

STATE OF NORTH CAROLINA
25TH JUDICIAL DISTRICT



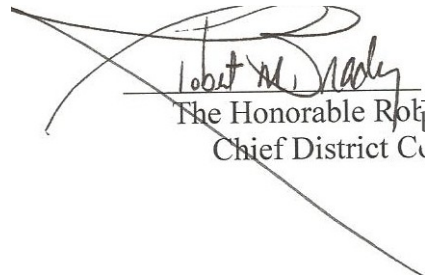
IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

ADMINISTRATIVE ORDER

NOW COMES the Undersigned, Chief District Court Judge of the 25th Judicial District, pursuant to the Administrative authority of the District Court and the office of the Chief District Court Judge, it appearing that the adopted "Rules of Court - 25th Judicial District, Article 5 - Rules for Family Court - Domestic Civil Cases" that were placed into effect on March 1, 2012 is in need of revision to efficiently administer and manage the efficient flow of Family Court Domestic cases in the 25th Judicial District and to effectuate the purposes set forth in such rules;

IT IS THEREFORE ORDERED that effective May 1, 2013, for all cases filed on or after such date, the following amendments are hereby adopted and placed into effect.

ENTERED, this the 15 day of April 2013.


The Honorable Robert M. Brady
Chief District Court Judge

Amendments made to the Rules of Court - 25th Judicial District, Article 5 - Rules for Family Court - Domestic Cases, effective March 1, 2013.

On Page 8 of the aforementioned Rules. Remove "business" day from the timelines.

2.11 Orders and Judgments are Finalized. In every Family Court case, all orders and judgments shall be prepared by the court or counsel at the direction of the court and executed by the court within 30 days of the completion of the trial or settlement of the claim(s). Unless otherwise ordered by the court, the party preparing an order or judgment shall give the opposing attorney or opposing party (if the party appeared pro se) ten (10) business days to review the order prior to submitting it to the court for signature. The reviewing party shall immediately review the proposed order or judgment and respond within ten (10) business days to the preparing attorney, or party, with consent or specific objections to its terms. If a dispute arises as to what should or should not be included in the order or judgment, the parties shall note their respective positions in writing when the matter is submitted to the court for signature. The court shall then give further instructions as it deems appropriate regarding the completion of the order. The case coordinator shall maintain a tracking system for this time requirement and shall schedule the case on a Pending Order Docket, during any session, before the assigned or presiding judge. If the court finds that either party or attorney has failed to take reasonable measures to either prepare the order or cause the order to be signed, a sanction may be imposed for such failure by the assigned or presiding judge. See also General Rule 7 regarding Settlements in Civil/Domestic Cases and Domestic Rule 2.12 herein for rules relating to Pending Order Docket.

f) Income Verification must be Filed and Served. No later than **five (5) business days** prior to any temporary hearing and **twenty (20) days** prior to a final hearing, both parties must file with the court and serve on the opposing party or counsel copies of their tax returns for the last two calendar years and a current check stub or affidavit from the employer(s) showing their year-to-date earnings. The responding party or counsel must also file and serve a completed Child Support Financial Affidavit (**Form F**) no less than **five (5) business days** prior to the temporary hearing. Any original or certified copies of these affidavits or verifications, properly served, shall be admissible at the temporary hearing. Unless there is a serious dispute as to the authenticity or accuracy of the verification documents they shall be admissible in any action or proceeding without further certification or authentication. Any party who wishes to raise an objection as to the admissibility of such documents at the final hearing must notify the submitting party in writing of such objection **within ten (10) days** of the hearing. Failure to timely file and serve accurate up-to-date **Child Support Financial Affidavits, Tax Returns or Employer Wage Affidavits** shall result in the imposition of a sanction if such failure necessitates a significant delay in the hearing of the matter or undue prejudice to a party.
§N.C.G.S. 50-13.4

Note: FC-004 - Employer Wage Affidavit may be sent to opposing parties' employer, along with a Subpoena. Employers who do not wish to complete the wage affidavit may appear and produce the records or will be responsible for filing a Motion to Quash with the court.

On page 16 of the aforementioned Rules. Add areas that are undelined.

J.1.3 Child Custody and Visitation Mediation Program.

a) Custody Mediation Mandatory. The parties to any custody and/or visitation case, including initial filings and modifications, shall participate in mandatory mediation prior to any trial of these issues except as provided in **Domestic Rule 11**. Unless a court order excuses the parties from participating in custody mediation, no custody case can be calendared for a custody trial until the Custody Mediation office notifies the Family Court office that the mediation process has been completed. (§N.C.G.S. 50-13.1 (b) and §N.C.G.S. 7A-494) If the mediator determines that the mediation process is unsuccessful then the case coordinator or assigned judge may schedule a Pretrial Conference by appearance or correspondence or set the matter for trial or place the matter on the Ready Trial Calendar.

b) Exemption from Custody Mediation. Upon filing a claim for child custody/visitation or 5 days before the scheduled mediation orientation date (or mediation private appointment date if no orientation date was scheduled) a party may move the Court to be exempt from mediation of the custody issue through the Custody Mediation Program. Note: Custody Mediation is offered in North Carolina statewide, so all parties to a child custody/visitation action in North Carolina should attend the Mediation Orientation session. The parties may attend separate orientation sessions if safety concerns are an issue in their case. The parties or attorneys may contact the mediation program directly for assistance in setting up separate mediation orientation sessions. See **Domestic Rule 11.3** for specific procedures. (**Form P** to be submitted to the case coordinator)

(c) Failure to attend custody mediation orientation or private session. If a party fails to appear for a court ordered custody mediation session, that party is subject to a show cause issued by the court.

On page 17 of the aforementioned Rules, add (C) in part that it states to See Dom Rule 3.1.3 (a)...

3.2 Motions to Modify Child Custody/Visitation Claims.

e) Motions in the Cause to Modify Child Custody. Prior to any hearing, parties to a motion in the cause to modify child custody will complete the Custody and Visitation Mediation Program pursuant to §N.C.G.S. 50.13 (c) (See Dom Rule 3.1.3 (a)(b) (1). If the mediator determines that the mediation process is unsuccessful then the case coordinator or assigned judge may schedule a Pretrial Conference by appearance or correspondence or set the matter for trial or place the matter on the Ready Trial Calendar.

Exception: Motions to Modify that contain an Ex Parte Order will comply with 3.1(f) above.

On page 22 of the aforementioned Rules. Remove "business" day from the timelines.

4.2 Motions to Modify Child Support.

e) Income Verification must be Filed and Served. No later than **ten (10) business days** prior to a final hearing, both parties must file with the court and serve on the opposing party or counsel copies of their tax returns for the last two calendar years and a current check stub or affidavit from the employer(s) showing their year-to-date earnings. The responding party or counsel must also file and serve a completed Child Support Financial Affidavit (**Form F**) no less than **ten (10) business days** prior to the hearing. Any original or certified copies of these affidavits or verifications, properly served, shall be admissible at the hearing. Unless there is a serious dispute as to the authenticity or accuracy of the verification documents they shall be admissible in any action or proceeding without further certification or authentication. Any party who wishes to raise an objection as to the admissibility of such documents at the final hearing must notify the submitting party in writing of such objection **within ten (10) days** of the hearing. Failure to timely file and serve accurate up-to-date **Child Support Financial Affidavits, Tax Returns or Employer Wage Affidavits** shall result in the imposition of a sanction if such failure necessitates a significant delay in the hearing of the matter or undue prejudice to a party. §N.C.G.S. 50-13.4

Note: FC-004 - Employer Wage Affidavit may be sent to opposing parties' employer, along with a Subpoena. Employers who do not wish to complete the wage affidavit may appear and produce the records or will be responsible for filing a Motion to Quash with the court.

On page 24 of the aforementioned Rules. Add underlined areas, remove redacted areas.

Dom Rule 5. Equitable Distribution Claims.

e) Interim Distribution/Preservation Hearing. Either party to an equitable distribution dispute may request that an interim order of distribution/preservation of marital and/or separate property be made. Request should be made to the case coordinator at the time of the filing of the pleading or motion making the request for interim distribution or preservation. When possible such hearings shall be scheduled within **60 days**. See **Domestic Rule 16** for specific rules related to Summary Hearings. The party requesting the interim distribution or preservation shall include in their pleading or motion a detailed listing of the items they contend should be distributed or preserved. This detailed listing should be provided to the opposing party 10 days prior to the scheduled hearing. If the required affidavits are not filed If the moving party fails to provide the detailed listing to the other party as set out above, the case coordinator or assigned judge may remove the matter from the court's published calendar.

On page 28 of the aforementioned Rules. Add underlined area and remove redacted areas.

Dom Rule 6. Post Separation Support and Alimony Claims.

e) Post Separation Support Hearings. The party requesting Post Separation Support may request a summary hearing. This request shall be made to the case coordinator at the time of the filing of the pleading or motion and the case coordinator shall schedule the matter for Summary Hearing and the rules relating to summary hearings shall apply. No later than ten (10) days prior to a hearing for Post Separation support the moving party must file and serve on opposing party or counsel an **Alimony Financial Affidavit** . (The parties may use the electronic excel PSS affidavit FC 040.1 or Form D). The responding party or counsel may also file and serve a completed Alimony Financial Affidavit (FC 040.1 or Form D) no less than five (5) days prior to the Post Separation Support hearing. Any original or certified copies of these affidavits properly served shall be admissible at the Summary Hearing for Post Separation Support. Further, the parties may supply copies of their tax returns for the last two calendar years and a current check stub or affidavit from the employer(s) (**Employer Wage Affidavit -Form FC-004**) showing their year-to-date earnings as additional evidence of their income. In the event a party is self-employed, that party must supply copies of their tax returns for the last two calendar years.

See **Domestic Rule 16** for specific rules related to Summary Hearings. If time permits, the court may conduct an Initial Status Conference regarding the alimony claim at the time of the summary hearing. If the issue of Post Separation Support is still pending, when the matter is mediated, the mediator may undertake that issue in and along with the other financial issues.

If the financial affidavit is not timely filed the case coordinator may remove the case from the court's published calendar. Unless there is serious dispute as to the authenticity or accuracy of the verification documents they shall be admissible in any action or proceeding without further certification or authentication. Any party who wishes to raise an objection as to the admissibility of such documents at the hearing must notify the submitting party in writing of such objection prior to the hearing.

Exception: parties who do not have the ability to create or respond to an electronic affidavit may file a paper copy only.

Note: FC-004- Employer Wage Affidavit may be sent to opposing parties' employer, along with a Subpoena. Employers who do not wish to complete the wage affidavit may appear and produce the records or will be responsible for filing a Motion to Quash with the court.

On page 28 of the aforementioned Rules. Add underlined area and remove redacted areas.

f) Affidavits must be Filed and Served. Affidavits Admissible. No later than **ten (10) business days prior to any hearing for Post Separation Support and twenty (20) days** prior to a hearing for **Alimony**, **both parties** must file with the court and serve on the opposing party or counsel an **Alimony Financial Affidavit**. (The parties may use the electronic excel PSS affidavit FC 040.1 or Form D) Further, copies of their tax returns for the last two calendar years and a current check stub or affidavit from the employer(s) (***Employer Wage Affidavit-Form FC-004***) showing their year-to-date earnings. In the event a party is self-employed, that party must supply copies of their tax returns for the last two calendar years.

If the Alimony financial affidavit is not timely filed the court may dismiss the Alimony claim if the case is called for trial and the Affidavit remains unfiled. The responding party or counsel must also file and serve a completed Alimony Financial Affidavit (Form Dor FG 040.1) no more than &.re (S) business days prior to the Post Separation Support hearing. Any original or certified copies of these affidavits properly served shall be admissible at the Summary Hearing for Post Separation Support. Unless there is serious dispute as to the authenticity or accuracy of the verification documents they shall be admissible in any action or proceeding without further certification or authentication. Any party who wishes to raise an objection as to the admissibility of such documents at the hearing must notify the submitting party in writing of such objection (5) five days prior to the hearing.

Exception: parties who do not have the ability to create or respond to an electronic affidavit may file a paper copy only.

Note: FC-004-Employer Wage Affidavit may be sent to opposing parties' employer, along with a Subpoena. Employers who do not wish to complete the wage affidavit may appear and produce the records or will be responsible for filing a Motion to Quash with the court.