

FILED

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
19A JUDICIAL DISTRICT  
2019 OCT 11 PM 4:25  
CABARRUS CO., C.S.C.

BY           *JK*          

In re the Adoption of Local Rules    )  
For Court-Ordered Arbitrations    )  
In Cabarrus County District Court )

**ADMINISTRATIVE ORDER**  
**19-05**

The attached Local Rules for Court-Ordered Arbitration are hereby adopted effective January 1, 2020, pursuant to the authority of N. C. Gen. Stat. §7A-37.1 and shall apply to all cases filed on or after that date, and insofar as practicable, to all cases pending on that date.

It is, therefore, so ORDERED, this the 11th day of October, 2019.

          *Christy E. Wilhelm*            
The Honorable Christy E. Wilhelm  
Chief District Court Judge

**Local Rules for District 19A for Court-Ordered  
Non-Binding Arbitration in Civil Court**

- I. **ADOPTION OF RULES.** These local rules are adopted effective this the 11th day of October, 2019, pursuant to the provisions of N.C. Gen. Stat. § 7A-37.1 and the Rules adopted and amended by the North Carolina Supreme Court effective January 1, 2012. They shall apply to all cases filed and appeals from the Magistrate docketed in Cabarrus County District Court on or after January 1, 2020, and insofar as practicable, to all pending District Court cases on that date.
- II. **CASES ELIGIBLE FOR ARBITRATION.** Pursuant to these local rules, all civil actions filed in the District Court Division of the General Court of Justice for District 19A (Cabarrus County) are subject to court-ordered, non-binding arbitration, EXCEPT for the following:
- A. Summary ejectments and other cases assigned to a magistrate, and appeals from the judgment of a Magistrate in summary ejectment actions and actions in which the only claim is on a multiple transaction account, as evidenced by a verified itemized statement;
  - B. Actions in which there is a request for a preliminary injunction, or a temporary restraining order, including claims under Chapter 50C;
  - C. Actions involving family law matters, including claims under N.C. Gen. Stat. Chapters 50, 50A, 50B, 51, 52, 52B and 52C;
  - D. Actions involving the title to real property;
  - E. Special Proceedings, including those related to wills and estates;
  - F. Actions where the only claim is for collection of a verified multiple transaction account;
  - G. Class actions;

- H. Actions involving foreclosure of real property due to unpaid real property taxes or seeking the release, refund or compromise of real property taxes.

### III. SELECTION PROCEDURE AND NOTIFICATION.

- A. Upon determining that the case is eligible for court-ordered arbitration pursuant to Local Rule II above, the Arbitration Coordinator shall notify all counsel of record and all unrepresented parties that the case has been referred to court-ordered arbitration by the service of form AOC-CV-800. All self-represented parties have an ongoing obligation to supply a current mailing address in all actions filed and appeals docketed in the District Court.
  
- B. After receipt of the notice of case selection for arbitration by service of form AOC-CV-800, the parties may agree in writing to waive the right to court-ordered non-binding arbitration by the submission of form AOC-CV-838. If **all parties** do not agree to such waiver, then either of the parties may file a written motion on form AOC-CV-839, directing a copy of the same to the Arbitration Coordinator and to all opposing counsel or parties, moving that the case be exempted from arbitration and setting out the reasons for the requested exemption. The motion requesting an exemption from arbitration shall be filed at least twenty (20) days prior to the date the case is calendared for arbitration. Exemption of a case is not favored and will only be considered on the following grounds:
  - 1. The action does not qualify for arbitration as set out in Rule II above; or
  - 2. There is a **compelling** reason to exempt the matter (a pending request for jury trial is not cause for exemption); or
  - 3. The Court may, on its own motion, exempt a case from arbitration.

IV. **WHEN CASES SET FOR ARBITRATION.** The Arbitration Coordinator, to be designated by the Chief District Court Judge for District 19A, shall determine that the following events have occurred, prior to setting eligible cases for arbitration:

A. An appeal from the judgment of the Magistrate has been docketed in the District Court; or

B. In an eligible civil action filed in the District Court Division, the last responsive pleading has been filed, or the time for such filing has expired.

C. Upon determining that the last required responsive pleading in the action has been filed, or that the time for doing so has expired, the Arbitration Coordinator shall inform the parties by means of form AOC-CV-801 that the parties' case has been scheduled for an arbitration hearing. This Notice shall state a date, time, and location for the arbitration hearing, as well as the name and contact information of the arbitrator assigned to hear the case. Either party may move for an expedited hearing for good cause shown.

V. **SELECTION OF ARBITRATOR.** The Arbitration Coordinator shall maintain a list of qualified arbitrators. Qualifications of an arbitrator and appointment procedure are set out in detail in Rule 3 of the Supreme Court Rules for Court-Ordered Arbitration in North Carolina. Pursuant to the requirements of the Rule, the Arbitration Coordinator will appoint an arbitrator and notify counsel and any unrepresented parties. At least seven (7) days prior to the scheduled arbitration hearing, either of the parties may ask that the appointed arbitrator be replaced by another qualified arbitrator.

VI. **MOTIONS TO CONTINUE ARBITRATION HEARINGS.** Motions to continue the scheduled arbitration hearing may be filed at least seventy-two (72) hours before the scheduled arbitration hearing date, with notice served on opposing counsel/parties; further, the movant shall mail or deliver a copy to the office of the Arbitration Coordinator. Counsel may not serve the Arbitration Coordinator by facsimile because the Coordinator needs the original document for the file. Parties shall be notified as soon as possible of the decision of the Arbitration Coordinator regarding the

continuance motion. Motions to continue are not favored, and the fact that arbitration has not been previously continued, by itself, will not be good cause for a continuance to be granted. Hearings will be re-scheduled only if there is a strong and compelling reason to do so. The arbitrator shall not delay a scheduled hearing because a party is not present at the appointed time. The arbitrator is not required to grant additional hearing time because of the delay caused by tardiness.

**VII. CONTACT WITH ARBITRATORS OUTSIDE HEARINGS.**

Pursuant to Supreme Court Rule 6(k), no *ex parte* communication between parties/counsel and the arbitrator is permitted.

**VIII. ARBITRATION HEARINGS**

**A. AUTHORITY.** Arbitrators shall have the authority of a trial judge to govern the conduct of the hearing, except for the power to punish for contempt.

**B. HEARING DATE.** The arbitration hearing shall be held on the date, time, and place designated by the Arbitration Coordinator. Hearing time shall be limited to one hour in length, and will begin promptly at the assigned time, unless the arbitrator determines that more time is necessary. If both parties are absent at the appointed time, it shall be within the discretion of the arbitrator whether or not to delay the hearing. Further, any party may move prior to the hearing for a substantial enlargement of hearing time, provided the motion is filed no later than ten (10) days before the scheduled date of hearing.

**C. PRE-ARBITRATION SUBMISSIONS.** At least ten (10) days prior to the hearing, the parties shall exchange any pre-hearing information as defined in Rule 6(d) of the N.C. Rules for Court-Ordered Arbitration.

1. Any document exchanged may be received in the hearing without further authentication. However, the party against whom it is offered may call/subpoena and examine as an adverse witness anyone who is the author, custodian or witness through whom the document otherwise might have been introduced.

2. Documents not so exchanged may not be received, if to do so would, in the arbitrator's opinion, constitute unfair, prejudicial surprise. Copies of exchanged documents or exhibits are admissible in arbitration hearings.

3. The parties are required to state their contentions regarding pending motions deferred by the Court to the arbitrator, in the pre-hearing information exchange.

4. A list of witnesses expected to testify shall be provided to all parties ten (10) days prior to the hearing.

**D. EVIDENCE.** Witnesses shall testify under oath or affirmation and produce evidence by the same authority and the same extent as if the hearing were a trial. The North Carolina Rules of Evidence do not apply in an arbitration hearing, except as to privilege, but shall be considered a guide toward full and fair development of the facts. The arbitrator shall consider all evidence presented and give it the weight and effect the arbitrator deems appropriate.

**E. CONCLUSION OF HEARING.** When the parties state they have no further evidence to offer or have exhausted the amount of time allotted, the arbitrator shall declare the hearing closed. Upon completion of the arbitration hearing, an arbitration award shall be filed with the Court by the arbitrator pursuant to Rule XI below. All assessment fees are to be paid before the arbitration award is announced to the parties.

**IX. AUTHORITY AND DUTIES OF THE ARBITRATOR.** The Arbitrator shall:

- A. Have the same authority and as a trial judge to govern the conduct of hearings, except the power to punish for contempt.
- B. Be empowered and authorized to administer oaths and affirmations in arbitration hearings.
- C. Consider all evidence presented at the hearing and give it the weight and effect deemed appropriate. An arbitrator is not required, however, to receive repetitive or cumulative evidence.
- D. Not have any ex parte communications with the parties or their counsel.

- E. Declare the hearing concluded when all evidence is in and any arguments that have been permitted within the allotted time are concluded.
- F. Determine the amount of judgment to be entered in an action in default pursuant to N.C. Rules of Civil Procedure Rule 55(b).

**X. PARTICIPATION OF PARTIES, ATTORNEYS, AND OTHER PARTICIPANTS**

- A. **ATTENDANCE**. All parties shall be present at the hearing in person or through representatives authorized to make binding decisions on their behalf in all matters. All parties may be represented by counsel.
- B. **FAILURE TO APPEAR**. If a party fails to appear, either in person or through counsel, the hearing shall proceed and an award may be made by the arbitrator against the absent party.

**XI. AWARD**

- A. **TIME FRAME**. The arbitrator shall prepare, sign and file the Arbitration Award (Form AOC-CV-802) with the Clerk of Superior Court no later than three (3) days after the arbitration hearing is concluded, unless time is allowed after the hearing for submission of briefs. Then the Award must be filed with the Clerk within three (3) days after the briefs are submitted. The Award need not include formal Findings of Fact or Conclusions of Law. A copy of the Award shall be mailed to all parties to the action by the Clerk within three days of its filing, unless the arbitrator delivered a copy of the Award to the parties or their counsel at the conclusion of the hearing.
- B. **ISSUES**. The award must resolve all pending issues raised by the pleadings and all parties in the action.

**XII. TRIAL DE NOVO**

- A. **TIME LIMITATIONS**. An appeal of the award from the arbitrator must be made within thirty (30) days from the date the award is entered, or within ten (10) days of an adverse decision on a motion to rehear. A pending demand for jury trial does not preserve the right to trial de

novo. The appealing party shall utilize form AOC-CV-803 and file it with the Clerk of Superior Court.

**B. FEE.** The filing fee for a request for trial *de novo* in District Court shall be determined pursuant to Rule 5 of the N.C. Rules for Court-Ordered Arbitration.

**XIII. JUDGMENT.** The parties may file a stipulation of dismissal or consent to judgment at any time before the entry of judgment on the award. Absent an appeal of the arbitration award, dismissal or consent judgment filed by the parties during the thirty (30) day appeal period, the Clerk of Superior Court shall enter a judgment on the award.

**XIV. NOTICE OF SETTLEMENT OR DISMISSAL.** Once a hearing is scheduled, written notice that the case has been settled and that necessary dismissals have been taken by either party shall be provided to the arbitrator at least 24 hours prior to the hearing, and prior to the parties being excused by the arbitrator. Otherwise, the parties may be assessed with their respective shares of the total arbitration fee, which is \$100.00 as of the date of adoption of these local rules.

**XV. SANCTIONS AND CONTEMPT**

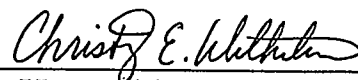
**A. FAILURE TO ATTEND.** Any party failing to attend or refusing to participate in good faith and in a meaningful manner at the arbitration hearing shall be subject to such sanctions as are deemed appropriate and allowed by law. The arbitrator or opposing party may present to the Arbitration Coordinator a motion, setting out with specificity the grounds for sanctions. The Arbitration Coordinator shall thereafter schedule and notice the matter for hearing before the Chief District Court Judge.

**B. CONTEMPT.** Any party found in contempt shall be subject to punishment for criminal contempt by the Court. The arbitrator shall present to the Arbitration Coordinator a motion, setting out with specificity the grounds for contempt. The Arbitration Coordinator shall thereafter schedule and notice the matter for hearing before the Chief District Court Judge.



- C. FAILURE TO NOTIFY.** Any party who fails to notify the Arbitration Coordinator of a scheduling conflict before the arbitration hearing is scheduled shall not receive a continuance, absent extraordinary circumstances. Any party who fails to notify the Arbitration Coordinator of a settlement or dismissal of the claim prior to the arbitration hearing shall be responsible for the costs of the hearing.
- XVI. COMPENSATION OF THE ARBITRATOR.** Upon the filing of an award with the Court, the arbitrator shall complete an application for payment to be signed by the Chief District Court Judge. An arbitrator shall be paid a fee by the Court for each arbitration hearing at set by N.C. Gen. Stat. §7A-37.1.
- XVII. FORMS.** Forms for use in court-ordered arbitration proceedings are produced and distributed by the Administrative Office of the Courts and Arbitration Coordinator, and are subject to change as legislation and/or policy dictates.
- XVIII. AUTHORITY TO CONTINUE.** Arbitration hearings shall be continued only by the Arbitration Coordinator or the Chief District Court Judge, if the Arbitration Coordinator is unavailable. The Arbitration Coordinator, under the supervision of the Chief District Court Judge, has sole authority to continue arbitration hearings and consider any motions relating to arbitration.

Adopted and signed this the 11th day of October, 2019.



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Honorable Christy E. Wilhelm  
Chief District Court Judge  
19A Judicial District