

STATE OF NORTH CAROLINA
NINTH JUDICIAL DISTRICT

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

CASE MANAGEMENT PLAN

EFFECTIVE JULY 1, 2018 AS REVISED

I. District Civil Court in the Ninth Judicial District:

1. Not less than one (1) week long session with a jury is scheduled in each county each calendar quarter.
2. Not less than two (2) one-day sessions without a jury per month are scheduled in each county. During these sessions Juvenile cases (both Criminal in nature and Civil in nature) have priority followed by custody and equitable distribution cases, non-support cases, and other Civil matters.
3. In Warren County a one day session without a jury is scheduled each month to hear IV-D and other Civil non-support cases only, and in Franklin, Granville and Vance counties all IV-D and other Civil non support matters are heard during two sessions per month. Vance County has a two day session and on the second day Department of Social Services cases are also heard.

4. All child custody cases involving Department of Social Services are scheduled one day per month in all counties except Warren County and in Vance County they are scheduled two days per month.
5. A mixed session (Criminal cases having priority) is scheduled in each county each week as follows: Franklin County (2), Granville County (2), Vance County (3), and Warren County (1).
6. Mental Health hearings are scheduled once a week in Granville County at Central Regional Hospital, Butner, N. C.
7. Other cases such as equitable distribution, custody cases and Department of Social Services cases which cannot be heard on regular scheduled days can be held on Judges' Administrative days when it can be agreed upon by the Judges and opposing counsels, and a courtroom and clerk(if needed), and Bailiff are available.
8. Sessions to hear cases filed pursuant to Chapter 50B and 50C under the North Carolina General Statutes shall be held in two sessions per month in the counties of Franklin, Granville and Vance.

9. All child custody cases have to go through State Child Custody Mediation before being heard. Rules as follows:

**LOCAL RULES FOR THE MEDIATION
OF CUSTODY AND VISITATION DISPUTES**

**NORTH CAROLINA CUSTODY AND VISITATION MEDIATION PROGRAM JUDICIAL
DISTRICT 9**

The Judicial District 9 Custody and Visitation Mediation Program is established under the following North Carolina General Statutes, 7A-494, 7A-495, and 50-13.1.

I. PURPOSE AND GOALS OF THE PROGRAM:

The purpose of the Custody and Mediation program is to provide the services of a skilled mediator to the parties involved in a custody and visitation dispute. The goal of the program is to reduce stress and anxiety experienced by children in separation and divorce by furnishing an alternate way for the parties to resolve these disputes. The mediator assists with communication as the parties work to reorganize the family by creating a plan to continue parenting their children through and beyond the separation. Ideally, an educational process begins in mediation which helps parties refocus in order to meet the ongoing needs of their children.

Through mediation, parties have the opportunity to:

- reduce any acrimony that exists between parties regarding the dispute of custody or visitation.
- develop custody and visitation agreements that are in the child's best interest.
- participate in a process that invites informed choices and, where possible, gives the parties the responsibility for making decisions about child custody and visitation.
- minimize the stress and anxiety experienced by the parties, especially the child.
- reduce the litigation of custody and visitation disputes.

II. REFERRAL TO MEDIATION:

Any action involving custody of or visitation with a minor child or children shall be ordered to mediation prior to trial or after a temporary order has been issued by the court, unless the court waives mediation.

(A) Issues that arise in motions for modifications as well as in other pleadings shall be set for mediation unless mediation is waived by the court.

(B) In motions for contempt, the presiding Judge will determine whether to hear the motion or to refer the matter for expedited mediation. (In expedited mediation, the parties meet with a mediator immediately, if available, or as soon possible after the referral. Parties are not required to attend group orientation before expedited mediation).

III. PROCEDURES FOR REFERRAL TO MEDIATION:

STEP 1: CALENDAR FOR GROUP ORIENTATION: Unless Custody Mediation has been waived by the court (see Paragraph IV), any party filing a custody action, motion or claim must schedule the matter for group orientation to mediate. ***THIS REQUEST FOR MEDIATION OCCURS AT THE TIME OF ORIGINAL FILING.*** Parties must be scheduled to attend group orientation within 45 days of filing, as space allows. For safety purposes, there will not be more than 7 cases set to attend one group orientation. The sign-up sheet for orientation will be located in a notebook in the Clerk's office in each county. If sign-up sheet is "full", parties should be scheduled to attend the next available group orientation. An original and one copy of the appropriate cover sheet (Custody Mediation Cover Sheet, **DOM-9-10**) must be filed with each custody or visitation action. A copy of **DOM-9-10** will be placed in the

mediator's box in the Clerk's office or in sign-up notebook, as well as a copy of the Notice for Custody Mediation Orientation (**DOM-9-1**).

STEP 2: NOTICING ALL PARTIES TO ATTEND GROUP ORIENTATION:

After scheduling the group orientation, the party requesting the Custody Mediation Orientation date is responsible for noticing all opposing parties using the form titled Notice for Custody Mediation Orientation (**DOM-9-1**). (Each law office may photocopy or include this notice in their automated records from the master copy provided in this packet). The original of form DOM-9-1 must be filed with the Clerk. Unless waived by both sides, notice for mediation shall be served **10** days prior to the Mediation Orientation. A letter written by the Chief Judicial District Judge shall accompany this notice (see sample **DOM-9-3**). If one or more of the parties is not present as scheduled, the Judge will sign an Order for Mediation (see form **DOM-9-2**). In the event the filing party does not schedule Mediation Orientation, the Judge may sign an Order for Mediation (**DOM-9-2**). Parties failing to comply with this Order will be subject to contempt powers of the court.

(A) Request for Expedited Mediation:

A written request for expedited mediation (see form Stipulation for Expedited Mediation, **DOM-9-4**), signed by both parties or their attorneys, will waive the notice period. The attorney is to telephone the custody mediator's office and clearly leave a message requesting an expedited mediation session. The attorney will also file **DOM-9-4** with the Clerk's office and leave a copy of **DOM-9-4** in the mediator's box. In expedited mediation, the parties meet with a mediator immediately, if available, or as soon as possible after the referral. Parties are not required to attend group orientation before expedited mediation.

(B) At the Discretion of the Presiding Judge

A case may be ordered to mediation from the bench.

IV. WAIVER OF MEDIATION:

On its own motion, or that of either party, the court may waive mediation of a contested custody or visitation matter for good cause. Good cause includes, but is not limited to, a showing of undue hardship to a party, an agreement between the parties for voluntary mediation, allegations of abuse or neglect of the minor child, of alcoholism, of drug abuse, of spousal abuse, or of severe psychological, psychiatric, or emotional problems.

Where the parties reside more than 75 miles from the court, such distance may be considered good cause in the discretion of the court. If the party residing outside the area agrees, mediation may still proceed. Note: The mediator may be able to arrange an orientation session closer to home for parents who reside more than 75 miles from the court, or expedited mediation may be arranged.

Requests for Waivers of Mediation will be written (see forms **DOM-9-5** and **DOM-9-6**) and presented to a Judge who hears and hold Custody cases in said county. Requests for waivers may be presented without a court date. **DOM-9-5** and **DOM-9-6** will be filed with the Clerk's office and a copy of **DOM-9-6** will be placed in the custody mediator's box by the attorney.

(A) The custody mediation office will be notified by counsel of record of any change in the status of a pending case including, a signed consent order, voluntary dismissal, or exemption. The attorney will put a copy in the Custody Mediator's box.

(B) No discovery regarding a custody or visitation claim shall be served, notice or conducted until the mediation process is complete or has been exempted by judicial order. Except for oral depositions of parties, discovery may proceed regarding financial information.

V. THE MEDIATION PROCESS:

All parties are mandated to attend the group orientation and one private session before withdrawing from the process. Forms **DOM-9-8** (Motion to Show Cause for Failure to Comply with Custody Mediation) and **DOM-9-9** (Order to Show Cause for Failure to Comply with Custody Mediation) will be used should either or both parties

fail to comply with the mediation process. The required private mediation session will generally occur within two to six weeks of group orientation or as soon as possible, as the mediation program has appointments available.

(A) **Orientation:** Prior to mediation, a group orientation session is held at which the goals and procedures of the mediation process are explained to the parties. Orientation will be held monthly on a regular schedule that is maintained in the Mediator's office. Orientation will last approximately one hour. Children or other parties are not permitted to be present for the group orientation. Once Plaintiff and Defendant have attended the group orientation, if they file a new action within 18 months of first Orientation, they are not required to attend another group Orientation.

(B) **Scheduling of First Mediation Session:** The parties involved will schedule their private mediation session at the time of orientation (see form **DOM-9-7**, Notice of Custody Mediation Conference) unless they are ordered to expedited mediation from the bench. In cases involving expedited mediation the mediator will likely conduct an abbreviated orientation and the mediation in one session.

(C) **Mediation Session:** Parties permitted to be present to mediation are only those named in the suit. Children are NOT permitted to attend the group orientation or the private mediation session(s). Attorneys and other interested individuals may be present at the mediation sessions only with the agreement of all parties, counsel, and the mediator. All participants in mediation are bound by the statutory requirement of confidentiality. Each session lasts approximately 2 hours. It is not uncommon for parenting parties to spend more than one mediation session to fully resolve the issues around parenting the children. Each case is unique but the average number of sessions is 1 to 3. The mediator does not decide issues but encourages parents to assume responsibility for parenting decisions. Parents are not required to reach an agreement in mediation.

(D) **Outcomes:** As a result of mediation, the parties may enter into a full agreement, a partial agreement, a temporary agreement, or fail to reach agreement. The full agreement resolves all issues surrounding custody and visitation that have been addressed. The partial agreement will state those issues that have been resolved and those that still remain open to litigation. Both the court and the attorneys will be notified of the disposition of each mediated case, although information discussed during the mediation sessions remains confidential in accord with the guidelines of the statutory requirements. The mediator maintains a neutral stance and at no time will testify on behalf of either party.

A copy of any parenting agreement will be sent to each parent and attorney for review ***before*** signing. Parties have approximately 5-10 business days after the receipt of the agreement to consider the agreement and seek legal counsel. Minor changes to proposed agreements may be initiated by parents with the mediator over the telephone. Major changes that are desired will require both parties to return to mediation. ***The Court recommends that each party review the agreement with legal counsel before signing.*** The mediator will schedule signings through the Mediation office. Parents will not be required to sign at the same time, however they may be required to sign on the same day.

The signed agreement is presented to a District Court Judge who holds custody cases in said county for review and signature, along with the Parenting Agreement Order (AOC-CV-631) making this agreement a custody order. A copy of any signed agreements will be filestamped and sent to each parent and attorney.

The parties will have the opportunity to return to mediation to modify their existing agreement without refiling with the court. When parties return, the mediator will notify the Clerk's office and attorney's by using form AOC-CV-634.

When mediation does not result in a parenting agreement, the Custody Mediator will send a copy of an Order to Calendar Custody or Visitation Dispute (AOC-CV-941M) to the court, attorneys of record.

(E) **Enforcement:** Custody orders signed in mediation are enforced as any other court order through the legal system. They are not enforced by the mediation office. If problems arise, parents may return to mediation. Often they agree to this step in their parenting agreement.

(F) **Confidentiality and Other Issues:** Mediation proceedings shall be held in private and shall be confidential. Except as provided in G.S. 50-13.1, all verbal and written communications from either or both parties to the mediator or between the parties in the presence of the mediator made in a proceeding pursuant to this section are absolutely privileged and inadmissible in court. The mediator shall not at any time disclose to any Judge or Court Personnel the reason that an agreement was not reached. The court will not inquire of the parties or the mediator as to the reasons for no agreement in mediation. The Mediator in her/his discretion may terminate the mediation process if information is revealed that would support terminating mediation for reasons of safety, welfare, or psychological dynamics.

(G) **Pending Cases**

The Court's goal is to address these parenting issues through mediation promptly. The mediator will request that the filing party/or their Attorney send a letter to the person calendaring cases, should mediation extend longer than usual.

(H) **Mediator May Terminate Process:** In the event that the mediator ascertains that mediation is inappropriate, or there are safety issues which mediation will not address appropriately he or she may terminate the mediation and return the case to court. In the event that mediation is deemed inappropriate, the mediator will utilize the standard release form (AOC-CV-941M).

UNIFORM RULES REGULATING MEDIATION OF CUSTODY AND VISITATION
DISPUTES FOR JUDICIAL DISTRICT 9

Forms Attorneys Need

DOM-9-1	NOTICE FOR CUSTODY MEDIATION ORIENTATION
DOM-9-3	LETTER FROM CHIEF DISTRICT COURT JUDGE TO PARENTS
DOM-9-4	STIPULATION FOR EXPEDITED MEDIATION
DOM-9-5	MOTION AND NOTICE OF HEARING FOR EXEMPTION FROM MEDIATION
DOM-9-6	ORDER AS TO EXEMPTION FROM MEDIATION
DOM-9-10	CUSTODY MEDIATION COVER SHEET

Forms Used by the Custody Mediator

DOM-9-2	ORDER FOR CUSTODY MEDIATION ORIENTATION
DOM-9-7	NOTICE OF CUSTODY MEDIATION CONFERENCE
DOM-9-8	MOTION TO SHOW CAUSE FOR FAILURE TO COMPLY WITH CUSTODY MEDIATION
DOM-9-9	ORDER TO APPEAR AND SHOW CAUSE FOR FAILURE TO COMPLY WITH CUSTODY MEDIATION
AOC-CV-914M	ORDER TO CALENDAR CUSTODY OR VISITATION DISPUTE
AOC-CV-631	ORDER APPROVING PARENTING AGREEMENT
AOC-CV-634	MOTION AND ORDER TO RETURN TO CUSTODY MEDIATION

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

_____ COUNTY

DISTRICT COURT DIVISION

File No. _____

_____)
Plaintiff)

vs.

) **STIPULATION FOR EXPEDITED MEDIATION**

_____)
Defendant)

The Plaintiff and Defendant, by and through their attorneys of record, hereby stipulate that the parties waive the normal 45-day waiting period as set out in Rule III-B of the Custody and Visitation Mediation Rules and Procedures for the Ninth Judicial District and request that mediation be expedited.

Date: _____

Attorney for Plaintiff

Date: _____

Attorney for Defendant

INSTRUCTIONS: ATTORNEYS, please telephone the custody mediator at (919) 257-1791 or 1-888-628-8142 and leave a message to notify of the expedited request. **Original to be filed with the Clerk. Attorney is to make a copy and deposit copy for the Mediator in the Custody Mediator’s box in the Clerk’s office.**

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

_____ COUNTY

DISTRICT COURT DIVISION

File No. _____

**NOTICE FOR CUSTODY
MEDIATION ORIENTATION**

TO:

Plaintiff _____ and

Defendant _____

In accordance with the law, your case has been set for mandatory mediation of all custody and visitation issues.

You are hereby notified to appear on:

DATE: _____

TIME: _____

PLACE: _____

INQUIRIES MAY BE DIRECTED TO CHILD CUSTODY MEDIATION
(919) 257-1791 or 1-888-628-8142

CERTIFICATE OF SERVICE

I certify that a copy of this Notice and Order was served:

_____ By depositing a copy enclosed in a postpaid properly addressed wrapper in a post office or official depository under the _____ exclusive care and custody of the U.S. Postal service directed to:

_____ Plaintiff _____ Defendant _____ Plaintiff's attorney _____ Defendant's attorney

_____ Delivering a copy personally to:

_____ Plaintiff _____ Defendant _____ Plaintiff's attorney _____ Defendant's attorney

Attorney's Signature
(or Plaintiff if Pro Se)

Date

Instructions: The original must be deposited with the Clerk. One copy to the Plaintiff and one Copy to the

Defendant. Attorneys may want to keep a copy for their records.



JOHN W. DAVIS
CHIEF DISTRICT COURT JUDGE
JUDICIAL DISTRICT 9

DISTRICT COURT JUDGES
AMANDA E. STEVENSON
ADAM S. KEITH
CAROLINE S. BURNETTE
BENJAMIN S. HUNTER

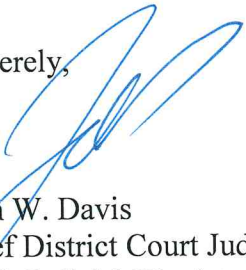
Dear Parent,

Please read the enclosed orientation notice carefully. The purpose of the group orientation meeting is to explain the mediation process, answer your questions, and schedule your initial mediation session. You are ***not allowed to bring children*** (** or other parties) to the orientation or mediation sessions and you will need to allow up to two hours for the mediation session. With very few exceptions, ***North Carolina law*** requires that you attend the orientation ***and*** at least one mediation session. Failure to do so will subject you to the contempt powers of the Court.

In custody mediation, the parents meet privately with a trained mediator to arrive at a parenting plan that provides for the unique needs of each child. The meetings with the mediator are confidential, and ***parents make their own decisions*** affecting the welfare of their children. The goal of mediation is a workable parenting agreement that will define your responsibilities concerning care for your child(ren). This agreement becomes an enforceable court order when signed by a judge, but it will be an order designed by parents and not dictated by the court because ***you know what is best for your children!***

Custody mediation is a program that has been very successful throughout other parts of our state and nation. In short, no matter how well intentioned the court system is, court proceedings are not well suited to meet the needs of children or parents. It is our sincere hope that mediation will assist both of you in agreeing on a written parenting plan which will enable you to remain good parents despite your personal and legal differences.

Sincerely,



John W. Davis
Chief District Court Judge
Ninth Judicial District

** Pursuant to Local Rules Section V, Part C- "Parties permitted to be present to mediation are only those named in the suit"

DOM-9-3



NORTH CAROLINA
FRANKLIN COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

File No.

Plaintiff)

vs.)

Defendant)

**NOTICE OF CUSTODY
MEDIATION CONFERENCE**

In accordance with the law, the above case has been set for **mandatory** mediation of all custody and visitation issues.

Notice is hereby given to appear on _____ at _____
in the Custody Mediation Office/_____.

**ALL PARTIES WHO FAIL TO COMPLY WITH THIS NOTICE WILL BE SUBJECT TO THE
CONTEMPT POWERS OF THE COURT.** Please allow two (2) hours for this session.

The mediator will seek to promote a workable and mutually acceptable agreement between the parties, working toward a resolution of the issues that will best serve the interests of the child. Please be advised that this is not a proceeding before the Court. Therefore, counsel will not participate in the discussions. Any parenting agreement reached will be reviewed by counsel prior to signing by the parties.

Mediation is an efficient, economical alternative to traditional litigation and provides for a prompt resolution of disputes. Mediation is better than the courtroom as a way to resolve complex and emotional issues involved in custody and visitation cases.

QUESTIONS MAY BE DIRECTED TO THE CUSTODY MEDIATOR
919-257-1791 or 1-888-628-8142

Custody Visitation Mediator

Date

DOM-9-7
12/15

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

_____ COUNTY

DISTRICT COURT DIVISION

File No. _____

_____)
Plaintiff)

vs.)

_____)
Defendant)

**ORDER FOR CUSTODY
MEDIATION ORIENTATION**

TO THE PARTIES OR THEIR ATTORNEYS OF RECORD:

IT IS ORDERED, pursuant to G. S. 50-13. 1, that the child custody and/or visitation issues in this case be referred to mediation.

Notice is hereby given to the parties to appear on _____
from _____ in _____.

All parties are required to be present at this time to participate in an orientation program developed by the Court.
PARITIES WHO FAIL TO COMPLY WITH THIS NOTICE MAY BE SUBJECT TO THE CONTEMPT POWERS OF THE COURT.

INQUIRIES MAY BE DIRECTED TO CHILD CUSTODY MEDIATION
(919) 257-1791 or 1-888-628-8142

District Court Judge Date

CERTIFICATE OF SERVICE

I certify that a copy of this Notice and Order was served:
_____ By depositing a copy enclosed in a postpaid properly addressed wrapper in a post office or official depository under the exclusive care and custody of the U.S. Postal service directed to:

_____ Plaintiff _____ Defendant _____ Plaintiff's attorney _____ Defendant's attorney

_____ Delivering a copy personally to:

_____ Plaintiff _____ Defendant _____ Plaintiff's attorney _____ Defendant's attorney

Custody Mediator Date

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

_____ COUNTY

DISTRICT COURT DIVISION

File No. _____

_____)
Plaintiff)

vs.

**MOTION TO SHOW CAUSE FOR FAILURE
TO COMPLY WITH CUSTODY MEDIATION**

_____)
Defendant)

THE UNDERSIGNED hereby moves this court for an order pursuant to G.S. 5A-23, stating that:

1. In a Notice of Custody Mediation dated, _____ the
(Plaintiff/Defendant), _____ was required to participate in Custody Mediation by attending an
orientation/mediation session on _____.

2. Said party failed to comply with the Notice and Order by failing to appear for the above orientation/session. Upon information
and belief, said failure was willful and without justification or excuse.

WHEREFORE, the undersigned prays that this court order said party to appear to show cause, if any, why he or she
should not be held in contempt of court.

Custody Mediator

Date

DOM-9-8
10/98

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

_____ COUNTY

DISTRICT COURT DIVISION

File No. _____

_____)
 Plaintiff)
)
 vs.)
)
)
)
)
)
 Defendant)

**ORDER TO APPEAR AND SHOW CAUSE
 FOR FAILURE TO COMPLY WITH
 CUSTODY MEDIATION**

TO THE FOLLOWING PARTY:

The undersigned District Court Judge finds that there is probable cause to believe that you are in contempt of Court for failing to appear for Custody Mediation on the _____ day of _____, 20____ at _____ as ordered by this Court.

YOU ARE HEREBY ORDERED TO APPEAR on the _____ day of _____, 20____ at _____ in Courtroom for District Court, of the _____ County Courthouse, in _____, NC. with the lawful orders of this Court.

If you are found in civil contempt, you may be committed to jail for as long as such civil contempt continues. If you are found in criminal contempt, you may be fined up to \$500, imprisoned for up to 30 days, or both.

FAILURE TO APPEAR WILL BE GROUNDS FOR CONTEMPT AND YOUR IMMEDIATE ARREST MAY BE ORDERED.

 District Court Judge Date

RETURN OF SERVICE

I certify that this Motion and Order to Show Cause was received and served as follows:

Date Received _____ Date of Service _____

_____ Served by delivering to the party named above a copy of this order

The party was not served for the following reason:

 Deputy Sheriff Making Service
 Granville County Sheriffs Office
 DOM-9-9
 10/98

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

_____ COUNTY

DISTRICT COURT DIVISION

File No. _____

_____)
Plaintiff)

vs.

_____)
Defendant)

)
)
)
)
)

**MOTION AND NOTICE OF HEARING
FOR EXEMPTION FROM MEDIATION**

Pursuant to G. S. 50-13. 1, the undersigned attorney/party requests a waiver of court-ordered custody/visitation mediation based upon the following reasons:

The undersigned has scheduled this motion for hearing on: _____
in Courtroom _____, _____ County Courthouse in _____, NC
at _____.

This the _____ day of _____, 20____.

Signature of Filing Party or Attorney
for Plaintiff/Defendant/Intervenor

DOM-9-5
10/98

NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

File No. _____

_____)
Plaintiff)

vs.

)
)
)
)

**ORDER AS TO EXEMPTION
FROM MEDIATION**

_____)
Defendant)

THIS CAUSE came before the undersigned judge upon the motion for exemption from mediation, and the court finds and concludes that said mediation:

_____ should be waived for good cause shown.

_____ should not be waived.

IT IS THEREFORE ORDERED that mediation in this case:

_____ is hereby waived.

_____ is not waived.

SIGNED this the _____ day of _____, 199_____.

DISTRICT COURT JUDGE
NORTH CAROLINA

Original must go to Clerk's office. The attorney is to place a copy in the custody mediator's box in the Clerk's office.

IT IS ORDERED THAT THIS CASE BE CALENDARED FOR TRIAL PURSUANT TO THE LOCAL RULES OF JUDICIAL DISTRICT 9, ANY ORDER STAYING FURTHER PROCEEDINGS IN THIS MATTER IS VACATED.

DOM-9-6
10/98

STATE OF NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF
JUSTICE DISTRICT COURT
DIVISION

File Number: _____

CUSTODY MEDIATION COVER SHEET

Plaintiff

Street Address Plaintiff's Phone Number

City, State, Zip Code Plaintiff's Attorney

VS.

Defendant

Street Address Defendant's Phone Number

City, State, Zip Code Defendant's Attorney

Signature of Party Filing Cover Sheet

DATE

- **Is there a pending or resolved civil or criminal DV case involving the same parties in NC or any other state? (If yes, attach copy for Custody Mediator) YES _____ NO _____
- **Has this case been to Custody Mediation before? YES _____ NO _____
- **Does this case need an interpreter? YES _____ NO _____

***NOTE: COMPLETELY FILL OUT ABOVE COVER SHEET
Filing party to give original to Clerk and place a
COPY IN CUSTODY MEDIATOR'S BOX in the Clerk's office.***

10. Magistrate court jurisdiction amount for small claims cases in District 9 (Franklin, Granville, Vance and Warren Counties) is limited to cases involving \$5,000.00 or less. Claims of greater than \$5,000.00 should continue to be assigned to the District Court Civil Division.

11. All Equitable Distribution cases go to mediation before being heard per the following adopted rules:

Rule 1. The "Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases", as the same may be amended from time to time, and as supplemented by the local rules contained herein, are hereby adopted in the Ninth Judicial District, and shall apply to all equitable distribution and other family financial cases filed in the Ninth Judicial District.

Rule 2. Rule 1.C.(1) of the Rules of the North Carolina Supreme Court Implementing Procedures in Equitable Distribution and Other Family Financial Cases requires that the Court shall order the parties to attend a mediated settlement conference at the scheduling conference mandated by G.S.50-21(d), or at such earlier time as specified by local rule. For all cases pending in the Ninth Judicial

District, the Court shall within 120 days after the filing of the initial pleading or motion in the cause for equitable distribution, order the parties and their counsel to attend a mediated settlement conference, or if the parties agree, other settlement procedure conducted pursuant to these rules, unless excused by the Court pursuant to Rule 1.C.(6) or by the Court or mediator pursuant to Rule 4.A.(2).

If the parties are unable to agree upon the selection of a mediator or other neutral within 120 days after filing of the initial pleading or motion in the cause for equitable distribution, the party first serving the pleading or application shall apply to the Court for an Order appointing a mediator or other neutral to conduct a mediated settlement conference or other settlement procedure agreed upon by the parties.

Rule 3. In the event the parties are unable to agree upon the selection of a mediator or other neutral, the Court shall appoint a Certified Family Financial Mediator certified pursuant to the Rules of the North Carolina Supreme Court or a certified mediator from the mediator information directory maintained by the Chief District Court Judge.

Rule 4. The Chief District Court Judge may include certified mediators in the mediator information directory who have not completed a 40 hour family and divorce mediation training approved by the Dispute Resolution Commission.

II. Calendaring and Trial of Civil Cases In the Ninth Judicial District For Sessions With A Jury During the **FIRST THREE CALENDAR QUARTERS OF A YEAR.**

1. Calendars.

- a. Publication of the calendar shall be by the Clerk of Superior Court.
- b. Distribution by the Clerk shall be to every attorney and to the Presiding Judge, and the unrepresented party of record shall be noticed. In lieu of the foregoing notice the Clerk of each county may distribute the calendar to attorneys and the presiding judge by posting on the web at www.nccourts.org
<http://1.aoc.state.nc.us/www/calendars/Civil.html>

Each published civil district court calendar will be emailed directly to all subscribers. Each attorney practicing in the Ninth Judicial District is advised to "subscribe" to the email service in the counties of Franklin, Granville and Vance. Distribution to each unrepresented party of record shall be by the Clerk mailing a printed calendar. Any attorney who notifies the Clerk that he/she does not have Internet access shall receive a printed calendar from the Clerk. The presiding judge shall be provided a printed calendar on the first day of court for the trial week.

- c. Preparation of calendars is to be under the supervision of the Chief District Court Judge (Rule 2(b) General Rules Of Practice For The Superior And District Courts). He will be assisted by a Deputy Clerk of the Superior Court designated for the purpose by the Clerk of Superior Court.

- d. Calendar Committee. The Calendar Committee of each county within the Ninth Judicial District shall be composed of the Bar as a whole within each county. Each county Calendar Committee shall have co-chairmen, and the same named individuals as set out as co-chairmen of the county Calendar

Committee in the Case Management Plan Calendaring of Civil Cases Ninth Judicial District Superior Court shall constitute the co-chairmen of the County Calendar Committee.

For the purpose of assisting the Chief District Court Judge, one of the co-chairmen, or a member of the bar designated by the co-chairmen, shall preside at all calendar meetings within each county for the purpose of reviewing the Ready Calendar maintained by the Clerk of Court in the civil docket book and setting the Final Calendar for each term of civil District Court with a jury within that county.

The Final Calendar meeting for each term of civil District Court with a jury within each county shall be held at such time in the courthouse of each respective county to enable the Clerk of Court of each county to publish the Final Calendar not less than thirty (30) days prior to the first day of that session of court; provided however said meeting will be scheduled at a time when it will not interfere with any District Court or Superior Court in session in that county.

e. Final Calendar. The Final Calendar shall be made up of cases set for trial by the Calendar Committee at Final Calendar meeting and cases added by Chief District Court Judge due to their age or for good cause shown. Final Calendars shall be mailed by the Clerk of Court to each attorney and each party appearing without an attorney listed on the calendar not less than thirty (30) days prior to the initial day of the court session unless the final calendar has been distributed as provided in paragraph 1.(b) above.

f. Rules for Setting Cases on the Final Calendar.

(1) The Clerk of Court of each county shall, after consulting with the co-chairmen of the Calendar Committee in that county, notify each member of the Calendar Committee meeting not less than five (5) working days prior to each Final Calendar meeting.

(2) A Case may be placed on the Final Calendar at the Final Calendar meeting by written request directed to the Clerk of Court or by oral request at the meeting. If objection to the calendaring of a case is made at the Final Calendar meeting, a vote will be conducted at

the Final Calendar meeting of all members of the Calendar Committee that are present, and the case will be removed from or set on the Final Calendar according to the decision of the majority of those present and voting. However, the Calendar Committee nor the Clerk of Court's Office shall have the authority to remove from the Final Calendar any case ordered placed on the Final Calendar by the Chief District Court Judge pursuant to paragraph e. above.

- (3) All Appeals from Small Claims Court that have been perfected by the day of the Final Calendar meeting shall be placed on the calendar by the Calendar Committee.
- (4) Cases placed on the Final Calendar by the Chief District Court Judge shall be designated by an asterisk (*), and such cases may be continued or removed from the calendar only by the order of the Chief District Court Judge or the Judge Presiding over that Civil Session.
- (5) In addition to (2), (3), and (4) above the oldest case on the Ready Calendar shall be

placed on the Final Calendar by the Calendar Committee, and the Calendar Committee should insure in it's deliberations that a sufficient number of cases are calendared for trial to occupy the court for the entire session.

- (6) The Final Calendar shall be published with cases in numerical order or in the order of trial as recommended by the Calendar Committee, as supplemented by order of the Chief District Court Judge as set forth in paragraph e. above. Cases shall be set for specific days unless otherwise agreed upon by the Calendar Committee, provided however jury and non jury cases will be arranged for trial according to instructions for the reporting of Jurors which is when a session begins on Monday the jurors will report at 9:30 A.M. on Tuesday, and when a session begins on Tuesday the jurors will report at 2:00 P.M. on Tuesday. This is done for the specific purpose of disposing of Non Jury cases and matters before the jurors report.
- (7) The Presiding Judge may, in his discretion, rearrange the order of cases on the Final

Calendar in order to obtain maximum utilization of the court's time.

- g. Motions and Other Non-Jury Matters. Motions, Non Jury cases for trial, and other non-jury matters will be set on Monday, or the first day of the civil session if Monday is a holiday, at 10:00 a.m.

The Motion Calendar shall be published by the Clerk of Court. The responsibility for notifying the Clerk of Court of motions to be set for hearing is upon the attorney of record or any unrepresented moving party. The Motion Calendar may be published as an addendum to the Final Calendar. In any event, the Motion Calendar is to be published no later than seven (7) days prior to the first day of that session of court.

Nothing in this section shall relieve the moving party or his attorney of giving notice to opposing counsel or unrepresented party pursuant to the North Carolina Rules of Civil Procedure.

Motions not appearing on the Motion Calendar shall be heard at the discretion of the Presiding Judge.

h. Unit Rule.

(1) A unit rule or two day rule may be enacted by a Calendar Committee, but any such rule is not binding unless it is printed on the first page of the Final Calendar.

(2) In the event any holiday falls within the session, different units or days may be determined at the Final Calendar meeting, but no unit rule shall be binding unless printed on the first page of the Final Calendar.

III. Calendaring and Trial of Civil Cases In the Ninth Judicial District For Sessions With A Jury During the **FOURTH CALENDAR QUARTER OF A YEAR.**

For those sessions of Civil District Court with a Jury occurring during the Fourth Calendar Quarter of a year the calendar will not be set by the Calendar Committee. The calendar for such sessions shall be all of the Civil cases and motions on the Ready Calendar as maintained by the Clerk of Superior Court, plus all cases and motions where a request for trial has been made if not yet on the Ready Calendar, plus all perfected appeals from Small Claims Court as of the date the Calendar is prepared with the exception of non

jury IV-D cases, and Non Jury Uniform Reciprocal Support Cases.

The Calendar shall be prepared by the Clerk of Superior Court and mailed by the Clerk of Superior Court to each attorney and each party appearing without an attorney listed on the Calendar not less than thirty (30) days prior to the initial day of the court session unless the final calendar has been distributed as provided in section II., paragraph 1.(b) above.

IV. Requests for Cases to be Tried.

1. A party to a case that is ready for trial desiring that the case be calendared for trial may file a written request that the case be tried setting forth the date of the session of court desired with the Clerk of Superior Court, and said case shall be placed on the calendar for trial during the session requested provided however if the requested session is a jury session during the first three calendar quarters of a year the request will be considered by the Calendar Committee.

- a. If the requested session is a Jury session the written request should be received by the Clerk of Superior Court prior to 2 working days before the calendar is prepared if the requested session is

during the fourth calendar quarter and prior to two (2) working days prior to the date of the Calendar Committee meeting if the requested session is during the first three calendar quarters, and said request shall be recognized by the Calendar Committee. If said request is not honored the co-chairman of said committee shall forthwith notify the one making the request why said request was not honored.

- b. If the requested session is a Non-Jury session the written request must be received by the Clerk of Superior Court no later than four (4) weeks prior to the requested session date, and a copy of said written request must be mailed or delivered by the party making the request to all opposing lawyers or parties where there are no attorneys of record no later than four (4) weeks prior to the requested session date.
2. A party desiring that a Civil motion be calendared during a non-jury session may file a written request that the motion be heard setting forth the date of the session of court desired with the Clerk of Superior Court, and said motion shall be placed on the calendar for hearing during the session requested; provided however the written request must be received by the

Clerk of Superior Court prior to two (2) working days prior to the date the calendar is prepared, and the movant shall be responsible for giving the opposing party(s) statutory notice of said motion and date of hearing.

V. General Rules

1. Attendance by Attorney. "When an attorney is notified to appear for the setting of a calendar, pretrial conference, hearing of a motion, or for trial, he must, consistent with ethical requirements, appear or have a partner, associate, or another attorney familiar with the case present. Unless an attorney has been excused in advance by the judge before whom the matter is scheduled and has given prior notice to his opponent, a case will not be continued." Rule 2(e) verbatim General Rules Of Practice For The Superior And District Courts.

2. Continuances. Continuances are governed by Rule 40(b) of the North Carolina Rules of Civil Procedure, and by Rule 3 of the General Rules Of Practice For The Superior And District Courts.

3. Conflicts of Counsel. Priority of appearance of counsel is controlled by Rule 3, General Rules Of Practice For The Superior And District Courts. Upon Request, the Presiding Judge will assist attorneys in resolving calendar and trial conflicts.

4. Peremptory Settings. Requests for a peremptory setting for cases involving persons who must travel long distances or numerous expert witnesses or other extraordinary reasons must be made to the Chief District Court Judge. A peremptory setting shall be granted only for good and compelling reasons. Requests for a peremptory setting must be made in writing in letter or motion form, and a copy thereof must be served upon the opposing party or his attorney in accordance with the rules set forth in the North Carolina Rules of Civil Procedure. In acting upon requests for peremptory settings, the decision of the Chief District Court Judge on such requests shall be final. Requests for a peremptory setting should be made to the Chief District Court Judge at least six (6) weeks prior to the commencement of the session of court for which the peremptory setting is sought. Rule 2(f) of General Rules Of Practice For The Superior And District Courts.

5. Civil Calendars for sessions without a jury (2. and 3. in Section I. above) will be published by the Clerk of Superior Court and available one day prior to the session and distributed on the court day and shall contain those cases where a request for Calendaring has been filed.

6. Notwithstanding other provisions of this Case Management Plan:
 - a. An uncontested divorce may be calendared for trial during any session of court where Civil cases are heard provided a written request for calendaring is filed with the Clerk of Superior Court prior to two (2) working days prior to the date the calendar is prepared.

 - b. Any Non Jury Civil case or Civil motion where a request to calendar said case or motion has been made to the Clerk of Superior Court prior to two (2) working days prior to the date the calendar is prepared will be heard, provided all parties are present in court and consent to the case being heard, provided further if the session is a session where criminal cases have priority prior approval of the trial judge is necessary.

- c. Upon request any Civil case or Civil motion may be added to any court docket and heard with the permission of the trial Judge when the circumstance of said case or motion so warrants the request and no party to the case or motion objects.
7. For all sessions of District Civil Court only a final trial calendar will be published and distributed. No tentative trial calendar will be published.
8. Uniform Reciprocal Support cases, together with motions in such cases will be calendared by the Clerk of Superior Court as soon as the case or motion is ready for hearing during a civil session when a District Attorney is scheduled to be present. In contested cases for trial the parties shall be given four weeks prior notice of the date of trial.
9. Dates for preparing calendars as hereinbefore set out should be obtained from the respective Clerks of Superior Court.
10. In the spirit of (1) obtaining maximum use of a Jury during a Civil Session of District Court with a Jury, (2) maximum utilization of court time, (3) minimizing the time spent waiting for trial by lawyers, parties to

an action, and witnesses, and (4) conserving energy, it is requested that the following rules be observed in the calendaring and trial of cases during a Civil Session with jury in the Ninth Judicial District:

- a. All motions and cases will be calendared for the first day of the session.
- b. All cases will be annotated Jury, Non Jury or Motion on the final trial calendar by the Clerk of Superior Court.
- c. The presiding judge will call the entire calendar at the beginning of the first day of the session and in so far as possible arrange a trial day during the week for each case.
- d. Where the session begins on a Monday the jury will first report at 9:30 a.m. on Tuesday, unless otherwise ordered by the Chief District Court Judge, and only motions and non jury cases will be heard or tried on Monday and said motions and cases should be prepared for hearing/trial immediately upon completion of the call of the calendar.

- e. Where the session begins on a Tuesday, the jury will first report at two o'clock p.m. on Tuesday unless otherwise ordered by the Chief District Court Judge, and only motions and non jury cases will be heard prior to two o'clock p.m. and said motions and cases should be prepared for hearing/trial immediately upon completion of the call of the calendar.

- f. Nothing in paragraph d. or e. is intended to preclude the trial of non jury cases during the entire week as they may be scheduled by the presiding judge and the bar.

- g. The following shall appear on the face of the final trial calendar: The entire calendar will be called at the beginning of the first day of the session. All lawyers in cases for trial with a jury that are not members of the _____ County Bar are encouraged to communicate and coordinate with opposing counsel or with the Clerk of Superior Court where there is no opposing counsel prior to the first day of the session in order to prevent traveling solely to answer the calling of the calendar. When the session begins on Monday only Non Jury cases and motions will be heard on Monday. When the session begins on Tuesday only

Non Jury Cases and motions will be heard prior to
2:00 P.M. on Tuesday.

11. The fourth session of Civil District Court will be a clean up calendar. Everything that has never been closed and is over six months old, goes on the calendar.

12. Nothing in this Case Management Plan is to be construed by implication or otherwise to deprive any party of any type notice required by the North Carolina Rules of Civil Procedure should said party not consent.

This Case Management Plan (Revised) becomes effective
January 1, 2016.

This done in compliance with Rule 2 of General Rules Of Practice
For The Superior And District Courts as amended.

This the _____ day of June, 2018.

John W. Davis
Chief District Court Judge
Ninth Judicial District

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

Plaintiff

Vs.

ORDER OF REMOVAL

Defendant

THIS CAUSE coming on for review and it appearing to the Court that the case has become inactive under a judgment or order filed herein and/or the history of this case indicates that all matters in controversy have been resolved.

IT IS, THEREFORE, ORDERED that the case be removed from the trial docket of active cases, and placed as a closed file without prejudice to previous orders herein, and without prejudice to the entry of motions and orders in the future.

This the _____ day of _____, 20____.

Judge Presiding

9th DC FORM 7 (1-4-91)
STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
COURT DIVISION

JUDGMENT OF REMOVAL FROM
PENDING TRIAL LISTS

IT HAVING BEEN MADE to appear to the undersigned that the above entitled case all matters in controversy have been settled; that said settlement requires periodic payments and, therefore, no just cause now exists for continuing this case a case for trial.

IT IS, THEREFORE, ORDERED that this case be REMOVED from the trial docket, and the Clerk of Superior Court of _____ County is hereby directed to close said case WITHOUT PREJUDICE, to either party to re-open by motion in the event the settlement is not fully concluded.

This the _____ day of _____, 20_____.

JUDGE PRESIDING

File No. _____

Film No. _____

NORTH CAROLINA,
_____ COUNTY.

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

Plaintiff

Vs.

ORDER

Defendant

The Court being informed that the defendant in this matter has filed under a Chapter 11 bankruptcy proceeding, and the Court is of the opinion that the Court is unable to proceed any further in this matter until such time as the Chapter 11 proceeding has been dismissed;

It is, therefore, ordered, adjudged and decreed that this matter be ordered off the active trial docket without prejudice to either party to reset this matter on the active trial docket upon motion made before the Clerk of Superior Court.

This the _____ day of _____, 20____.

Judge Presiding

File No. _____

Film No. _____

NORTH CAROLINA,

COUNTY.

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

Plaintiff

Vs.

ORDER

Defendant

The Court being informed that the defendant in this matter has filed under a Chapter 13 bankruptcy proceeding, and the Court is of the opinion that the Court is unable to proceed any further in this matter until such time as the Chapter 13 proceeding has been dismissed;

It is, therefore, ordered, adjudged and decreed that this matter be ordered off the active trial docket without prejudice to either party to reset this matter on the active trial docket upon motion made before the Clerk of Superior Court.

This the _____ day of _____, 20____.

Judge Presiding

File No. _____

Film No. _____

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

Vs.

ORDER

Upon administrative review, it appears that the issues have been resolved in this matter;

IT IS, THEREFORE, ORDERED that this case be ordered off the docket.

This the _____ day of _____, 20_____.

JOHN W. DAVIS
CHIEF DISTRICT COURT JUDGE
NINTH JUDICIAL DISTRICT

STATE OF NORTH CAROLINA
NINTH JUDICIAL DISTRICT
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
CASE NUMBER _____

Plaintiff(s)

vs.

ORDER OF DISMISSAL

Defendant(s)

IT APPEARING to the undersigned that in the above entitled action service of summons has not been completed and the time for service has expired.

NOW, THEREFORE, under Rule 4(e) of the Rules of Civil Procedure, the action is dismissed and the Plaintiff shall pay the costs of Court as assessed by the Clerk.

This the _____ day of _____, 20_____.

Presiding Judge

File No. _____
Film No. _____

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

vs.

J U D G M E N T

This case having been duly called for trial and the Plaintiff(s) having been called to come into Court and prosecute this case, the Court makes the following finding of facts:

That this case was initiated _____.

That this case was duly calendared for trial at the _____ session of the District Court of _____ County.

That a copy of the calendar of cases to be tried at this session of the District Court of _____ County was mailed to _____ at _____ address of record with sufficient postage affixed thereto well in advance of the beginning of this session of Court.

That the Plaintiff(s) failed to come into Court and proceed with or prosecute this case.

The Court concludes as a matter of law that Plaintiff's(s') actions manifest an intention to thwart the progress of this action to its conclusion.

It is hereby Ordered, Adjudged, and Decreed upon the Court's own motion and pursuant to Rule 41 (b) of the Rules of Civil Procedure, that this action be and the same is hereby DISMISSED, and that portion of the Costs which may be recovered from the amount advanced on the initiating of this action be paid by the plaintiff(s).

This the _____ day of _____, 20____.

STATE OF NORTH CAROLINA
COUNTY OF _____

JUDGE PRESIDING
IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. _____

PLAINTIFF

VS

ORDER TO CLOSE FILE

DEFENDANT

IT APPEARING TO THE UNDERSIGNED JUDGE THAT THIS ACTION IS NO LONGER AN ACTIVE LAWSUIT, THAT A TRIAL OF THE CASE WILL PROBABLY NOT BE NECESSARY, AND THAT THE ENDS OF JUSTICE WILL BEST BE SERVED BY DECLARING THE CASE INACTIVE AND BY REMOVING IT FROM THE TRIAL DOCKET;

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, THAT THIS CASE FILE BE CLOSED AND THE ACTION BE REMOVED FROM THE TRIAL DOCKET, WITHOUT PREJUDICE TO THE RIGHTS OF ANY PARTY TO MOVE THE COURT TO RE-OPEN THE FILE IF FURTHER ACTION BECOMES APPROPRIATE OR NECESSARY.

THIS THE _____ DAY OF _____, 20____.

JUDGE PRESIDING

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
COURT DIVISION

Plaintiff

vs.

Defendant

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ORDER DISMISSING APPEAL

THIS CAUSE comes on for review before the undersigned Judge of the District Court; and

IT HAVING BEEN MADE TO APPEAR to the undersigned that Judgment was entered in Small Claims Court, and that an appeal was taken therefrom. This appeal has been pending for some time with no action taken by either party, and is deemed to have been abandoned.

THEREFORE, on the Court's own motion, it is HEREBY ORDERED that the appeal be DISMISSED for failure to prosecute same, and that the parties are RELEGATED to the Magistrate's Judgment as rendered in Small Claims Court.

This the _____ day of _____, 20____.

Judge Presiding