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CIVIL CASE MANAGEMENT RULES

- for -

THE DISTRICT COURT DIVISION *of*
THE EIGHTEENTH JUDICIAL DISTRICT
Guilford County, North Carolina

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RULE 1.
SCOPE & PURPOSE

1.01 These Rules are promulgated in compliance with Rule 2 of the General Rules of Practice for the Superior and District Courts. The purpose of these Rules is to institute an effective case management plan in the District Court of the 18th Judicial District of North Carolina. These Rules are intended to comply with the North Carolina Rules of Civil Procedure, the General Rules of Practice for Superior and District Courts, the Case Processing Standards and Completion Deadlines promulgated by the Chief Justice of North Carolina, and the Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases.

1.02 These Rules shall at all times be construed in such a manner as to provide for the orderly, prompt and just disposition of civil matters, to avoid technical or unnecessary delay, to promote settlement of cases by the parties thereto, and to promote the ends of justice. When the enforcement of a rule would lead to an unjust result or bestow an unfair advantage upon a participant, the Court may exercise its sound discretion to excuse or relieve any party of the burden of these rules. These rules are promulgated with the following intentions and are to be interpreted in light thereof:

(a) To provide for fair treatment of all litigants.

(b) To ensure that the scheduling of cases for disposition is consistent with the nature of the case.

(c) To enhance the quality of the litigation process.

(d) To instill public confidence in the court's ability to dispose of cases without undue delay.

(e) To establish meaningful time frames for disposing of issues and cases.

1.03 All times referred to herein shall be computed pursuant to the North Carolina Rules of Civil Procedure. The time limits provided for by these rules are important to the overall functioning of the Court and to the integrity of these Rules and therefore the time limits should not be extended or modified by default or neglect. However, time limits created by these rules may be waived or extended for good cause shown, to promote settlement of cases by the parties thereto, and to promote the ends of justice.

1.04 These Rules are not complete in every detail and will not cover every situation that may arise. If these Rules fail to address a specific matter, the District Court Trial Court Coordinator shall consult with the Chief District Court Judge, or her designee, to resolve the issue at hand.

1.05 Unless specified otherwise, counsel or unrepresented (*pro se*) parties may use the forms included herewith in the Appendix or a form that substantially conforms with these forms.

1.06 These Rules and all amendments hereafter shall be filed with the Clerk of Superior Court in the 18th Judicial District and may be cited accordingly as "Case Management Rules" or "CMR."

1.07 These Rules will be made available electronically.

RULE 2.
DEFINITIONS

2.01 **Trials.** All hearings which involve testimonial evidence and from which a judgment or final order result, specifically including child custody, equitable distribution, divorce from bed and board, breach of contract, and alimony proceedings, regardless of the procedural method by which such relief is sought.

2.02 **Motions.** All hearings wherein any testimony pertaining to the relief being sought is limited in nature. Motions shall include, but not be limited to, the following matters: temporary and permanent child support, temporary custody, returns on temporary restraining orders or emergency orders, returns on 50-B orders, post separation support and discovery issues.

2.03 ***Pro Se* matters.** Any matter in which none of the parties is represented by counsel.

2.04 ***Pro se* party.** Any party to a civil action who is unrepresented by counsel.

2.05 **Filed.** Deposited in the custody of the Clerk of Superior Court as provided by the NC Rules of Civil Procedure or with the Case Manager as provided in these rules.

2.06 **Served.** Delivered to opposing counsel (or party, if unrepresented) as provided by the NC Rules of Civil Procedure.

2.07 **Alternative Dispute Resolution (ADR).** Any method or procedure used as an alternative to an in court hearing with the presentation of evidence or legal argument for the resolution of disputes between parties to a civil lawsuit.

2.08 **Neutral.** Any person who is a disinterested third party designated to oversee an ADR proceeding.

2.09 **Participant.** Any party to the litigation or attorney representing one of the parties.

2.10 **Postponement.** Rescheduling or not proceeding with a scheduled conference or meeting once a date for the conference or meeting has been scheduled and notice served.

2.11 **Court.** A District Court Judge who has administrative responsibility for the action as an assigned or presiding judge, or that judge's designee, as appropriate.

2.12 **AOC.** The Administrative Office of the Courts which is located in Raleigh, NC and is under the direction and control of the Chief Justice of the State of North Carolina.

2.13 **AOC forms.** A form prepared by the AOC to implement these Rules or forms approved by local rule which contain at least the same information as that contained in forms prepared by the AOC.

2.14 **Family Financial Case.** Any civil action in which a claim for equitable distribution, child support, alimony or post separation support is made, or in which there are claims for relief arising out of contracts between the parties under Chapter 50 or Chapter 52 of the North Carolina General Statutes.

2.15 ***ex parte.*** A legal proceeding or communication with a judicial official by one person in the absence and without representation of the other parties.

2.16 **IV-D Cases.** Child Support Cases process through the North Carolina Child Support Enforcement Agency.

2.17 **Pre-trial Conference.** A status conference prior to a hearing on the subject matter, concerning among other issues, compliance with these Rules, scheduling, and discovery issues.

RULE 3
GENERAL RULES

3.01 **All Persons Must Follow Rules.** No party or litigant is required to be represented by an attorney. Any party who is not represented by an attorney must follow all Court rules and is presumed to know and understand them. All persons, attorneys and parties must abide by these Rules.

3.02 **Sanctions.** Failure to comply with any portion of these Rules shall subject the party, litigant, and/or counsel to sanctions as deemed appropriate and at the discretion of the presiding judge.

3.03 **Must Inform Clerk of Superior Court of Mailing Address.** All litigants are responsible for keeping the Clerk of Superior court apprised of their current mailing address. Form CMR-250 may be used to comply with this Rule.

3.04 **Notice Required When Seeking an *Ex Parte* Order (not NCGS 50B or 50C related) and Orders to Show Cause.**

(a) *Orders to Show Cause.* In cases where the moving party is seeking an Order to Show Cause and knows the other litigant to be represented by counsel, the moving party shall make a good faith effort to communicate with opposing counsel regarding scheduling of a hearing upon the Order to Show Cause prior to obtaining the Order to Show Cause. When seeking an Order to Show Cause, a party must inform the Court of the identity of opposing counsel, if any, and the means by which the party sought to communicate with opposing counsel regarding scheduling.

(b) *All Other Cases.* In cases where the moving party seeking an *ex parte* Order, except for Orders to Show Cause, knows the other litigant to be represented by counsel, reasonable notice shall be given to opposing counsel who shall be given an opportunity to be present at the time of making the motion before the Court. Reasonable notice shall be presumed to be oral notice given at least two (2) hours prior to appearance before the Court for purposes of making the motion. When seeking an *ex parte* ruling, a party must inform the Court of the identity of opposing counsel, if any, and the means by which notice was provided.

3.05 **Request for *Ex Parte* Emergency Custody.** Requests for an *ex parte* Emergency Custody Order should be made to a District Court Judge in the manner prescribed in Rule 4.15 The Courtroom Clerk assigned to the courtroom in which the request is made shall note the case name and file number on the docket and indicate whether or not the emergency relief is allowed or denied. If the request is denied, the case shall proceed as a regular custody action. If the request is allowed a return hearing must be scheduled by the Case Manager within ten (10) days in Greensboro Courtroom 2B or High Point Courtroom 3A.

3.06 **Minor Settlement.** An attorney desiring to have a conference with a District Court Judge for the purpose of approving a Minor Settlement in Greensboro shall file a calendar request with the Greensboro Trial Court Coordinator. Minor Settlements will be addressed by the District Court Judge assigned to Greensboro Courtroom 1B at 2:00 p.m. on alternate Wednesdays. The aforementioned calendar request should be filed by 5:00 p.m. on the Thursday prior to the desired conference day. In High Point, the requesting attorney shall contact the High Point Trial Court Coordinator who will arrange the time and location of the conference with a District Court Judge assigned to preside over Civil Court.

3.07 **Venue.** Within the Eighteenth Judicial District, there shall be two divisions of District Court, one in Greensboro the other in High Point. High Point Division shall be considered a proper venue when one or more of the parties reside in the High Point, Jamestown, or Deep River townships. Greensboro Division shall be considered a proper venue when one or more of the parties resides in any township in Guilford County that is not High Point, Jamestown or Deep River township. Disputes as to venue within Guilford County shall be raised in the same manner as provided for in the North Carolina Rules of Civil Procedure wherein venue between counties is at issue. The Courts of this Eighteenth Judicial District will be bound by the same considerations established by the Appellate Courts of North Carolina with regard to venue between counties in determining venue within the District.

3.08 **Continuances.** After a case has been set for hearing at the Session Calendar Call, it shall not normally be continued except for emergency or unavoidable conflict governed by other applicable statutes or rules. The judge presiding over that session for which the case is scheduled may grant said continuance upon written consent of the other party or upon consideration of all factors presented to the judge at that time. As part of those factors, the judge shall consider the time requirements that may be applicable to the case pursuant to these rules.

RULE 4
ORGANIZATION OF COURT

4.01 **Sessions of Court**. There shall be six concurrent sessions of Civil Court held in Courtrooms Greensboro 2A, Greensboro 2B, Greensboro 2E, Greensboro 3A, High Point 3A, and High Point 3B. Semi-annually, the Chief District Court Judge shall publish a calendar identifying the length and presiding judge of each session.

4.02 **Length of Session of Court.** The sessions of civil court in Greensboro Courtrooms 2A and 2B along with that of High Point Courtroom 3B shall be for one (1) week. The session of civil court in High Point Courtroom 3A shall be for two (2) weeks. The session of civil court in Greensboro Courtrooms 2E and 3A shall be for four (4) weeks, except those sessions the Chief District Court Judge shall designate as an Administrative Session. Administrative session of civil court shall be for one (1) week.

4.03 **Types of Calendars.** Among the calendars that should be prepared shall be the *pro se* calendar, the appeals calendar, the Chapter 50B and Chapter 50C calendar, the uncontested divorce calendar, the miscellaneous calendar, equitable distribution calendar, 30 Minute Hearing Calendar, Minor Settlement Calendar, and the general civil calendar (trial, motions, and pre-trials).

4.04 **Preparation of Calendars.** The Case Manager, under the supervision of the Chief District Court Judge, shall prepare various calendars for each of the concurrent civil sessions in Greensboro Courtrooms 2B, 2E, and 3A along with High Point Courtroom 3A. The Guilford County Child Support Enforcement Agency, under the supervision and direction of the Chief District Court Judge, shall prepare calendars for Greensboro Courtroom 2A, with the exception of uncontested divorces and 30 Minute Hearing calendars, and High Point courtroom 3B. The Case Manager, under the supervision of the Chief District Court Judge, shall prepare the uncontested divorce calendar and 30 Minute Hearing calendar for Greensboro courtroom 2A.

4.05 **Establishment of Session Calendars.** All matters properly calendared and noticed, pursuant to Rule 12 shall be set upon the respective Courts' session calendar. From the session calendar the Court's daily calendar of cases to be heard on a particular day shall be established.

4.06 **Establishment of Daily Calendar.** The daily calendar of cases to be heard in Greensboro Courtroom 2A (with the exception of the uncontested divorce calendar and 30 Minute Hearing Calendar. See Rule 8) and High Point Courtroom 3B shall be established pursuant to Rule 23.06(c) by the Guilford County Child Support Enforcement Agency at the direction of and under the supervision of the County Attorney. The daily calendar of cases to be heard in Greensboro Courtroom 2B shall be established prior to the beginning of the weekly session (with the exception of ex parte matters) by the Case Manager at the direction of and under the supervision of the Chief District Court Judge. The daily calendar (excluding the *pro se* calendar and appeals calendar) of cases to be heard and pre-trial conferences to be held in Greensboro Courtrooms 2E and 3A shall be set at a session calendar call. The daily calendar (excluding the *pro se* calendar, Chapter 50B and 50C calendar and appeals calendar) of cases to be heard and pre-trial conferences to be held in High Point Courtroom 3A shall be set at a session calendar call.

4.07 **Designation of Courtrooms.** Matters shall be appropriately calendared in accordance with these Rules with such requests complying with the following designations regarding the types of matters and hearings conducted in each of the six concurrent civil sessions.

(a) *Greensboro Courtroom 2A.* Respectively, with due regard for venue, Greensboro Courtroom 2A shall be the proper courtroom to calendar the following types of matters and hearings:

(1) IV-D Cases (Child Support Enforcement Agency)

(2) Uncontested Absolute Divorce cases (including Motions for Summary Judgment (See Rule 8)).

(3) Matters calendared pursuant to Rule 5A.

(b) *High Point Courtroom 3B.* Respectively, with due regard for venue, High Point Courtroom 3B shall be the proper courtroom to calendar IV-D Cases (Child Support Enforcement Agency) only on Tuesdays and Wednesdays.

(c) *Greensboro Courtroom 2B and High Point Courtroom 3A.* Respectively, with due regard for venue, Greensboro Courtroom 2B and High Point Courtroom 3A shall be the proper courtroom to calendar the following types of matters and hearings:

(1) Emergency motions for relief.
(2) Return hearings upon *ex parte* Orders.
(3) Hearings pursuant to an Order to Show Cause for Contempt.
    (i) However, Order to Show Cause for Contempt may also be calendared in Greensboro Courtrooms 2E or 3A.
(4) Motions pursuant to Rule 65, N.C. GEN. STAT. § 1A-1.
(5) Motions related to discovery matters.
(6) Motions to Withdraw as Attorney of Record
(7) Motion for Judgment following default.
(8) Motion on the Pleadings
(9) Motions for Summary Judgment, excluding uncontested absolute divorce
(10) Claims pertaining to domestic violence, including those filed under Chapter 50B of the North Carolina General Statutes and Claims pertaining to Civil No-Contact Orders, including those filed under Chapter 50C of the North Carolina General Statutes. However, notwithstanding the foregoing, in High Point, *ex parte* claims concerning domestic violence or civil no-contact orders filed under Chapters 50B or 50C of the North Carolina General Statutes shall be properly heard in High Point Courtroom 3B.

(d) *All Other Matters.* Respectively with due regard for venue, all other matters, hearings, pre-trial conferences, and trials shall be calendared in Greensboro Courtroom 2E, Greensboro Courtroom 3A or High Point Courtroom 3A. It shall also be permissible to calendar the following types of hearings in Greensboro Courtroom 2E, Greensboro Courtroom 3A, or High Point Courtroom 3A, to wit: contempt of court, discovery issues, summary judgment, and withdraw as attorney of record.

4.08 Types of Calendars By Courtroom.

(a) *Greensboro Courtroom 2A Calendars.* Each weekly session of civil court in Greensboro Courtroom 2A shall consist of the IV-D Child Support Enforcement calendar and Uncontested Divorce Calendar (see Rule 8). The Greensboro Courtroom 2A sessions of court shall also include the 30 Minute Hearing Calendar (see Rule 5A).

(b) *Greensboro Courtroom 2B Calendars.* Each one week civil session of court in Greensboro courtroom 2B shall consist of two calendars, to wit: the miscellaneous calendar and the N.C.G.S. Chapter 50B and 50C calendar. The cases set upon the N.C.G.S. Chapters 50B and 50C calendar (see Rule 10) shall have priority over the cases set upon the Miscellaneous calendar (see Rule 9) on Wednesdays, Thursdays, and Fridays.

(c) *Greensboro Courtrooms 2E and 3A Calendars.* Each four (4) week civil session of court in Greensboro Courtroom 2E shall consist of four calendars, to wit: the joint *pro se* calendar, the joint appeals calendar, the general civil calendar, and the equitable distribution calendar. Each four (4) week civil session of court in Greensboro Courtroom 3A shall consist of three calendars, to wit: the joint *pro se* calendar, the joint appeals calendar, and the general civil calendar. The Greensboro Courtroom 3A general civil calendar shall also contain all matters scheduled for jury trial pursuant to Rule 4.11(a). The joint *pro se* calendar shall cover the first Monday and subsequent Tuesday of each four (4) week session. The appeals calendar shall cover the first Wednesday of each four (4) week session. Each of the general civil calendars shall cover each and every remaining day of each four (4) week session. The Greensboro Courtroom 2E equitable distribution calendar shall cover each and every remaining day of each four (4) week session, unless otherwise ordered by the presiding Judge of the session.

(d) *High Point Courtroom 3A Calendars.* Each two (2) week session of civil court in High Point Courtroom 3A shall consist of four calendars, to wit: *pro se* calendar, divorce calendar, N.C.G.S. Chapter 50B and 50C calendar, and the general civil calendar. The High Point Courtroom 3A general civil calendar shall also contain all matters set for jury trial pursuant to Rule 4.11(a) and all appeals.

(e) *High Point Courtroom 3B Calendars.* Each weekly session of civil court in High Point Courtroom 3B shall consist of the IV-D Child Support Enforcement calendar. All civil cases set for hearing in High Point Courtroom 3B shall occur on Tuesday or Wednesday.

4.09 **Judicial Authority.** The judges presiding over the four (4) concurrent sessions of civil court in Greensboro are authorized to preside over any civil matter scheduled for hearing in any of the four Greensboro civil courtrooms, regardless of whether or not the matter appeared on that Judge's calendar for the session. The judges presiding over the two (2) concurrent sessions of civil court in High Point are authorized to preside over any civil matter scheduled for hearing in any of the two High Point civil courtrooms, regardless of whether or not the matter appeared on that Judge's calendar for the session.

4.10 **Judicial Authority Over Emergency and *Ex Parte* Matters.** Emergency matters and authorized *ex parte* matters, including but not limited to *ex parte* Temporary Restraining Orders and Orders to Show Cause, shall be brought before any judge who is actively presiding over Court in Greensboro Courtrooms 2B, 2E or 3A or High Point Courtrooms 3A or 3B respectively with due regard for venue. Alternatively, if no judge is presently holding court in Greensboro Courtrooms 2B, 2E or 3A or High Point Courtrooms 3A or 3B, respectively with due regard for venue, the aforementioned emergency matters or authorized *ex parte* matters shall be brought before any judge in chambers who is presently assigned to preside over any concurrent civil sessions. Finally, if there are no judges actively holding court or in chambers who are presently assigned to preside over the concurrent civil sessions, such emergency matters and authorized ex parte matters may be brought before any resident District Court Judge of this 18th Judicial District.

4.11 **Jury Trials.**

(a) *Designation of Jury Session.* The Chief District Court Judge, or her designee, shall designate at least ten (10) sessions of civil court in Greensboro courtroom 3A for jury trials and at least five (5) sessions of civil court in High Point courtroom 3A for jury trials. In Greensboro, all jury trials will be held during the third week of any session that has been designated for jury matters.

(b) *Priority Status.* When a session has been designated for jury trials, jury trials shall have absolute priority over all other cases (including peremptory settings).

(c) *Scheduling of Jury Trials.* In Greensboro all jury trials shall be scheduled in Courtroom 3A during the third week of the session. In High Point all jury trials shall be scheduled for a date certain by the Trial Court Coordinator.

(d) *Subject to being called.* All cases on the session calendar for a jury trial will be subject to being called for trial during the entire week of the session designated for jury trials, except Friday.

(e) *Multiple Jury Trials on the Calendar.* If multiple jury trials appear on the session calendar, the jury trial cases shall be heard in order of appearance on calendar.

(f) *When a Jury Trial is Not Able to be Reached.* In the event a jury trial is not reached, the parties or counsel may consent to the case being continued to the next available jury session. Absent such consent, the matter must be re-calendared through the calendaring procedures described within these Rules. A jury trial shall not be designated as "priority not reached" as all jury trials have priority under these rules.

RULE 5
ORGANIZATION OF GENERAL CIVIL COURT SESSIONS

5.01 **Session Calendar Call.** The daily calendar for Greensboro Courtrooms 2E, 3A and High Point Courtroom 3A shall be established at a session calendar call prior to the beginning of the session, with the exception of those matters appearing on the *pro se* calendar, the appeals calendar, the uncontested divorce calendar, and in High Point the Chapter 50B and 50C calendar.

(a) *Greensboro.* On the Monday preceding the beginning of each four (4) week session in Greensboro Courtrooms 2E and 3A, each judge scheduled to preside over court shall call the session calendar for that judge's upcoming session to establish a daily calendar for the upcoming session. The session calendar call shall occur in Greensboro Courtroom 2E at 9:00 a.m. beginning with the judge scheduled to preside over the upcoming session Greensboro Courtroom 2E calling her calendars (equitable distribution calendar and general civil session calendar) first. Following the call of the Greensboro Courtroom 2E session calendars, but no earlier than 10:00 a.m. and no less than ten (10) minutes following the conclusion of the Greensboro Courtroom 2E session calendar call, the judge scheduled to preside over the upcoming session of court in Greensboro Courtroom 3A shall call her general civil session calendar to establish a daily calendar for the upcoming session.

(b) *High Point.* On the Thursday preceding the beginning of each two (2) week session in High Point Courtroom 3A, the judge scheduled to preside over the upcoming session of court shall call the general civil session calendar to establish the daily calendar for the upcoming session.

(c) Each judge scheduled to preside over the upcoming session of court in Greensboro Courtrooms 2E, 3A and High Point Courtroom 3A shall schedule trials, motions, and pre-trial conferences at the session calendar call, subject to the Rules 6 and 7 (*pro se* calendar and appeals calendar). All matters properly on a session calendar shall be set for hearing on a particular day during the session.

(d) *Appearance Required.* All unrepresented parties and counsel for any party, or another attorney familiar with counsel's schedule for the month, must be present at the call of the session calendar.

5.02 **Daily Calendar Call**

(a) *General.* Each morning during the session, the judges will hold a daily calendar call beginning 9:00 a.m.

(b) *Greensboro Courtrooms 2E and 3A.* The presiding judges over Greensboro Courtrooms 2E and 3A shall jointly call their calendar each morning at 9:00 a.m. in Courtroom 2E to determine the expected order and duration of the cases on their expected calendar. The two presiding judges shall meet and review their respective calendar and resolve any conflicts that may exist relative to the availability of attorneys scheduled to appear in their courts. They shall also reassign cases among themselves in the way that will most evenly distribute cases and most expeditiously resolve the highest number of pending cases.

(c) *Appearance Required.* For Greensboro Courtrooms 2E, 3A or High Point Courtroom 3A, all unrepresented parties and counsel for any party, or a partner, associate or other attorney familiar with the case shall be present for the call of the daily calendar.

(d) *Continuance.* If a case is not reached on the day set for hearing, the presiding judge may add the case to another day during the judges' session or continue it to a subsequent session. When a case is continued to another session because the judge is unable to reach it for hearing, it shall have "priority not reached" status on the next available session whose calendar has not been closed. Cases continued for any reason other than not being reached for hearing shall not be placed ahead of regularly calendared cases. Cases continued after the preparation of the final session calendar for the next session of court, including those designated as "priority not reached," must be placed on the next successive session calendar.

RULE 5A
30 MINUTE HEARING CALENDAR
(APPLIES TO GREENSBORO DIVISION ONLY)

5A.01 **Eligible Matters.** The types of matters designated for the 30 Minute Hearing Calendar shall be those matters which can be heard in less than thirty (30) minutes. Types of matters that may be addressed are Guideline Child Support (temporary and permanent), Registration of Foreign Orders (child support and child custody), Motions to Change Venue, Rule 59 and Rule 60 Motions, Motions for Confirmation of Arbitration Awards pursuant to the Family Law Arbitration Act, Motions to Dismiss, Motions to Substitute Parties, Motions to Intervene, and Motions for Attorney's Fees.

5A.02 **Hearing.** Hearings will be limited to 30 minutes, said time divided equally between the parties and will include opening statements, examination of witnesses and legal arguments. Only matters which can be presented in this time frame should be calendared for this docket.

5A.03 **Establishment of Calendar.** The Trial Court Coordinator shall prepare the 30 Minute Hearing Calendar and publish it not less than ten (10) days prior to the scheduled hearing date.

5A.04 **Designated Hearing Dates.** The matters upon the 30 Minute Hearing Calendar shall be heard on alternate Thursdays at 2:00 p.m. in Greensboro Courtroom 2A. The Trial Court Coordinator will publish a list of available dates and filing deadlines no later than October 1 of the previous year.

5A.05 **Notice Requirements.** The filing and service of the 30 Minute Hearing Calendar Request and Notice of Hearing (form CMR-201) established by the Case Management Rules shall constitute sufficient notice of hearing provided that said notice is filed and served within those time limits prescribed by Rule 7 of the North Carolina Rules of Civil Procedure or any other statute, including but not limited to N.C. GEN. STAT. § 50-13.5 (d)(1) which requires 10 days' notice for child support motions. Attorneys should confer with opposing counsel and agree upon available dates before submitting the 30 Minute Hearing Calendar Request and Notice of Hearing to the Trial Court Coordinator.

5A.06 **Additional Documents Required for Child Support Motions and Attorney's Fees Motions.** The moving party in a child support motion shall serve upon opposing counsel the disclosures and documents required in CMR Rule 23.02 contemporaneously with the service of the Calendar Request and Notice of Hearing. The moving party in an attorney's fees motion shall serve opposing counsel with a copy of the Attorney's Fees Affidavit contemporaneously with the Calendar Request and Notice of Hearing.

RULE 6
PRO SE CALENDAR

6.01 **General.** Matters pertaining to custody, visitation, non-IV-D child support, contempt, and spousal support in which both parties are un-represented and are proceeding pro se shall be placed upon the "pro se calendar" upon proper application and compliance with Rule 12. The Case Manager shall prepare the *pro se* calendar and publish it not less than ten (10) days prior to the scheduled hearing date. The Clerk of Superior Court shall distribute the *pro se* calendar to all parties having a case thereon. Unless the parties' otherwise consent, if at the time the *pro se* calendar is called, either party is represented by an attorney the matter shall be continued off the *pro se* calendar to the next general civil session calendar.

6.02 **Designated Hearing Date.** In Greensboro, the first Monday and subsequent Tuesday of each four (4) week session in Greensboro Courtrooms 2E and 3A shall be designated solely to hear matters placed upon the *pro se* calendar. In High Point, the first Tuesday of the session shall be designated to hear matters placed upon the *pro se* calendar.

6.03 **Greensboro Joint Calendar.** In Greensboro, there shall be a joint *pro se* calendar for Courtrooms 2E and 3A and said calendar shall be called at 9:00 a.m. in Courtroom 2E on the first Monday of each four (4) week session. Following the call of the *pro se* calendar in Greensboro Courtroom 2E, the judges assigned to Greensboro Courtrooms 2E and 3A shall confer to divide up the cases among the two courtrooms and determine a hearing schedule that promotes judicial economy.

6.04 **When a Pro Se Matter is Not Reached for Hearing.** Any matter not reached for hearing on the *pro se* calendar shall be continued to the next *pro se* calendar as "priority not reached," except in rare circumstances and at the discretion of the presiding judge, whereby the judge exercising her inherent authority and discretion may place the matter which was not reached upon another day during her four (4) week session.

RULE 7
APPEALS CALENDAR
(APPLIES TO GREENSBORO DIVISION ONLY)

7.01 **Eligible Cases.** All matters that have been appealed from Small Claims Court or Court-Ordered Arbitration shall be placed upon the Greensboro appeals calendar. The Case Manager shall prepare the appeals calendar and publish it not less than ten (10) days prior to the scheduled hearing date and the Clerk of Superior Court shall distribute said calendar to all parties having a case thereon.

7.02 **Designated Hearing Date.** The first Wednesday of each four (4) week session in Greensboro Courtrooms 2E and 3A shall be designated solely to hear matters placed upon the appeals calendar.

7.03 **Appeals Seeking a Jury Trial.** Any matter on appeal where a jury trial has been requested shall first be set for a Pre-Trial Conference on the Appeals Calendar for submission and approval of the parties' Pre-Trial Order. After the Pre-Trial Order has been approved by the Court, the case will be continued to the next available jury session for trial AND to the subsequent Appeals Calendar for entry of final order/judgment.

7.04 **When an Appeals Matter is Not Reached for Hearing.** Any matter not reached for hearing on the appeals calendar shall be continued to the next appeals calendar as "priority not reached," except in rare circumstances and at the discretion of the presiding judge, whereby the judge exercising her inherent authority and discretion may place the matter which was not reached upon another day during her four (4) week session.

RULE 8
UNCONTESTED DIVORCE CALENDAR

8.01 **General.** All uncontested absolute divorces, including motions for summary judgment concerning absolute divorce, shall be scheduled for hearing in Greensboro Courtroom 2A on a Monday at 2:00 p.m. or in High Point Courtroom 3A on a Monday at 9:00 a.m., respectively with regard to venue. (A contested absolute divorce or annulment shall not be placed on these calendars, but rather shall be placed upon the general civil calendar in Greensboro Courtrooms 2E, 3A or High Point Courtroom 3A respectively.)

8.02 **Calendaring Deadline.** The party requesting the absolute divorce that is uncontested must file a Calendar Request and Notice of Hearing (Form CMR-200) at least three weeks prior to the session date requested and serve said request and notice on the opposing party or counsel pursuant to Rule 5 of the North Carolina Rules of Civil Procedure.

8.03 **Waiver of Calendaring.** Upon good cause being shown, parties to an uncontested absolute divorce proceeding may agree to waive notice and calendaring and by and with the consent of the presiding judge may have their absolute divorce heard at any time during a civil session of court.

8.04 **Proposed Order.** In all uncontested absolute divorce hearings, the prevailing party is expected to present the presiding judge with a proposed Judgment of Divorce when the case is called for hearing.

8.05 **Absolute Divorce before the Clerk of Superior Court.** Any action for absolute divorce (including resumption of premarital name) may be scheduled for entry of judgment by the Clerk of Superior Court of Guilford County (pursuant to the rules established therefore by the Clerk of Superior Court) where the responding party is not an infant or incompetent person and (a) the responding party fails to file an Answer or Reply (is defaulted); or (b) all allegations for absolute divorce have been admitted; or (c) the responding party has filed a waiver of the right to answer.

RULE 9
MISCELLANEOUS CALENDAR

9.01 **Eligible Matters.** The types of matters designated for the Miscellaneous Hearings calendar shall be those matters designated by Rule 4.07(c), except those in Rule 4.07(c)(10). The Case Manager will publish a Miscellaneous Hearings calendar for Greensboro Courtroom 2B and will provide it to the Clerk of Superior Court. Copies of this calendar shall be posted outside the Attorney Conference Room (Room 251) of Greensboro Courtroom 2E and in the office of the Clerk of Superior Court. In High Point, the calendars for High Point Courtroom 3A will be posted in the office of the Clerk of Superior Court and outside of High Point Courtroom 3A.

9.02 **Return to Court Hearings upon Temporary Restraining Orders, Orders to Show Cause, or Other Emergency Matters.** Every emergency or *ex parte* matter in which a judge has issued an Order with less than five (5) days' notice to the opposing party or attorney, shall be given a return to court date upon which a full hearing on the matter can be held. In Greensboro, a return to court hearing on each such matter shall be scheduled for hearing at 9:00 a.m. in Greensboro Courtroom 2B on a Monday or Tuesday which is more than five (5) but less than ten (10) days from the date of issuance. In High Point, a return to court hearing on each such matter shall be scheduled for hearing at 9:00 a.m. in High Point Courtroom 3A on the first Monday more than seven (7) days after the date of entry of the Order. The date of a return to court hearing on each such matter shall be established by the Case Manager in accordance with the Rules set forth herein. A case scheduled by Order will not be heard unless the date has been set by the Case Manager, before the Order was filed with the Clerk of Superior Court.

RULE 10
CALENDAR FOR CASES UNDER N.C.G.S. CHAPTERS 50B & 50C

10.01 **Establishment of Calendar.** Case Manager shall prepare the Chapter 50B & 50C calendar and publish it not less than five (5) days prior to the scheduled hearing date. There will be no pre-established calendar for applications for *ex parte* orders or requests seeking emergency relief.

10.02 ***Ex Parte* and Emergency Relief Hearings.** All applications for an *ex parte* Domestic Violence Protective Order (DVPO) or Civil No-Contact Order pursuant to N.C. GEN. STAT. §§ 50B-1 *et seq.* or 50C-1 *et seq.*, respectively, shall be brought by the Clerk of Superior Court before a presiding Judge of the District Court in Greensboro Courtroom 2B or High Point Courtroom 3D, respectfully with due regard for venue, at 2:00 p.m. daily when the District Courts are in session.

10.03 **Return to Court Hearings Following Issuance of ex parte Order.**

(a) *Greensboro.* In Greensboro, upon entry of an *ex parte* DVPO or No-Contact Order , the Clerk of Superior Court shall schedule the matter for hearing at 9:00 a.m. in Greensboro Courtroom 2B on a Wednesday, Thursday or Friday which is more than five (5), but less than ten (10) days from the date of issuance of the *ex parte* Order.

(b) *High Point.* In High Point, upon entry of an *ex parte* DVPO or No-Contact Order, the Clerk of Superior Court shall schedule the matter for hearing in High Point Courtroom 3A on the first Monday which is more than five (5), but less than ten (10) days from the date of issuance of the *ex parte* Order.

10.04 **Motions for Contempt, to Modify, or Extend a DVPO or No-Contact Order.** Motions for Contempt based upon violation of a DVPO or Civil No-Contact Order and Motions to Modify or Extend an existing DVPO or Civil No-Contact Order shall be set for hearing not less than ten (10) days from the date of filing, respectively with due regard for venue, in Greensboro Courtroom 2B on a Wednesday, Thursday or Friday or in High Point Courtroom 3A on a Monday.

10.05 **Motions for Purpose of Obtaining the Return of Firearms.** Motions made for the purpose of obtaining the return of firearms ordered turned over to the Sheriff of Guilford County pursuant to a DVPO or Civil No-Contact Order shall be heard **only** in Greensboro Courtroom 2B on the third Wednesday morning of each calendar month. Rule 3.07, Venue, shall not apply for these Motions. A copy of the Motion is to be delivered to the Sheriff at the time of filing.

10.06 **Limits On Additional Claims.** In all actions where claims are made pursuant to N.C. GEN. STAT. § 50B-1 *et seq.* or N.C. GEN. STAT. § 50C-1 *et seq.*, no other causes of action not originating in these chapters shall be joined, neither by claim nor counterclaim. Only counterclaims made pursuant to N.C. GEN. STAT. § 50B-1 *et seq.* or N.C. GEN. STAT. § 50C-1 *et seq.* shall be permitted.

RULE 11
CLEAN-UP CALENDAR

11.01 **General.** The Clean-Up calendar shall be one of the methods whereby the judges of the District Court exercise their inherent and statutory control over the litigation process. The Case Manager, under the direction of the Chief District Court Judge, shall monitor pending civil cases to insure that they are being disposed of in a timely manner. Periodically, the Case Manager shall publish a Clean-Up calendar containing a list of those cases which are delinquent in some respect, subject to default, or are subject to discontinuance under Rule 4(e) of the Rules of Civil Procedure. The Clerk of Superior Court shall distribute said calendar to all attorneys of record and mail a copy of said calendar to all unrepresented parties at their last address of record.

11.02 **Scheduling.** All Clean-Up calendars will be scheduled for appropriate Courtrooms designated herein. The published Clean-Up calendar will be a session calendar from which a daily calendar will be established at the regularly scheduled session calendar call in Greensboro Courtroom 2E or High Point Courtroom 3A. All cases appearing on the Clean-Up calendar and not set for hearing at the session calendar call are deemed "called for hearing" on the first day of the civil session.

11.03 **No Continuances.** All cases on the Clean-Up calendar shall be set for hearing and shall be heard during the Clean-Up session. No case which appears on the Clean-Up calendar shall be continued, removed from the calendar, or left open beyond the end of the Clean-Up civil session, unless the parties have obtained a peremptory setting that sets the matter for trial no later than ninety (90) days from the expiration of the Clean-Up session of court.

11.04 **Family Law Cases with Temporary Orders.** Cases wherein an order has been entered with respect to post-separation support, temporary custody or temporary child support and no other action has been taken in the past thirteen (13) months said case shall be ordered to Inactive File status.

11.05 **Moot Issue in Family Law Cases.** In family law matters, when a Judgment or Order is entered which renders moot issues not addressed in that Order or Judgment, the Clerk of Superior Court is authorized to administratively close the moot issues. More precisely, in the following situations, the Clerk of Superior Court shall administratively close and remove from the cases pending in the District Court the following Claims for Relief:

(a) *Equitable Distribution Judgment and Interim Distribution Claim.* The entry of an Equitable Distribution Judgment shall close any request for an Interim Distribution of marital property;

(b) *Alimony Order and Post-Separation Support Claim.* The entry of an Alimony Order shall close any claim for Post-Separation Support;

(c) *Absolute Divorce Judgment and Divorce from Bed and Board Claim.* The entry of a Divorce Judgment shall close any claim for a Divorce from Bed and Board. This shall apply whether the Divorce was entered in the main action or in a collateral action between the same two parties;

(d) *Custody Order and Temporary or Emergency Custody Claims.* A final Custody Order shall close any request for Temporary or Emergency Custody;

(e) *Further Claims for Relief.* Judgments or Orders resolving all specified Claims for Relief shall close any request for "such further relief as may be deemed just and proper" or similar requests for additional unspecified relief;

(f) *Resumption of Maiden Name.* The entry of a Divorce Judgment shall close any request for the resumption of a maiden name;

(g) *Request to Incorporate Separation and/or Property Settlement Agreement.* The entry of a Divorce Judgment shall close any request for the incorporation of a Separation and/or Property Settlement Agreement.

RULE 12
REQUESTS TO BE PLACED UPON A CIVIL CALENDAR

12.01 **General.** For a matter to be scheduled for hearing or pre-trial conference, a party shall submit a Calendar Request and Notice of Hearing (Form CMR-200 or CMR-201) to the Case Manager **and** file a copy that has been stamped by the Case Manager with the Clerk of Superior Court.

12.02 **Dual Purpose and Service.** The Calendar Request and Notice of Hearing shall also serve as a Notice of Hearing of the issues to be heard and must be served upon all interested parties in accordance with Rule 5 of the North Carolina Rules of Civil Procedure.

12.03 **Use of Form Required.** Any party seeking to give Notice of Hearing as allowed by law or calendar a matter for trial, hearing, or pre-trial conference shall use Form CMR-200 or CMR-201 as attached hereto.

12.04 **Deadlines.** All Calendar Request and Notice of Hearing designating the issues to be heard and requesting a trial must be filed with the Case Manager no less than six (6) weeks prior to the start of the session and those requesting a hearing upon a motion shall be filed no less than three (3)) weeks prior to the start of the session. Any request for a pre-trial conference shall be filed no less than three (3) weeks prior to the start of the session.

12.05 **Must Comply with Rules.** No case or issue shall be added to the court's calendar without adherence to the procedures set forth herein (including those issues which have been noticed for hearing but a calendar request for same has not been submitted) except in those rare circumstances wherein justice will best be served.

12.06 **Attorney Availability.** No attorney shall calendar one (1) or more cases for hearing during a general civil session of court in Greensboro Courtrooms 2E or 3A without being available to hear that case (because of scheduled conflicts, vacation, peremptory settings, or other reasons) on at least two (2) different dates during the session. Notwithstanding the foregoing, no attorney shall calendar three (3) or more cases for hearing during a general civil session of court in Greensboro Courtrooms 2E or 3A without being available to hear that case on at least five (5) different dates during the session. No attorney shall calendar one or more cases for hearing during a general civil session of court in High Point Courtroom 3A without being available to hear that case (because of scheduled conflicts, vacation, peremptory settings, or other reasons) on at least one (1) day during the session. Notwithstanding the foregoing, no attorney shall calendar three (3) or more cases for hearing during a general civil session of court in High Point Courtrooms 3A without being available to hear that case on at least two (2) different dates during the session.

RULE 13
PEREMPTORY SETTINGS

13.01 **General.** A peremptory setting may be given to a case if good and compelling reasons exist as set forth below:

(a) A party who resides more than ninety (90) miles from the Courthouse, with due regard for venue;
(b) An essential witness who resides more than ninety (90) miles from the Courthouse, with due regard for venue;
(c) Expert witnesses;
(d) The case has been repeatedly scheduled for trial without being tried.
(e) Statutory requirement; or
(f) Other extraordinary circumstances as deemed appropriate by the presiding judge.

13.02 Any party or attorney requesting a peremptory setting must file a *Peremptory Setting Request* (form CMR-301) with the Trial Court Coordinator in the venue in which a setting is requested. The Trial Court Coordinator will confirm the dates in which the case shall be set and submit the request to the presiding judge. After the Peremptory Setting Order has been signed by the presiding Judge and filed with the Clerk of Superior Court, the Trial Court Coordinator will provide the parties or their respective attorneys with a copy of the filed Peremptory Setting Order. In the event the parties are unable to agree as to a peremptory setting, the party seeking a peremptory setting shall calendar the matter for a pre-trial.

13.03 Peremptory Settings shall be limited to five (5) days per Four-Week Session in Greensboro Courtrooms 2E and Courtroom 3A and two (2) days per Two-Week Session in High Point Courtroom 3A. The presiding Judge may at their discretion, further limit hearings based on the Court's schedule or provide additional setting dates.

RULE 14
ENTRY OF ORDER OR JUDGMENT

14.01 **Preparation of Order.** Following a hearing or trial, the presiding judge shall direct an attorney to draft a proposed Order or Judgment. The drafting attorney shall draft the document and seek approval from opposing counsel or party within ten (10) business days, or within such time as the judge directs. The opposing counsel or party shall have ten (10) business days, or within such time as the judge directs, thereafter within which to object, propose changes or additions, or submit an alternate order to the drafting attorney. If the parties or attorneys are unable to agree on the terms of a proposed order, the drafting attorney shall submit the proposed Order or Judgment to the presiding judge with a cover letter succinctly explaining the lack of approval and the reasons therefore. A copy of the proposed order submitted and cover letter must be furnished to opposing counsel. Within a reasonable time thereafter the presiding judge may (a) sign the submitted proposed order, (b) ask for a conference to settle the terms of the proposed order, or (c) direct the attorneys to modify the document submitted and notify the other attorney accordingly.

14.02 **Required Preamble.** All proposed Orders and Judgments shall in their preamble make reference to the session of court and the date of hearing in a form substantially as follows:

> **THIS MATTER** came on for hearing and being heard before the Honorable {Judge's name}, District Court Judge for the Eighteenth Judicial District, Guilford County during the {date i.e. October 1, 2012} civil {jury or non-jury} session of Court and was heard on {dates i.e. October 10, 11, & 12, 2012}, upon {Plaintiff's or Defendant's} {motion or other pleading} for {issue}.

14.03 **Statement of Representation.** All proposed Orders and Judgments submitted shall in their preamble make reference to any attorney at law who appeared as counsel in the matter in a form substantially similar as follows:

> **IT APPEARING TO THE COURT** that the plaintiff was represented by Attorney {name} and defendant was not represented by counsel.

14.04 No attorney may be relieved as Counsel of Record, nor abandon the duty of Counsel of Record to prepare an Order in accordance herewith, until the Court has entered the appropriate Order or Judgment.

RULE 15
CRIHFIELD RULE

15.01 In the event that an attorney fails to file a timely responsive pleading in a pending matter, the opposing attorney shall notify the defaulting attorney of the deadline missed. The defaulting attorney shall be given reasonable time in which to prepare a response prior to having any legal action taken for their failure to respond within the required time.

RULE 16
DISCOVERY

16.01 **Subpoena.**

(a) As a supplement to the requirements and restrictions of Rule 45, N.C. GEN. STAT. § 1A-1, neither party (nor the party's attorney) shall issue a subpoena to a party requesting the production of documents, except to a trial or motion hearing date previously scheduled (not to include a pre-trial conference or calendar call date); and any such subpoena to a party to produce documents (to a trial or motion hearing date) shall only be enforceable if such subpoena is served no less than five (5) business days before the trial or motion hearing date, except in the case of a hearing pursuant to Chapter 50B or 50C of the North Carolina General Statutes or return hearing on an *ex parte* order.

(b) A party issuing a subpoena shall serve all other parties, via their attorney if the party is represented, with a copy of the subpoena upon the service of the subpoena.

RULE 17
{reserved for future codification}

RULE 18
{reserved for future codification}

RULE 19
{reserved for future codification}

RULE 20.
CHILD CUSTODY ACTIONS

20.01 **General.** For purposes of these rules, the term "custody actions" shall include all actions, Complaints and Motions in the Cause, relating to legal or physical custody of or visitation with a child. These rules apply equally to motions to modify prior custody or visitation Parenting Agreements or Orders. Motions for contempt related to custody issues are not "custody actions" within the meaning of these rules.

20.02 **Must Issue Order and Notice of Custody Events at Time of Filing.** The initiating party shall file and serve an Order and Notice of Court Events in Custody Actions (Form CMR-410) within sixty (60) day of service of a complaint, counterclaim, or motion concerning custody or visitation, shall filed a copy of the Order and Notice of Court Events (Custody and Visitation Actions) (Form CMR-410) with the Clerk of Superior Court, and shall serve the responding party with a copy of the Order and Notice of Court Events (Custody and Visitation Actions) (Form CMR-410). The responding party may file and serve upon the initiating party a copy of the Order and Notice of Court Events (Custody and Visitation Actions) (Form CMR-410) at any time after service of the complaint, counterclaim, or motion concerning custody or visitation. . The initiating party shall fill in the date for one of the next three available Custody Mediation Orientation sessions on the form. The session chosen should provide reasonable notice to the responding party after the expected service of process will be complete. In addition, upon the filing of the the Order and Notice of Court Events (Custody and Visitation Actions) (Form CMR-410), the initiating party shall list the case in the "Custody Mediation Notebook" maintained in of the Clerk of Superior Court (Room UG-51, the "New Case Filings" Office in Greensboro; Civil Court Desk in High Point). If a desired date is "full", that is if all spaces provided are filled in with other cases, that session is no longer "available" and a later session must be used.

20.03 **Required Court Events in Custody Actions.** Unless excused from attending by a presiding Judge, each party must attend and complete the following events:

(a) *Parenting Education Class.* Unless previously completed, each party must attend and complete a Parenting Education Class offered by the Children's Home Society of NC (Parenting Under Two Roof's) or Court Watch of North Carolina (Two Families Now). However, if a party lives more than ninety (90) miles from the Courthouse, with due regard for venue, said party may attend and complete an equivalent parenting course designed specifically for parties involved in custody litigation. The initiating party shall register for said class within ten (10) days from the date the Order & Notice of Court Events (Custody and Visitation Actions) (Form CMR-410) is issued.. Additionally, the initiating party will need to complete this class before scheduling the first mediation session. Each party shall file with the court and serve on the opposing party a copy of their Certificate of Completion of the program.

(b) *Custody Mediation Orientation.* The Custody Mediation Office will conduct a Custody Mediation Orientation session every other Thursday in Greensboro Courtroom 2A and on the alternate every other Thursday in High Point Courtroom 3A on a schedule established by the Custody Medication Coordinator at the direction and under the supervision of the Chief District Court Judge.

(c) *Judges' Custody Seminar.* The District Court Judges' shall host a Judges' Custody Seminar every other Thursday in Greensboro Courtroom 2A and on the alternate every other Thursday in High Point Courtroom 3A following Custody Mediation Orientation.

(d) *Custody Mediation Session.* The parties must attend and participate in at least one custody mediation session. The mediator will be assigned and the first session scheduled at Custody Mediation Orientation.

20.04 **All Orders Must Include Parenting Guidelines.** Unless specifically exempted from inclusion, in whole or in part, the terms and conditions of the Parenting Guidelines of the 18th Judicial District shall be included in any Order resulting from a custody action. They shall be referenced as "Parenting Guidelines of the 18th Judicial District." (Form CMR-400)

RULE 21
CHILD CUSTODY MEDIATION

21.01 Unless the Court waives Custody Mediation, parties in all custody actions, must complete Custody Mediation Orientation and must participate in Custody Mediation prior to trial on the issues. Motions for Contempt related to custody actions may be ordered to mediation by the judge issuing the Show Cause Order or by the presiding judge on the return date.

21.02 In the event that parties do not register for the Orientation within ninety (90) days of service of the Complaint, Counterclaim or Motion of Modify, the Custody Mediation Coordinator, using Form CMR-410, shall assign the dates for all events.

21.03 A party failing to comply with scheduling related to Custody Mediation is subject to the sanction of contempt of court.

21.04 The Custody Mediation program shall operate in conformity with the following principles:

(a) All verbal or written communications from either party to the Mediator or between the parties in the presence of the Mediator shall be absolutely privileged and inadmissible in any Court proceeding. Neither the mediator nor any party or other person involved in mediation shall be competent to testify as to any communications made during or in furtherance of the mediation sessions. (Note: There is no privilege or issue of incompetence as to communications made in furtherance of a crime or fraud.) No person shall record any mediation session.

(b) The number of sessions that a case will be mediated shall be limited to no more than three, unless the mediator decides additional sessions are necessary.

(c) The Mediator shall notify the Custody Administrator of the outcome of all cases within 24 hours of their completion. Custody actions that are resolved through mediation shall have Parenting Agreements drafted by the mediator to be signed by the parties. Prior to signing the Parenting Agreement, each party will be directed by the Custody Mediator to consult with an attorney regarding the Parenting Agreement.

(d) After both parties have signed, the fully executed Parenting Agreement shall be submitted to one of the judges assigned to a Civil Session of Court for approval. The judge shall execute an Order adopting the Parenting Agreement as an enforceable Order of the Court. (See Form: AOC-CV-631).

(e) **Motion to Waive Custody Mediation Orientation or Custody Mediation.** For good cause shown, upon written motion of either party, or on the Court's own motion, the Chief District Court Judge or her designee may waive Custody Mediation Orientation or Custody Mediation. Such motions shall be substantially similar in form and content AOC Form AOC-CV-632. Such motions shall be filed, served upon any opposing party, and a copy delivered to the Custody Administrator, no less than fourteen (14) days prior to the scheduled Custody Mediation Orientation or Mediation. Any response by the opposing party shall be filed, served upon the moving party, and a copy delivered to the Custody Administrator no more than seven (7) days after receipt of the motion. Both the motion and response may be accompanied by supporting affidavits or exhibits. After the time for response has expired or after a response has been served, the Custody Administrator shall present all relevant documents do the judge. Either party may request an evidentiary hearing in their motion or response. The judge shall have the discretion whether to hold an evidentiary hearing and whether to grant or deny the motion and shall enter an appropriate order. The Custody Administrator shall notify the parties of the decision. If the motion is denied, the parties shall proceed with the scheduled events or, if the date has passed, the Custody Administrator will assign new dates in the notification of the decision.

(f) Parties who have previously completed Custody Mediation, have a Parenting Agreement, want to modify their Parenting Agreement without filing additional court pleadings or motions, and who want to use the services of the Custody Mediator may request a mediation session through the Custody Administrator.

(g) In non-compliant cases, the Chief District Court Judge shall issue an Order to Show Cause for the parties to show cause why they should not be held in contempt for failure to comply with these Rules.

RULE 22.
PARENT COORDINATORS

GOVERNING STATUTE: N.C.GEN. STAT. 50-90 et seq.

22.01 At the conclusion of a custody trial, after the Court approval of a Parent Agreement, or in exceptional cases at an earlier stage of litigation, the Court may appoint a Parenting Coordinator upon motion, consent of the parties, or on the Court's own motion, if the Court concludes specifically that:

(a) this is a high conflict case as defined by G.S. 50-90,
(b) It is in the best interest of the child(ren) to appoint a Parenting Coordinator, and
(c) The parties are able to pay for the cost of a Parenting Coordinator.

When the parties have consented to the appointment of the Parenting Coordinator, the parties may agree to limit the authority of the Parenting Coordinator to certain issues.

22.02 Upon selection of a Parenting Coordinator, the Court shall complete a Referral Form for the proposed Parent Coordinator which shall list the contact information for the parties and their attorneys, the Court's findings in support of the appointment, and any agreement by the parties.

22.03 The general responsibilities of the Parenting Coordinator are as follows:

(a) to assist parents in implementing custody/visitation Court Orders on a continuing basis;
(b) to reduce conflict between parents;
(c) to teach parents communication skills, children's issues, and basic child development;
(d) to insure that both parents maintain continuing relationships with the child(ren);
(e) to provide attorneys and unrepresented parties with written summaries of developments in the case;
(f) to act as a temporary decision maker in the implementation of the parent plan on any minor issues that may or may not be specifically governed by Court order over which the parents reach an impasse, until there can be a further Order;
(g) to empower parents to successfully resolve conflicts over their child(ren) on their own.

22.04 The Parenting Coordinator shall not deal directly with financial issues and will refer financial issues to the parties' attorneys. However, with the mutual consent of the parties, the Parenting Coordinator may mediate financial issues between the parties.

22.05 Parenting Coordinators shall be chosen from a list maintained by the Custody Administrator. To be included on the list, a person must:

(a) certify that they have the following qualifications:
  (1) Master's or doctorate degree in psychology, law, social work, counseling, medicine, or a related subject area.
  (2) Have at least five years of related professional post-degree experience.
  (3) Hold a current license in the parenting coordinator's area of practice, if applicable.
  (4) Participate in 24 hours of training in topics related to the developmental stages of children, the dynamics of high-conflict families, the stages and effects of divorce, problem solving techniques, mediation, and legal issues.
(b) provide to the Custody Administrator a curriculum vitae to be made available to the attorneys and parents detailing the extent of the Parenting Coordinator's qualifications, including relevant education and experience.
(c) attend parenting coordinator seminars that provide continuing education, group discussion, and peer review and support on a regular basis.
(d) not have been a litigant in a child custody matter in the previous three years.

22.06 Prior to appointing a Parenting Coordinator, the Court shall conduct an Appointment Conference at which the parties, their attorneys and the proposed Parenting Coordinators will appear. At the conference set by the Court, the Court will:

(a) explain the Parenting Coordinator's role, authority, and responsibilities as specified in the appointment order and any agreement entered into by the parties;
(b) determine who will provide what information to the Parenting Coordinator;
(c) inform the parents of the rules regarding communication among themselves and with the Parenting Coordinator and the Court;
(d) provide for all financial arrangements, including setting the proportionate share of the Parenting Coordinator's fee to be paid by each party as well as the separate fees to be charged by the Parenting Coordinator to any party for individual contacts made necessary by the party's behavior;
(e) enter the Appointment Order (Form CMR-420).

22.07 At the appointment conference, the parties will sign all necessary releases, contracts, and consent forms deemed appropriate by the Parenting Coordinator to the execution of their responsibilities herein. The Parenting Coordinator will also schedule the first appointment with the parties.

22.08 The Parenting Coordinator is entitled to reasonable compensation for services rendered and to a reasonable retainer. Either party or the Parenting Coordinator may request a hearing in the event of a fee dispute. It shall be presumed that, in most situations, it is appropriate for each party to pay an equal share of the Parenting Coordinator's fee. In extraordinary situations, one party may be ordered to pay a larger percentage of the fee and such percentages shall be delineated in the appointment order along with the reasons for the allocations. However, in all cases the Parenting Coordinator has the discretion to charge either party separately for individual contacts with that party, or joint contacts made necessary by that party's behavior, or wasted time occasioned by a party's failure to cooperate and attend scheduled contacts.

22.09 Should the Parenting Coordinator act to resolve an impasse between parents regarding any issue not specifically governed by the Parenting Plan or Court Order, the Parenting Coordinator decision shall prevail until the matter is placed before the Court by Motion in the cause. Failure to comply shall subject the offending party to a contempt citation initiated by the Parenting Coordinator. The Parenting Coordinator or either of the parties may make the motion and calendar the underlying issue for hearing on an expedited basis.

22.10 If at any time the Parenting Coordinator determines that there has been a substantial change of circumstances arising out of the conduct of the parties such that the current custodial arrangement is not in the best interest of the minor child(ren), or that he or she is not qualified to address or resolve certain issues in the case, notification shall be given to the appointing Judge of the District Court, the attorneys for the parties and any unrepresented party. The appointing judge, shall immediately schedule a conference with the parties and their attorneys for review, within two weeks of the receipt of the report. The Parenting Coordinator shall remain involved in the case until the conference. If the appointing judge determines that an evidentiary hearing is required, they shall peremptorily schedule the case for hearing before the appointing judge or any appropriate judge with a civil session of court on the issue of a substantial circumstances warranting modification of custody. The hearing shall take place within two weeks of the conference.

22.11 If the parties agree to any fundamental change in the Parenting Agreement or Court Order, the Parenting Coordinator shall send the agreement to the parties' attorneys for preparation of a Consent Order.

22.12 The Parenting Coordinator shall provide a written summary of the developments in the case to the parties and their attorneys following each meeting with the parties, as well as copies of any other written communications. The Parenting Coordinator shall maintain records of each meeting. Such records may only be subpoenaed by the Judge presiding over the case. The Judge shall perform an in-camera inspection of the records and shall release them to the parties and their attorneys if the Court determines that the information contained in the records will assist the parties with the presentation of their case at trial. Oral or written *ex parte* communication between the parties (or their attorneys) and the Parenting Coordinator is permitted. There shall be no *ex parte* communication between the Court and the Parenting Coordinator.

22.13 The Court may terminate or modify the Parenting Coordinator appointment for good cause upon motion of either party or the Parenting Coordinator, or upon the agreement of the parties and the Parenting Coordinator. Good cause shall include but not be limited to the following reasons:

(a) lack of reasonable progress over a significant period of time despite the best efforts of the parties and the Parenting Coordinator;

(b) a determination that the parties no longer need the assistance of a Parenting Coordinator;

(c) an impairment on the part of one party which significantly interferes with participation in the process established by the Parenting Coordinator;

(d) the Parenting Coordinator is unable or unwilling to continue to serve.

22.14 No communications with the Parenting Coordinator are confidential or privileged. However, the Parenting Coordinator shall not disclose any information about the child(ren) or the parents except to the extent necessary to fulfill the duties and responsibilities imposed by the appointment order. Parenting Coordinators are authorized to consult with professionals, family members and others who have information about the parents or child(ren), such as therapists, custody evaluators, school teachers, etc, and may consider that information in making a decision, as allowed by law. The Parenting Coordinator is authorized to interview the child(ren) privately in order to ascertain the child(ren)'s needs as to the issues being decided.

22.15 The Parenting Coordinator shall set up appointments with the parties:

(a) The Parenting Coordinator shall set a time and place for a brief informational meeting with the parties at the appointment conference.

(b) Future appointments with the Parenting Coordinator may be scheduled at the request of either party by telephone or in person with no written notice required. Each party shall make a good faith effort to be available for appointments when requested by the other party or the Parenting Coordinator.

(c) The Parenting Coordinator shall notify the Court, with copies to the parties or their attorneys, if either party refuses to cooperate.

RULE 23
CHILD SUPPORT

23.01 **Affidavit of Income & Expenses.** Prior to or contemporaneous with the service of a Calendar Request/ Notice of Hearing for a hearing on a motion for child support, the party who filed the Calendar Request/Notice of Hearing shall serve an Affidavit of Income & Expenses (Form CMR-220). All Affidavit of Income & Expenses shall be in the form prescribed in Form CMR-220. The parties shall follow the instructions applicable thereto, which shall constitute additional rules herein to the same extent as if more fully set forth herein. The Affidavit of Income & Expenses shall be updated/supplemented prior to the start of the session if there is a material change.

23.02 **Required Disclosures/Mandatory Documents.** Both parties are required to make the following disclosures, furnish the following information, and provide the following documents prior to or contemporaneously with the service of their Affidavit of Income & Expenses (Form CMR-220) which shall be updated/supplemented prior to the start of the session if there is a material change.

(a) For persons who are hourly or salaried employees (including those who may receive bonuses and commissions in addition to their salaried income), those persons shall provide the following:

- **(i)** For the previous three (3) months, all pay-stubs and evidence or verification of all other income; and
- **(ii)** All pay-stubs showing all of the party's bonuses and commissions year-to-date;
- **(iii)** For the previous two (2) years, all federal income tax returns filed by the party or for the party, including all schedules and attachments, together with all year-end tax documentation (W-2 forms, 1098 forms, extension requests, etc.) for the most recent tax year if any tax return has yet to be filed;
- **(iv)** Evidence or verification of all work-related child-care costs for the three (3) previous months; and
- **(v)** Documentation of the cost of, and the actual payment of, the portion of the party's medical and dental insurance that covers the child(ren) who are the subject of this case.

(b) For all other persons not described in 23.02(a), (i.e. self-employed persons, business owners, professional practice partners, etc.) those persons shall provide the following:

- **(i)** The street address, city, & state of real property, wherever located, in which the party has any interest;
- **(ii)** For the previous three (3) months, evidence and verification of all gross income from all sources, including, but not limited to: salaries, wages, commissions, bonuses, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, Workers Compensation benefits, unemployment insurance benefits, disability pay, insurance benefits, gifts, prizes, alimony or maintenance received from persons other than the parties to the instant action. Such evidence or verification shall include, but not limited to, pay stubs, vouchers, employee benefit statements, stock option statements, company financial statements (if I am self-employed), company tax returns or Schedule "C" (if I am self-employed);
- **(iii)** For the previous three (3) months, statements showing all accounts in banks, credit unions, brokerage accounts and other financial institutions for which the party has been a signer;
- **(iv)** A listing of all of the party's outstanding debts, together with written documentation or account statements for each creditor indicating the principal balance currently owed and the payment terms;
- **(v)** For the previous two (2) years, all federal tax returns filed by the party or for the party, including all schedules and attachments, together with all year-end tax documentation (W-2 forms, 1098 forms, extension requests, etc.) for the most recent tax year if any tax return has yet to be filed;
- **(vi)** All personal financial statements the party has given to anyone, anywhere, during the previous two (2) years;
- **(vii)** Evidence or verification of all work-related child-care costs for the six (6) months preceding the court date; and
- **(viii)** Documentation of the cost of, and the actual payment of, the portion of my medical and dental insurance that covers the child(ren) who are the subject of this case.

23.03 **Responsive Affidavit.** Within twenty-one (21) days after service of a Calendar Request/Notice of Hearing and Affidavit of Income & Expenses (with all required documents) for a claim for Child Support the responding party shall, in like manner, serve their Affidavit of Income & Expenses, together with all required disclosures and documentary evidence (see Rule 24.02).

23.04 **Time Limits in Temporary Child Support Hearings.** Temporary child support hearings should be limited to two (2) hours each. Each party will have one (1) hour to present his or her case, including direct and cross-examination, opening statements and closing arguments. With written notice to the opposing party at least seven (7) days prior to the scheduled hearing date, parties may request from the Court additional time, which the assigned Judge may allow in his or her discretion.

23.05 **Proposed Child Support Worksheet.** Prior to the date of the child support hearing, each party shall deliver a proposed worksheet under the North Carolina Child Support Guidelines reflecting their contentions as to the appropriate amount of child support to the opposing counsel or unrepresented party.

23.06 **IV-D Child Support Cases.**

(a) IV-D Child Support cases shall be heard in Greensboro Courtroom 2A on Mondays, Tuesdays, Wednesdays, and Fridays and High Point Courtroom 3B on Tuesday and Wednesday. Court convenes at 8:30 a.m.

(b) In Greensboro, on Monday shall be Establishment cases, on Tuesday and Wednesday shall be Enforcement cases and Motions, and Fridays shall be Interstate cases. In High Point, Establishment, Enforcement, Motions and Interstate cases may be heard on either Tuesday or Wednesday.

(c) Complete court dockets shall be provided to the Clerk of Superior Court by the IV-D agency no less than five (5) days prior to the Court date. No more than 100 cases shall be calendared on a single day by the IV-D agency.

(d) The IV-D Agency shall be prepared in Court with all necessary documents, including: case file synopsis, payment history, current employer, Automated Collection and Tracking System (ACIS) history and properly filed motions.

(e) IV-D Orders shall be created in Court and signed by the presiding Judge on the date of the hearing whenever possible. If an Order is not prepared in Court, it should be presented to the presiding Judge no more than ten (10) business days after the case was decided. Notwithstanding the foregoing, if an attorney is representing any of the parties, the IV-D Agency and the attorney shall comply with CMR Rule 14, however all Orders shall be presented to the presiding Judge within thirty (30) days from the date of the hearing.

(f) In all Orders for Arrest issued out of IV-D Court, the person arrested shall make a first appearance before the Court the first weekday following their arrest. In Greensboro, such Orders for Arrest shall be returnable to Greensboro Courtroom 2A on the Monday, Tuesday, Wednesday, or Friday or Greensboro Courtroom 2C on the Thursday following their arrest. In High Point, such Orders for Arrest shall be returnable to High Point Courtroom 3B on Tuesdays and Wednesday and High Point Courtroom 3D on Mondays, Thursday, and Fridays.

(g) The parties are not required to file the financial statements and other documents required in non-IV-D child support cases. However, parties must comply with formal discovery requests issued by either side pursuant to Article 5 of the North Carolina Rules of Civil Procedure.

(h) Pursuant to 2012 North Carolina State Bar Formal Ethics Opinion 9, the IV-D Attorney and Guilford County Child Support Agency is not attorney of record for the oblige. Therefore, any pleadings and discovery must be served on the oblige with a separate copy served on the IV-D attorney.

RULE 24.
POST-SEPARATION SUPPORT AND ALIMONY

24.01 **Affidavit of Income & Expenses.** Prior to or contemporaneous with the service of a Calendar Request/ Notice of Hearing for a hearing on a motion for Post-Separation Support or for a trial on the issue of Alimony, the party who filed the Calendar Request/Notice of Hearing shall serve an Affidavit of Income & Expenses (Form CMR-220). All Affidavit of Income & Expenses shall be in the form prescribed in Form CMR-220. The parties shall follow the instructions applicable thereto, which shall constitute additional rules herein to the same extent as if more fully set forth herein. The Affidavit of Income & Expenses shall be updated/supplemented prior to the start of the session if there is a material change.

24.02 **Required Disclosures/Mandatory Documents.** Both parties are required to make the following disclosures, furnish the following information, and provide the following documents prior to or contemporaneously with the service of their Affidavit of Income & Expenses (Form CMR-220) and shall be updated/supplemented prior to the start of the session if there is a material change.

(a) The street address, city, & state of real property, wherever located, in which the party has any interest;

(b) For the previous three (3) months, evidence and verification of all gross income from all sources, including, but not limited to: salaries, wages, commissions, bonuses, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, Workers Compensation benefits, unemployment insurance benefits, disability pay, insurance benefits, gifts, prizes, alimony or maintenance received from persons other than the parties to the instant action. Such evidence or verification shall include, but not limited to, pay stubs, vouchers, employee benefit statements, stock option statements, company financial statements (if I am self-employed), company tax returns or Schedule "C" (if I am self-employed); and

(c) For the previous three (3) months, statements showing all accounts in banks, credit unions, brokerage accounts and other financial institutions for which the party has been a signer;

(d) A listing of all of the party's outstanding debts, together with written documentation or account statements for each creditor indicating the principal balance currently owed and the payment terms;

(e) For the previous two (2) years, all federal tax returns filed by the party or for the party, including all schedules and attachments, together with all year-end tax documentation (W-2 forms, 1098 forms, extension requests, etc.) for the most recent tax year if any tax return has yet to be filed;

(f) All personal financial statements the party has given to anyone, anywhere, during the previous two (2) years;

24.03 **Responsive Affidavit.** Within twenty-one (21) days after service of a Calendar Request/Notice of Hearing and Affidavit of Income & Expenses (with all required documents) for a claim for Post-Separation Support or Alimony the responding party shall, in like manner, serve their Affidavit of Income & Expenses, together with all required disclosures and documentary evidence (see Rule 24.02).

24.04 **Calendaring Requirements.** A request for a hearing on Post-Separation Support is a Motion and a request for a hearing on Alimony is a Trial and each shall be calendared as such pursuant to Rule 12.

24.05 **Time Limits in Post-Separation Support Hearings.** Post-Separation Support hearings should be limited to four (4) hours. Each party will have two (2) hours to present his or her case, including direct and cross-examination, opening statements and closing arguments. With written notice to the opposing party at least seven (7) days prior to the scheduled hearing date, parties may request from the Court additional time, which the assigned Judge may allow in his or her discretion.

24.06 **Mediation.** Alimony must be mediated and is subject to the same rules and procedures as set forth in Rule 31.

RULE 25.
EQUITABLE DISTRIBUTION

25.01 When a claim for Equitable Distribution is filed, the Judicial Assistant assigned to ED Case Management (hereinafter "EDJA")shall place the case upon the Equitable Distribution Calendar before one of the District Court Judges assigned by the Chief District Court Judge to try Equitable Distribution cases. Those designated judges will work as a team thereafter to complete all steps necessary to the disposition or dismissal of that claim within one year.

25.02 **Equitable Distribution Scheduling Conference.**

(a) When a party files a claim for Equitable Distribution, the EDJA shall serve a Calendar Request/ Notice of Hearing for an Equitable Distribution Scheduling Conference with an assigned judge for the session of court falling closest to ninety (90) days from the date of filing. The parties may avoid the necessity of an Equitable Distribution Scheduling Conference by opting for the entry of the Standing Order (Equitable Distribution) (Form CMR-330) at the call of the session calendar.

(b) At the Equitable Distribution Scheduling Conference, the Court shall:

(i) Order settlement procedures as set forth below in Rule 25.03;

(ii) Identify disputed and undisputed issues, explore settlement prospects, and discuss matters which may aid, expedite or simplify the trial with the parties;

(iii) Enter an order that prescribes deadlines for the exchange of contentions and affidavits, discovery, the completion of any appraisals, and the preparation of a Final Pretrial Order; and

(iv) Set a date for a Final Pretrial Conference and place the matter on a specific trial calendar.

25.03 **Ordering Settlement Procedures.**

(a) Except when already initiated by the parties, the Court shall enter an Order at the Equitable Distribution Scheduling Conference, directing the parties to attend a Mediated Settlement Conference, or other Alternative Dispute Resolution (ADR) of the Equitable Distribution. A party may file and serve a motion requesting an exemption from the Mediated Settlement Conference or other ADR and for good cause shown, the Court may grant the motion.

(b) Once set by Order, the completion date shall not be changed except as provided by Order of the Court upon appropriate "Motion and Order to Extend Completion Date for Mediated Settlement Conference or Other Dispute Resolution Procedure" (CMR-700). Any such Motion must be delivered to the EDJA who will deliver it to an assigned judge. Any Order entered therein will be delivered to the EDJA, who will file and serve the Motion and Order on the parties.

(c) Whether the case is assigned to a Mediator pursuant to these rules, or voluntarily by the parties before action is taken by the Court, an Order of Appointment of Mediator shall be submitted in all cases to the Judicial Assistant assigned to ED Case Management who will file it with the Clerk and send copies to the attorneys (or unrepresented parties) and the Mediator.

(d) Any Mediator agreeing to mediate, by Order or Agreement, any case pending in the 18th Judicial District shall submit a "Report of Mediator in Family Financial Case" (AOC Form AOC-CV-827) to the Judicial Assistant assigned to ED Case Management who will file it with the Clerk and send copies to the attorneys (or unrepresented parties).

25.04 **Pre-Trial Order & Final Pre-Trial Conference.** Equitable Distribution cases must be tried pursuant to a pre-trial order. The preparation of such and the final pre-trial conference shall be directed by the Orders of the Court. Unless the Pretrial Order has been signed by all participants, both parties and their respective attorneys must be present in the courtroom at the time of the Final Pretrial Conference so that any additions, deletions and stipulations and any new time-lines may be approved immediately. At the Final Pretrial Conference, the case, if not already scheduled for a trial calendar, will be assigned a trial date.

25.05 **Equitable Distribution Inventory Affidavit.** The parties shall use the Equitable Distribution Inventory Affidavit (hereinafter, "EDIA") set forth in Form CMR-230. The parties shall follow the instructions applicable thereto, which shall constitute additional rules herein to the same extent as if more fully set forth herein.

25.06 **Initial Disclosures/Mandatory Documents**. Contemporaneously with the service of the EDIA upon the opposing party, the serving party shall also be required to provide all documentation used to complete the EDIA, including but not limited to, statements from the Date of Separation, Date of Marriage (where applicable) and current statements for all financial accounts and debts, copies of all deeds, deeds of trust, UCC statements, mortgage and equity line statements, any appraisals with regard to real and personal property, the last three (3) years of personal tax returns, last five (5) years of business tax returns, last three (3) years Schedule C or K-1's, operating agreements, buy/sell agreements, offers to purchase or business valuations; copies from the Date of Separation, Date of Marriage (where applicable) and Current statements for all Retirement accounts; copies of titles for all automobiles (if available); and any documentation supporting your contentions with regard to Separate Property.

25.07 **Equitable Distribution Pre-Trial and Scheduling Conferences.** At her discretion, the Judge presiding over the Session Calendar Call may, with the consent of all parties, schedule a pre-trial conference or scheduling conference to commence immediately following the Session Calendar Call or at another time the same day of the Session Calendar Call, even though the session for which the Session Calendar Call was had has not yet commenced.

RULE 26
{*reserved for future codification*}

RULE 27
{*reserved for future codification*}

RULE 28
{*reserved for future codification*}

RULE 29
{*reserved for future codification*}

RULE 30
GENERAL RULES FOR ALTERNATIVE DISPUTE RESOLUTION

30.01 **Scope & Purpose.** These Rules concerning Alternative Dispute Resolution ("ADR") are intended to implement a series of events that are designed to focus the parties' attention on settlement rather than litigation and to provide a structured opportunity for settlement to occur. These Rules concerning ADR shall be construed and interpreted to foster that aim. Nothing herein shall prevent the parties from engaging in voluntary settlement procedures at any time before or after those ordered by the Court. Further, these concerning ADR are established for the purpose of implementing the Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial cases and are subject to modification as the Supreme Court may modify its rules so that these Rules are not inconsistent therewith.

30.02 **Family Financial Cases.** All counsel, upon being retained to represent any party in an equitable distribution, child support, alimony, or post-separation support action, shall advise the client that the ADR procedures mandated by these rules apply to their case. Additionally, all counsel shall attempt to reach an agreement with opposing counsel (or party, if unrepresented) on the appropriate settlement procedure for the action.

30.03 **Neutral Location.** Unless all parties and the neutral agree differently, the ADR proceeding shall be held in the Courthouse or at a neutral location and at a time and place convenient for all participants. It shall be conclusively presumed that the neutral's office is a sufficiently neutral location to hold any ADR proceedings so ordered. The neutral shall be responsible for reserving the location, setting the time and making other arrangements for the proceeding. The neutral shall also be responsible for giving timely written notice to all participants regarding, time, place, and any necessary pre-session or pre-proceeding submissions.

30.04 **Scheduling.** Participants are required to attend and shall promptly notify the neutral after selection or appointment of any significant problems they may have with dates for any session before the completion deadline and shall keep the neutral informed as to such problems as may arise before any anticipated session is scheduled by the neutral. After a session or proceeding has been scheduled by the neutral and a scheduling conflict with another court proceeding arises, participants shall promptly attempt to resolve it pursuant to Rule 3.1 of the General Rules of Practice for Superior and District Courts, or if applicable, the Guidelines for Resolving Scheduling Conflicts adopted by the State-Federal Judicial Counsel of North Carolina, June 20, 1985. The neutral may recess the ADR session or proceeding at any time and set times for reconvening. If the time for reconvening is set during the session or proceeding, no further notice is required for persons present at the session or proceeding.

30.05 **Pre-Submissions.** Pre-proceeding or pre-session submissions are governed by the specific rules for the particular claims for relief, the particular ADR proceeding or session, and the specific requirements of the neutral.

30.06 **No Delay.** Any Order for ADR shall require that the ADR procedure be completed prior to any Final Pre-Trial Conference and prior to the date of hearing or trial of any substantive issue. ADR proceedings or sessions 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 of hearing of motions, or the trial of the case. However, generally, the ADR proceeding or session should be held after the parties have had time to conduct reasonable discovery but should also be conducted well in advance of trial.

30.07 **No Record.** There shall be no record made of any ADR proceeding or session under these Rules, except that in a Binding Arbitration proceeding, any party can request a record be made. Any such request shall be made to the Arbitrator thirty (30) days in advance and a copy of such required provided to opposing counsel or unrepresented party.

30.08 ***Ex Parte* Communications.** There shall be no *ex parte* communication outside the ADR proceeding or session between the neutral and any participant on any matter touching the proceeding or session, except with regard to scheduling issues. However, this specifically does not prohibit the neutral from engaging in *ex parte* communication with participants during the ADR proceeding or session for the purpose of assisting settlement negotiations.

30.09 **Attendance Required.** The parties and their counsel (if represented) shall attend all ADR proceedings or sessions. After the first such meeting, however, a party may attend without counsel so long as notice of such intent is given in writing to the neutral and opposing counsel or opposing unrepresented party. A person required to attend may have this requirement modified, including allowing the person to participate by telephone, by agreement of the parties and the neutral or by Order of the Court. Failure of any person required by these rules to attend any ADR proceeding or session, without good cause, shall subject that person to any appropriate monetary sanction. These sanctions can

include, but are not limited to, the payment of attorney fees', loss of earnings incurred by persons attending the conference, neutral's postponement fees, and other expenses. A person seeking such sanctions or the Court on its own motion shall cause to be filed and served a written motion stating the grounds for the sanctions sought. Any Order shall be based upon conclusions of law supported by findings of fact, which rest upon evidence adduced at the hearing.

30.10 **Immunity.** A neutral 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.

30.11 **Right to Demand a Hearing or Trial.** ADR proceedings or sessions under these rules shall not impair the right of the litigants to demand a hearing or trial before a judge of competent jurisdiction, unless the parties have agreed to binding arbitration.

30.12 **Motion to Extend Deadline for Completion.** A party or the neutral may move the Court to extend the deadline for the completion of the ADR proceeding or session. The motion shall contain the reasons for the request and be served on the parties and the neutral. Objections thereto shall be promptly lodged with the Court, the moving party and the neutral.

30.13 **Agreements Reached During ADR.**

(a) *General.* If an agreement is reached on any or all issues at the ADR proceeding or session, the essential terms of the parties' agreement shall be reduced to writing as a summary memorandum 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 (if applicable).

(b) *Formal Final Agreement or Court Order from Memorandum.* The memorandum is to be used by the participants as a guide to drafting such agreements, documents and orders as may be required to give legal effect to its terms. In the event the parties fail to agree on the wording or terms of a final agreement or court order, the neutral may schedule another session if the neutral determines that it would assist the parties.

(c) *Deadline to Complete Paperwork.* The parties shall give a copy of their signed memorandum of agreement, agreement, consent judgment or voluntary dismissals to the neutral and all parties at the conference and shall file their consent judgment or voluntary dismissal with the court within thirty (30) days or before expiration of the mediation deadline, whichever is longer. 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 neutral, 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.

30.14 **Neutral's Fee.** The neutral's fee shall be paid at the conclusion of each ADR proceeding or session, unless provided otherwise by Court Order.

30.15 **Failure of ADR.** In the event the parties fail to reach agreement at an ADR proceeding or session the neutral shall file and serve within seven days a written notice to the Court that the ADR proceeding or session failed.

30.16 **Report of Neutral.** The neutral shall report to the Court, on an A.O.C. form, within 10 days of the conference whether the parties reached an agreement. The neutral's report shall inform the court of the absence of any party or attorney known by the neutral to be absent from the mediated settlement conference without permission. If an agreement upon all issues was reached, the neutral's report shall state whether the action will be concluded by consent judgment or voluntary dismissal(s), when it shall be filed with the court, and identify the person(s) designated by the parties to file such consent judgment or dismissal(s) with the court as required. If partial agreements are reached at the conference, the report shall state what issues remain for trial and the identity of the person(s) designated to file the stipulations, consent judgments or voluntary dismissals with the court.

RULE 31
MEDIATION.

31.01 **Family Financial Case: Selection of Mediator by Agreement of the Parties.** The participants in any Family Financial case may consent and stipulate to a mediator prior to an Equitable Distribution Scheduling Conference by filing a Consent Stipulation of Mediator (Family Financial Case) on Form CMR-240. Upon filing of Form CMR-240, the Chief District Court Judge or any judge so designated by her, shall enter an "Order for Mediated Settlement Conference in Family Financial Case" (AOC Form AOC-CV-824) and "Designation of Mediator in Family Financial Case" (AOC Form AOC-CV-825)

31.02 **Family Financial Case: Failure to Agree Upon a Neutral.** If the participants in any Family Financial case cannot agree upon the selection of a neutral, they shall notify the Court and the Court shall appoint a Family Financial Mediator who has been certified pursuant to these Rules by selecting a neutral from the list of approved and certified Family Financial Mediators maintained by the Chief District Court Judge or her designee.

31.03 **All Other Cases:** {reserved for future codification}

31.04 **Disqualification of Mediator.** 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 Order pursuant to these rules. Nothing herein shall preclude Family Financial Mediators from disqualifying or recusing themselves.

31.05 **Compensation of Mediator Selected by Agreement.** When the mediator is selected by agreement of the participants, compensation shall be as agreed upon by the participants and mediator.

31.06 **Compensation of Mediator Appointed by Court.** When the Court appoints the mediator, the parties shall compensate the mediator at the rate of $150.00 per hour. In addition, the mediator shall be paid a one time, per case administrative fee of $150.00, which accrues upon appointment and 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.

31.07 **Equal Division of Mediator's Fees.** Unless otherwise agreed, the parties shall share the mediator's fees equally.

31.08 **Postponement of Mediated Settlement Conference.** A fee of $150.00 shall be paid to the mediator if any mediated settlement conference is postponed without the mediator making a finding that good cause exists to postpone. The aforementioned postponement fee shall be elevated to $300.00, in the event such a request is made within five (5) business days of the scheduled date. The party requesting the postponement shall pay all postponement fees, unless otherwise agreed.

31.09 **Failure to Pay Mediator.** Any party who fails to make timely payment of that party's share of the mediator's fees shall be subject to sanctions under these Rules and the contempt powers of the court.

31.10 **Inability to Pay Mediator's Fees.** Any party required to pay a mediator fee pursuant to these Rules may move the Court to pay according to the Court's determination of that party's ability to pay. No party found to be unable to pay a full share of a mediator's fee shall be required to pay a full share. 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 according to 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. In Family Financial Cases, the Court may require that one or more shares be paid out of the marital estate.

31.11 **Mediated Settlement Conference.** Mediated Settlement Conference shall be directed and controlled by the mediator and governed by (a) these Rules, (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 North Carolina Supreme Court and its Dispute Resolution Commission.

31.12 **Duties & Responsibilities of Mediator.** 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 N.C.G.S. 7A-38.4A(j);
(7) The rules relating to *ex parte* communications;
(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", and deliver it to the Judicial Assistant assigned to ED Case Management (EDJA) who will file it with the Clerk and send copies to the attorneys (or unrepresented parties).

31.13 ***Ex Parte* Communication.** Notwithstanding any other Rule contained herein, the mediator may communicate privately with any participant during the mediated settlement conference and may hold in confidence any communication for any period of time deemed appropriate to assist the parties in reaching agreement.

31.14 **Impasse.** 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.

RULE 32.
OTHER SETTLEMENT PROCEDURES

32A: ARBITRATION

32A.01 The parties may agree to arbitration and proceed in accordance therewith.

32A.02 Using the arbitration procedure shall constitute *prima facie* "good cause" for the Court to dispense with settlement procedures established by these Rules.

32B JUDICIAL SETTLEMENT

32B.01 Judicial Settlement may be used upon the agreement of all of the parties and the agreement of a resident judge of this district to conduct a judicial settlement conference. Any judge who conducts a judicial settlement conference shall not preside over any portion of the action thereafter except for the settlement conference.

32B.02 The form and manner of conducting the conference shall be in the discretion of the settlement judge. The settlement judges may not impose a settlement on the parties but will assist the parties in reaching a resolution of all claims.

32B.03 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.

32B.04 At the beginning of the conference, the judge shall explain all matters required by Rule 31 above. Additionally, the judge shall insure that all participants understand the proceeding is not a trial, that although the neutral 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.

32B.05 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.

32B.06 Within ten (10) days after the completion of the settlement conference, the settlement judge shall file a written report with the Judicial Assistant assigned to ED Case Management (EDJA) using the AOC form entitled "Report Of Neutral Conducting Settlement Procedure Other Than Mediated Settlement Conference Or Arbitration In Superior Court Civil Action" (AOC Form AOC-CV-817) (with appropriate modification to reflect District Court Jurisdiction). The EDJA 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.

32C: COLLABORATIVE LAW AGREEMENT

32C.01 In the event the parties enter into a Collaborative Law Agreement pursuant to N.C. GEN. STAT. § 50-71(4), a Notice of Collaborative Law Agreement shall be filed by the parties with the court as set forth on the form provided herein (Form CMR-600). Upon the filing of a Notice of Collaborative Law Agreement pursuant to this Rule, all legal time periods applicable to the legal rights and issues under law between the parties, for the amount of time the Collaborative Law Agreement remains in effect, shall be tolled pursuant to N.C. GEN. STAT. § 50-73. This specifically shall include those legal time periods regarding setting a hearing or trial in the case, discovery deadlines, and compliance with scheduling orders.

32C.02 After the filing of a Notice of Collaborative Law Agreement, the Court shall take no action in the case, including dismissal, unless the Court is notified in writing that the parties have done one of the following:

a. Failed to reach a collaborative law settlement agreement.
b. Both voluntarily dismissed the action.
c. Asked the Court to enter a judgment or order to make the collaborative law settlement agreement an act of the court in accordance with N.C. GEN. STAT. § 50-75.

32C.03 In the event that the parties reach a settlement of those issues which are the subject of any pending court proceeding, the parties and/or their attorneys shall file contemporaneously with the entry of said settlement a voluntary dismissal of any and all pending claims that have been settled and/or any documents necessary to effectuate the settlement and the resolution of all pending claims including, but not limited to, Consent Orders, Qualified Domestic Relations Orders, Domestic Relations Orders, etc.

32C.04 In the event that the parties to a Collaborative Law Agreement reach a point where they are unable to continue with the collaborative law settlement process, then the parties, through their attorneys, shall immediately notify the court by filing a Notice of Termination of Collaborative Law Agreement (Form CMR-601). Upon the filing of a Notice of Termination of Collaborative Law Agreement, an order authorizing the withdrawal of the collaborative attorneys shall be entered and said matter shall be scheduled on the next available civil session for a pretrial conference scheduling hearing on all pending issues.

RULE 33
COURT ORDERED ARBITRATION

33.01 All cases subject to Court-ordered Arbitration pursuant to the rules established by the North Carolina Supreme Court shall also be subject to these Rules.

33.02 The Clerk of Superior Court will stamp all complaints seeking monetary damages in the District Court with the arbitration-eligible stamps provided by the A.O.C. Stamped copies will be provided to the plaintiff and served upon the defendant.

33.03 After notification by the Clerk of the pendency of an arbitration-eligible action, the Arbitration Administrator in the office of the Chief District Court Judge shall mail the parties or their counsel of record two documents.

(a) The first document shall be a Notice of Case Selection for Arbitration, AOC Form AOC-CV-800. It shall contain all relevant information required for this notice by the rules of the North Carolina Supreme Court.

(b) The second document shall be a Request for Conflicts Notice, a copy of which is attached hereto as Form CMR-500. This Notice set forth the dates between which the case will be scheduled for an arbitration hearing. These dates will be at least thirty-five (35), but not more than sixty (60), days in the future. This notice will request that the participants provide the Arbitration Administrator with a list of all dates on which they will have a conflict such that they would be unable to attend an arbitration hearing. Failure to respond in writing within twenty (20) days of the date of the notice will indicate that the participant has no conflicts during the indicated period of time.

33.04 After the expiration of twenty (20) days from the date of 33.03(a) notice, the Arbitration Administrator shall mail the parties or their counsel of record a Notice of Arbitration on AOC Form AOC-CV-801. The notice assigns a date, time and place for the arbitration, and assigns an arbitrator to the case. The Notice also informs the participants that they have twenty (20) days to file a stipulation (AOC Form AOC-CV-912M) as to their choice of a different arbitrator in place of the one assigned.

33.05 After issuance of AOC-CV-801, motions to continue the arbitration must be decided by the Chief District Court Judge or his designee. Neither the Arbitration Administrator nor the assigned arbitrator has the authority to grant such motions. Motions to continue must be in writing and served upon the opposing attorney or party, if unrepresented. Continuances shall not be granted except for exigent circumstances beyond the control of the participants.

33.06 Except upon good cause being shown, a party or counsel failing to comply with scheduling related to Court-ordered Arbitration is subject to the assessment of additional costs as authorized by Rule 3.02 (sanctions).

(a) If a party or counsel fails to attend any scheduled event in Court-ordered Arbitration, the Chief District Court Judge or Assigned Judge shall assess a cost of One Hundred Dollars ($100.00) plus the costs of the proceeding. Furthermore, as provided for by Rule 3(l) of the Supreme Court's "Rules for Court-Ordered Arbitration in NC," the defaulting party may be subjected to sanctions as provided for in NC Rules of Civil Procedure, Rule 37(b)(2)(a)&(c) or as provided herein.

(b) If a party fails to notify the Arbitration Administrator of settlement or dismissal of the claim prior to the Arbitration appointment, the Chief District Court Judge or Assigned Judge shall assess a cost of not less than Fifty Dollars ($50.00) plus the costs of the proceeding.

(c) If a party fails to notify the Arbitration Administrator of conflicts to the proposed Arbitration until after the Assignment Notice is issued, and the appointment is changed or continued, the Chief District Court Judge or Assigned Judge shall assess a cost of not less than twenty-five Dollars ($25.00) for each such occurrence.

(d) The Arbitration Administrator shall assign and notify the parties of a hearing date before the appropriate judge for sanctions for failure to comply with scheduled events. In the event a party or counsel acquiesces by payment of the sanction in advance of the hearing, they shall provide the Arbitration Administrator a copy of

the receipt from the Clerk of Superior Court for the amount of the assessed costs. The Clerk shall pay the funds so collected to the Guilford County School Board.

33.07 At least ten (10) days before the date set for the arbitration hearing, the parties shall exchange:

(a) Lists of witnesses they expect to testify:

(b) Copies of documents or exhibits they expect to offer into evidence:

(c) A brief statement of the issues and their contentions.

The parties shall exchange this information by use of a form substantially similar in form and content to the pre-arbitration submission form that is attached hereto as Form CMR-501. Failure to adhere to the information exchange requirements may result in exclusion of the proffered evidence.

CIVIL CASE MANAGEMENT RULES

- for -

THE DISTRICT COURT DIVISION *of*
THE EIGHTEENTH JUDICIAL DISTRICT
Guilford County, North Carolina

----------APPENDIX----------

THE FOLLOWING FORMS FROM THE PRIOR VERSION OF THE CIVIL CASE MANAGEMENT RULES, AS FOUND IN CLERK OF SUPERIOR COURT FILE NUMBER 13R1030 REMAIN IN EFFECT AND ARE UNCHANGED:

CMR-220	AFFIDAVIT OF INCOME AND EXPENSES
CMR-230	EQUITABLE DISTRIBUTION AFFIDAVIT
CMR-240	CONSENT STIPULATION OF MEDIATOR (FAMILY FINANCIAL CASE)
CMR-300	CONTINUANCE ORDER
CMR-302	CLEAN-UP CALENDAR ORDER
CMR-303	INACTIVE STATUS ORDER
CMR-330	STANDING ORDER (EQUITABLE DISTRIBUTION)
CMR-331	FINAL PRE-TRIAL ORDER
CMR-420	ORDER APPOINTING PARENTING COORDINATOR
CMR-500	REQUEST FOR CONFLICTS NOTICE – COURT ORDERED ARBITRATION
CMR-501	PRE-TRIAL ARBITRATION SUBMISSION
CMR-600	NOTICE OF COLLABORATIVE LAW AGREEMENT.
CMR-601	NOTICE OF TERMINATION OF COLLABORATIVE LAW AGREEMENT
CMR-602	ORDER AUTHORIZING WITHDRAWAL OF ATTORNEY(S) OF RECORD
CMR-700	MOTION AND ORDER TO EXTEND COMPLETION DATE FOR MEDIATED SETTLEMENT CONFERENCE OR OTHER DISPUTE RESOLUTION PROCEDURE

THE FOLLOWING FORMS ARE NEW OR HAVE BEEN REVISED AND THEREFORE ARE ATTACHED HERETO AS FOLLOWS:

CMR-200	CALENDAR REQUEST AND NOTICE OF HEARING
CMR-201	30 MINUTE HEARING CALENDAR REQUEST AND NOTICE OF HEARING
CMR-250	NOTICE OF ADDRESS CHANGE
CMR-260	ORDER SUBMISSION
CMR-301	PEREMPTORY SETTING REQUEST
CMR-400	PARENTING GUIDELINES
CMR-410	ORDER AND NOTICE OF COURT EVENTS (CUSTODY ACTIONS)