alimony and Attorneys' Fees (**Form 14**) either five (5) days prior to the temporary hearing, at the Pretrial Conference, or seven (7) days prior to the commencement of the term in which alimony or PSS and/or alimony is scheduled to be heard, whichever date is earlier.
- 10.5 Scheduling/Post Separation Support.** At the time of filing a PSS claim, Family Court staff shall set a hearing within sixty (60) days.
- 10.6 Scheduling/Alimony.** At the time of filing an alimony claim, Family Court staff shall schedule an Initial Status Conference within ninety (90) days.
- 10.7 Initial Status Conference.** Attendance at the Initial Status Conference is mandatory for lawyers and pro se parties unless specifically excused by the Court. The purpose of the Initial Status Conference is to ensure that the case is proceeding toward resolution in a timely and orderly fashion, to ensure the exchange and submission of required and requested documents, to set deadlines for discovery and to schedule upcoming Court dates. At the Initial Status Conference, the Judge will:
- (a) review each party's Financial Affidavit; and

- (b) issue an Order of Reference that:
 - (1) sets the method of ADR to be employed, the neutral who will conduct it, the deadline for its completion and allocates the cost thereof;
 - (2) addresses any other discovery or miscellaneous issues that have been raised;
 - (3) sets the date for the Final Pretrial Conference; and
 - (4) sets the date of the trial.

Once the deadlines for discovery and dates for court events are set, such dates can only be modified by Court order thereafter.

RULE 11: EQUITABLE DISTRIBUTION

11.1 Commencement of ED Action and Initial Court Dates. At the time a Complaint for equitable distribution is filed, the moving party shall deliver his or her pleading, together with a Notice of Hearing and Judicial Assignment (**Form 1**), to Family Court staff who will set a date for an Initial Status Conference no later than ninety (90) days from the date of filing. Additionally, if a request has been made for an interim distribution pursuant to N.C.G.S. §50.20 (i1), at the time of filing, Family Court staff will set a date for a hearing on the interim distribution on the assigned Judge's next available calendar, which hearing date shall be included on the Form 1.

11.2 Equitable Distribution Inventory Affidavit. Each party shall file an ED Inventory Affidavit (**Form 10**) with the Court and serve a copy on the opposing party or attorney. The Affidavit must be filed and served no later than ten (10) days prior to the scheduled date of the Initial Status Conference. "Serve" means hand-deliver, FAX, email or other means whereby the Inventory Affidavit reaches the opposing party by the deadline. The Equitable Distribution Inventory Affidavit shall be subject to amendment and shall not be binding at trial as to completeness or value.

11.3 Initial Disclosure. In addition to Form 10, copies of the following documents that are in each party's possession shall be served on the other party no later than ten (10) days prior to the scheduled Initial Status Conference unless otherwise agreed in writing. "Serve" means hand-deliver, FAX, email or other means whereby copies of the documents reach the opposing party by the deadline. For all required documents that are not produced, a party shall indicate the reason they were not produced and the location of such documents, if known. The required documents are:

- (a) **Financial Account Statements:** All financial account statements, including but not limited to: checking, savings, money market, certificate of deposits, stocks, bonds and mutual funds, from the statements closest to the date of separation through the most recent statement(s);
- (b) **Pensions and Retirement Benefits:** (1) All statements relating to pension and/or retirement accounts from the period prior to the date of separation (usually the calendar year end) through the most recent statement(s), and (2) a copy of the summary plan description;

- (c) **Marital Debt:** All account statements showing the amount of marital debt existing on the date of separation through the current date, including but not limited to: credit card statements, lines of credit, notes or other evidence of indebtedness;
- (d) **Realty:** All deeds for real property, appraisals, deeds of trust, notes relating to the deeds of trust (or mortgages), and amortization schedules;
- (e) **Transportation:** All certificates of title for vehicles, boats, etc. and copies of documents relating to loans on same that are due and owing or that have been paid off in the past eighteen (18) months; and
- (f) **Proof of Income and Earnings:** Financial Affidavit (**Form 4**), Employer Wage Affidavit (**Form 5**), the prior year's Federal and State income tax returns, and pay stubs for the two (2) months prior to filing the Financial Affidavit.

11.4 Initial Status Conference. The purpose of the Initial Status Conference is to ensure that the case is proceeding toward resolution in a timely and orderly fashion, to ensure the exchange and submission of required and requested documents, to set deadlines for discovery and to schedule upcoming Court dates. At the Initial Status Conference, the Judge will:

- (a) review each party's Equitable Distribution Inventory Affidavit; and
- (b) issue an Order of Reference that:
 - (1) sets the due dates for the parties' respective Final Equitable Distribution Affidavits;
 - (2) sets the method of ADR to be employed, the neutral who will conduct it, the deadline for its completion and allocates the cost thereof;
 - (3) addresses any other discovery or miscellaneous issues that may exist;
 - (4) sets a date for the Final Pretrial Conference which will occur no later than 210 days from the date of filing (or 120 days after the Initial Status Conference); and
 - (5) sets the date of the trial.

Once the deadlines for discovery and dates for court events are set, such dates can only be modified by Court order thereafter.

11.5 Initial Status Conference Attendance Mandatory. Attendance at the Initial Status Conference is mandatory for lawyers and pro se parties unless the parties:

- (a) complete a written Designation of Mediator in Family Financial Case signed by both attorneys and/or parties (form **AOC-CV-825**) and submit it to the Family Court Office at least five (5) business days prior to the date of the Initial Status Conference; and
- (b) all parties agree that there are no discovery issues to be addressed.

Following his or her review of (a) above and if the same meet with his or her approval, the Judge will issue an Order of Reference pursuant to Rule 11.4 (b) 1-5.

- 11.6 Alternative Dispute Resolution (ADR).** The parties shall participate in an ADR procedure as set forth in the Order of Reference or other Court Order, which process shall be completed by the Court-ordered due date unless the parties enter into a Consent Order resolving all equitable distribution issues prior to the Court-ordered ADR due date.
- 11.7 Final Equitable Distribution Affidavit.** Each party shall file a Final ED Affidavit (**Form 11**) with the Court and serve a copy on the opposing party or attorney by the dates as set forth in the Order of Reference unless the parties enter into a Consent Judgment resolving all equitable distribution issues prior to the Court-ordered due date. The ED Affidavits are binding on the parties at trial unless an amendment is allowed by Court Order.
- 11.8 Final Pretrial Conference.** A Final Pretrial Conference shall be held in every ED case not resolved through ADR; the date shall be set at the Initial Status Conference or in the Order of Reference issued on or about the scheduled date of the Initial Status Conference. At the Final Pretrial Conference, the parties shall present a completed Equitable Distribution Pretrial Order (**Form 9**) signed by the parties and attorneys. If the ED Pretrial Order is not signed by the parties and attorneys, the Judge may request acknowledgment thereon before a Notary Public or upon oath before the Clerk. Failure of the parties to complete the Equitable Distribution Pretrial Order may result in the imposition of sanctions. At the Final Pretrial Conference, the trial date shall be confirmed or a new trial date, as well as any additional deadlines, shall be set. **Both attorneys and parties shall be present at the Final Pretrial Conference unless excused by Court Order**
- 11.9 Sanctions.** Failure to timely complete and serve the Equitable Distribution Inventory Affidavit (**Form 10**), the Final Equitable Distribution Affidavit (**Form 11**), the required initial ED disclosure pursuant to Rule 11.3 or to attend the scheduled Status and/or Pretrial Conferences (unless waived by these Rules or prior Court Order) may result in sanctions including but not limited to: a monetary sanction of a minimum of fifty dollars (\$50.00), disallowing of evidence at trial, attorneys' fees and costs when allowed by Statute and/or other sanctions as provided by the North Carolina Rules of Civil Procedure or Statutes. The Court may extend the time limits in this section for good cause shown.

RULE 12: DIVORCE

- 12.1 Commencement of Absolute Divorces.** Divorce actions shall be commenced by filing a Complaint and obtaining a Summons for service of process in the Clerk's Office.
- 12.2 Forms to be Filed by Moving Party.** The filing party shall serve the opposing party with the Complaint and Summons and shall submit the following documents to the Clerk's office:
- (a1) a Civil Summons with certified return of service by a deputy sheriff OR
 - (a2) other proof of service, including return receipt card, if applicable, AND an Affidavit of Service by Certified Mail or Affidavit of Service by Publication;

- (b) the Certificate of Absolute Divorce (Vital Statistics form); and
- (c) the original and two (2) copies of the proposed Judgment of Divorce.

12.3 Final Judgment/Hearing. After all pleadings have been properly served and all required documents submitted to the Clerk, and after opposing party has either filed a responsive pleading or the period of time in which to file same has expired, the divorce shall be scheduled to be heard before a District Court Judge in the Family Court Division, or before the Clerk in the case of certain uncontested simple absolute divorce actions, according to the procedures established for the same by Statute, the Clerk and the Chief District Court Judge. All absolute divorces should be completed by obtaining a Judgment for Divorce no later than ninety (90) days after service has been obtained. If a divorce has not been completed within that time, it shall be placed on a calendar by Family Court staff.

RULE 13: ATTORNEYS' FEES AND/OR COST CLAIMS

13.1 Affidavit Required. In all cases in which an attorney seeks an award of fees and/or costs, the attorney shall file an appropriate Affidavit by the conclusion of the trial. At the conclusion of the hearing or trial, the Court may award additional fees for time spent in trial or may require an additional Affidavit prior to that determination, at the Court's discretion.

13.2 Dismissal. All attorneys' fees and costs claims are subject to dismissal at final trial or hearing unless the moving party presents his or her argument and any required Affidavit for such claims by the conclusion of said hearing.

RULE 14: ALTERNATIVE DISPUTE RESOLUTION (ADR) IN FAMILY FINANCIAL CASES OTHER THAN EQUITABLE DISTRIBUTION

14.1 Purpose. The North Carolina Supreme Court has promulgated Rules to implement a system of settlement and encourages District Courts to initiate local rules to focus parties' attention on settlement rather than on trial preparation and to provide a structured opportunity for settlement negotiations to take place.

14.2 Types of Cases. In addition to ADR being mandatory in ED cases, the following types of Family Court cases may be referred to alternative dispute resolution procedures at the discretion of the assigned Judge:

- (a) alimony;
- (b) child support, including retroactive support;
- (c) post separation support;
- (d) separation agreements;
- (e) post nuptial agreements; and
- (f) prenuptial agreements.

RULE 15: CONTINUANCES

15.1 Application with Notice. Motions to Continue that are foreseeable shall be in writing (**Form 3**) and either:

- (a) the moving party shall deliver his or her Motion, together with a Form 1, to the Family Court Office to obtain a date for a hearing for the Motion to Continue, in which event the moving party shall immediately serve the opposing party or counsel with the Motion and Form 1 scheduling any Court date; or
- (b) the moving party shall serve his or her Motion on the opposing party or attorney a minimum of five (5) days prior to Calendar Call to be heard at Calendar Call.

15.2 Continuances Heard at Calendar Call. Motions to Continue not specifically scheduled for a Court term shall be presented at Calendar Call. Oral Motions may be allowed when the reason for the continuance was not foreseeable and therefore did not permit notice as required by Rule 15.1. If an objection is not presented at Calendar Call, it shall be assumed that the opposing party or attorney does not object to the request. The presiding Judge shall rule on the request at Calendar Call.

15.3 Continuance Requests Arising After Calendar Call. Motions to Continue that arise after Calendar Call shall be presented in writing (**Form 3**) to Family Court staff, with a copy served on the opposing party or attorney. The Motion shall either:

- (a) contain clear language that the moving party has contacted the opposing party or attorney and indicate with specificity that party's consent or objection to the continuance; or
- (b) state that a copy of the Motion has been served on the opposing party or attorney via FAX or hand-delivery and the date of the delivery.

The written Motion shall be considered by the assigned Judge as soon as practicable after hearing from opposing counsel or party. In the situation set forth in (a), the Judge shall render a written ruling on the Motion to Continue. In the situation set forth in (b), absent extraordinary cause, the Court shall wait two (2) business days to allow opposing party or attorney to file a written objection. If an objection is not presented within the two (2) days, it shall be assumed that the opposing party or attorney does not object to the request, and an Order on the Motion shall be entered.

15.4 Opposition to a Motion to Continue. A party or counsel opposing the Motion has the burden of either submitting a written response within two (2) business days to the Family Court Office or, if applicable, appearing at Calendar Call to orally oppose the Motion.

15.5 Grounds for Continuances. Absent meritorious cause, exigent or unforeseeable circumstances, continuances shall not be granted. Party unavailability, witness unavailability and incomplete discovery shall be considered on a case-by-case basis. The timeliness of identifying and addressing these issues will be a major determinant in any ruling. Requests based upon personal conflicts such as vacations and family

commitments shall be made as soon as possible after such conflict arises. Inquiry as to whether “Secure Leave” was timely and properly filed will be considered in ruling upon continuance motions based on personal conflicts where appropriate. Rulings regarding professional conflicts shall be governed by the Guidelines for Resolving Scheduling Conflicts, Rule 3.1 of the General Rules of Practice for the Superior and District Courts Supplemental to the Rules of Civil Procedure.

- 15.6 New Date.** Upon granting a Motion to Continue, the Judge or Family Court staff shall reschedule the court event to a new term. The party or attorney who requested the continuance shall prepare the Form 1 accordingly unless the matter is continued by an Order prepared by the Court when the ruling is rendered.

RULE 16: PRETRIAL MEMORANDUM

- 16.1 When Case Ready for Trial.** When a case has reached the trial stage (all alternative dispute options have been exhausted and the case is on a trial calendar), the parties, either pro se or through their attorneys, shall file a Pretrial Memorandum, which shall contain the following:
- (a) case caption;
 - (b) a brief statement of facts;
 - (c) itemized list of issues, both disputed and agreed upon;
 - (d) a list of witnesses who may be called at trial, and for each, their:
 - (1) current address;
 - (2) current telephone number(s);
 - (3) anticipated length of testimony for direct examination; and
 - (4) brief forecast of testimony to be elicited.
 - (e) a list of all exhibits that may be offered at trial. All exhibits shall be made available to the opposing party for inspection and copying by the deadline for filing the Pretrial Memorandum. When applicable, the Pretrial Memorandum may specifically reference previously filed Form 8 and/or Form 9 for required information that has already been provided in said Forms.
- 16.2 To Whom this Rule Applies.** This Rule shall apply to all litigants, including pro se litigants and counsel who have cases listed for trial on a posted calendar. The Pretrial Memorandum shall be filed with the Court with a copy delivered to opposing side no later than noon on the Friday preceding the first day of the trial term.
- 16.3 Failure to Comply.** Failure to comply with this Rule may result in sanctions including but not limited to:
- (a) exclusion of witnesses and/or exhibits not timely disclosed;
 - (b) exclusion of disputed issues not set forth;

- (c) payment of attorney's fees incurred in preparation of Pretrial Memorandum by complying attorney;
- (d) monetary sanctions as set forth in Rule 21.3; and/or
- (e) other sanctions deemed appropriate by the Court.

RULE 17: ORDERS/JUDGMENTS

- 17.1 Method and Time for Submission.** Unless otherwise directed by the presiding Judge, orders and judgments shall be prepared by the prevailing party and submitted to opposing counsel (or opposing party) no later than fifteen (15) business days after the ruling is announced in open court or otherwise communicated to the parties. The opposing party shall make written response of any objections, modifications or additions to the proposed Order within ten (10) business days from the date the proposed Order was transmitted. If no such changes are communicated to the preparer of the proposed Order, the Order shall be submitted for the Judge's signature after ten (10) days have passed. If the parties agree on the form and content, the proposed Order shall be submitted to the Case Coordinator, who shall present it to the Judge, and, if signed, shall remove the matter from the Court's docket. In the event that the parties disagree on the terms of the Order, a copy of the proposed Order and a written explanation of the disputed issues shall be submitted to the Case Coordinator for the Court's review as well as to opposing counsel. Those issues shall be discussed and resolved at a hearing set for entry of Order/Judgment unless the Judge resolves the issue based upon written submissions.
- 17.2 Court Date Subsequent to Case Resolution.** At the conclusion of each case in which a final resolution is rendered, the matter shall be set on the Judge's next available court term. At this court date, the parties shall be required to appear for the entry of an Order or Judgment or announcement of the Court's decision on matters which the Court has taken under advisement. The matter shall continue to be placed on a Court calendar until the entry of a final Order or Judgment.
- 17.3 Delinquent Orders and Judgments.** Cases that have orders and/or judgments identified as being delinquent pursuant to this Rule may have, at the discretion of the Chief District Court Judge or the assigned Judge, sanctions or penalties imposed as deemed appropriate and allowed by law.

RULE 18: TIME STANDARDS

General Time Standards for Domestic Cases It is the goal of the Family Court that all domestic relations cases are disposed of within twelve months of filing. Judges may allow additional time in complex cases.

RULE 19: COMMUNICATION WITH JUDGES REGARDING PENDING CASES

19.1 Written Communications in General. Unless otherwise specifically requested by a Judge, written communications with a Judge shall be limited to the following circumstances:

- (a) scheduling of a hearing, trial or conference with a Judge;
- (b) tendering to a Judge a proposed Order for his or her consideration;
- (c) objecting to the form of an/or requesting specific changes to a proposed Order previously tendered to a Judge;
- (d) inquiring about the status of an Order; and
- (e) requesting permission to submit additional legal authority or make additional legal arguments.

All written communication with a Judge shall be contemporaneously served on the opposing party or counsel in the same manner that it is sent to the Judge.

19.2 Ex parte Communication. Neither pro se parties nor attorneys shall have or attempt to have ex parte communication concerning a case with the Judge assigned to hear that matter unless specifically authorized by these Rules or by Statute. The assigned Judge will not return telephone calls, listen to recorded telephone messages or read mail or other communication which is deemed ex parte communication. The assigned Judge will not open mail that does not contain the name and return address of the sender. Any information that is suspected to be ex parte shall be given to the FCA or FCCC to open and return, if ex parte. Violations of the ex parte communication rule may, in the discretion of the assigned Judge, subject the offending party to sanctions or other action deemed appropriate.

RULE 20: TELEPHONE CONFERENCES

Telephone Conferences. The Court may, in its discretion, order or allow oral argument on any motion by speaker phone conference call or telephone conference call, provided that all participants to the conference can be heard by all other parties during the conference call. Counsel shall schedule such conference calls at a time convenient to all parties and the presiding Judge. The Judge may direct which party or parties shall bear the cost of the conference call. Whenever possible, telephone conferences shall be held in the Courtroom and recorded.

RULE 21: SANCTIONS

21.1 General. Failure to comply with any section of these Rules may subject the parties, and/or their counsel, to sanctions deemed appropriate at the discretion of the presiding Judge, including but not limited to: dismissal of any claim or part of any claim for relief; disallowance of evidence and/or testimony; monetary fines; payment of costs and/or legal fees when allowed by Statute and/or other sanctions as provided by North Carolina Rules of Civil Procedure and applicable Statutes. The specific monetary sanctions set forth

herein below do not preclude the Court from ordering discretionary sanctions pursuant to this Section, either instead of or in addition to such monetary sanction(s).

21.2 Mandatory Fines. The Court shall order a mandatory fine of a **minimum of fifty dollars (\$50.00)** against a party (including a party represented by counsel) for a violation of these Rules, including but not limited to:

- (a) failure to attend the mandatory Parent Education class;
- (b) failure to attend the mandatory Custody Orientation session and any scheduled mediation sessions in cases involving visitation and/or custody.

If a party fails to attend the above events upon the advice of his or her attorney, said sanctions, including the monetary fine, may also be imposed on the non-compliant party's attorney.

21.3 Discretionary Fines. The Court, in its discretion, may order a fine of a **minimum of fifty dollars (\$50.00)** against a party (including a party represented by counsel) and/or an attorney of record, for a violation of these Rules, including but not limited to:

- (a) failure to provide accurate required information on a completed Form 1 as required by Rule 4.2;
- (b) failure to appear in Court, without prior notice and good cause, at Calendar Call or a scheduled Initial Status Conference, Pretrial Conference, hearing and/or trial as required;
- (c) failure to attend a Final Pretrial Conference, absent excusal by Court Order or by these Rules;
- (d) failure to promptly report to the Court at the time designated by the Court, as to issues settled out of court but not drawn up by the time of the scheduled court date as required by Rule 5.4;
- (e) failure to file and serve on the opposing party or counsel a completed Financial Affidavit (**Form 4**) and/or a completed Employer Wage Affidavit (**Form 5**) as required by Rules 9.1, 9.3, 9.4, 10.1, 10.2 and 10.3;
- (g) failure of the moving party to obtain and notice the mandatory Parent Education/Mediation Orientation session date and serve all parties with timely notice to attend the mandatory session (**Form 12**) in cases involving custody and/or visitation as required by Rule 8A.3 and 8A.4;
- (h) failure to file and serve on the opposing party or counsel a completed Equitable Distribution Inventory Affidavit (**Form 10**) as required by Rule 11.2;
- (i) failure to serve on the opposing party or counsel the initial disclosure as required by Rule 11.3;
- (j) failure to file and serve on the opposing party or counsel a completed Final Equitable Distribution Affidavit (**Form 11**) required by Rule 11.7;
- (k) failure to meet and fulfill other discovery requirements and/or deadlines provided in these Rules and/or Court Order;
- (l) failure of the prevailing party to timely prepare and submit proposed Orders or Judgments to the Court as required by Rule 17.1 and/or Court Order;

- (m) failure to notify the Family Court staff of settlement or dismissal of issues prior to court-scheduled events regarding these issues;
- (n) failure to adhere to any Rules herein or to abide by Court Orders.

21.4 Orders for Sanctions. The Court may issue a warning to an offending party or attorney for failure to abide by these Rules, however sanctions as set forth herein may be imposed automatically and are binding absent a showing of extraordinary cause. If sanctions are imposed, the Court shall enter an Order that specifically sets forth the specific violation, the party responsible for such violation and the sanction for such violation.

21.5 Payment of Monetary Sanctions. Any and all fines imposed pursuant to this section shall be tendered to the Clerk of the Superior Court of Buncombe County by the violating party no later than 5:00 p.m. on the seventh business day such order is entered absent specific Court order to the contrary entered by the presiding Judge.

21.6 Repeated Violations. Repeated violations by a party may result in the imposition of higher fines and/or additional sanctions as deemed appropriate by the Court.