

**ROWAN COUNTY DISTRICT 19-C**  
**LOCAL RULES**  
**FAMILY FINANCIAL CASES**

**Rule 1**  
**Alternative Dispute Resolution (ADR)**

- 1.1 These rules are intended to implement a series of events that are designed to focus the parties' attention on settlement rather than litigation. They are designed to provide a structured opportunity for settlement to occur. They shall be construed and interpreted to foster that aim. Nothing hereinafter shall prevent the parties from engaging in voluntary settlement procedures at any time before or after those ordered by the Court.
- 1.2 All counsel, upon being retained to represent any party in any equitable distribution, child support (non-Guidelines cases), alimony or post-separation support action, shall advise the client that the alternative dispute resolution procedures mandated by these rules apply to their case. They shall further advise the client that prior to the scheduling conference mandated by Rule 4 they shall attempt to reach agreement with opposing counsel (or party, if unrepresented) on the appropriate settlement procedure for the action.
- 1.3 Parties may by mutual consent, and pursuant to Rule 6 hereafter, agree to an expedited trial and proceed without ADR.
- 1.4 A party may move the Court to dispense with the mediated settlement conference or other ADR procedure at the Initial Scheduling Conference. Such motion shall be in writing and shall state the reasons the relief is sought. For good cause shown, the Court may grant the motion. Such good cause may include the fact that the parties have participated in an ADR procedure prior to the Initial Scheduling Conference or have elected to resolve their case through arbitration pursuant to Rule 13(B) or that one of the parties has alleged domestic violence. The Court may also dispense with the mediated settlement conference for good cause upon its own motion.

**Rule 2**  
**The ADR Methods Adopted by these Rules**

The following techniques for ADR are available in the 19-C Judicial District:

- 2.1 **Mediated Settlement Conference:** an independent mediator assists the parties in reaching their own settlement (available in equitable distribution and other family financial cases).
- 2.2 **Early Mediator Evaluation:** an evaluator offers an advisory evaluation of the case in early stages (available in equitable distribution and alimony cases).
- 2.3 **Arbitration:** an arbitrator makes a decision following a presentation by each side (available in equitable distribution and other family financial cases).

- 2.4 **Judicial Settlement Conference:** a District Court Judge, other than the assigned Judge, assists the parties in reaching their own settlement (available in equitable distribution and other family financial cases).
- 2.5 **Collaborative Family Law:** pursuant to NCGS 50-70 et seq.
- 2.6 **Some Other Court-Approved ADR Procedure** upon which the parties may agree.

**Rule 3**  
**General Rules for ADR**

- 3.1 The Order for ADR (AOC-CV-824 or 826) shall require that the ADR procedure be completed prior to the final Pretrial Conference for Equitable Distribution and prior to the date of hearing for all other family financial issues. The mediator shall strictly observe deadlines for completion of the conference unless changed by written order of the Court. The mediator shall file with the Trial Court Coordinator (TCC) a notice of the outcome of the proceeding as provided in these rules within ten days of its completion.
- 3.2 Unless all parties and the mediator agree differently, the ADR proceeding shall be held in the courthouse or other central location at a time and place convenient for all participants.
- 3.3 Participants required to attend shall promptly notify the mediator after selection or appointment of any significant problems they may have with dates for conference sessions before the completion deadline, and shall keep the mediator informed as to such problems as may arise before an anticipated conference session is scheduled by the mediator. After a conference session has been scheduled by the mediator, and a scheduling conflict with another court proceeding thereafter arises, participants shall promptly attempt to resolve it pursuant to the General Rules of Practice for the Superior and District Courts, or, if applicable, the Guidelines for Resolving Scheduling Conflicts adopted by the State-Federal Judicial Council of North Carolina June 20, 1985.
- 3.4 The mediator shall be responsible for reserving the location, setting the time and making other arrangements for the proceeding. The mediator shall also be responsible for giving timely written notice to all participants regarding time, place, and any necessary pre-proceeding submissions. (Generally, the ADR proceeding should be held after the parties have had time to conduct reasonable discovery but well in advance of trial.)
- 3.5 The mediator shall recess the ADR proceeding at any time and set times for reconvening. If the time for reconvening is set during the proceeding, no further notice is required for persons present at the conference. Pre-proceeding submissions are governed by the specific rules for the particular claim for relief, the particular ADR proceeding, and the specific request of the mediator.

- 3.6 The ADR proceeding pursuant to these rules shall not cause the delay of other proceedings in the case, including, but not limited to, the conduct or completion of discovery, the filing or hearing of motions, or the trial of the case.
- 3.7 All conduct or communication made during an ADR proceeding is presumed to be made in compromise negotiations and shall be governed by Rule 408 of the NC Rules of Evidence.
- 3.8 There shall be no record made of any ADR proceeding under these rules, except that in a binding Arbitration proceeding any party can request a record be made.
- 3.9 There shall be no *ex parte* communication outside the ADR proceeding between the mediator and any participant on any matter touching the proceeding, except with regard to scheduling issues. This specifically does not prohibit the mediator from engaging in *ex parte* communications with the participants during the ADR proceeding for the purpose of assisting settlement negotiations.
- 3.10 The parties and their counsel, if represented, shall attend all ADR proceedings. After the first such meeting, however, the parties may attend without counsel so long as notice of such intent is given in writing to the mediator and the opposing party or counsel. A person required to attend may have the requirement modified, including allowing the person to participate by telephone by agreement of the parties and the mediator, or by order of the Court.
- 3.11 A mediator acting pursuant to these rules shall have judicial immunity in the same manner and to the same extent as a Judge of the General Court of Justice.
- 3.12 ADR proceedings under these rules shall not impair the right of the litigants to demand a hearing or trial before a judge of competent jurisdiction.
- 3.13 A party or the mediator may move the court to extend the deadline for the completion of the ADR proceeding. (AOC-CV-835) The motion shall contain the reasons for the request and be served on the parties and the mediator. Objections thereto shall be promptly lodged with the Court, the moving party and the mediator. Any extension granted shall be in writing, shall contain the new deadline, shall be filed, and shall be served on the participants and the mediator. The mediator shall strictly observe deadlines for completion of the conference unless changed by written order of the Court.
- 3.14 If an agreement is reached on any or all issues at the ADR proceeding, the essential terms of the parties' agreement shall be reduced to writing as a summary memorandum on an AOC Memorandum of Judgment Form (AOC-CV-220) at the conclusion of the conference unless the parties have reduced their agreement to writing, have signed it and in all other respects have complied with the requirements of Chapter 50 of the General Statutes.

- 3.15 If the agreement is reached upon all issues at the conference, the person(s) responsible for filing closing documents with the court shall also sign the mediator's Report to the Court (AOC-CV-827). A copy of their signed memorandum of agreement (AOC-CV-220), shall be given to the mediator and all parties at the conference and the person(s) responsible shall file the consent judgment or voluntary dismissal(s) with the court within thirty (30) days.
- 3.16 If an agreement is reached upon all issues prior to the conference or finalized while the conference is in recess, the parties shall notify the mediator, reduce its terms to writing, sign it along with their counsel and file the consent judgment or voluntary dismissal(s) with the court within thirty (30) days or before the expiration of the mediation deadline, whichever is longer (ROWAN-DOM-1).
- 3.17 When a case is settled upon all issues, outside the mediated settlement conference, all attorneys of record must notify the Trial Court Coordinator ("TCC") within four business days of the settlement and advise who will file the consent judgment or voluntary dismissal(s), *and when that will be accomplished.*
- 3.18 The mediator's fee shall be paid at the time of execution of the summary memorandum or upon declaration of impasse, unless provided otherwise by Court order.
- 3.19 All dispositive documents shall be executed, notarized, filed and served with the Court, as appropriate, within thirty (30) days of reaching agreement at the ADR proceeding. Nothing herein shall prevent the parties from reducing their agreements to signed, written documents that in all other respects have complied with the requirements of Chapter 50 of the NC General Statutes and filing same at any time during the ADR process.
- 3.20 The mediator shall report to the Court and the TCC, on AOC-CV-827, within 10 days of the conference whether the parties reached an agreement or that the ADR proceeding failed. The mediator's report shall inform the Court of the absence of any party or attorney known by the mediator to be absent from the mediated settlement conference without permission.
- 3.21 If an agreement upon all issues was reached, the mediator's Report (AOC-CV-827) shall state whether the action will be concluded by consent judgment or voluntary dismissal(s), when it shall be filed with the TCC, and the name, address and telephone number of the person(s) designated by the parties to file such consent judgment or dismissal(s) with the court as required. If an agreement upon all issues is reached at the conference, the mediator shall have the person(s) designated sign the mediator's report acknowledging acceptance of the duty to timely file the closing documents with the TCC.
- 3.22 If partial agreements are reached at the conference, the report shall state what issues remain for trial. In the event of a partial agreement, the report shall state the name of the person(s) designated to file the stipulations, consent judgments or voluntary dismissals (AOC-CV-827).

- 3.23 The mediator is not required to send a copy of the parties' agreement to the court.
- 3.24 Mediators who fail to report as required pursuant to this Rule shall be subject to the contempt power of the court and sanctions.

**Rule 4**  
**Equitable Distribution Claims**

- 4.1 Application. These Rules shall apply to all equitable distribution claims that may be filed on or after March 1, 2007.
- 4.2 Time: The times set forth in these Rules may be modified either:
- (a) by written consent of both parties/counsel and approval of the assigned judge, or
  - (b) upon motion of either counsel/party and for good cause shown.
- 4.3 Definitions:
- (a) "Moving party" –the spouse who first files a claim for equitable distribution.
  - (b) "Responding party" –the spouse against whom the first claim for equitable distribution has been filed.
  - (c) "Preliminary Inventory" (PI) –An initial good faith disclosure of all assets and liabilities within the party's knowledge as of the date of the submission of the inventory to the opposing party which is not intended to be exhaustive or binding (Rowan-DOM-2).
  - (d) "Equitable Distribution Affidavit" (EDA) – A complete disclosure of all marital, separate, and divisible property and debt existing on the date of separation and as of the date of the submission of the Affidavit to the opposing party (ROWAN-DOM-2), with each party's best estimate as to the date of separation and present value of all assets and debts (ROWAN-DOM-4EZ or 4COMPLEX).
  - (e) "Initial Disclosure" – Documents designated in this rule to be provided to the other party with awaiting formal disclosure requests.
- 4.4 Duties upon Filing a Claim. At the time the first claim for equitable distribution is filed, the moving party shall
- (a) obtain a date for an Initial Scheduling Conference from the TCC, and
  - (b) immediately serve upon the responding party notice of the date, time and courtroom in which the Initial Equitable Distribution Scheduling conference is set (ROWAN-DOM-6), and
  - (c) serve the PI (ROWAN-DOM-2)and Certification with Initial Disclosures (ROWAN-DOM-5) on the responding party if required by these Rules.
- 4.5 Initial Disclosures Regarding Property and Financial Issues in Equitable Distribution.
- (a) Duty of Financial Disclosure. In addition to the Equitable Distribution Inventory referred to in Rule 4.4 (c), every party to an action in which equitable distribution is an issue has a duty to provide the documents designated in this Rule to the other party or their counsel of record without awaiting a formal discovery request. The

designated documents are defined hereinafter as “Initial Disclosures (Equitable Distribution)”.

- (1) First Party to File Equitable Distribution Claim. The party who is first filing a claim for equitable distribution should be aware of the requirement for Initial Disclosures and start the accumulation process PRIOR to filing of the claim so that the Initial Disclosures shall be made upon filing. The party first filing a claim for equitable distribution is required to provide Certification of Disclosure along with his or her Initial Disclosures at the time of filing the claim for equitable distribution, certifying that he or she has provided the documents required by Rule 4.6(b), and for any documents not provided, a detailed explanation of the grounds for not providing the required documents (ROWAN-DOM-5).
  - (2) Party Responding to or Second to File Equitable Distribution Claim. The party responding to an equitable distribution claim or counterclaiming for equitable distribution (i.e. second to file ) is required to provide his or her PI Response (ROWAN-DOM-2), Certification of Disclosure and Initial Disclosures within 60 days of service of the initiating party’s complaint, claim or motion for equitable distribution, certifying that he or she has provided the documents required by Rule 4.6(b) and for any documents not provided, a detailed explanation of the grounds for not providing the required documents (ROWAN-DOM-5).
- (b) Documents to be Provided as Initial Disclosures. **\*\*UNLESS OTHERWISE SPECIFIED, THE DOCUMENTS AND INFORMATION PROVIDED SHALL BE FOR THE FULL CALENDAR YEAR PRECEDING THE DATE OF SEPARATION THROUGH THE DATE OF SERVICE OF THE INITIAL DISCLOSURES.**
- (1) All deeds pertaining to any real property in which the party claims a legal or equitable interest during the marriage, and owned on the date of separation, whether or not currently owned on the date of service of the Initial Disclosures.
  - (2) All documents pertaining to any defined contribution plan, defined benefit plan, pension plan, SEP, IRA, Keogh, retirement, profit-sharing plan or other deferred compensation or retirement plan in which the party claims a legal or equitable interest during the marriage and owned on the date of separation whether or not currently owned on the date of service of the Initial Disclosures, including, but not limited to, account statements, plan descriptions, benefit statements, and account valuations. If participating in any retirement plan as of date of marriage provide date of marriage balances, benefit statement, or asset valuation.
  - (3) Statements of cash values of any insurance policies as of date of separation in which the party claims a legal or equitable interest during the marriage and owned on the date of separation.
  - (4) Statements on date of separation and current statements pertaining to any secured or non-secured debt for which the party claims the opposing party has a legal or equitable obligation acquired during the marriage and owned on the

date of separation, including, but not limited to, consumer credit account (credit card) statements, installment debt payment vouchers, promissory notes, and account statements..

- (5) Date of separation and current documents pertaining to any stocks, bonds, mutual funds or other investments in which the party claims a legal or equitable interest during the marriage and owned on the date of separation, whether or not currently owned on the date of service of the Initial Disclosures, including, but not limited to, investment account statements, company stock plan descriptions or statements and stock certificates.
  - (6) Date of separation and current statements pertaining to any checking, savings or other financial account in which the party claims a legal or equitable interest during the marriage and owned on the date of separation, whether or not currently owned on the date of service of the Initial Disclosures, including, but not limited to, monthly account statements and check registers.
  - (7) Complete copies of signed and filed federal and state individual tax return(s) filed by the party, or on the party's behalf (whether file individually or jointly with another) including all schedules and attachments (W-2 forms, 1099 forms, etc.) for the date of separation and most recent year, together with all year-end documentation (W-2 forms, 1098 forms, 1099 forms, extension requests, etc.). For the most recent tax year, in the event the tax return or returns have yet to be filed, any requests for extension of time to file and correspondence with the taxing agency (e.g. state department of revenue and/or IRS) and previous year filing.
  - (8) If the party has or had an interest of 5% or greater, as a shareholder in a closely held corporation, partner in a partnership, member of a limited liability company or joint venture during the marriage and owned on the date of separation, whether or not currently a shareholder, partner or member on the date of service of the Initial Disclosures the following must be provided: filed corporate partnership, LLC or other entity federal and state tax returns including all schedules and attachments filed with the returns; date of separation and current year tax return and most recent financial statements (whether internal, audited, reviewed or compiled)
  - (9) Most recent personal financial statements provided to any financial institution within last three calendar years preceding the date of separation.
  - (10) All opinions of value or appraisals of any real or personal property acquired in preceding two years by the parties during the marriage and prior to the date of separation.
  - (11) All bills of sales or other documentation of real or personal property sold or transferred in the 12 months preceding the date of separation or after the date of separation through the date of service of the Initial Disclosures.
  - (12) Documents showing all income from all sources since the party's last filed tax return.
- (c) Scope. The disclosing party is required to provide the documents specified in Rule 4.6(b) which are in his or her custody or control. Documents are defined to be in the custody or control of the party if such documents can be obtained by him or her

and/or if: (a) a party is a joint title or account holder; or (b) the documents were prepared by a third party (e.g. CPA, accountant, bookkeeper) at his or her direction or on his or her behalf whether individually or jointly with another.

- 4.6 Method of Disclosure. The Initial Disclosures (Equitable Distribution) required under this Rule shall be made by furnishing copies of the appropriate documents, along with the PI (ROWAN-DOM-2) and Certification of Disclosure (ROWAN-DOM-5) to the attorney of record for the opposing party at his/her business address, or, if the opposing party is not represented (pro se), by furnishing the disclosure to the opposing party via the U.S. Postal Service, on or before the required due date. If the Initial Disclosures are incomplete, the party from whom the Initial Disclosures are due will have the burden to show good cause why particular items of the required Initial Disclosures cannot or were not made on or before the date the disclosures are/were due.
- 4.7 Effect of Failure to Comply. This Rule providing for a duty of disclosure shall constitute a discovery request within the meaning of the North Carolina Rules of Civil Procedure. Failure to establish good cause by the party claiming equitable distribution may be grounds for continuation of a hearing for an interim or partial distribution of marital property or return of separate property or such other sanction as provided by Rule 37 of the NC Rules of Civil Procedure or Rule 12 of these Rules. Failure to establish good cause by the party responding to a claim for equitable distribution (second person to file) may be grounds for denying that party the right to defend a motion for interim or partial distribution or for return of separate property or such other sanction as may be provided by Rule 37 of the NC Rules of Civil Procedures, or Rule 12 of these Rules. This Rule does not contemplate the filing of Motion for Contempt or Order to Show Cause as a remedy.
- 4.8 Confidentiality. Documents provided by a party pursuant to Rules 4.3, 4.5, 4.6 and 4.11 to the opposing party and/or his or her attorney are deemed confidential and may be disclosed only to the opposing party, his or her attorneys and other professional or financial advisors who will be equally bound by the requirement of confidentiality. Either party may seek additional restrictions against disclosure or relief therefrom as may be provided by the NC Rules of Civil Procedure; however, filing of a motion for a protective order will not be grounds for failure to serve the Initial Disclosures on a timely basis. These Initial Disclosures do not need to be filed with the Clerk of Court – only the Certification gets filed.
- 4.9 Filing of Equitable Distribution Affidavit. Dates for filing the Equitable Distribution Affidavit (EDA) (ROWAN-DOM-3, 4EZ and 4COMPLEX) shall be determined by the presiding Judge at the Initial Scheduling Conference. (See Rule 4.11, 4.16 and ROWAN-DOM-6)
- 4.10 Purpose of Preliminary Inventory (PI) (ROWAN-DOM-2) and Equitable Distribution Affidavit (EDA)(ROWAN-DOM-3, 4EZ and 4COMPLEX). The purpose of the PI is for each party to make a good faith disclosure of all known marital property and debt existing on the date of separation, and the value of such property or debt. Because this



inventory shall be served on the opposing party at the time of filing an equitable distribution claim (for the moving party) or within sixty days after receipt of the other party's inventory (for the responding party), and prior to completion of discovery, it shall not be deemed complete or binding, but is in the nature of a "best efforts" listing prior to discovery.

The purpose of the Equitable Distribution Affidavit (EDA) is to have a sworn statement which is a complete listing, on one form, of all of the marital, separate and divisible property and debt, along with date of separation and current values so that the assigned Judge may review the Affidavit, place it in the court file, and have it available at trial. The Affidavit to be used is ROWAN-DOM-3. ROWAN-DOM-4EZ is to be used in simple cases with no more than three schedules (see Instructions to 4EZ). Equitable Distribution cases involving large, diverse or complex marital estates must use ROWAN-DOM-4COMPLEX (see Instructions to 4COMPLEX).

- 4.11 Initial Scheduling and Discovery Conference. The Court shall discharge each of the duties set forth in N.C.G.S. §50-21(d) and on the timetable in Rule 4.16 shall take such further action as may be necessary to resolve pending motions or other issues between the parties, shall order a mediated settlement conference or other Alternative Dispute Resolution pursuant to Rule 2 and shall set a definite date for further proceedings. All parties shall be present in court at the time of the scheduling conference unless their signature or consent to entry of the Initial Scheduling Conference and Discovery Orders is acquired in advance. An order shall issue from the conference specifying a timeline for the case (ROWAN-DOM-7).
- 4.12 Initial Pretrial Conference. The Court shall discharge each of the duties set forth in N.C.G. S. §50-21(d) and on the timetable in Rule 4.16 shall take such further action as may be necessary to prepare the case for trial and shall set a definite date for a final pretrial conference and for the trial of the case. All parties shall be present in court at the time of this conference.
- 4.15 Final Pretrial Conference. The Court shall discharge each of the duties set forth in N.C.G.S. §50-21(d) and set forth on the timetable in Rule 4.16. The court shall set a date for trial of the case at this conference. All parties shall be present in court at the time of this conference.

**4.16  
Equitable Distribution Claims Timetable**

<b>Time</b>	<b>Event</b>	<b>Responsible Person</b>
Upon first filing of equitable distribution claim.	<ol style="list-style-type: none"> <li>1. Obtain date for initial scheduling conference and serve notice on responding party (ROWAN-DOM-6).</li> <li>2. Serve on responding party a Preliminary Inventory (ROWAN-DOM-2) as set out in Rule 4.4 and serve Initial Disclosure documents pursuant to Rule 4.6. A</li> </ol>	Moving Party and TCC (District Court)

Time	Event	Responsible Person
	certificate of service of the PI and the Certification of Initial Disclosures (Equitable Distribution) (ROWAN-DOM-5) shall be filed in the Clerk's office.	
60 days after service of a complaint, claim, or motion for equitable distribution.	Serve PI (ROWAN-DOM-2) on Moving party as set out in Rule 4.4 and Initial Disclosure documents as set out in Rule 4.6. File and serve certificate of service of the PI and the Certification of Initial Disclosures (Equitable Distribution) (ROWAN-DOM-5) in the Clerk's Office	Responding party.
Within 120 days of filing first pleading.	<p>Initial Scheduling Conference:</p> <ul style="list-style-type: none"> <li>• Schedule additional discovery, including dates for completion and any motions to compel.</li> <li>• Appoint mediator if no designation of mediator or stipulation for other alternative dispute resolution procedure (AOC-CV-825).</li> <li>• Approve expedited trial proceedings, if applicable.</li> <li>• Enter date for completion of mediated settlement conference.</li> <li>• Set dates for filing service of EDA's</li> <li>• Appoint expert witnesses.</li> <li>• Determine date of separation.</li> <li>• Set date for disclosure of expert witnesses.</li> <li>• Set date for initial pre-trial conference.</li> <li>• Set date for final pretrial conference.</li> <li>• Each party should be present in court at the time of the scheduling conference unless their signature or consent to entry of the Initial Scheduling Conference &amp; Disability Order is acquired in advance.</li> </ul> <p>Order entered by Court (ROWAN-DOM-7) It is strongly recommended that the attorneys and parties meet before the day of initial scheduling conference to discuss stipulations, discovery, expert witness and other matters which can be resolved prior to this conference.</p>	Assigned Judge, both parties and TCC
No later than 210 days	Court ordered mediated settlement conference or other approved ADR proceeding held.	Moving party, responding party & mediator.
No later than 210 days	Certification from court appointed mediator that impasse was declared or settlement reached.	Court appointed mediator.

<b>Time</b>	<b>Event</b>	<b>Responsible Person</b>
No later than 30 days before Initial Pre-trial Conference. (dates to be set at ISC – see above)	Moving party serves his/her Equitable Distribution Affidavit (ROWAN-DOM-3 and 4EZ or 4COMPLEX) pursuant to Rule 4.7 on the other party, and files certificate of service in the Clerk’s office.	Moving party.
No later than 15 days after service of Equitable Distribution Affidavit (Rowan-DOM-3)	Responding party serves completed Equitable Distribution Affidavit (ROWAN-DOM-3 and 4EZ or 4COMPLEX) pursuant to Rule 4.7 on the other party, and files certificate of service in the Clerk’s office.	Responding party.
At Initial Pre-Trial Conference (to be held between the time of the scheduling conference and the final pretrial conference)	<ul style="list-style-type: none"> <li>• Review status of case.</li> <li>• Enter date for completion of discovery.</li> <li>• Enter date for filing and service of Motions.</li> <li>• Set dates for service and completion of draft pre-trial order. (ROWAN-DOM-13)</li> <li>• Each party shall be present in court with their attorney at the time of this conference.</li> </ul>	Assigned judge.
No later than 20 days prior to final pre-trial conference.	Moving party serves responding party with draft pre-trial order.	Moving party.
No later than 10 days prior to final pre-trial conference.	Responding party serves moving party with objections/requests for modification of draft pre-trial order.	Responding party.
At final pre-trial conference (within 260 days after first equitable distribution claim is filed).	<ul style="list-style-type: none"> <li>• Pre-trial conference conducted pursuant to Rules of Civil Procedure. Rule on any matters reasonably necessary to effect a fair and prompt disposition of the case in the interest of justice.</li> <li>• Set date for completion &amp; service of final Pre-Trial Order (ROWAN-DOM-13)</li> <li>• Each party shall be present in court at the time of this conference.</li> </ul>	Assigned judge.
270 days after first equitable distribution claim is filed)	Final Pretrial Order Due	Assigned judge.
330 days after first ED claim is filed.	Trial	Assigned judge.

**Rule 5**  
**ADR in Equitable Distribution Cases**

- 5.1 Selection of ADR or Expedited Trial. At the Initial Scheduling Conference, the Court shall enter an Order for ADR (AOC-CV-824, 825, or 826 and ROWAN-DOM-7) or for an expedited trial (ROWAN-DOM-8) and the case shall proceed as follows:
- (a) If the parties agree to an expedited trial, the case shall proceed without ADR.

- (b) If the parties agree to a Mediated Settlement Conference, the case shall proceed in accordance with these Rules, including the Rules for Mediated Settlement Conferences contained in Rule 10.
- 5.2 If the parties agree to an Alternative ADR procedure as provided in Rule 2 the case shall proceed under the selected process in accordance with these Rules (AOC-CV-824 or 826).
- 5.3 If some other ADR procedure is requested by the parties, the case shall proceed pursuant to rules submitted by the parties and approved by the Court.
- 5.4 In the event the parties cannot reach agreement on an ADR procedure, and, in the case of Early Mediator Evaluation, Arbitration, or Judicial Settlement Conference, cannot agree on the mediator or settlement judge, the Assigned Judge will order Mediated Settlement Conference as the designed ADR procedure (AOC-CV-824) and the mediator shall be appointed by the Court from a list of approved mediators maintained by the TCC.

### **Rule 6 Expedited Trial**

- 6.1 As an alternative to ADR as established by these rules, the parties to a case may choose to proceed by an expedited trial.
- 6.2 Counsel & parties choosing to proceed by expedited trial shall sign a statement expressing their consent thereto and file the statement with the court on or before the day of the Initial Scheduling Conference or within sixty (60) days of the initial filing of the action, whichever occurs first. (ROM-DOM - 8)
- 6.3 If the case is not already scheduled for an Initial Scheduling Conference pursuant to these rules, the matter shall be calendared by one of the parties for a Pretrial Conference pursuant to Rules 4.14 and 4.16 within 90 days of the initial filing of the action.
- 6.4 Upon signed approval by the Court (hereinafter the "Approval Date") the parties shall be subject to the following schedule and procedures, shall exercise good faith in their compliance and shall accept that time is of the essence in all dealings with one another and the court. Disagreements regarding discovery or timing shall be addressed to the approving judge by whatever means best obtains a conference in person, by phone or combination thereof, in the shortest period of time.
- 6.5 On the Approval Date, and in consultation with the TCC, Plaintiff's Counsel shall file a calendar request for the case to be placed on the judge's trial calendar for a session of court within 130 days in the future.
- 6.6 All discovery materials reasonably anticipated as necessary for the resolution of the case shall be delivered without request to the opposing counsel within twenty-one (21) days of

the Approval Date. Upon notification by opposing counsel of any deficiencies, supplemental discovery shall be delivered within an additional ten (10) days.

- 6.7 When there is necessary evidence requiring the services of an expert witness, Parties shall agree upon a shared employment with a stipulation of admissibility, or shall employ their own expert and provide a complete report within sixty (60) days of the Approval Date to opposing counsel without request.
- 6.8. Any other discovery allowed by the NC Rules of Civil Procedure shall be completed within ninety (90) days of the Approval Date.
- 6.9 At the daily calendar call, expedited cases shall receive priority over other cases set for hearing that day. Expedited cases will not be continued from the scheduled calendar session for any reason other than death or illness of one of the participants or their immediate family.
- 6.10 At the expedited hearing, parties shall have a total of forty-five (45) minutes to present their case. An initial thirty (30) minute period shall be allotted for the case in chief. A ten (10) minute period for rebuttal shall be allowed after the other party's case-in-chief. A five (5) minute period shall be allotted each for Closing Argument.
- 6.11 Rules with regard to Entry of Order or Judgment shall apply to the Order or Judgment rendered pursuant to the Expedited Trial. **For purposes of review on appeal, by their agreement to the use of this procedure, the parties stipulate that all Findings of Fact are based upon substantial substantive evidence of record if supported at all by the discovery product or submission of counsel during the expedited trial (ROWAN-DOM-8).**

### **Rule 7** **ADR in Other Family Financial Cases**

- 7.1 A District Court Judge may by written order, require all parties to attend a mediated settlement conference or such other ADR procedure as may be permitted under these Rules in the following class of cases: (a) alimony claims(not joined with an equitable distribution claim); (b) prenuptial agreements; (c) post nuptial agreements; (d) separation agreements; (e) retroactive child support; and (f) non-guidelines child support cases.
- 7.2 The deadline for completion of the ADR procedure shall be determined at the initial scheduling conference which shall be set by the TCC in consultation with the filing party at the time of the filing of the complaint. The filing party shall serve a copy of the notice of the Initial Scheduling Conference on the opposing party(ies) at the time of service of the complaint(ROWAN-DOM-6). Deadline for the conference is 120 days pursuant to Rule 14.6.
- 7.3 The court's order and accompanying notice for completion of the ADR procedure shall (a) require that either a Mediated Settlement Conference or other authorized ADR

procedure be held in the case; (b) establish a deadline for the completion of ADR; (c) state clearly that the parties shall select their own mediator or a mediator shall be appointed by the Court and (d) state that the parties shall be required to pay the mediator's fee at the conclusion of the conference unless otherwise ordered by the court (See, AOC-CV-824, 825 or 826 and ROWAN-DOM-7).

- 7.4 A party may move the Assigned Judge, within thirty (30) days after the Court's order, to dispense with the ADR. Such motion shall state the reasons the relief is sought. For good cause shown, the assigned Judge may grant the motion.

### **Rule 8** **Post-Separation Support, Alimony Claims & Child Support**

- 8.1 **Calendaring Hearing.** The initial moving party shall schedule issues of post-separation support for hearing within sixty (60) days of filing.
- 8.2 **Financial Information Required.** In all cases involving post-separation support and alimony, each party shall serve a Financial Affidavit (ROWAN-DOM-9) upon the opposing party. The moving party shall serve his/her completed Financial Affidavit, his/her "Initial Disclosures (Support)" documentation (see 8.6), and his/her "Certification of Initial Disclosure" (ROWAN-DOM-10) with the filing of his/her claim on the responding party. The responding party shall serve the moving party with his/her completed Financial Affidavit (ROWAN-DOM-9), "Initial Disclosures (Support)" documentation and "Certification of Initial Disclosure" (ROWAN-DOM-10) within thirty (30) days of the date he/she is served with the claim.

In addition to service of their completed Financial Affidavits, the parties shall exchange financial information as required under this Rule entitled "Initial Disclosures." The exchange of these Initial Disclosures shall be completed within the time periods set out in the preceding paragraph.

- 8.3 **Moving Party's Responsibility.** The moving party shall serve upon the responding party the following: the pleading, the completed Financial Affidavit (ROWAN-DOM-9), Notice of Motion and Calendar Request, a blank Financial Affidavit (ROWAN-DOM-9), Initial Disclosures (Support) (see Rule 8.6), and Certification of Initial Disclosure (ROWAN-DOM-10).
- 8.4 **Employer Wage Affidavits.** Upon request of either party or opposing counsel, the other party shall submit an Employer Wage Affidavit (ROWAN-DOM-11) to his or her employer(s) for completion. The party initiating the request must serve it 15 days prior to the first hearing or conference and the affidavit completed by the employer must be filed with the court and served on the other party at least five (5) business days prior to the first hearing or conference on the pending request for support or modification thereof.
- 8.5 **Duty of Financial Disclosure.** In addition to completion of the Financial Affidavit (ROWAN-DOM-9) required above, every party to an action in which child support (other

than IV (d), U.R.E.S.A. and U.I.F.S.A.), post-separation support, or alimony is an issue has the duty to provide the documents designated by this Rule to other parties or their counsel without awaiting a formal discovery request. The designated documents are defined hereinafter as “Initial Disclosures (Support)”

- (a) Party Claiming Support. The party who is filing a complaint, claim or motion for support should be aware of the requirement for Initial Disclosures and start the accumulation process PRIOR to filing the complaint, claim or motion so that the Initial Disclosures can be made upon filing. The party claiming support has a duty to provide his or her Initial Disclosures upon filing of his or her complaint, claim or motion for support. In addition, upon filing, the moving party shall file and serve on the opposing party a Certification of Initial Disclosure (Support) (ROWAN-DOM-10) certifying that he or she has provided the documents required by Rule 8.6, and for any documents not provided, a detailed explanation of the grounds for not providing the required documents.
- (b) Party from Whom Support is Claimed. The party from whom support is claimed will provide his or her Initial Disclosures within 30 days of service of the complaint, claim or motion, along with a Certification of Initial Disclosure (Support)(ROWAN-DOM-10) certifying that he or she has provided the documents required by Rule 8.7, and for any documents not provided, a detailed explanation of the grounds for not providing the required documents.

#### 8.6 Documents to be Provided as Initial Disclosures (Support).

- (a) Period For Which Disclosure Required. Unless otherwise specified, the documents identified in Rule 8.6 (c) and (d) shall be provided for the full calendar year preceding the date of separation through the date of service of the Initial Disclosures. For motions to modify an existing order, the documents identified shall be provided for the twelve months preceding the date of the filing of the motion through the date of the initial disclosures.
- (b) General Definition of Gross Income. “Gross Income” means all income from whatever source derived, including (but not limited to) the following items:
  - Compensation for services, including but not limited to: fees, tips, commissions, fringe or employment benefits (e.g., health insurance, child care benefits, paid vacation, etc.), salaries, wages, bonuses, deferred compensation, perquisites, and severance pay;
  - Income derived from a business including but not limited to distributive share of partnership, shareholder or LLC income, advances or draws against distributive share and retained earnings;
  - Short or long term capital or other gains derived from dealings in real or personal property;
  - Interest
  - Rents
  - Intellectual property income (copyrights, royalties on patents, etc.);
  - Dividends
  - Alimony and/or separate maintenance payments (taxable or non-taxable) received from a person or persons other than the party from whom support is claimed;

- Annuities;
  - Income from life insurance and endowment contracts;
  - Pensions, retirement pay, distributions and loans from retirement plans
  - Income from discharge of indebtedness;
  - Income from an interest in an estate or trust;
  - Social security benefits, worker's compensation benefits, unemployment insurance benefits, disability pay;
  - Gifts or loans;
  - Prizes;
  - Child support received for children other than the biological or adopted children of the parties;
  - Stock or stock options in lieu of income;
  - Tax refunds received in the last 12 months or applied to the next calendar year tax return;
  - Tax credits;
  - Personal injury, condemnation or other settlements or awards.
- (c) Documentary Evidence of Gross Income. Documentary evidence of Gross Income as detailed in 8.6(b) which will be provided shall include, but is not limited to the following:
- Three (3) most recent pay stubs, statements, vouchers and/or direct deposit receipts;
  - Employee benefit statements (expense vouchers, car allowances, etc., most recent quarter);
  - Stock and stock option statements;
  - W-2's, 1099's, K-1's and other income reporting statements;
  - If a party is self-employed or a partner, shareholder or member holding a 5% or greater interest in a company, business, partnership, joint venture, LLC, corporation or other entity; company financial statements (whether audited, reviewed or compiled or internal), including, but not limited to, balance sheets and profit and loss statements for the past three calendar years and through the date of production.
  - If a party is self-employed or a partner, shareholder or member holding a 5% or greater interest in a company, business, partnership, joint venture, LLC, corporation or other entity; company tax returns or personal tax returns (if the party is self-employed) for the past three calendar years and through the date of production;
  - Federal and state individual tax return (a) filed by the party, or on the party's behalf (whether filed individually or jointly with another), including all schedules and attachments (W-2 forms, 1099 forms, etc.) for the past 3 years, together with all year-end documentation (W-2 forms, 1098 forms, 1099 forms, extension requests, etc.). If any of the last 3 years' tax returns have not been filed (including the most recent year's return), any requests for extension of time to file and correspondence with the taxing agency (e.g. state department of revenue and/or IRS) for the past three calendar years and through the date of production.



- (d) Additional Documents to Be Provided.
- Date of separation and most recent monthly statements showing cost of health, life (term or whole life), homeowners, automobile and liability insurance;
  - Date of separation and current statements evidencing all accounts in banks, credit unions, brokerage accounts and other financial institutions for which the party has been a signatory;
  - Date of separation and current statements for all installment and credit card accounts;
  - Bills, statements, invoices, mortgage payment booklets or other evidence of all outstanding debts, which show the principal balance currently owed and the payments terms;
  - Personal financial statements to financial institutions during the previous two (2) years preceding the date of separation and/or two (2) years prior to filing of the complaint, claim or motion;
  - Computer generated reports or data (or which can be generated) utilizing personal accounting software programs such as Quicken or Microsoft Money including reports showing: income, expenses, profit and loss, deposits and withdrawals for the required period as specified in 8.6(a) above.

8.7 Post-Separation Support Hearings. If a claim for child support is also pending, it shall be heard along with the claim for post-separation support, if practicable.

- (a) Duration. Post-separation support hearings shall be limited to one hour. Each party will have up to one-half (1/2) hour to present his or her case, including opening statements, direct and cross-examination, and closing arguments, although a judge may elect to reduce such time or to decide a case on affidavits, or upon the verified pleadings, without evidence or argument, as permitted by statute. In extraordinary circumstances, parties may request from the Court additional time to present complicated cases, which the assigned judge may allow, in his or her discretion.
- (b) Use of Affidavits. Except for good cause shown, evidence in post-separation support hearing shall be by affidavits of the parties (ROWAN-DOM-9). Parties wishing to use affidavits from accountants or other third parties must deliver the affidavits (excluding attorney's fee affidavits) to the other party by any means reasonably calculated to ensure receipt no later than ten (10) business days prior to the scheduled hearing. Rebuttal affidavits, i.e., affidavits that are filed in response to the other party's affidavits, shall be delivered to the opposing party by any means reasonably calculated to ensure receipt no later than five (5) business days before the scheduled hearing. The Court will not consider affidavits which are not served on the opposing party in accordance with these Rules.
- (c) Establishment of Alimony. If, at the post-separation support hearing, both parties and the presiding judge agree, the parties may proceed with a hearing for the establishment of an order for alimony. If an order for post-separation support is entered, either party may proceed to calendar the alimony hearing unless the request for alimony is filed along with a request for Equitable Distribution, in which case the alimony claim shall be subject to ADR proceedings as provided in Rules 2 & 3.

- 8.8. Scope. The disclosing party is required to provide the documents specified in Rule 8.6 (c) and (d) which are in his or her custody or control. Documents are defined to be in the custody or control of the party if (a) they can be obtained by him or her because the party is a joint title or account holder; or (b) the documents were prepared by another person (e.g. CPA, accountant, bookkeeper) at the party's direction, or on his or her behalf, whether the account is held individually or jointly with another.
- 8.9 Method of Disclosure. The Initial Disclosures required under this Rule shall be made by furnishing copies of the documents to the attorney of record for the opposing party at his/her business address, or if the opposing party is not represented (pro se), by furnishing the disclosures to the opposing party via the U.S. Postal Service, on or before the required due date.
- 8.10 Certification of Initial Disclosures. Each party making his or her Initial Disclosures shall simultaneously serve on the opposing party or his or her counsel of record and file with the Court a Certification of Initial Disclosure (Support) (ROWAN-DOM-10) signed by the disclosing party stating on an itemized basis, that each required disclosure has taken place on or before the due date. If the Initial Disclosures are incomplete, the party from whom the Initial Disclosures are due will have the burden to show good cause why particular items of the required Initial Disclosures cannot or were not made on or before the date the disclosures are/were due.
- 8.11 Effect of Failure to Comply. This Rule providing for a duty of disclosure shall constitute a discovery request within the meaning of the North Carolina Rules of Civil Procedure. Failure to establish good cause by the party claiming support may be grounds for continuation of the hearing or such other sanction as provided by Rule 37 of the NC Rules of Civil Procedure and Rule 18 of these Rules. Failure to establish good cause by the party from whom support is claimed may be grounds for denying that party the right to defend the claim for support or such other sanctions as may be provided by Rule 37 of the NC Rules of Civil Procedure, and Rule 12 of these Rules.
- 8.12 Duty to Amend Initial Disclosures. After the Initial Disclosures are made pursuant to this Rule, each party shall be under a continuing duty to amend or supplement the original documentation if there has been a change in the form or substance of any of the original information provided (e.g., an amended tax return, adjusted or revised financial statements).
- 8.13 Confidentiality. Documents provided by a party pursuant to Rules 8.6 and 8.12 to the opposing party and/or his or her attorney are deemed confidential and may be disclosed only to the opposing party, his or her attorneys, and other professional or financial advisors. Either party may seek additional restrictions against disclosure as may be provided by the NC Rules of Civil Procedure; however, filing a motion for a protective order will not be grounds for failure to serve the Initial Disclosures on a timely basis.

**Rule 9**  
**Selection of Mediator**

- 9.1 The participants may designate a Family Financial Mediator, certified pursuant to Rule 14, by agreement reached prior to the Initial Scheduling Conference. The filing of a signed Designation of Certified Family Financial Mediator (AOC-CV-825) shall indicate the agreement of the participants to so proceed. The designation must include the following information:
- (a) name, address, and telephone number of the selected mediator;
  - (b) declare a rate of compensation for the mediator;
  - (c) declare that the rate has been accepted by all participants and the mediator;
  - (d) declare that the mediator is certified pursuant to these rules.
- 9.2 The participants may nominate a Family Financial Mediator, not certified pursuant to Rule 14, by filing a Nomination of Non-Certified Family Financial Mediator. The filing of a signed Nomination of Non-Certified Family Financial Mediator (AOC-CV-825) shall indicate the agreement of the participants to so proceed.
- 9.3 The Nomination shall contain the following information:
- (a) name, address, and telephone number of the selected mediator;
  - (b) the training, experience, or other qualifications of the mediator;
  - (c) the rate of compensation to be paid the mediator;
  - (d) declare that the rate has been accepted by all participants and the mediator.
- 9.4 The Scheduling Judge shall approve the nomination if the Court is of the opinion that the nominee is qualified to serve as a mediator on the issues presented.
- 9.5 If the participants cannot agree upon the selection of a mediator, they shall notify the Court at the Initial Scheduling Conference. Thereupon, the Court shall appoint a Family Financial Mediator certified pursuant to these rules by selecting from the list of approved Family Financial Mediators maintained by the TCC (AOC-CV-825).
- 9.6 A party may move the Court to disqualify a Family Financial Mediator for good cause. If the motion is granted, a replacement shall be named in the same manner pursuant to these rules. Nothing herein shall preclude Family Financial Mediators from disqualifying or recusing themselves.
- 9.7 The TCC shall serve on the Mediator the Designation, Nomination or Appointment of the Family Financial Mediator (AOC-CV-825) and the Court's order directing the selected ADR (AOC-CV-824 or 826).

**Rule 10**  
**Mediated Settlement Conference**

- 10.1 The Mediated Settlement Conference shall be directed and controlled by a mediator selected and governed by:
- (a) The Local Rules of the 19C Judicial District.
  - (b) The “Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases,” and
  - (c) The Mediators’ Standards of Conduct promulgated by the NC Supreme Court and its Dispute Resolution Commission.
- 10.2 Site and Time of the Mediated Settlement Conference.
- (a) The mediated settlement conference shall be held at a time and in any location agreeable to the parties and the mediator within the timetable established in these Rules. If the parties cannot agree, the mediator shall be responsible for reserving a neutral place 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) The conference should be held after the parties have had a reasonable time to conduct discovery but well in advance of the trial date. The Court’s order issued pursuant to Rule 4 shall state a deadline for completion of the conference which shall be not later than 210 days after filing of the action, unless extended by the Court. The mediator shall set a date and time for the conference pursuant to Rule 3 above.
- 10.3 Requests to Expedite, Extend, or Exempt.
- (a) Expedite or Exempt – Either party may file a motion to expedite or exempt from mediation for good cause shown (ROWAN-DOM-8 and 12). Said motions shall be filed and served according to the North Carolina Rules of Civil Procedure, shall be submitted prior to the Initial Scheduling Conference, and shall state the reasons for the motion.
  - (b) Extend – Upon consent of both parties, mediation may be extended. A Consent Order or Stipulation shall be filed with the Court, signed by all parties, approved by the assigned judge, and served on the selected mediator (AOC-CV-835). Any other requests shall be made by filing a motion with the Court (AOC-CV-35).
- 10.4 Recesses. The mediator may recess the conference at any time and may set times for reconvening. If the time for reconvening is set during the conference, no further notification is required for persons present at the conference.
- 10.5 The Mediator shall have the following duties and responsibilities:
- (a) At all times be in control of the conference, the processes and procedures to be followed;
  - (b) At all times be subject to the Standards of Conduct for Mediators promulgated by the Supreme Court;
  - (c) At all times be completely impartial and disclose to all participants any circumstance bearing on possible bias, prejudice or partiality;

- (d) Initially explain the following:
    - (1) The process of mediation;
    - (2) The differences between mediation and other forms of conflict resolution;
    - (3) The costs of the mediated settlement conference;
    - (4) The parties retain the right to proceed to trial if they do not reach agreement;
    - (5) The conference is not a trial and the mediator is not a judge;
    - (6) Conduct and statements occurring during mediation are inadmissible in trial as provided in NCGS 7A-38.4A(j);
    - (7) The rules relating to *ex parte* communication;
    - (8) Whether and under what circumstances communications with the mediator will be held in confidence during the conference;
    - (9) The duties and responsibilities of the participants and the mediator;
    - (10) The fact that any agreement reached will be reached by mutual consent and reduced to writing;
  - (e) Distribute to all participants the brochure prepared by the Dispute Resolution Commission explaining the process, the Commission and its operations;
  - (f) Upon completion of the conference, distribute to all participants the Dispute Resolution Commission evaluation form to be completed by the participants.
  - (g) Upon completion of the conference, complete a “Report of Mediator in Family Financial Case” (AOC-“CV-827), and deliver it to the TCC, who will file it with the Clerk and send copies to the attorneys (or unrepresented parties).
- 10.6 The mediator may communicate privately with any participant during the conference and may hold in confidence any communication for any period of time deemed appropriate to assist the parties in reaching agreement.
- 10.7 The mediator shall determine in a timely manner that an impasse exists and that the conference should end. The mediator shall inquire of and consider the desires and opinions of the participants as to whether to continue at a future time or report the failure to the court.
- 10.8 Duties of Parties, Attorneys and Other Participants in Mediated Settlement Conferences.
- (a) The following persons shall attend a mediated settlement conference:
    - (1) parties, and
    - (2) at least one attorney of record for each party which counsel has appeared in the action.
  - (b) Any person required to attend a mediated settlement conference shall physically attend until such time as an agreement has been reached or the mediator, after conferring with the parties and their counsel, if any, declares an impasse. No mediator shall prolong a conference unduly.
  - (c) Any person may have the attendance requirement excused or modified, including allowing a person to participate by phone, by agreement of both parties and the mediator or by order of the Court. Ordinarily, attorneys for the parties may be excused from attending only after they have appeared at the first session.

- 10.9 Sanction for Failure to Attend Mediated Settlement Conference. If any person required to attend a mediated settlement conference fails to attend without good cause, the Court may impose upon that person any appropriate monetary sanction including, but not limited to, the payment of attorneys fees, mediator fees, expenses and loss of earnings incurred by persons attending the conference, or other sanctions as provided in these rules.

A party to the action seeking sanctions shall file a written motion stating the grounds for the motion and the relief sought. Said motion shall be served upon all parties and on any person against whom sanctions are being sought. If the Court imposes sanctions, it shall do so, after notice and a hearing, in a written order.

### **Rule 11 Mediation Fees**

- 11.1 When the mediator is selected by agreement of the participants, compensation shall be as agreed upon by the participants and mediator.
- 11.2 When the Court appoints the mediator, the parties shall compensate the mediator at the rate set by the AOC. In addition, the mediator shall be paid a one time, per case administrative fee of set by the AOC which accrues upon appointment. This fee shall be paid even if the case settles prior to the mediated settlement conference or if the court approves a substitution of a mediator selected by the parties following appointment.
- 11.3 Unless otherwise agreed by the parties, the parties shall share the mediator's fees equally. The fees are due and payable upon the completion of the conference. The mediator shall keep the participants apprised on a regular basis of the fees incurred to date.
- 11.4 After a Mediated Settlement Conference has been scheduled for a specific date and notice is served on the parties of the date a participant may not postpone the conference. A conference session may be postponed by the mediator for good cause beyond the control of the moving participant(s) only after notice by the movant to all parties of the reason for the postponement, finding for good cause by the mediator, and payment to the mediator by the moving participant of a postponement fee of \$125.00.
- 11.5 Without a finding of good cause, a mediator may postpone a scheduled conference session with the consent of all parties. A fee of \$125.00 shall be paid to the mediator if the postponement is allowed. If the request is made within five (5) business days of the scheduled date the postponement fee shall be \$250.00. The party requesting the postponement (unless otherwise agreed upon by the parties) shall pay postponement fees.
- 11.6 Failure of a party to make timely payment of the party's share of any portion of the mediator's fees shall subject that party to the contempt power of the court.
- 11.7 Any party required to pay a mediator fee pursuant to these rules may move the Court at the initial scheduling conference to pay according to the Court's determination of that party's ability to pay (AOC-CV-828). No party found to be unable to pay a full share of

the mediator's fee shall be required to pay a full share. The Court may, in its discretion, allocate the costs unequally between the parties or otherwise apportion the fee. The mediator shall be notified at the time of selection or appointment of a ruling by the Court waiving or reallocating any party's share of the mediator's fee.

- 11.8 Any mediator conducting a Mediated Settlement Conference pursuant to these rules shall accept as payment in full of a party's share that portion of the fee paid by or on behalf of the party in such an order of the Court. In deciding such motions, the Court may consider the income and assets of the moving party and the outcome of the action. The Court may require that one or more shares be paid out of the marital estate.

## **Rule 12 Sanctions**

- 12.1 Sanctions for Failure to Attend. If a party or person fails to attend a duly ordered ADR procedure without good cause, the assigned Judge may impose upon the party or person any lawful sanction.
- 12.2 Failure to Comply. In addition to any of the specific sanctions contained in these rules, failure to comply with any section of these rules shall subject the parties, and/or their counsel to sanctions allowed by law and deemed appropriate at the discretion of the presiding Judge including but not limited to: dismissal of any or part of any claim for relief or pleadings, disallowance of evidence and/or testimony, a fine, payment of costs of the opposing party's reasonable legal fee.
- 12.3 Schedule of Mandatory and Discretionary Fines. The following is a list of requirements considered by the Court to be essential to the timely movement and prompt resolution of family financial disputes.
- 12.4 **Beginning 3/1/2008**, the Court shall order a fine of a **minimum of \$50.00** against a party (including a party represented by counsel), for a violation of these requirements as set out by the local Rules, including but not limited to:
- (a) Failure to promptly report to the Court, at the time designated by the Court, on issues settled out of court but not drawn up by the time of the scheduled court date as required by Rule 3.16.
  - (b) Failure to file a completed Financial Affidavit with a complaint or motion at filing as required by Rule 8.
  - (c) Failure to file and serve on the opposing party or counsel a completed Employer Wage Affidavit as required by Rule 8.
  - (d) Failure to file and serve on the opposing party or counsel a completed PI or EDA as required by Rule 4.17.
  - (e) Failure to meet and fulfill initial disclosure deadlines as required in Rules 4 and 8.
  - (f) Failure of the prevailing party to timely prepare and submit proposed order or judgment to the Court.

Such sanctions shall be imposed automatically and are non-negotiable absent a showing of extraordinary cause. The Court shall enter an Order that specifically states the amount of the sanction, the specific violation and the party responsible for such violation. All fines imposed pursuant to this section shall be tendered by the violating party no later than 5:00 p.m. on the day such sanction is ordered subject to extension by the presiding judge and shall be paid directly to the Clerk of Superior Court of Rowan County. Repeated violations by a party may result in the imposition of higher fines or other sanctions as deemed appropriate by the Court.

**Rule 13**  
**Other Settlement Procedures**

**A: Mediator Evaluation**

- 13A.1 Definition: An informal, abbreviated presentation of facts and issues by the participants to a mediator at an early stage of the proceedings.
- 13A.2 The mediator shall evaluate the strengths and weaknesses of the case for each side. The mediator shall provide a candid assessment of the merits of the case, settlement value, and a dollar value or range of potential awards if the case proceeds to trial.
- 13A.3 The mediator shall identify areas of agreement and disagreement, identify necessary and appropriate discovery, and suggest additional steps that might be taken by the parties to reach a settlement of the case.
- 13A.4 As a guiding principle, the mediator evaluation conference should occur after the time for filing responsive pleadings has expired but before the expiration of the discovery period.
- 13A.5 No later than twenty (20) days before the scheduled date of the evaluation, each party shall furnish the mediator with written information about the case. A copy of this document shall be served on all other parties to the case (but shall not be filed in the case file). A written certification of service shall be furnished to the mediator. This written information shall be a summary of the significant facts and issues in the party's case. Any supporting documentary evidence shall be attached as exhibits.
- 13A.6 No later than ten (10) days before the scheduled date of the evaluation, any party may, but is not required to, send additional information to the mediator as a response to the submission of an opposing party. Any supporting documentary evidence shall be attached as exhibits. A copy of this document shall be served on all other parties to the case (but shall not be filed in the case file). A written certification of service shall be furnished to the mediator.
- 13A.7 Prior to the mediator evaluation conference, the mediator may request additional written information from any party. Failure to comply may subject the defaulting party to appropriate sanctions under these rules.



- 13A.8 At the beginning of the conference, the mediator shall explain all matters required by Rule 3 (General Rules for ADR) above. Additionally, the mediator shall insure that all participants understand the proceeding is not a trial, the mediator is not a judge, the opinion is not a judgment and the parties retain their right to trial in the absence of an agreement constituting a settlement by mutual assent.
- 13A.9 At the conference, the mediator may give the parties or their counsel the opportunity to complete their summaries with a brief oral statement. The mediator may address questions to the participants. Furthermore, if the parties agree, the mediator may assist the parties in settlement discussions without impairing the authority of the mediator to issue the evaluation and report as required hereinafter.
- 13A.10 At the conclusion of the Mediator Evaluation Conference, the mediator shall issue an oral report to the parties advising them of the merits of the case, estimated settlement value, and the strengths and weaknesses of the claims of each party. The report shall contain a suggested settlement or disposition of the case and the reasons therefore. This report shall not be reduced to writing nor will it be submitted to the court in any form or fashion.
- 13A.11 Within ten (10) days after the completion of the conference, the mediator shall file a written report with the court using the AOC form entitled “Report of Mediator Conducting Settlement Procedure Other Than Mediated Settlement Conference or Arbitration in Superior Court Civil Action” (AOC-CV-817) (with appropriate modification to reflect District Court Jurisdiction) and serve it on the parties.

The report will state the following:

- (a) When and where the conference was held,
- (b) The names and roles of the persons in attendance,
- (c) Whether an agreement was reached by the parties, and
- (d) The name of the person designated to file judgments or dismissals concluding the action, or
- (e) A request that the matter be calendared for trial as ADR has failed to resolve the dispute.

## **B: Arbitration**

- 13B.1 **Arbitration.** Arbitration of family law cases is available upon consent of the parties under N.C.G.S. §50-41 *et seq.*, the Family Law Arbitration Act. Issues which can be heard in District Court (e.g., custody, child support, alimony, post-separation support, equitable distribution, attorney’s fees) can also be arbitrated, often at a savings of time and money. The consent order for arbitration need only, at a minimum, state the particular issue that is designated for arbitration and name the arbitrator; the remaining issues (such as rules, deadlines, notices and documents required) can be resolved in the initial attorneys’ meeting with the arbitrator.

- 13B.2 **Reference.** Judges and parties’ attorneys are also reminded that Rule 53 of the North Carolina Rules of Civil Procedure may be useful in the appointment of a referee in equitable distribution cases. Rule 53(a)(2) states that a referee may be appointed:
- “a. Where the trial of an issue requires the examination of a long or complicated account; in which case the referee may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved herein.*
  - b. where the taking of an account is necessary for the information of the court before judgment, or for carrying a judgment or order into effect.”*

Appointment of a referee is also available by consent under Rule 53 (a) (1) of the North Carolina Rules of Civil Procedure. This procedure can save time and money in the scheduling and trial of property division cases.

### **C: Judicial Settlement**

- 13C.1 A judge assigned by the scheduling Judge shall conduct a judicial settlement conference. The Judge so assigned shall not be assigned to try the action if it proceeds to trial.
- 13C.2 The form and manner of conducting the conference shall be in the discretion of the settlement judge. The settlement judge may not impose a settlement on the parties but will assist the parties in reaching a resolution of all claims.
- 13C.3 Judicial settlement conferences shall be conducted in private without a record being made thereof. Neither the judge, nor any participant, will communicate any of the statements made or actions taken during the conference to any other person or judge. Persons other than the parties and their attorneys may not attend the conference unless agreed to by all participants and the settlement judge.
- 13C.4 At the beginning of the conference, the judge shall explain all matters required by Rule 3 above. Additionally, the judge shall insure that all participants understand the proceeding is not a trial, that although the mediator is a judge, the opinion is not a judgment and the parties retain their right to trial in the absence of an agreement constituting a settlement by mutual assent.
- 13C.5 The settlement judge may report, in the presence of the participants, that a settlement is reached, and with their consent, the terms of that settlement.
- 13C.6 Within ten (10) days after the completion of the Judicial Settlement Conference, the settlement judge shall file a written report with the TCC using the AOC form entitled “Report of Mediator Conducting Settlement Procedure Other Than Mediated Settlement Conference or Arbitration in Superior Court Civil Action” (AOC-CV-817) (with appropriate modification to reflect District Court Jurisdiction). The TCC will file and serve it on the parties. The report will state,
- (a) when and where the conference was held,
  - (b) the names and roles of the persons in attendance,

- (c) whether an agreement was reached by the parties, and
- (d) the name of the person designated to file judgments or dismissals concluding the action, or
- (e) a request that the matter be calendared for trial as ADR has failed to resolve the dispute.

#### **D: Collaborative Family Law**

- 13D.1 **Collaborative Family Law.** Collaborative Family Law is also available upon the consent of the parties. Under N.C.G.S. 50-70 *et seq.*, Collaborative Family Law is a procedure in which the parties and their counsel agree in writing to use their best efforts to make a good faith attempt to resolve all issues affecting the dissolution of the marriage on an agreed basis, without resulting to judicial intervention except to have the Court approve the settlement agreement, make the necessary legal pronouncements, and to sign the orders that may be required by law to effectuate the agreement of the parties.
- 13D.2 When the parties consent to Collaborative Family Law, the following conditions shall apply:
- (a) The parties' collaborative counsel may not serve as litigation counsel except to ask the court to approve the settlement agreement(s) and/or enter orders necessary to effectuate the parties' agreement.
  - (b) The confidentiality of statements made or documents exchanged during collaborative law conferences and other procedures shall be recognized by the Court, and all verbal or written communications or work product among the parties, their attorneys and any third party experts utilized pursuant to the collaborative law agreement are absolutely privileged and inadmissible in court.
  - (c) To the extent that the Court finds issues being reasonably addressed in a collaborative law process, the Court may suspend or extend the filing deadlines for discovery and mediation as set forth in these Rules.

#### **Rule 14**

#### **Mediator Certification And Decertification**

Judicial District 19C adopts the North Carolina Supreme Court Rules implementing Settlement Proceedings Rule 8 regarding Certification and Decertification.

#### **Rule 15**

#### **Certification Of Mediation Training Programs**

Judicial District 19C adopts North Carolina Supreme Court Rules implementing Settlement Proceedings Rule 9 regarding Certification of Mediation Training Programs

**Rule 16**  
**Definitions**

**16.1 Definitions.**

- (a) “Court” shall mean a judge of the District Court in the district in which an action is pending who has administrative responsibility for the action as an assigned or presiding judge, or said judge’s designee, such as a clerk, trial court administrator, case management assistant, judicial assistant, and trial court coordinator.
- (b) “AOC forms” shall refer to forms prepared by, printed, and distributed by the Administrative Office of the Courts to implement these Rules or forms approved by local rule which contain at least the same information as those prepared by AOC. Proposals for the creation or modification of such forms may be initiated by the Dispute Resolution Commission.
- (c) “Family Financial Case” shall refer to any civil action in district court in which a claim for equitable distribution, child support, alimony, or post separation support is made, or in which there are claims arising out of contracts between the parties under GS 50-20(d), 52-10, 52-10.1 or 52B.
- (d) “Mediator” Any mediator in an ADR Procedure
- (e) “TCC” District Court Trial Court Coordinator