

**LOCAL RULES AND CASE MANAGEMENT PLAN
FOR THE TWENTY-FIRST JUDICIAL DISTRICT
FORSYTH COUNTY, NORTH CAROLINA FOR CHAMBERS HEARINGS**

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These Local Rules concerning Chambers Hearings for the 21st Judicial District are promulgated pursuant to the authority of the Honorable Lisa V.L. Menefee, Chief District Court Judge, and as further allowed by Rule 2 of the North Carolina General Rules of Practice for the Superior and District Courts. These local rules supersede any prior enacted Local Rules concerning Chambers Hearings and Child Custody and Visitation Mediation.

FORSYTH CO. C.S.C.

Lisa V.L. Menefee

I. DEFINITION OF CHAMBERS HEARINGS:

- A. Under these rules of practice, Chambers Hearings shall consist of the following:
1. Child Custody Claims;
 2. Child Support Claims;
 3. Postseparation Support Claims;
 4. Motions to Modify Custody, Child Support, Postseparation Support and/or Alimony;
 5. Attorney fee motions not heard with the case will be set before the hearing Judge at his or her discretion;
 6. Non-Jury Alimony Claims;
 7. Non-Jury Divorce from Bed and Board Claims;
 8. Appointment of Parenting Coordinator;
 9. Civil actions regarding Marital Agreements;
 10. All Pre-Trial Conferences, and Procedural, Discovery, and Evidentiary Motions associated with and arising from the above listed claims; and
 11. All Contempt and enforcement matters related to the above.
- B. Claims which require a ten-day return hearing, or where a ten-day hearing is ordered or requested by either party, shall be set in Courtroom 3B.
- C. Except as excluded herein, hearings relating to Equitable Distribution shall be heard in Equitable Distribution Court, and are governed by the Local Rules for Equitable

Distribution. Ancillary claims, such as alimony, may be heard with Equitable Distribution upon written approval of the presiding Equitable Distribution Judge.

D. Effective July 1, 2019, Chambers Sessions shall consist of three types:

1. One Short Hearings Chambers Week: The second week of every month, Courtroom 4H, shall be devoted solely to hearings which shall take two hours or less to be completed, with equal time allocated to each party. Parent Coordinator Appointment Conferences shall be set during the Short Hearings Chambers Week.
2. One Two-Week Long Hearings Chambers Session: The second and third week of each month, in courtroom 4A, shall consist of one two-week long session to be presided over by the same District Court Judge. Only cases in excess of two full days are to be calendared in this session. Pre-Trial Conferences for all matters set in the Long Hearings Chambers Session shall be completed no later than the first day of the Long Hearings Chambers Session. Cases set on the Two-Week Long Hearings Chamber Session shall be scheduled consecutively in the order in which they were calendared, with one matter beginning upon the conclusion or removal of the prior matter.
3. All Other Chambers Weeks: All remaining Chambers Weeks shall be conducted in one week sessions of the District Court. Cases estimated to last longer than two hours up to two full days shall be calendared in the other chambers weeks.

By way of illustration:

	Week One	Week Two	Week Three	Week Four	Week Five (if applicable)
4A	<i>Equitable Distribution</i>	Long Chambers Hearing Session	Long Chambers Hearing Session, cont.	Chambers	Chambers
4C	<i>General Civil</i>	Chambers	Chambers	Chambers	Chambers
4H	Chambers	Short Hearings Chambers Session	Chambers	Chambers	Chambers

- E. Effective upon the signature and adoption of these rules, there shall be at least one week-long Chambers rotation each and every week court is in session.
- F. All Chambers sessions shall begin at 9:00 a.m., or immediately following the conclusion of the Chambers calendar call.

II. CALENDARING OF CHAMBERS HEARINGS:

- A. Scheduling: A filed Calendar Request / Notice of Hearing shall be required to schedule cases for each of these sessions.
1. Calendar Request / Notice of Hearing for all Chambers matters shall require at least ten (10) days' notice prior to the first day of the noticed Chambers session. The Chambers Calendar Request / Notice of Hearing form used by this Judicial District is attached hereto as Exhibit A.
 2. Claims which require a ten-day return hearing, or where a ten-day hearing is ordered or requested by either party, shall be set in Courtroom 3B. The Ten-Day Hearing Calendar Request / Notice of Hearing form used by this Judicial District is attached hereto as Exhibit A-10.
- B. Time Estimates: The Calendar Request / Notice of Hearing shall state the anticipated length of trial / hearing. At any time after a case has been scheduled for hearing, if there are any changes in the original time estimate or if either party wishes to schedule additional matters for hearing at the same time, the party seeking additional time or seeking to add matters to the calendar shall provide written notice to the District Court Judges' Case Manager and to all other attorneys and/or parties. Written notice shall be provided by email, fax and/or U.S. Mail, if email or fax are both unavailable.
- C. Calendar Call: The Presiding Judge shall call the calendar at 9:00 AM on the Tuesday preceding the start of each Chambers session. At the calendar call, the Presiding Judge shall set times for each matter to be heard during the upcoming session. If an attorney cannot be present in calendar call, the attorney must then have a representative from their office or another attorney present to answer for their case. Emails, letters, or phone messages will not be accepted for the calendar call session.
- D. The Presiding Judge, in his or her discretion, may conduct a Pre-Trial Conference the morning of the first day of each Chambers session.
- E. There shall be a printed calendar in the District Court Administrative Office on the Thursday before the start of each Chambers session which is uploaded to the North Carolina AOC website.
- F. Priority: Rule 3.1 of The North Carolina Rules of Court shall apply in resolving scheduling conflicts. <https://www.nccourts.gov/courts/supreme-court/court-rules/general-rules-of-practice-for-the-superior-and-district-courts>
- G. Motions to Continue: Upon receipt of a Request to Calendar / Notice of Hearing, if a party / counsel for a party intends to seek a continuance, a Written Motion to Continue shall be submitted, filed and served, at least two (2) days prior to the calendar call. Said Motion shall set forth the grounds which are the basis of the

continuance sought. The Motion must be submitted on AOC form AOC-CV-222 and shall be filed no later than ten (10) days from receipt of the Request to Calendar/Notice of Hearing, or two days before calendar call, whichever occurs first. A copy of the filed Motion to Continue shall be delivered to the Judicial Assistant either by leaving the copy with a clerk to place in the Judicial Assistant's box or by delivering the copy directly to the Judicial Assistant.

- H. Double Calendaring Cases: No claim within a case shall be calendared by the same party for more than one Chambers session simultaneously. A claim within a case must be properly removed or continued from a Chambers session before a party can re-calendar the same.

III. PRE-TRIAL ISSUES AND CONFERENCES: In all Chambers matters which are estimated to be longer than two days, or which involve a claim of divorce from bed and board, post-separation support, or alimony, there shall be a Pre-Trial Conference as set forth herein below:

- A. Hearings Longer than Two Full Days: If feasible, a Pre-Trial Conference for all matters which are expected to take longer than two days shall be held no later than 30 days prior to the first day of the noticed session. If that is not feasible, Pre-Trial Conferences shall be held on the first day of the noticed session as referenced above.
- B. Divorce from Bed and Board, Post-Separation Support, and/or Alimony Claims: If feasible, a Pre-Trial Conference for all divorce from bed and board, post-separation support, and/or alimony matters shall be held no later than 30 days prior to the first day of the noticed session. If that is not feasible, Pre-Trial Conferences shall be held on the first day of the noticed session as referenced above.
- C. Pre-Trial Conference Order: The form Pre-Trial Conference Order used by this Judicial District is attached hereto as Exhibit B.
- D. Stipulation: The form Stipulation by Parties for Court to Speak with Minor Children is attached hereto as Exhibit C.

IV. FINANCIAL STANDING AFFIDAVITS: In all claims for non-guideline child support, or where a deviation from the Child Support Guidelines is sought by filed notice, and claims for post-separation support and/or alimony, if a party intends to introduce a Financial Standing Affidavit, the following Rules shall also apply:

- A. Absent written and filed stipulation or an Order of the Court, a Verified Financial Standing Affidavit, and all known documentary evidence intended to be offered in support of the same, shall be served no later than ten (10) days prior to the calendar call of the noticed session. The Verified Financial Standing Affidavit shall be filed with the Clerk of Court but supporting documentation shall not. If a Financial

Standing Affidavit is not timely served, the same shall not be admitted as substantive evidence at trial.

- B. The form Financial Standing Affidavit used by this Judicial District is attached hereto as **Exhibit D** and shall be used in all cases for non-guideline child support, or where a deviation from the Child Support Guidelines is sought by filed notice, and claims for post-separation support and/or alimony in which a party intends to introduce an Affidavit concerning any party's income and/or expenses.
- C. This Financial Standing Affidavit requirement shall also apply to all jury Alimony trials which are heard in the District Court's General Civil Session.

V. PEREMPTORY SETTINGS:

- A. Consistent with Rule 2(f) of the North Carolina General Rules of Practice for the Superior and District Courts Supplemental to the Rules of Civil Procedure, and in addition to the factors set forth in Rule 2(f), requests for peremptory settings for cases shall be made by Motion using the form used by this Judicial District, attached hereto as **Exhibit E**.
- B. The Court shall consider the following factors in determining whether or not to grant a peremptory setting:
 - 1. Cases involving persons who must travel long distances;
 - 2. Cases involving numerous expert witnesses, or professional fact witnesses, such as medical professionals, mental health professionals, school personnel, or accountants;
 - 3. For the continuation of a trial or hearing already in progress;
 - 4. For the hearing of a trial or hearing where a District Court Judge has retained jurisdiction with the consent of the parties; and
 - 5. For any other good and compelling reason, the prior examples of which are not exclusive.
- C. The Motion for Peremptory Setting shall be heard by the District Court Judge during whose Chambers session the setting is sought or by the Chief District Court Judge.

VI. HEARING LIMITATIONS:

- A. Summary Trials: By a written and filed stipulation signed by the parties, the Court may conduct summary trials based on Affidavits and/or Written Argument at the discretion of the Presiding Judge for claims which the Court can hear based on affidavits alone. The form Stipulation used by this Judicial District is attached hereto as Exhibit F.
- B. Time Limits: In cases for temporary custody, temporary child support, and/or post-separation support, hearings shall be limited to three (3) hours, with each party having equal time to present their case, including, direct, cross-examination, opening statements, and closing arguments. A party may, upon written motion filed and served prior to the calendar call for a noticed hearing of a claim for temporary custody, temporary child support, and/or post-separation support, seek additional time for a hearing of a claim for temporary custody, temporary child support, and/or post-separation support. The form Motion used by this Judicial District is attached hereto as Exhibit G.
- C. Affidavits: At a hearing for non-emergency temporary child custody, temporary child support, or post-separation support, if either party intends to seek to offer into evidence any Affidavit, they shall serve the Affidavit upon the opposing party no later than ten (10) days prior to the calendar call of the scheduled session. Thereafter, a responding party has five (5) days in which to serve their Rebuttal Affidavit which they seek to offer into evidence. If affidavits are not served in accordance with the time set forth herein, that Court shall not consider the affidavits.
- D. Employer's Affidavits: In all cases involving child support, postseparation support, and/or alimony, each party may submit to his or her employer an affidavit in form substantially equivalent to the attached Employer's Affidavit. The form Employer's Affidavit used by this Judicial District is attached hereto as Exhibit H. Upon completion by the employer, a copy of the affidavit shall be served on the opposing party's counsel (or on the party, if the party is unrepresented), and the original shall be filed in the case file at the courthouse. These affidavits shall be completed, served and filed at least ten (10) days prior to the calendar call of the noticed session. Unless a party prior to trial files and serves a written objection to an Employer's Affidavit and/or issues a subpoena for the maker of the affidavit, an Employer's Affidavit shall be admissible in evidence without further foundation or authentication and shall be considered by the court in setting support.

VII. CHILD CUSTODY AND VISITATION MEDIATION:

- A. Pursuant to N.C.G.S. §7A-494 and N.C.G.S. §50-13.1, the 21st Judicial District adheres to the requirements of Child Custody and Visitation Mediation. All actions involving unresolved issues of custody and visitation of a minor child shall be

ordered to mediation, including those related to contempt and modification, unless the Court waives mediation.

B. Procedures for Mediation:

1. Group Orientation: The Child Custody Mediator shall hold orientation on the second and fourth Wednesday of each month at 10:00 AM in Courtroom 3C. Unless mediation has been waived by the Court, the parties shall attend mediation orientation. The attorney for the moving party or the self-represented litigant shall sign the parties up for orientation via the signup notebook located in Room 424 of the Hall of Justice. The Order and Notice to Mediation shall be submitted to all parties using the form attached hereto as Exhibit I.
2. Mediation Session: Following the completion of orientation, the parties shall set up a mediation session with the Child Custody Mediator. Parties shall only be required to attend orientation once per case. If the parties are attending mediation for issues related to modification for which they previously completed orientation, they shall contact the Child Custody Mediator directly to set up their mediation session at (336) 779-6613.
3. Mediation for Contempt Matters: All contempt motions for which a violation of a child custody or visitation order is an issue shall be mediated. These sessions will occur on the third Thursday of each month. A notebook shall be maintained in the civil division of the Forsyth County Clerk's Office. Any party filing a contempt motion shall sign up for a specific mediation session in the notebook. Parties shall then use the Notice to Attend Mediation (contempt matters) attached hereto as Exhibit N.

C. Third Party Custody Matters: The below are the procedures to address standing issues for parties in Custody actions where one or more parties are not a biological parent.

1. Custody actions filed by unrepresented litigants shall be identified by the Child Custody Mediator at the Mediation Orientation as a case involving at least one non-biological parent. Once completing Mediation Orientation, the Child Custody Mediator shall inform the named parties to the action shall be informed that the Court must determine the issue of standing prior to Mediation being scheduled. A Chambers Hearing to determine standing shall thereafter be scheduled by filing a Request to Calendar and Notice of Hearing, utilizing the forms established by these Rules. The Court shall notify the Child Custody Mediator in writing after the Court enters an Order ruling on the issue of standing. The Court shall include in the Order their determination whether there is standing for the third party and whether mediation shall occur. If standing is established, the Child Custody mediator shall schedule the mediation.
2. Custody actions filed by a represented litigant shall be identified by the Child Custody Mediator at or before the Mediation Orientation as a case involving at

least one non-biological parent. Attorneys shall inform the Child Custody Mediator in the written Notice to Attend Mediation Orientation that the case involves at least one non-biological parent prior to the Mediation Orientation occurring. A Chambers Hearing to determine standing shall thereafter be scheduled by any party by filing a Request to Calendar and Notice of Hearing, utilizing the forms established by these Rules. The Court shall notify the Child Custody Mediator in writing after the Court enters an Order ruling on the issue of standing. The Court shall include in the Order whether there is standing for the third party and whether mediation shall occur. If standing is established, the Child Custody mediator shall schedule the mediation.

- D. If any party fails to attend a properly noticed mediation orientation or orientation session, the Chief District Court Judge shall issue an Order to Attend Mediation to the party who failed to appear. Failure to appear at the next orientation session may result in an “Order to Appear to Show Cause for Failure to Comply with Court Order.” The form Order to Attend used by this Judicial District is attached hereto as Exhibit L.
- E. Waiver of Mediation: A party may apply to the Court for an Order waiving mediation for good cause. Good cause is defined in N.C.G.S. §50-13.1(c). Parties may request to waive mediation based upon a verified Motion. The form Motion to Waive Mediation used by this Judicial District is attached hereto as Exhibit J. Said requests shall go to the Child Custody Mediator. The opposing party may submit a response to the request indicating their consent or opposition. The form Response to Waive Mediation used by this Judicial District is attached hereto as Exhibit K. The opposing party shall file their response no later than ten (10) days from the date of service of the request to waive mediation. Responses to the Request to Waive Mediation shall also go to the Child Custody Mediator. As frequently as twice per month, a District Court Judge, as designated by the Chief District Court Judge, shall review the Requests to Waive Mediation for which no response is received or a response indicating consent is received. If a response indicating opposition is filed, the Request to Waive Mediation shall be calendared at the next appropriate short Chambers session.
- F. Outcome of Mediation: If the parties resolve their issues in mediation, they shall record their consent in a Parenting Agreement which shall thereafter be signed by the Chief District Court. If the parties are unable to resolve their issues in mediation, the Child Custody Mediator shall place a notice in the file, and notify all parties and their attorneys, that the issues remain unresolved. A party’s issues may only be heard by the Court after the parties have attended mediation.

VIII. PARENTING COORDINATOR APPOINTMENTS:

TO BE ADDRESSED UPON ANTICIPATED PASSAGE OF FUTURE LEGISLATION.

IX. RENDERING AND ENTRY OF ORDERS / JUDGMENTS:

- A. If the Court assigns the preparation of the order or judgment to counsel, a draft proposed order or judgment shall be prepared within 30 days of the ruling and submitted to all parties for review with response being made to the draft proposed order within 10 days.
- B. In the event that there are disagreements concerning the entry of a draft proposed order or judgment, the drafting attorney shall submit the proposed order or judgement to the presiding judge with each party submitting a letter sufficiently explaining the lack of approval and the reasons therefore. Within a reasonable time thereafter, presumed to be no more than 10 days, the presiding Judge shall 1) sign the proposed order or judgment, 2) hold a conference to settle the terms of the proposed order or judgment, or 3) direct the attorneys to modify the proposed order or judgment.
- C. The District Court Judges' Office shall maintain a list of outstanding Orders which shall be publicly displayed. If an attorney has been assigned to prepare an Order and said Order remains outstanding 45 days after the oral rendering of judgment, the District Court Judge's Office shall place the matter back on the ruling Judge's next calendar for Status of Order. The form Notice of Hearing for Status of Order used by this Judicial District is attached hereto as Exhibit M. If a Judge is drafting their own Order and the Order remains outstanding 90 days after the close of evidence, the District Court Judge's Office shall place the matter back on the Judge's next calendar for Status of Order using Exhibit M.

X. MISCELLANEOUS RULES AND PROCEDURES FOR CHAMBERS HEARINGS:

- A. The District Court Judges' Case Manager shall keep and maintain the calendars for all Chambers hearings.
- B. Language Interpreter: The Judicial Department provides spoken foreign language court interpreters at state expense for all Limited English Proficient (LEP) parties in interest in most court proceedings, child custody mediation, child planning conferences, and out-of-court communications on behalf of public defenders, assigned/appointed counsel, district attorneys, and the GAL Program. No later than one week prior to the scheduled hearing, the requesting party or counsel must submit a request for an interpreter through the North Carolina Judicial Branch Local Rules and Forms website.
- C. Enforcement: Non-Compliance with these Rules may result in imposition of sanctions or penalties as deemed appropriate and allowed by law, *inter alia*, the striking of exhibits, the exclusion of witnesses, and/or the awarding of and the entry of an order to pay the amount of the reasonable fees and costs incurred because of the non-compliance, including a reasonable attorney's fee and filing costs.

XI. FORMS

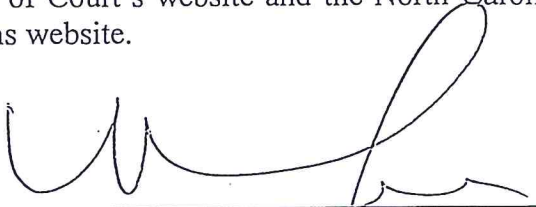
A. The following forms are adopted and shall be used in this Judicial District.

- Calendar Request/Notice of Hearing for Chambers Hearings – Exhibit A
- Calendar Request / Notice of Hearing for 10 Day Hearings - Exhibit A-10
- Pre-Trial Conference Order - Exhibit B
- Stipulation by Parties for Court to Speak with Minor Child(ren) – Exhibit C
- Financial Standing Affidavit (FSA) – Exhibit D
- Motion for Peremptory Setting - Exhibit E
- Summary Trial Stipulation - Exhibit F
- Motion for Additional Time - Exhibit G
- Employer’s Affidavit – Exhibit H
- Notice to Attend Mediation – Exhibit I
- Motion to Waive Custody Mediation – Exhibit J
- Response to Motion to Waive Custody Mediation - Exhibit K
- Order to Attend Custody Mediation - Exhibit L
- Status of Order - Exhibit M
- Notice to Attend Custody Mediation (Contempt claims) – Exhibit N

B. All above forms shall be provided to the public by posting on the Forsyth County Clerk of Court’s website and the North Carolina Judicial Branch Local Rules and Forms website.

C. Forms may be modified, amended or updated by the Chief District Court Judge and any such modified, amended, or updated forms shall be provided to the public by posting on the Forsyth County Clerk of Court’s website and the North Carolina Judicial Branch Local Rules and Forms website.

This the 11 day of June, 2019.



Honorable Lisa V.L. Menefee
Chief District Court Judge

Special thanks to the following individuals for their help in the drafting and editing of these Local Rules: Ruth Bradshaw, Kristin Kelly Broyles, Joseph Schmitz, Susan Sullivan Simos, Judge Carrie F. Vickery, and Elise Whitley.