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CLERK OF SUPERIOR COURT

DAVIDSON COUNTY, NC

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LOCAL RULES OF PRACTICE

FOR

SUPERIOR CIVIL CASES

JUDICIAL DISTRICT 22B – DAVIDSON AND DAVIE COUNTIES

EFFECTIVE JULY 1, 2023

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1.0 GENERAL RULES

- 1.1 The purpose of these rules is to institute a case management system plan for the Superior Court Division, Judicial District 22B, in compliance with **Rule 40(a)**, *North Carolina Rules of Civil Procedure* and **Rule 2(a)**, *General Rules of Practice for the Superior and District Courts* and to provide for the orderly, prompt, and just disposition of civil matters.
- 1.2 These rules are also an effort to modernize communication and to make clear that counsel should work together to seek resolutions before involving the Court. Electronic communication is preferred by the Court over mail, fax, and other paper communication. When seeking extensions of discovery deadlines, scheduling motions, setting trial dates, and seeking continuances, counsel should always attempt to reach agreement with opposing counsel before unilaterally seeking a decision from the Court.
- 1.3 The Clerk of Superior Court (“the Clerk”) will maintain a supply of the printed rules and the required associated forms and furnish them to attorneys and unrepresented parties upon request. These rules and appendices are available online at www.nccourts.gov.
- 1.4 The administration of the case management plan shall be delegated to, and under the control of, the Superior Court Trial Court Coordinator (TCC) in accordance with the rules and under the supervision of the Senior Resident Superior Court Judge (SRSCJ), 22B Superior Court Judicial District.
- 1.5 Counsel and unrepresented parties are under a continuing obligation to provide their current email address to the TCC. Email is the preferred method of communication. Email to and from the TCC shall constitute good service.
- 1.6 These rules are not complete in every detail and will not cover all situations. If the rules do not cover a specific situation, the TCC is authorized to act after consultation with the Senior Resident Superior Court Judge or judge presiding during a session in which the particular case is before the Court.
- 1.7 **Civil Court Sessions.** All civil sessions will be scheduled annually as set forth in the Master Calendar published in the Fall of each preceding year. The Tentative Civil Calendar for each session will be published one month prior to the start of the session. If counsel or parties, including pro se parties, are appearing remotely, please refer to Section 12.0 and please sign in for calendar call at 10:00 a.m. on Monday. Those that do not respond will be presumed to be appearing in person on the hearing date. The Final Civil Calendar will be posted one week prior to the start of the session. The Court will conduct hybrid hearings, where allowed, so long as the parties agree and comply with the rules under Section 12.0.

- 1.8 **Pretrial/Administrative Calendars.** Pretrial/Administrative sessions will be held during the first full week of the months of January and July each year. Tentative Pretrial/Administrative Calendars will be published six (6) weeks prior to the start of the session. Final Pretrial/Administrative Calendars will be published two (2) weeks prior to the start of the session and will schedule specific times for the parties to appear. ALL PRETRIAL/ADMINISTRATIVE HEARINGS WILL BE HELD VIA WEBEX. Parties shall sign in at least 15 minutes prior to the scheduled hearing time.
- 1.9 **Civil Jury and Non-Jury Trials.** All civil jury trial matters will be scheduled to commence on the Monday afternoon of each civil session and all cases will be called according to the order they appear on the Final Civil Calendar unless otherwise ordered by the Court. Any case listed on the Final Civil Calendar is subject to being called for trial during that session. As required by our Local Rules, the parties must submit a pre-trial order NOT LATER THAN THIRTY (30) DAYS prior to their trial date. The proposed order should include the anticipated duration of the trial. Jury trials will begin on Monday at 2:00 p.m. If the parties require a pre-trial conference, notice must be given to the Court in sufficient time for the Court to schedule and conduct the pre-trial conference not later than TWO WEEKS PRIOR TO YOUR TRIAL. Pre-trial conferences will be held via WEBEX.
- 1.10 The primary principle of our Local Rules is that every case shall have a scheduled court date or a mediation date shortly after commencement of the action. Typically, our TCC will begin the scheduling process 90 days following service. If any party has been served, the case moves forward. If no party has been served, then the case will be scheduled to review service and determine if publication is appropriate, if the matter should be dismissed for failure to prosecute, or some other action should be taken.

A Calendar Request shall be simultaneously filed with the Clerk with any motion and a copy of the same should be provided to the TCC.

Nearly all cases should be resolved in twelve (12) months with condemnation, medical malpractice, and especially complex cases mostly being resolved within eighteen (18) months. If the parties wish to expedite the scheduling of their case, then they should request the same from the TCC. If a case fails to have a scheduled date at any time after being initially scheduled, then counsel or pro se parties shall so inform the TCC.

2.0 CALENDARING OF CASES FOR TRIAL [Scheduling Notice and Final Civil Calendar (FCC)]

- 2.1 After 90 days from the date of service, or after 365 days from the date of filing in a condemnation action, the TCC shall send an Order for Mediated Settlement Conference to all counsel of record and/or any unrepresented party having been served in the case to seek input regarding selection of a mediator. All civil actions in superior court will be ordered to mediation except administrative appeals, appeals from the revocation of a motor vehicle operator's license; declaratory judgment actions; and actions in which a party is seeking the issuance of an extraordinary writ. Requests to dispense with

mediation must be in writing and in the form of a motion. Such requests are generally disfavored and may only be granted by the Senior Resident Superior Court Judge.

- A. Once the Report of Mediator is filed with the Clerk and a copy is forwarded to the TCC reporting an IMPASSE, all counsel and/or any unrepresented party shall select proposed trial dates prior to the deadline specified in the Trial Scheduling Notice (**APPENDIX A**). The date selected for trial must be within 12 months of filing or within 18 months of filing for condemnation, medical malpractice claims or other exceptional cases unless otherwise ordered by the Court. If the parties do not believe these deadlines are reasonable given the nature of a particular case, then they should submit an explanation for requesting a date outside of these limits when their Trial Scheduling Notice is submitted.
 - B. Within 21 days of being ordered to mediation or when the parties voluntarily undertake mediation, all counsel and/or unrepresented party shall select a mediator, pursuant to N.C.G.S. § 7A-38.1(h), using form AOC-CV-812, "Designation of Mediator in Superior Court Civil Action" (**APPENDIX B**). If the parties fail to submit a "Designation of Mediator in Superior Court Civil Action" to the TCC within the above-referenced 21-day time period, the TCC will appoint a mediator and the parties will be bound by the mediator appointed.
 - C. Failure to submit a Trial Scheduling Notice within six (6) weeks after receipt of the same will be considered a waiver of scheduling conflicts that may affect a trial date. This form may be submitted by a single party if, after repeatedly requesting to confer regarding these matters, the opposing counsel/party has failed to respond. Attorneys and parties who so fail to submit will be bound by the trial date set by the Court. Once a trial date has been set, whether by the parties or by the Court, a Trial Notice will be served on the parties. Service may be had by email, or where email addresses are not made available to the TCC, by U.S. Mail.
 - D. After a trial date has been scheduled, deadlines in all cases shall be as follows:
 - 1. Written discovery – 60 days prior to trial
 - 2. Expert witness disclosure
 - Plaintiff's Expert – 90 days prior to trial
 - Defendant's Expert – 60 days prior to trial
 - Plaintiff's Rebuttal Expert – 30 days prior to trial
 - 3. Discovery depositions – 60 days prior to trial
 - 4. Completion of discovery (except *bene esse* depositions) – 60 days prior to trial
 - 5. Completion of mediation – 45 days prior to trial
 - 6. Dispositive motions – the civil session prior to trial
 - 7. Pretrial Order – 30 days prior to trial
- 2.2 Not less than one (1) week prior to each civil session, a Final Court Calendar (FCC) shall be published by the TCC. The FCC shall contain all trials and motions scheduled for the

session. The FCC shall be distributed to counsel by posting on the web at www.nccourts.gov. (Click on "Court Calendars" at top right; click on "Court Calendar" at left; click on "Civil Calendars"; select the county where the case is pending, to wit: "Davidson County" or "Davie County", click "Submit Query"; click on appropriate session; click on the appropriate trial calendar listed under Superior Court.) Distribution to any served, but unrepresented party, may be by email, or where email addresses are not made available to the TCC, by U.S. Mail. The Court may in its discretion enter an updated calendar to be posted on www.nccourts.gov.

- 2.3 Attorneys may search cases on published calendars using the Civil Calendar Attorney Query by Bar Number tool at www.nccourts.gov. To ensure accuracy of this tool, attorneys must provide the Clerk of Superior Court with information regarding withdrawals, notice of appearance, and substitution of counsel in specific cases. Filings must include the North Carolina State Bar number for each attorney of record. Only attorneys active with the North Carolina State Bar and who have a valid North Carolina State Bar Identification number may use this tool.
- 2.4 The North Carolina Court Calendar subscription service is available to anyone for civil Superior Court cases set for hearing on published calendars in Davidson or Davie County at the following web address:
<http://www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=DAVIDSON> or
<http://www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=DAVIE>.
- 2.5 Cases shall appear on the FCC oldest-numbered first, and listed after cases designated peremptory, or given statutory priority. Attorneys should proceed on the assumption that all cases on the Final Court Calendar will be tried at the scheduled session unless resolved by consent order or dismissal. When there is more than one ongoing civil session of court, a case may be called for trial by any presiding judge.
- 2.6 In the event a case is not reached at the session requested, counsel and/or any unrepresented party shall select another trial date by forwarding the same to the TCC within five business days of the end of the session. If counsel and/or any unrepresented party fail to so select, the TCC will calendar the case on the next published FTC.
- 2.7 If a case is settled after placement on any FCC, counsel and/or any unrepresented party shall notify the TCC (within 24 hours of settlement) using **APPENDIX G** and advise who will prepare and present judgment and/or dismissal and shall also notify the parties appearing in the next case on the FCC as soon as possible. *Rule 2(g) of the Superior and District Court Rules.*

3.0 CALENDARING OF MOTIONS

- 3.1 The TCC shall calendar motions for hearing.
- 3.2 Unless the Court calendars the matter on its own, all motions filed with the Court must be accompanied by a Calendar Request that shall be filed with the Clerk. (**APPENDIX C**). No case shall be placed on a calendar unless that Calendar Request has been served on

all parties. Counsel and/or any unrepresented party shall file a written "Notice of Hearing" (NOH) with the Clerk in compliance with the minimum statutory requirements provided in the North Carolina Rules of Civil Procedure. In order to appear on the published calendar, a Calendar Request for a motions hearing must be received by the TCC's office at least ten (10) days prior to the requested session. Motion requests received within ten (10) days of the requested session will be added to the motions calendar at the TCC's discretion, if all counsel and/or any unrepresented party waive the minimum statutory notice requirement provided in the North Carolina Rules of Civil Procedure. Failure to provide the TCC a copy of the Calendar Request may result in the case not being calendared. If a Calendar Request is not filed and submitted to the TCC, then the TCC shall schedule the matter for the next available administrative session.

- 3.3 The Notice of Hearing (NOH) and Calendar Request shall specify the name and address of all counsel and/or any unrepresented party. A copy of the NOH shall be served upon all opposing counsel and/or any unrepresented party and shall serve as due notice.
- 3.4 Approximately one week prior to the session, duly noticed motions shall appear on a printed calendar, distributed to counsel by posting on the web at www.nccourts.org. (See directions, RULE 2.2). Distribution to any served, but unrepresented party, shall be by email, or where email addresses are not made available to the TCC, by U.S. Mail.
- 3.5 In order to remove a motion before the session begins, the moving party must notify the TCC, in writing via fax or email, but only after obtaining the consent of all counsel and/or any unrepresented party. Notice to the TCC shall designate whether the party is withdrawing the motion altogether or requesting a continuance of the hearing. If the party is requesting a continuance of the hearing, and all parties consent, the party making the request may file an amended Notice of Hearing. If all parties do NOT consent, the party making the request must file form AOC-CV-221, "Motion and Order for Continuance (Civil Superior Cases)" (**APPENDIX D**), to be considered by the Court.
- 3.6 Failure to duly calendar a motion under these rules shall not be used as a basis for a continuance from a future trial calendar.

4.0 PRIORITY, PEREMPTORY, REMANDED, EXCEPTIONAL, or COMPLEX BUSINESS (RULE 2.1) CASES AND SPECIAL SESSIONS

- 4.1 Counsel shall, in writing, notify the TCC (as soon as practicable) using **APPENDIX E** that priority status and peremptory setting is requested for a case. The authority for such request shall be cited in such notification. Counsel shall copy all opposing counsel and/or any unrepresented party. Such request shall be in accordance with Rule 2(f) of the General Rules of Practice for the Superior and District Courts.
- 4.2 The Court, on its own motion, may grant priority status and peremptorily calendar a case, for good cause shown.

- 4.3 If a priority case is continued, a written request for a new peremptory setting shall be made to the TCC using **APPENDIX E**.
- 4.4 If a case is remanded from the Appellate Division to Superior Court, counsel shall notify the TCC, in writing, to calendar the case for hearing or trial. After such notice, the TCC shall calendar the case as soon as practicable, giving deference to scheduling requests from all counsel and/or any unrepresented party.
- 4.5 The designation of any case as “Exceptional” or “Complex Business” shall be in accordance with Rule 2.1 of the General Rules of Practice for the Superior and District Courts. A copy of any such request shall be served upon the TCC.
- 4.6 **Special Sessions.** Parties wishing to set a case for trial at a special session shall notify the TCC and opposing counsel or unrepresented party in writing. The TCC shall determine which cases are appropriate for trial at special sessions. Factors which shall be considered include, but are not limited to, anticipated length of trial, emergencies such as witness health complexity of issues and severe scheduling difficulties of attorneys and/or witnesses. The TCC shall make all appropriate arrangements for conduct of special sessions.
- 4.7 Upon refiling a case previously dismissed pursuant to Rule 41, the plaintiff shall provide a copy of the new complaint to the TCC, along with a reference to the first case number.
- 4.8 **Removal to Federal Court.** When a party removes a case to Federal Court, counsel for that party shall contemporaneously provide a copy of the pleading to that effect to the Clerk of Superior Court and the TCC. Upon receipt of the notice of removal to Federal Court, the Senior Resident Superior Court Judge will file with Clerk of Court an Order to close the file.
- 4.9 **Cases Initiated Other Than By Complaint.** Upon initiating any matter in Civil Superior Court by the filing of any pleading which is not a Complaint (i.e., Will Caveat, Administrative Appeal, Certiorari, any Post Judgment Motions or Other Filings), the party so initiating shall immediately provide a copy of this pleading along with a filed calendar request to the TCC (via email).

5.0 CONDEMNATION CASES

- 5.1 Condemnation actions brought pursuant to Article 9, Chapter 136, Condemnation, or by a public condemner pursuant to Chapter 40A, *Eminent Domain*, shall be presumed ready for trial 180 days after an answer has been filed (unless sooner noticed for trial) or unless commissioners are appointed pursuant to N.C.G.S. § 136-109 prior to that time.
- 5.2 Under this Rule 5, if necessary, counsel for property owners and/or any unrepresented property owner shall provide the TCC with notice of a request for appointment of commissioners via email.

- 5.3 If the Commissioner's report is appealed from (and a jury trial demanded), the Clerk shall within 10 business days, serve the TCC with notice of entry of appeal and transfer to the superior court civil docket via email.
- 5.4 Condemnation actions brought by a private condemner pursuant to Chapter 40A, *Eminent Domain*, shall be presumed ready for trial upon transfer to the superior court docket.
- 5.5 If commissioners are appointed and their report is appealed from (and a jury trial demanded), the Clerk shall within 10 business days, serve the TCC with notice of entry of the appeal and transfer to the superior court civil docket.

6.0 CONTINUANCE POLICY

- 6.1 Any motion to continue must be submitted to the SRSCJ for signature before filing using AOC-CV-221 "Motion and Order for Continuance of Civil Superior Cases" (**APPENDIX D**). Opposing counsel and/or pro se parties must be notified of the motion to continue prior to the delivery of the motion to the TCC. No continuance shall be granted solely because all parties agree. Motions to continue a case set for trial are generally disfavored and will not be granted, absent good cause shown.
- 6.2 Any motion to continue must be in writing and contain the following information:
 - A. Caption and file number of the case.
 - B. Session at which the case is set.
 - C. The basis for the motion.
 - D. The number of times the case has previously been continued.
 - E. A certification that the moving party conferred, or attempted in good faith to confer, with all opposing counsel and unrepresented parties before filing the motion, and a statement of whether the motion is opposed.
 - F. A proposed session within 90 days for the rescheduling of the case.
- 6.3 **Timing.** A motion to continue must be filed no later than ten (10) days before the first day of the session of court in which the case is set. Motions to continue filed thereafter will **not** be considered until the calling of the calendar, except where the motion reflects extreme hardship or extraordinary circumstances.
- 6.4 Objections to motions to continue must be in writing and submitted to the TCC within three days of receipt of motion to continue. Objections not made within three days are considered waived.
- 6.5 If a case is not reached for motions or trial, or if a trial ends in a mistrial, counsel and unrepresented parties may submit an agreed-upon date for rescheduling to the TCC no later than close of business on the first Friday following the session of court in which the case was originally set. If counsel and/or unrepresented parties fail to submit such an agreed-upon date, the case shall be reset by the TCC.

7.0 MEDIATION

- 7.1 N.C.G.S. § 7A-38.1, Mediated Settlement Conferences in Superior Court Civil Actions, and the Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions, shall govern mediation procedures.
- 7.2 The Mediated Settlement Conference should be completed at least 45 days before trial. Upon stipulation of the parties, the suggestion of the mediator, or upon the Court's own motion, the date for completion of the mediated settlement conference may be extended by the filing of form AOC-DRC-19, "Order Without Motion Extending Completion Date for Mediated Settlement Conference or Other Settlement Procedure Upon Stipulation of the Parties, Suggestion of the Mediator, or Upon the Court's Own Motion" (**APPENDIX H**). If the parties do not agree to extend the date for completion of the mediated settlement conference, at least one party may file a request for hearing using form AOC-CV-835, "Motion and Order Extending Completion Date for Mediation Settlement Conference or Other Settlement Procedure" (**APPENDIX I**).
- 7.3 Litigants are encouraged to timely select a mediator who is appropriate for the case. If the parties do not agree on a mediator, the Court will appoint one. See Rule 2.1.
- 7.4 **Will Caveats** (ref. N.C.G.S. §31-33). Cases involving caveats to Wills shall be placed on the next available motions calendar for parties to be aligned, and motions to be addressed in accordance with Rule 16 of the North Carolina Rules of Civil Procedure. Caveats will subsequently be ordered into the mediation process and will not be placed on a trial calendar until a mediated settlement conference is conducted or the matter has been removed from mediation by order of the Court. It shall be the responsibility of the attorney for the caveator(s) to notify the TCC of the filing of the case and the names and addresses of all parties or attorneys to whom correspondence should be sent.

8.0 CALENDAR CALL, REMOTE HEARINGS, AND BRIEFS

- 8.1 Unless otherwise directed by the Court, the Court will conduct a calendar call on the Monday morning of each session as matters will be scheduled in advance by the TCC.
- 8.2 Duly calendared cases shall be called in the order in which they appear, unless otherwise determined by the Presiding Judge or the TCC.
- 8.3 If a calendar call is required by the Court, then **Rule 2(e)**, *Superior and District Court Rules*, shall control the appearance of attorneys at calendar call. However, it is expected that all attorneys of record or unrepresented parties with cases calendared for motion or trial will be present at the convening of court for the calendar call and will remain in the courtroom or its immediate proximity unless excused by the Presiding Judge. Attorneys residing outside the 22B Judicial District accepting employment to represent clients in the 22B Judicial District **must** arrange their schedules to be present when their cases are calendared. Conflicts such as seminars, appellate courts, and vacations must be worked out with the TCC and the SRSCJ before the case is calendared for trial and the calendar published. Attorney cooperation is essential to the proper functioning of our

court system. The Court wants to work with the attorneys and make their jobs as easy and convenient as possible, and the Court expects the attorneys to respond by being punctual and prepared at the scheduled time.

- 8.4 As a general rule, the Court will conduct motions hearings in person. However, attorneys and/or parties may appear remotely pursuant to those rules set forth in Section 12.0 except that motions involving live testimony should be conducted in person.
- 8.5 All briefs, responses, memorandums and supporting cases, or any other materials intended to be used in oral argument or submitted to the Court may only be submitted to the TCC via email by 5:00 p.m. the Wednesday prior to the hearing of the motion. Parties should not incur the expense of mailing briefs because physical copies of the same cannot easily be transferred to visiting judges. If materials have been submitted by email, then a physical copy should be provided from counsel to the Judge the first day of the session. Materials that have not been submitted by email may not be accepted by the Court unless the presiding Judge decides otherwise. Pursuant to N.C.G.S. § 1A-1, Rule 5(d), briefs and memoranda provided to the Court may not be filed with the Clerk unless ordered by the Court.
- 8.6 All hearing materials delivered to the Court in accordance with this Rule shall be delivered to counsel for the opposing party or any unrepresented party by hand-delivery, email, facsimile, express delivery, or mail, such that the opposing counsel receives the materials no later than three business days before the hearing date. If any hearing materials to which this rule applies are not served on opposing counsel within the time and the manner specified herein, the Court may continue the hearing for a reasonable period of time, proceed with the hearing without considering the untimely served materials, or take such other action as justice requires.

9.0 INACTIVE OR DELINQUENT CASES

- 9.1 Inactive cases do not require monitoring, calendaring, or review. If approved by the Court, a case may be declared inactive by the filing of a consent motion with the TCC, executed by, and served upon, all counsel of record and/or any unrepresented party. Upon filing, the SRSCJ may enter an order closing the case and removing the case from the Court's active docket.
- 9.2 The Court may declare as inactive certain cases that are on appeal, in binding arbitration, removed to federal court, or in bankruptcy. Nothing shall prohibit a case from being reactivated, at any time, for good cause shown.
- 9.3 Cases or motions scheduled for trial or hearing which are removed due to consent or settlement shall be considered delinquent if the order, judgment, or dismissal is not submitted or filed within 30 days after the case is settled ("delinquent cases").

- 9.4 Cases or motions scheduled and heard by the Judge or by Jury shall be considered delinquent if the order or judgment is not submitted within 30 days after the hearing, unless otherwise directed by the presiding Judge.
- 9.5 The TCC shall identify those orders, judgments, or dismissals which are delinquent, pursuant to Rule 9.3 and 9.4 above and bring them to the attention of counsel/unrepresented parties. After such notice, cases remaining delinquent may be dismissed at the discretion of the SRSCJ or presiding Judge. The Court may alternatively order such sanctions or impose such penalties as deemed appropriate and allowed by law.
- 9.6 At any appropriate time, the TCC may prepare an Administrative/Pretrial Calendar for cases in which no progress has been noted. The Administrative/Pretrial Calendar may contain any cases which, in the opinion of the TCC, may be a proper subject of inquiry as to their status, and may include, without limitation, cases in which no service has been obtained or any case that does not appear to be moving towards disposition. If not dismissed as provided in Rule 9.5 above, delinquent cases may also be placed on an Administrative/Pretrial Calendar.

10.0 ADMINISTRATIVE TRIAL ISSUES

- 10.1 **Rule 7, Superior and District Court Rules**, shall control pre-trial conferences and pre-trial orders. A pre-trial order is required in each jury trial case. Pre-trial orders shall be in substance as shown in the form attached to the General Rules of Practice for Superior and District Courts. Pre-trial orders are due not later than thirty (30) days prior to the session at which the trial is scheduled. A copy of the same shall be emailed to the TCC by the due date and a printed copy shall be presented to the presiding Judge at calendar call.
- 10.2 If counsel intends to submit exhibits to the jury, it is the best practice to have individual copies of the same for each juror.
- 10.3 Counsel should submit proposed jury instructions to the Court as soon as possible.
- 10.4 Counsel should make sure that all audio/visual tools and equipment work properly before being offered. Counsel and/or unrepresented parties shall contact the Office of the Clerk of Superior Court for guidance and assistance in ascertaining that audio/visual tools and equipment are in proper working order.
- 10.5 If a trial notebook is submitted to the Court, counsel should submit a copy of the same to the Court Reporter for ease in referencing materials. The same applies to expert witness reports.

11.0 BANKRUPTCY

- 11.1 Counsel of record for any party and/or any unrepresented party who has filed a petition for relief under the United States Bankruptcy Code, shall file with the Clerk of Superior

Court a "Notice of Bankruptcy Stay", (**APPENDIX F**) accompanied by a file-stamped copy of the "Certificate of Bankruptcy Filing" or "Stay of Proceeding" from the bankruptcy court having jurisdiction. A copy of the motion shall be served by email to the TCC. Upon receipt, the Notice of Bankruptcy Stay, the Court shall enter an Order directing the Clerk to close the court file and stating the reason for the closing the case.

- 11.2 Upon completion of the bankruptcy proceedings or the lifting of the stay any party may seek to reopen the case by filing an appropriate motion.

12.0 IN-PERSON AND REMOTE HEARINGS

- 12.1 **In-Person Hearings are Presumed.** The default hearing method for all case types, unless otherwise specified in this order or determined by the Presiding Judge, will be In-Person Hearings. At any time prior to or during an In-Person Hearing, the Presiding Judge retains the discretionary authority to conduct these hearings by Remote Hearing in accordance with G.S. § 7A-49.6 and see Administrative Order 22 R 342 (Davidson County) and Administrative Order 22 R 114, both of which are incorporated herein as if fully set forth.

Although In-Person Hearings are presumed in civil Superior Court proceedings, counsel or unrepresented parties may request a Remote Hearing by providing a motion to the TCC at least five days before the hearing and serving the other attorneys and/or unrepresented parties with the motion. The motion shall describe the reason for the request, and the physical location(s) of the individual(s) while participating. Civil jury trials are not permitted to be conducted entirely remotely, except for witness testimony and jury management functions. Counsel of unrepresented party who wishes to request a Remote Hearing shall do so by filing the form entitled "Notice and Motion for Fully Remote Hearing/Hybrid Remote Hearing" (**APPENDIX K**). Any party to an action may object to another party's request for a Remote Hearing by filing the form entitled "Objection to Remote Hearing" (**APPENDIX L**) within 3 days of service of notice and motion.

- 12.2 A Presiding Judge has discretionary authority to conduct Hybrid Hearings in civil Superior Court matters in accordance with G.S. § 7A-49.6 so long as any party has a right to object for good cause shown to the Hybrid Proceeding in accordance with the same procedures for objecting to Remote Hearings.

Counsel and/or an unrepresented party may request a Hybrid Hearing by providing a motion to the TCC at least five days before the hearing and serving the other parties with the motion. The motion shall describe the reason for the request, the individuals who will appear in person, and for any individual appearing remotely, the physical location of that individual while participating and the individual's contact information. In addition, the party seeking the Hybrid Hearing shall certify that the remote individual is able to access the Hearing. Otherwise, the party shall propose a suitable alternate

location. The Presiding Judge has the discretionary authority to conduct the hearing by Hybrid Hearing without the need to find good cause.

- 12.3 **Scheduling/Hosting WebEx Hearings.** Concurrent with the filing of a complaint, motion, or responsive pleading in civil Superior Court, attorneys and unrepresented parties must provide a valid email address to the Clerk of Superior Court and to the TCC or certify that they do not have email access.

Consistent with G.S. § 7A-95(c) and 7A-198(c), the Clerk of Superior Court, or the Clerk's designee, shall schedule and host WebEx proceedings in Civil Superior Court. When scheduling the hearing, the Host shall follow the naming convention for the WebEx hearing as stated in Rule 17.2 of the Rules of Recordkeeping promulgated by the Director of the North Carolina Administrative Office of the Courts. (NCAOC).

The Clerk of Superior Court may also designate one or more co-hosts, either judge(s) and/or the TCC, for each proceeding scheduled, as provided by G.S. § 7A-95(c) and 7A-198(c). The Cohost is authorized to begin, conduct, and record the hearing if the Host is not available. Any recording will automatically be saved in the WebEx account of the Host.

The Clerk of Superior Court or TCC will send the WebEx link to attorneys of record and unrepresented litigants who have calendared cases. Each attorney or unrepresented party is responsible for providing the WebEx link to his or her client(s), witness(es), and other interested individuals, as applicable. Each WebEx link shall also be published on the court calendar. If a public access link (e.g., a YouTube link for live streaming) is provided that is separate from the WebEx link used by parties and witnesses, spectators/media should access the hearing via the public access link.

- 12.4 **Decorum and Etiquette in Remote Hearings and Hybrid Hearings.** The decorum of a Remote Hearing or Hybrid Hearing shall be the same decorum as an In-Person Hearing conducted in a courtroom (e.g., eating, drinking, smoking, and profanity are prohibited). An attorney, party, or witness participating remotely in a Remote Hearing or Hybrid Hearing should have an appropriate background and a suitably quiet location. Attorneys are bound by the same rules of dress and decorum in Remote Hearings and Hybrid Hearings as they are for In-Person Hearings. Business attire or business casual attire shall be appropriate dress for parties and witnesses during a Remote Hearing or Hybrid Hearing.

All attorneys and parties are encouraged to access the Remote Hearing or Hybrid Hearing at least 15 minutes prior to the scheduled start time of the hearing. The Presiding Judge shall have discretion to deny entry to a hearing if a party is not present at the appointed time.

Attorneys and unrepresented parties shall identify themselves before speaking. During a Remote Hearing or Hybrid Hearing, attorneys and parties who are not testifying or

speaking should mute their microphones. The Host or co-Host reserves the right to “mute” a party, witness, or attorney who fails to mute themselves if it causes feedback, echoing, or is otherwise noisy, disruptive, or distracting. If more than one person in the same location will be participating remotely in the Remote Hearing or Hybrid Hearing, they must (i) share a device, (ii) ensure proper muting to avoid audio malfunction, or (iii) participate from separate rooms to ensure audio quality.

- 12.5 **Confidential Attorney-Client Communications During Remote Hearings and Hybrid Hearings.** If an attorney and client are participating in a Remote Hearing or Hybrid Hearing from separate locations, they may communicate privately, for example via text message or email, during the hearing, provided, however, parties may not communicate with counsel while they are testifying via any mechanism or medium other than the audio video technology seen and heard by all other participants, unless specifically permitted by the Presiding Judge to communicate with his or her attorney and cannot do so by text message or email, the Presiding Judge should be informed, and he or she shall permit such confidential communication, by enabling a breakout session through the WebEx, taking a break to allow for telephonic communication, or such other appropriate means.

The WebEx “chat” feature should not be used for attorney-client communications because, if the hearing is recorded, all chats are also recorded, including “private” chats between two individuals. Attorneys and parties are hereby notified that chats may be recorded and will not be reminded at a hearing. For this reason, all are encouraged not to use the “private” chat feature of WebEx, but rather to request a breakout session or a break in the proceeding to allow for attorney/client communication using the attorney’s own mobile phone, email, or some other method to ensure private communication. Attorneys should review Rule 1.6 of the Revised Rules of Professional Conduct as it may apply to communications with clients via various technological media during proceedings conducted via audio and video transmission.

- 12.6 **Exhibits and Evidence.** Failure to comply with the provisions set out regarding exhibits and evidence may result in a proposed exhibit not being considered, a continuance of the hearing, or other action in the discretion of the Presiding Judge.

- A. **Testimony.** Pursuant to G.S. §7A-49.6(a), a remote proceeding must allow the parties, the Presiding Judge, and all other participants to see and hear one another.

The Clerk of Superior Court or the Presiding Judge shall administer oaths to witnesses during a remote proceeding. Affirmation may be used in lieu of swearing a witness. The person administering the oath must be able to see and hear the witness and the person taking the oath must be able to see and hear the official administering the oath.

Witnesses should be in a room alone when testifying in a Remote Hearing or a Hybrid Hearing, when feasible. Parties may be accompanied by their attorney if the attorney and party so choose. If a person will be in the room with a testifying witness, the attorney or witness shall advise the Presiding Judge prior to the witness' testimony. No person, including an attorney, may communicate with a witness about the witness' testimony while the witness is testifying via any mechanism or medium other than the audio and video technology seen and heard by all other participants, unless specifically permitted by the court to communicate privately during testimony.

If, while testifying, a witness wishes to communicate confidentially with his or her attorney, the Presiding Judge should be informed, and he or she may permit such confidential communication, by enabling a breakout session through the WebEx, taking a break to allow for telephonic communication, or such other appropriate means.

The Presiding Judge shall prescribe the manner in which and the terms upon which a Minor Child's testimony may be taken remotely and shall prescribe the appropriate location for the testimony and whether any third party may be present with the Minor Child.

- B. **Exhibits.** Attorneys and unrepresented parties shall list all exhibits to be offered at a hearing on an exhibit log and provide copies of documentary exhibits and photographs of tangible exhibits to the opposing counsel or opposing unrepresented parties five business days prior to the hearing. All exhibits must be pre-marked for identification purposes. Attorneys and self-represented litigants are not required to provide exhibits to the other parties if doing so would disclose trial strategy or trial preparation.

Each party must deliver either a hard copy or an electronic copy of all pre-marked, proposed exhibits to the Clerk of Court in a District Court matter or a Superior Criminal Court matter or to the Trial Court Coordinator in a Superior Court civil matter at least five days prior to the hearing. This includes both documents provided to the other parties and those submitted only to the Clerk, as described below. Exhibits not delivered prior to the hearing may be accepted in the discretion of the presiding Judicial Official.

Special care should be taken to preserve confidentiality when confidential records are stored or transmitted electronically. Ideally, confidential records in electronic format should be encrypted in transit and at rest. See, e.g., <https://www.americanbar.org/new/abanews/publications/youraba/2019/october2019/remember-your-ethical-duties-when-it-comes-to-encryption/>.

Exhibits must be provided to the Clerk of Superior Court five business days before the court session in which the hearing is scheduled. The pre-marked

exhibits must be provided in an envelope (case number on the outside of the envelope) and contain an exhibit log. The entirety of this submission shall not be made a part of the file and shall not be disclosed to anyone except appropriate judicial officials, absent consent of the submitting party. This rule is intended to ensure the Clerk of Superior Court has exhibits that may be admitted into evidence during a remote hearing, yet at the same time preserve a party's ability to prevent disclosure of trial strategy and tactics.

Exhibits must be provided in a physical medium that the Clerk of Superior Court can accept and retain (e.g., documents shall be printed out and in paper form, photos may be printed or on a disc or flash drive, and videos shall be on a flash drive, DVD, or other medium capable of retention). Exhibits that are admitted during the hearing that are not submitted to the Clerk of Superior Court prior to the hearing must be provided to the Clerk of Superior Court within three (3) business days after the court session concludes in the same format as offered into evidence in the remote proceeding (e.g., documents shall be printed out and in paper form, photos may be printed or on a disc or flash drive, and videos shall be on a flash drive, DVD, or other medium capable of retention). Any non-documentary exhibit offered into evidence in a remote hearing (e.g., by displaying it on camera for all participants) shall be delivered to the Clerk of Superior Court as presented in a container provided by the party and appropriate for long-term preservation of the exhibit. The Clerk of Superior Court has no responsibility to take custody of or retain exhibits that are neither offered nor admitted.

Unless the court has ordered that some other entity retain custody of an exhibit, any exhibit offered or admitted into evidence which was admitted, but which was not provided to the Clerk of Superior Court prior to the commencement of the proceeding, must be submitted to the Clerk of Superior Court not more than five business days after the court session concludes. The Clerk of Superior Court has no responsibility to take custody of or retain exhibits that are neither offered nor admitted. The pre-marked exhibits must be provided in an envelope (with the case number affixed to the outside of the envelope) and contain an exhibit log. Exhibits must be provided in the physical medium that the Clerk of Superior Court can accept and retain and in the same format as offered into evidence in the remote proceeding (e.g., documents shall be printed out and in paper form, photos may be printed or on a disc or flash drive, and videos shall be on a flash drive, DVD, or other medium capable of retention). Any non-documentary exhibit offered into evidence in a remote proceeding (e.g., by displaying it on camera for all participants) shall be delivered to the Clerk of Superior Court as presented in a container provided by the party and appropriate for long-term preservation of the exhibit.

The Presiding Judge may choose, but is not required, to inquire if all exhibits a party intended to introduce as evidence have been considered by the court at the conclusion of the hearing.

- C. **Displaying documents during Remote Hearings and Hybrid Hearings.** Attorneys and unrepresented parties may display digital exhibits during a Remote Hearing or Hybrid Hearing using the “share” feature with permission of the Presiding Judge. Prior to displaying confidential exhibits (e.g., juvenile records), the attorney or unrepresented party shall inform the Presiding Judge, who will then ensure that only those parties authorized to access the documents are allowed to observe the confidential records.

Presentation of confidential exhibits may require either exclusion of non-participants from the Remote or Hybrid Hearing or some other mechanism for exchanging those exhibits among the parties.

If the proceeding is one that is open to the public, then the Presiding Judge must facilitate access to the proceeding by the public and the media as nearly as practicable to the access that would be available were the proceeding conducted in person in accordance with G.S. § 7A-49.6(g), while also protecting confidential information, such as juvenile case records, displayed during the Remote or Hybrid Hearing.

- 12.7 **Jury Proceedings.** Civil Superior Court jury trials are not permitted to be conducted remotely, except for witness testimony and jury management functions, as described below.

A witness in a civil Superior Court jury trial may testify remotely if the Presiding Judge finds that good cause exists for doing so under the circumstances in accordance with G.S. §7A49.6(c) or as otherwise provided by law. Any attorney or unrepresented party seeking to solicit witness testimony remotely shall file with the Clerk of Superior Court and the TCC and serve on the other attorneys and/or unrepresented parties pursuant to N.C. R. Civ. P. 5 at least five days prior to the hearing, a motion setting forth the specific basis of the request for remote testimony. The SRSCJ or Presiding Judge shall consider the request and make a written or recorded determination as to whether the party has shown good cause to permit the witness to testify remotely. There is no statutory authority to make this good cause determination *ex parte*, so procedures under N.C. R. Civ. P. 7(b) shall be followed. Only if the SRSCJ or the Presiding Judge finds that the attorney or the unrepresented party has demonstrated good cause for the request, may the witness testify remotely. If an emergency arises and the requesting attorney or unrepresented party is unable to provide proper notice as outlined above, the requesting attorney or unrepresented party may make the request orally in accordance with N.C. R. Civ. P. 7(b). Both the oral motion and the ruling on the motion should be recorded.

- 12.8 **Record of Hearing/ Official Transcript.** As provided in G.S. § 7A-95(c) and 7a-198(c), the Clerk of Superior Court, the Clerk’s designee, or the court reporter will create a record of the court proceeding via the Liberty Recording System (operated by the Clerk or the

Clerk's designee), WebEx recording (operated by the Clerk or the Clerk's designee), and/or by one of several techniques employed by court reporters. The Clerk of Superior Court, as custodian of each of these types of recordings, shall maintain and preserve each recording made by the Clerk, the Clerk's designee, or the court reporter pursuant to G.S. §§ 7A-95(c) and 7A-198(c). During a Hybrid Hearing, it is especially important to ensure that all participants are being clearly recorded, which may require using a combination of the Liberty Recording System, the WebEx recording, and/or court reporter technique (if applicable). The court reporter maintains the responsibility for preparing the official transcript from the recording(s) prepared by the court reporter, Liberty recording, and/or WebEx recording. Only a person on the NCAOC Court Reporters and Approved Transcriptionist List may prepare the official transcript from the recording(s) prepared by the court reporter, Liberty recording, and/or the WebEx recording.

Each individual Confidential Hearing must be a separate recording in WebEx.

- 12.9 **Access to WebEx Recordings.** WebEx recordings of proceedings are public record unless the recordings are sealed by the court or confidential by law (e.g., involuntary commitment hearings, juvenile abuse, neglect and dependency proceedings, and Juvenile Delinquency Proceedings). WebEx recordings include the recorded audio, video, chats, and other information. Presiding Judicial Officials should keep in mind that most WebEx recordings are public record when considering whether to allow Remote Hearings or Hybrid Hearings involving police informants, minor children, jurors, sensitive family matters, etc.

Confidential WebEx recordings may only be provided to a requesting attorney and/or party as permitted by law. Sealed WebEx recordings may only be provided to a requesting attorney and/or party as permitted by order of the court.

- 12.10 **Public Access.** The public has a right to attend court proceedings unless a proceeding is confidential by law, or the Presiding Judge has closed the proceeding. If the proceeding is one that is open to the public, access to a Remote Hearing or Hybrid Hearing must be provided as nearly as practicable to the access that would be available were the proceeding conducted in person pursuant to G.S. §7A-49.6(g).

To facilitate public access to a Remote Hearing, each WebEx link shall be published on the court calendar for the session. Any person who wishes to obtain access to a hearing may also contact the Clerk of Superior Court at 336-242-6701 and/or the TCC at 336-242-6862 at least five business days prior to the hearing to obtain a link to the WebEx proceeding. All spectators must access the hearing via the appropriate hearing link at the time set for the hearing. If a public access link (e.g., a YouTube link for live streaming) is provided that is separate from the WebEx link used by parties and witnesses, spectators/media should access the hearing via the public access link. For the purpose of this order, a spectator is defined as any person or entity who is not a hearing participant (e.g., attorney, party, or witness).

Absent approval by the Presiding Judge under **Rule 15, General Rules of Practice for the Superior and District Courts**, the parties, attorneys, witnesses, spectators, public and media shall refrain from making any recordings videos, or photographs of any hearing, including Remote Hearings and Hybrid Hearings. The Presiding Judge may permit or prohibit “electronic coverage” and “electronic media coverage” as provided in **Rule 15, General Rules of Practice for the Superior and District Courts**. Failure to comply with a prohibition from the SRSCJ or the Presiding Judge of electronic coverage or electronic media coverage, such electronic coverage may result in ejection from the hearing and appropriate sanctions to include contempt. **Rule 15(i), General Rules of Practice for the Superior and District Courts**, provides that recordings by the media or the public permitted by the court, if any, including film, video tape, still photographs or audio reproductions shall not be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent and collateral thereto, or upon any retrial or appeal of such proceedings.

Spectator cameras may be enabled, but microphones shall be muted during any Remote Hearing. Spectators shall not speak or otherwise communicate with any party or witness during the hearing. Spectators shall not utilize the chat feature or interfere with the hearing in any way. The Presiding Judge will provide instructions to all parties and spectators to protect the integrity of the hearing. Once the Presiding Judge begins instructions for the participants, the WebEx hearing may be locked, and additional spectators may be prohibited from joining the hearing.

Any spectator, witness, or participant who violates orders given by the SRSCJ or the Presiding Judge pertaining to the use of WebEx, who contacts testifying witnesses or parties, who photographs, records, or videos the proceeding (without the permission of the SRSCJ or the Presiding Judge), or who disrupts the proceeding is subject to being ejected from the hearing and may not be allowed to rejoin the hearing in the Presiding Judge’s discretion. They are also subject to appropriate sanctions to include contempt.

These limitations on spectator access are necessary to protect the integrity of the hearing and to ensure the hearing can proceed without reasonable interruption or delay. Further, the limitations protect the ability of the court and the parties to remotely conduct hearings without undue delay, interruption, or disruption while still granting the public’s ability to attend the hearing.

- 12.11 **Spoken Foreign Language Interpreters.** The Court shall ensure the rights of a person who needs a foreign language interpreter are protected prior to initiating a hearing. Attorneys representing clients or calling witnesses who require the services of a spoken foreign language interpreter and/or unrepresented parties who themselves require the services of a spoken foreign language interpreter or who are calling witnesses who require such services shall submit a request for a spoken foreign language court interpreters to the Language Access Coordinator using the online request form at <https://www.nccourts.gov/request-for-spoken-language-court-interpreter>. Such requests should be submitted as soon as the attorney/party is aware of the need for an interpreter to allow sufficient time to schedule the interpreter and in no case less than ten (10) prior to the date of the hearing.

If the interpreter cannot be adequately accommodated in a Remote Hearing or Hybrid Hearing, the proceeding shall be held in-person. If, at any time during a Remote Hearing, the interpretation cannot be conveyed to either the court or the party, the hearing shall be delayed to address interpretation or continued to another court session.

- 12.12 **Reasonable Accommodation.** If a reasonable accommodation cannot be provided in a Remote Hearing or Hybrid Hearing, the proceeding shall be held in-person. If, at any time during a Remote Hearing, the reasonable accommodation can no longer be provided, the hearing shall be delayed to address the reasonable accommodation or continued to another court session

13.0 MEDICAL MALPRACTICE

- 13.1 In light of the passage of Session Law 2021-47 (SB 255) by which N.C.G.S. § 7A-47.3 was amended by adding a new subsection which reads as follows: “(e) The senior resident superior court judge, in consultation with the parties to the case, shall designate a specific resident judge or a specific judge assigned to hold court in the district to preside over all proceedings in a case subject to G.S. 90-21.11(2)”, the SRSCJ shall assign each medical malpractice case filed in his/her district to a specific judge in all medical malpractice cases filed in the Superior Court Division.
- 13.2 This change became effective on July 7, 2022.
- 13.3 This policy applies to medical malpractice actions as defined by N.C.G.S. § 90-21.11(2) and filed in the Superior Court of Judicial District 22B.
- 13.4 For all medical malpractice cases filed on or after October 1, 2021, the parties shall complete a “Medical Malpractice Case Notification and Consultation” form (**APPENDIX M**) with the Clerk of Superior Court in the county where the action is filed within 30 days of the filing of a responsive pleading or any motion requiring determination by a superior court judge, whichever occurs first. A copy of the Medical Malpractice Case Notification and Consultation form shall be submitted by email to the TCC on the date the form is filed, for review by the SRSCJ. If the parties are unable to agree on the

content of the Medical Malpractice Case Notification and Consultation form, each party may submit a separate form.

The Medical Malpractice Case Notification and Consultation form must include:

- a. Contact information, including email addresses, of all attorneys and/or unrepresented parties,
- b. Proposed trial dates,
- c. Anticipated length of trial,
- d. Dates on which the parties are available within 60 days for the NCRCP Rule 26(f1) medical malpractice discovery conference, which may be held remotely,
- e. Statement indicating whether the parties voluntarily agree to waive venue for hearing pretrial motions,
- f. Up to two suggested judges for assignment (The parties may each, or jointly, suggest up to two superior court judges that they seek to have assigned to the case. Parties are encouraged to select the Resident Judge of Judicial District 22B or the judges who are assigned to Judicial District 22B per the Superior Court Master Calendar during the spring or fall rotation in which the parties expect the case to be tried. The parties must consult with their requested judge prior to filing the Medical Malpractice Case Notification and Consultation form to determine their availability),
- g. The signature of all attorneys and unrepresented parties.

In the interest of efficient case management, any attorney or unrepresented party who fails to file and submit the Medical Malpractice Case Notification and Consultation form in accordance with these rules, absent good cause, will be considered by the Court to have waived any objections to the proposed and selected dates and judges.

- 13.5 Judicial Assignment and Local Rules.** In assigning a specific resident superior court judge or a judge assigned to hold court in the district, including but not limited to, superior court judges from other districts within the Fourth Judicial Division, special superior court judges, and emergency superior court judges, the SRSCJ, in consultation with the parties to the case, shall designate a specific superior court judge or a specific judge assigned to hold court in the district to preside over all proceedings that occur 150 days after the case was filed in cases subject to N.C.G.S. §90-21.11(2).

After the SRSCJ has made a judicial assignment, the TCC shall notify counsel of record and unrepresented parties of the assignment. Within 30 days of receipt of notice of judicial assignment from the TCC, counsel of record and/or unrepresented parties shall consult with the assigned judge to schedule a medical malpractice discovery conference.

Pursuant to **Rule 22, General Rules of Practice for Superior and District Courts**, these Local Rules and any supplemental orders or procedures shall apply to medical malpractice actions filed in Superior Court in Davidson or Davie County.

- 13.6 Medical Malpractice Discovery Conference.** Following the discovery conference, the parties shall submit a discovery consent order, which must include an order to mediation, discovery deadlines, dispositive motion deadlines, the manner in which the

parties/counsel of record may communicate with the Court, whether the parties agree to waive venue for hearing pretrial motions, and a tentative trial date (Note: peremptory settings may only be authorized by the SRSCJ).

In the interest of efficient case management, any attorney or unrepresented party who fails to attend the medical malpractice discovery conference, absent good cause, will be considered by the Court to have waived any objections to the deadlines and trial date set by the Court.

14.0 MISCELLANEOUS

14.1 Pro Hac Vice. Motions to be admitted Pro Hac Vice must be accompanied by the fee required by the North Carolina General Statutes, together with an appropriate affidavit that the attorney seeking Pro Hac Vice status is a member in good standing in every jurisdiction in which the attorney is licensed to practice, has not been disciplined in any of the jurisdictions where the attorney is licensed to practice, has never had a Pro Hac Vice status revoked by law tribunal, and is not the subject of any pending disciplinary proceedings. Local counsel shall sign an affirmation that he/she will comply with Rule 5.5(c)(4) and 5.5(e)(5) of the Revised Rules of Professional Conduct of the North Carolina State Bar. Motions not accompanied by the fee will be denied without notice. Should a motion not accompanied by the fee be inadvertently allowed, the Order allowing admission will be revoked without notice.

14.2 Notice of Appearance. Any attorney filing a Notice of Appearance, Substitution of Counsel, or similar document shall provide a copy to the TCC (via email) when the motion is filed.

14.3 Service. A party filing a lawsuit is expected to promptly undertake reasonable efforts to obtain personal service on all defendants. If service is not obtained within five months after undertaking reasonable efforts, the party shall seek service by publication. Failure to undertake reasonable efforts to obtain service or to prevent summonses from expiring will result in dismissal for failure to prosecute.

If any party to the lawsuit has been served, then the TCC shall send an Order for Mediated Settlement Conference pursuant to Rule 2.0 of the Local Rules of Practice for Superior Civil Cases. Cases shall not be delayed for lack of reasonable efforts to serve all parties.

14.4 Voluntary Dismissals. If a party files a voluntary dismissal of a case, claim, or party and the case is on a calendar within 10 days of the dismissal, the party filing the dismissal shall immediately deliver a filed copy to each opposing party and to the TCC on the date the dismissal is filed, by facsimile, hand-delivery, or electronic transmission.

14.5 Orders Submitted. The draft order shall be first submitted to all counsel and/or unrepresented parties in the action with notice to respond within 10 days to any

objections to the form of the Order. Within 30 days of hearing, the draft should be submitted to the TCC with any proposed revisions or confirmation that the draft was approved. If there is no response, then that should be noted via email to the TCC when it is submitted. The TCC shall be responsible for forwarding the draft order to the Presiding Judge unless the Presiding Judge directs otherwise.

- 14.6 **Secured Leave.** Pursuant to **Rule 26, General Rules of Practice for Superior and District Courts**, attorneys may designate periods of secure leave. Attorneys appearing in cases pending before the civil Superior Court of Davidson or Davie County must submit their Notice of Secured Leave (**APPENDIX J**) to the Clerk of Superior Court's office for filing and provide a filed copy to the SRSCJ or TCC via email or regular mail . Notices of Secured Leave should be sent to the following address:

Davidson County
Clerk of Superior Court
Attn: Estates Division
P.O. Box 1064
Lexington, NC 27293-1064

Davie County
Clerk of Superior Court
Attn: Civil Division
140 S. Main St.
Mocksville, NC 27028

Secured leave designations are not filed in the court files and should not contain a case number. The TCC will enter the information into a database used to track periods of secure leave. While this provision relates to secured leave periods for lawyers involved in civil superior cases, it is also not necessary to provide forms to the SRSCJ or TCC related to criminal matters. The Clerk shall forward Notices of Secured Leave filed with her/him to the TCC. Of course, notice to the District Attorney should be provided as set forth in **Rule 26, General Rules of Practice for Superior and District Courts**.

Policy and procedures described herein are not exclusive. In extraordinary circumstances, the time limitations for notification of designated weeks may be waived by the Court when attorneys have been faced with particular or unusual situations. Furthermore, attorneys shall be able to make other requests to be excused from appearing before the Court for personal professional reasons.

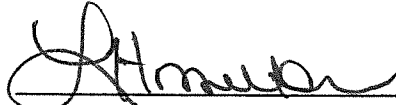
- 14.7 **Motions to Withdraw.** Motions to withdraw must include a certificate of service showing service on the client from whom representation is being withdrawn. The motion also must indicate whether all parties consent or if any party opposes the motion. The motion and proposed order must set forth the name and address of substitute counsel, or if not known, the current address of the party from whom representation is being withdrawn. No action will be taken on a motion and proposed

order that does not include this information. If the motion to withdraw is granted, the withdrawing attorney must serve a copy of the signed order on the TCC.

- 14.8 **Guidelines for Resolving Scheduling Conflicts.** *Rule 3.1, General Rules of Practice for the Superior and District Courts*, should be followed. Unless necessity requires, it is unacceptable for counsel to point out conflicts to the Court without providing the Court ample time to resolve the same. **Rule 3.1(b)** requires counsel to “promptly give written notice” when the attorney learns of a scheduling conflict.
- 14.9 **Conferences.** The Court welcomes the opportunity to conduct scheduling or pre-trial conferences when the parties think doing so would be helpful. To request a conference, either in court, in chambers, or by telephone, please contact the TCC by email. The Court also reserves the right to request conferences.
- 14.10 **Rule 12 and Professional Courtesy.** *Rule 12, General Rules of Practice for the Superior and District Courts*, shall be strictly enforced. Counsel and unrepresented parties should treat others as they want to be treated.
- 14.11 **Cases Under Advisement.** Attorneys or unrepresented parties should notify the TCC of cases that have been heard and taken under advisement when a period of more than 90 days has passed since the hearing without a ruling. The TCC shall then contact the presiding Judge to seek an update from the parties as to when an anticipated decision will be forthcoming.
- 14.12 **Transcripts/Electronic Recordings of Court Proceedings.** Requests for transcripts of court proceedings shall be made to the Resident Court Reporter of Judicial District 22B. If a court proceeding was electronically recorded, a request for the recording shall be made to the Clerk of Superior Court. An electronic recording of the hearing and a list of persons authorized and approved to prepare a transcript will be provided. For recordings of Remote or Hybrid Hearings, see Sect. 12 above.
- 14.13 **Requests for Accommodations Under the Americans with Disabilities Act.** The court shall ensure the rights of any individual that require a reasonable accommodation under the Americans with Disabilities Act. Reasonable accommodations are determined on a case-by-case basis and may include, but are not limited to, the use of licensed interpreters (e.g., sign language interpreters, deaf blind interpreters), periodic breaks, or captioning. Reasonable accommodation requests should be submitted to the Disability Access Coordinator, either in-person at the Office of the Clerk of Superior Court, via telephone at 336-242-6704, by email at Davidson.DAC@nccourts.org, or via online request form at <https://www.nccourts.gov/form/disability-access-request>. Such requests should be submitted as soon as the attorney/party is aware of the need for an accommodation to allow sufficient time to review the request and arrange for a reasonable accommodation.

14.14 **Effective Date.** These rules shall be effective July 1, 2023.

SO ORDERED, this the ~~28~~ day of June, 2023, to be effective July 1, 2023.

A handwritten signature in black ink, appearing to read "Lori I. Hamilton", written over a horizontal line.

LORI I. HAMILTON

SENIOR RESIDENT SUPERIOR COURT JUDGE

JUDICIAL DISTRICT 22B – DAVIDSON AND DAVIE COUNTIES

STATE OF NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO:

Plaintiff(s)

VS.

TRIAL SCHEDULING NOTICE
(EXAMPLE)

Defendant(s)

Submitted by: _____ counsel for Plaintiff/Defendant/Pro Se (circle one).

All parties in Agreement/Pro Se or Self Represented Party: _____

- A. It has been reported to the court that this matter reached an impasse at the mediation conference on _____. All counsel and/or any unrepresented party shall select a trial date by the specified deadline.
- B. Cases in which counsel and/or any unrepresented party fails to select a trial date by the specified deadline, those cases will be set for trial at the discretion of the Senior Resident Superior Court Judge. Failure to submit the form will not be a sufficient basis for a continuance of the assigned trial date.
- C. Submission of this form provides the court with your trial date preference, but it does not guarantee your case will be assigned to the requested term of court.
- D. All forms shall be submitted to the Superior Court Coordinator by the deadline at the address or email below. **DEADLINE FOR SUBMISSION:** _____
-

PLEASE SELECT OPTION 1 and 2 FOR TRIAL DATES:

*Denotes session with a holiday.

___January ___February ___March ___April* ___May ___June ___July
___August ___September ___October ___November ___December

Superior Court Coordinator
22B Judicial District
110 West Center Street
Lexington, NC 27292
E-mail:
Phone: 336-242-6862

STATE OF NORTH CAROLINA

File No.

County

In The General Court Of Justice
Superior Court Division

Name Of Plaintiff(s)

Name And Address Of Plaintiff's Attorney (or Pro Se Plaintiff's Address)

Telephone No.

Fax No. (if applicable)

Plaintiff's Attorney's Email Address (or Pro Se Plaintiff's Email Address)

VERSUS

Name Of Defendant(s)

Name And Address Of Defendant's Attorney (or Pro Se Defendant's Address)

Telephone No.

Fax No. (if applicable)

Defendant's Attorney's Email Address (or Pro Se Defendant's Email Address)

DESIGNATION OF MEDIATOR IN SUPERIOR COURT CIVIL ACTION

NOTICE:

Plaintiff's attorney should check and fill out only one of the two Sections, **sign below**, and return to the Senior Resident Superior Court Judge within 21 days after the date of the Order for Mediated Settlement Conference and distribute copies as noted below.

G.S. 7A-38.1; Rule 2 of the Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions

Trial Date

Date Of Order Referring Matter To Mediation

Deadline For Completion Of Mediated Settlement Conference

Tentative Trial Date

☐ SECTION 1 - NOTICE OF SELECTION OF CERTIFIED MEDIATOR BY AGREEMENT

The above named case was referred to a mediated settlement conference. The parties have selected the mediator named below who has agreed to serve in this case and is certified pursuant to the Rules for Mediated Settlement Conferences.

Name And Address Of Certified Mediator

Telephone No.

Fax No. (if applicable)

Mediator's Email Address

The parties and the mediator have agreed upon the mediator's rate of compensation as follows: (specify all terms of the compensation agreement.)

NOTE: As an aid to mediator selection, the NC Dispute Resolution Commission maintains a list of certified superior court mediators at www.NCDRC.gov. Click on "Find a Mediator" and then click on "Mediated Settlement Conference Program." You may search for mediators by name or by judicial district. Once a mediator's name appears on your screen, click on it for a complete contact and availability listing.

☐ SECTION 2 - MOTION FOR COURT APPOINTMENT OF MEDIATOR

The above named case was referred to a mediated settlement conference.

The parties have been unable to agree upon the selection of a mediator and move the Senior Resident Superior Court Judge to appoint a certified mediator to conduct their conference.

Date

Name Of Attorney (or Pro Se Party)

Signature Of Attorney (or Pro Se Party)

Original-File Copy-Senior Resident Superior Court Judge or his/her designee
Copy-Plaintiff Copy-Defendant Copy-Mediator
(Over)

AOC-CV-812, Rev. 3/20

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ORDER OF APPOINTMENT		
<p>The parties having reported their failure to agree upon the selection of a mediator or the parties having failed to notify the Court of their selection or nomination of a mediator within twenty-one (21) days after this case was ordered to mediation, the Court appoints the following certified mediator to conduct the mediated settlement conference.</p>		
<p><i>Name And Address Of Certified Mediator</i></p>	<p><i>Telephone No.</i></p>	<p><i>Fax No. (if applicable)</i></p>
<p><i>Mediator's Email Address</i></p>		
<p>NOTICE TO MEDIATOR: <i>The mediator shall be responsible for reserving a place and making arrangements for the conference and giving timely notice to all attorneys and unrepresented parties of the time and location of the conference. The mediated settlement conference shall be completed by the completion deadline set forth above, and the mediator shall report the results of the conference to the Court within ten (10) days after the conference is completed.</i></p>		
<p><i>Date</i></p>	<p><i>Name Of Senior Resident Superior Court Judge (type or print)</i></p>	<p><i>Signature Of Senior Resident Superior Court Judge</i></p>
CERTIFICATE OF SERVICE		
<p>The undersigned hereby certifies that on this date a copy of the foregoing Designation of Mediator in Superior Court Civil Action was served on the above-selected mediator and the parties at the addresses below by placing a copy of the same in the United States Mail, postage prepaid. <i>(Please provide names and addresses for the mediator and parties served in the spaces below. Attach additional sheets if necessary.)</i></p>		
<p><i>Name And Address Of Mediator</i></p>	<p><i>Name And Address Of Party Or Attorney</i></p>	
<p><i>Name And Address Of Party Or Attorney</i></p>	<p><i>Name And Address Of Party Or Attorney</i></p>	
<p><i>Name And Address Of Party Or Attorney</i></p>	<p><i>Name And Address Of Party Or Attorney</i></p>	
<p><i>Name And Address Of Party Or Attorney</i></p>	<p><i>Name And Address Of Party Or Attorney</i></p>	
<p><i>Date</i></p>	<p><i>Name Of Party (type or print)</i></p>	<p><i>Signature Of Party Or Party's Attorney</i></p>

State of North Carolina
County of _____

In the General Court of Justice
Superior Court Division
File No: _____

(Plaintiff)

VS.

CALENDAR REQUEST

(Defendant)

Type of Hearing: _____ Motion _____

_____ Other _____ Estimated Length of Hearing: _____

Contact Information Plaintiff/Plaintiff's Attorney:

Address: _____

City: _____ State: _____ Zip: _____

Email: _____ Phone: _____

Contact Information Defendant/Defendant's Attorney:

Address: _____

City: _____ State: _____ Zip: _____

Email: _____ Phone: _____

Certificate of Service: This is to certify that the undersigned has this date served this pleading upon all parties listed and by what means as prescribed by Rule 5 of the North Carolina Rules of Civil Procedure: (attached additional page if necessary)

Name and Address of those serviced and how: _____

Date of Service: _____ Signed: _____

ALL fields of this form are required. Please fully complete this form before filing with the Clerk's Office

STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice
Superior Court Division

____ County

Name Of Plaintiff(s)

VERSUS

Name Of Defendant(s)

MOTION AND ORDER FOR CONTINUANCE (CIVIL SUPERIOR CASES)

NOTE: This form is made available for use by parties, but its use is not mandatory and the form is not intended to replace local forms or procedures that may be in place for the requesting of continuances. **If by Local Rule a different form or procedure is prescribed, then this form should not be used.**

Previous Number Of Continuances

Date Case Filed

Calendared Trial Date

Opposing Counsel/Pro Se Parties

Copy(ies) Distributed To Opposing Counsel(s)/Party(ies) By

Date

☐ U.S. Mail☐ Facsimile☐ Hand Delivery☐ Atty Box

Provide Addresses Here:

Reason(s) For Continuance Request (attach additional sheet if necessary)

Requested Reschedule Date Or Carryover Date

Name And Address Of Movant

Has Client(s) Been Notified Of Continuance Request?
(not applicable if pro se)☐ Yes ☐ No

Telephone No.

Date Issued

Signature Of Movant

Opposing party ☐ consents to this motion. ☐ does not consent to this motion.
☐ Other: _____

TO BE COMPLETED BY JUDICIAL SUPPORT STAFF

Objection(s) Received?
(attach written objections) ☐ Yes ☐ No

Date

Case Age:

☐ Less Than 12 Months☐ 12 to 18 Months☐ More Than 18 Months

Total No. Of Cases On Trial Calendar

Current Ranking Of This Case On Trial Calendar

Date Case Set On This Trial Calendar

Attorney input into trial setting?

☐ Yes☐ NoRuling: ☐ Denied ☐ Granted

Date Rescheduled

Counsel Notified Of Ruling By

Date

Date

Name Of Senior Resident Superior Court Judge/Designee (type or print)

Signature Of Senior Resident Superior Court Judge/Designee

Original - Case File

STATE OF NORTH CAROLINA

- ☐ Davidson County
☐ Davie County

In The General Court of Justice
Superior Court Division

File No.

Plaintiff:

VERSUS

Defendant:

**REQUEST FOR
PEREMPTORY SETTING**

The undersigned ☐ Plaintiff/Plaintiff's attorney ☐ Defendant/Defendant's Attorney
moves the Court for a peremptory setting of this case for the date of _____ and
certifies that all parties and witnesses will be available and ready for trial. I base my motion upon the
following reasons:

Date Requested for Peremptory Setting

1

2

3

4

5

6

☐ I have contacted all parties in this matter and parties ☐ agree ☐ disagrees or ☐ has not
responded to the request for peremptory setting in this case.

Date Agreed Upon for Peremptory Setting

NOTE TO OPPOSING PARTY(IES): If you oppose this Motion you must submit your opposition to the Superior Court Coordinator and the
moving party within three (3) days via email to Joretta.W.Black@nccourts.org or fax to 336-242-6869.

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Request for Peremptory Setting has been submitted to the Superior Court Coordinator and has
been served in the following manner and to whom:

☐ By depositing a copy in the United States mail in a properly addressed, postpaid envelope ☐ By personal delivery ☐ By email to:

Date

Moving Party

ORDER

The Request for Peremptory Setting is hereby ☐ Granted ☐ Denied and Ordered to be set for hearing on

_____ at _____ a.m./p.m. in Courtroom _____.

Date: _____

Senior Resident Superior Court Judge

NORTH CAROLINA
_____ County

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE No: _____

(Plaintiff(s))

VS.

NOTICE OF BANKRUPTCY STAY

(Defendant(s))

A petition has been filed and an Order for Relief under Chapter _____ of the
Federal Bankruptcy Act has been entered for _____.

Relief has been granted in case number _____ filed on _____ day of
_____, 20____, in the United States Bankruptcy Court for the
_____ District of _____,
Division.

Further proceeding involving _____ are stayed
pursuant to the provisions of 11USC363, 1201 & 1301.

Date:

Name, address, and email of Party completing form

☐ Attorney for ☐ Plaintiff ☐ Defendant

Copy Provided to: _____

Date: _____

STATE OF NORTH CAROLINA
_____ County

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
File No: _____

Plaintiff(s)

Vs.

REPORT OF CASE SETTLEMENT

Defendant(s)

This matter is presently scheduled for trial or hearing on _____. The parties either pro se or through counsel hereby report to the Court that this case has been resolved in its entirety and there is nothing left to be heard. The parties either pro se or through counsel represent to the court and agree that:

- ☐ The parties will prepare and present a Consent Order to the court no later than _____ which will resolve all pending issues.
- ☐ The parties will prepare and present a Consent Judgment to the Court no later than _____ which will resolve all pending issues.
- ☐ The Plaintiffs/Plaintiff's attorney will file a Voluntary Dismissal of all claims no later than _____.
- ☐ The Defendant/Defendant's attorney will file a Voluntary Dismissal of all counterclaims, cross-claims, and/or third party claims no later than _____.
- ☐ Other: _____

This is the _____ day of _____, 20 _____.

☐ Counsel for ☐ Plaintiff ☐ Defendant

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice

☐ District ☐ Superior Court Division

Name Of Plaintiff(s)

VERSUS

Name Of Defendant(s)

**ORDER WITHOUT MOTION EXTENDING
COMPLETION DATE FOR MEDIATED SETTLEMENT
CONFERENCE OR OTHER SETTLEMENT PROCEDURE
UPON STIPULATION OF THE PARTIES, SUGGESTION OF
THE MEDIATOR, OR UPON THE COURT'S OWN MOTION**G.S. 7A-38.1, 7A-38.4A; Rule 3(c) of the Rules for Mediated Settlement
Conferences and Other Settlement Procedures in Superior Court Civil
Actions; Rule 3(c) of the Rules for Settlement Procedures in District Court
Family Financial Cases**NOTE:** Where the parties stipulate to extend the deadline, complete Sections I and II; where the mediator suggests the extension of the deadline,
complete Sections I and III.**SECTION I**

Initial Date Ordered To Mediation

Current Deadline For Completion

Tentative Trial Date

Previous Number Of Extensions

Reason For Extension Of Time And Suggested Completion Date

SECTION II**Counsel For Plaintiff(s)/Plaintiff(s)****Counsel For Defendant(s)/Defendant(s)**

Name	<input type="checkbox"/> Counsel For Plaintiff(s) <input type="checkbox"/> Plaintiff	Name	<input type="checkbox"/> Counsel For Defendant(s) <input type="checkbox"/> Defendant
Signature	Date	Signature	Date
Name	<input type="checkbox"/> Counsel For Plaintiff(s) <input type="checkbox"/> Plaintiff	Name	<input type="checkbox"/> Counsel For Defendant(s) <input type="checkbox"/> Defendant
Signature	Date	Signature	Date
Name	<input type="checkbox"/> Counsel For Plaintiff(s) <input type="checkbox"/> Plaintiff	Name	<input type="checkbox"/> Counsel For Defendant(s) <input type="checkbox"/> Defendant
Signature	Date	Signature	Date

SECTION III

Name Of Mediator

Signature Of Mediator

Date

ORDERThe Court hereby extends the deadline for completion of the mediated settlement conference previously ordered in this action to the date
set out below:

- ☐ Upon its own motion.
- ☐ Upon stipulation of the parties.
- ☐ Upon suggestion of the mediator.

Completion Deadline Extended To

Date

Name Of Senior Resident Superior Court Judge Or Designee

Signature Of Senior Resident Superior Court Judge Or Designee

Name Of Chief District Court Judge Or Designee

Signature Of Chief District Court Judge Or Designee

STATE OF NORTH CAROLINA

File No.

_____ County

In The General Court Of Justice

☐ District ☐ Superior Court Division

Name Of Plaintiff(s)

VERSUS

Name Of Defendant(s)

MOTION AND ORDER EXTENDING COMPLETION DATE FOR MEDIATED SETTLEMENT CONFERENCE OR OTHER SETTLEMENT PROCEDURE

G.S. 7A-38.1, 7A-38.4A; Rule 3 of the Rules for Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions; Rule 3 of the Rules for Settlement Procedures in District Court Family Financial Cases

MOTION

To: ☐ Senior Resident Superior Court Judge ☐ District Court Judge

Motion Filed

Previous Number Of Extensions

Initial Date Ordered To Mediation

Current Deadline For Completion

Requested Deadline For Completion

Tentative Trial Date

Specific Basis For Motion

Name Of Mediator

Name(s) Of Opposing Counsel(s)

Date

Signature Of Movant

ORDER

This Motion for extension is

☐ allowed.

☐ denied.

Completion Deadline Extended To

Name Of Senior Resident Superior Court Judge District Court Judge Or Designee

Date

Signature Of Senior Resident Superior Court Judge District Court Judge Or Designee

This Motion may be used by a party (including a pro se party) when the parties disagree about extending the deadline. Submit the Motion to the Trial Court Coordinator Administrator, send a copy to all other parties and the mediator, file, calendar, and notice the Motion for hearing.

	CERTIFICATE OF SERVICE	
--	-------------------------------	--

The undersigned hereby certifies that on this date a copy of the foregoing Motion and Order was served on the parties or attorneys named below at the addresses specified by placing a copy of the same in the United States Mail, postage prepaid.

Name And Address Of Part Or Attorne

Name And Address Of Part Or Attorne

Name And Address Of Part Or Attorne

Name And Address Of Part Or Attorne

Name And Address Of Part Or Attorne

Name And Address Of Part Or Attorne

Name And Address Of Part Or Attorne

Name And Address Of Part Or Attorne

Date

Name Of Moving Part

Signature Of Moving Part

STATE OF NORTH CAROLINA		File No.
County		In The General Court Of Justice <input type="checkbox"/> District <input type="checkbox"/> Superior Court Division
Attorney:	State Bar No.	<h2 style="margin: 0;">SECURED LEAVE NOTICE</h2> <p style="margin: 10px 0;">Rule 26 of the General Rules of Practice for the Superior and District Courts</p>
Address		
Telephone number		
Email		
STATEMENT OF ATTORNEY		
<p>I hereby certify that the secured leave period designated below is not being designated for the purpose of delaying, hindering, or interfering with the timely disposition of any matter in any pending action or proceeding.</p> <p>I further certify that no action or proceeding in which I have entered an appearance has been scheduled peremptorily or noticed for trial, hearing, deposition, or other proceeding during the designated leave period.</p>		
DESIGNATED SECURED DATES		
Week 1	Week 2	Week 3
Family Leave within 24 weeks of birth or adoption		
Indicate any previously designed Secured Leave periods during the current calendar year that have previously been designated pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts.		
Week 1	Week 2	Previous # of Family Leave Periods
This Secured Leave notification <u>must be filed and served no later than nine 90 days before the beginning of the secured leave period</u> and before any trial, hearing, deposition, or other regularly scheduled matter, peremptorily set or noticed for a time during the designated leave period.		
CERTIFICATE OF SERVICE		
This is to certify that the undersigned has this date served this Notice upon the attached listed parties and by the method indicated:		
Date	Signature	
NOTICE TO ATTORNEY: Should any matter be set during your Secured Leave Period you are required to serve notice on the official specified in Rule 26(e) of the General Rules of Practice for the Superior and District Courts and the parties of record in the matter. This notice shall contain the following: 1) a copy of this form, 2) case name and number and 3) certificate of service.		

STATE OF NORTH CAROLINA		File No. _____
_____ County		In The General Court Of Justice <input type="checkbox"/> District <input type="checkbox"/> Superior <input type="checkbox"/> Before The Clerk <input type="checkbox"/> Small Claims
IN THE MATTER OF:		NOTICE AND MOTION FOR <input type="checkbox"/> FULLY REMOTE HEARING <input type="checkbox"/> HYBRID REMOTE HEARING Nature of Hearing: _____ Date of Hearing (if scheduled): _____
Name And Address Of Plaintiff / Petitioner / State Email Address of Plaintiff / Petitioner / State		
Name And Address Of Defendant / Respondent Email Address of Defendant / Respondent		
NOTICE AND MOTION FOR REMOTE HEARING TO OPPOSING PARTY		
The undersigned hereby requests that the hearing referenced above be conducted, or partially conducted, via audio and video transmission, pursuant to G.S. 7A-49.6 on the grounds listed below. If a hybrid hearing is requested, specify which participant(s) wants to participate remotely, their physical location while participating, and the contact information for the participant(s). _____ _____ _____		
I <input type="checkbox"/> have <input type="checkbox"/> have not consulted the opposing party / attorney regarding this motion. The opposing party / attorney <input type="checkbox"/> takes no position on a remote hearing <input type="checkbox"/> agrees to a remote hearing <input type="checkbox"/> desires an in-person hearing. (Note: An objection to the hearing being conducted via audio and video transmission must be filed within ____ days of the service of this motion.) The estimated time needed for the hearing on this motion is: _____.		
Name Of Person Requesting Remote Hearing Email Address:		Date Signature <input type="checkbox"/> Plaintiff or Petitioner / Attorney <input type="checkbox"/> Defendant or Respondent / Attorney <input type="checkbox"/> District Attorney / Assistant DA <input type="checkbox"/> Other: _____
<input type="checkbox"/> This Motion for Remote Hearing is scheduled for hearing:		
Date of Hearing	Time Of Hearing <input type="checkbox"/> AM <input type="checkbox"/> PM	Location of Hearing
CERTIFICATE OF SERVICE		
I certify that on this date, a copy of this Motion for Remote Hearing was served by: <input type="checkbox"/> first class mail at the address(es) as follows: <input type="checkbox"/> plaintiff / petitioner / attorney for plaintiff or petitioner _____ <input type="checkbox"/> defendant / respondent / attorney for defendant or respondent _____ <input type="checkbox"/> district attorney _____ <input type="checkbox"/> personally, delivering a copy to the <input type="checkbox"/> plaintiff / petitioner / attorney for plaintiff or petitioner _____ <input type="checkbox"/> defendant / respondent / attorney for defendant or respondent _____ <input type="checkbox"/> district attorney _____ <input type="checkbox"/> Other _____		
Date	Signature	<input type="checkbox"/> Plaintiff or Petitioner / Attorney <input type="checkbox"/> Defendant or Respondent / Attorney <input type="checkbox"/> District Attorney / Assistant DA <input type="checkbox"/> Other: _____
ORDER ON MOTION FOR REMOTE HEARING		
<input type="checkbox"/> This Motion was reviewed by the court out of session. OR <input type="checkbox"/> After a hearing on the motion, the Court <input type="checkbox"/> finds <input type="checkbox"/> does not find that the hearing shall be held via audio and video transmission. Therefore, it is ORDERED that this hearing shall be held on _____ at _____ <input type="checkbox"/> in person in Courtroom _____ <input type="checkbox"/> fully remote via audio video transmission <input type="checkbox"/> hybrid remote via audio video transmission. If the hearing is to be held via fully remote or hybrid remote means, the following participant(s) is / are permitted to testify remotely _____ from (specify the location(s) from which the participant(s) is / are testifying) _____.		
Date	Signature	<input type="checkbox"/> Superior Court Judge <input type="checkbox"/> District Court Judge <input type="checkbox"/> Magistrate <input type="checkbox"/> Clerk of Superior Court <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Designee _____

NOTE: G.S. 7A-49.6 grants each presiding judicial official discretionary authority to conduct civil proceedings by remote audio and video transmission without the need to find good cause UNLESS a party objects.

STATE OF NORTH CAROLINA		File No. _____
_____ County	In The General Court Of Justice <input type="checkbox"/> District <input type="checkbox"/> Superior <input type="checkbox"/> Before the Clerk <input type="checkbox"/> Small Claims	
IN THE MATTER OF:		
Name And Address Of Plaintiff / Petitioner / State Email Address of Plaintiff / Petitioner / State Name And Address Of Defendant / Respondent Email Address of Defendant / Respondent	<h2 style="margin: 0;">OBJECTION TO REMOTE HEARING</h2> <p>Nature of hearing: _____</p> <p>Date of Hearing (if scheduled): _____</p>	
OBJECTION		
The undersigned hereby objects to the hearing referenced above being conducted, or partially conducted, via audio and video transmission, pursuant to G.S. 7A-49.6(d) on the grounds listed below: _____ _____ _____ _____		
I <input type="checkbox"/> have <input type="checkbox"/> have not consulted the opposing party / attorney regarding this objection. The opposing party / attorney <input type="checkbox"/> takes no position on a remote hearing <input type="checkbox"/> desires a remote hearing <input type="checkbox"/> agrees to an in-person hearing. The estimated time needed for the hearing on this objection is: _____.		
Name Of Person Objecting Email Address:	Date <input type="checkbox"/> Plaintiff or Petitioner / Attorney <input type="checkbox"/> District Attorney / Assistant DA	Signature <input type="checkbox"/> Defendant or Respondent / Attorney <input type="checkbox"/> Other: _____
<input type="checkbox"/> This Objection to a Remote Hearing is scheduled for hearing:		
Date of Hearing	Time Of Hearing <input type="checkbox"/> AM <input type="checkbox"/> PM	Location of Hearing
CERTIFICATE OF SERVICE		
I certify that on this date, a copy of this Objection to a Remote Hearing was served by: <input type="checkbox"/> first class mail at the address(es) shown as follows: <input type="checkbox"/> plaintiff / petitioner / attorney for plaintiff or petitioner _____ <input type="checkbox"/> defendant / respondent / attorney for defendant or respondent _____ <input type="checkbox"/> district attorney _____ <input type="checkbox"/> personally, delivering a copy to the <input type="checkbox"/> plaintiff / petitioner / attorney for plaintiff or petitioner _____ <input type="checkbox"/> defendant / respondent / attorney for defendant or respondent _____ <input type="checkbox"/> district attorney _____ <input type="checkbox"/> Other: _____		
Date	Signature <input type="checkbox"/> Plaintiff or Petitioner / Attorney <input type="checkbox"/> District Attorney / Assistant DA	<input type="checkbox"/> Defendant or Respondent / Attorney <input type="checkbox"/> Other: _____
ORDER ON OBJECTION TO REMOTE HEARING		
<input type="checkbox"/> This Objection was reviewed by the court out of session. OR <input type="checkbox"/> After a hearing on the Objection, the Court <input type="checkbox"/> finds <input type="checkbox"/> does not find that the moving party has demonstrated good cause that the hearing should not be held via audio and video transmission. Therefore, it is ORDERED that this hearing shall be held on _____ at _____ <input type="checkbox"/> in person in Courtroom ____ <input type="checkbox"/> fully remote via audio video transmission <input type="checkbox"/> hybrid remote via audio video transmission. If the hearing is to be held via fully remote or hybrid remote means, the following participant(s) is / are permitted to testify remotely _____ from (specify the location(s) from which the participant(s) is / are testifying) _____. The participant(s) must provide contact information to the Court prior to the hearing.		
Date	Signature	<input type="checkbox"/> Superior Court Judge <input type="checkbox"/> District Court Judge <input type="checkbox"/> Magistrate <input type="checkbox"/> Clerk of Superior Court <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Designee _____

STATE OF NORTH CAROLINA

File No.

County

In the General Court of
Justice Superior Court
Division

Name of Plaintiff(s)

VERSUS

Name of Defendant(s)

MEDICAL MALPRACTICE CASE NOTIFICATION AND CONSULTATION

NOTE: Parties in Davidson and Davie County Superior Court medical malpractice actions subject to N.C.G.S. § 90-21.11(2) are required to complete and file this form upon the filing of a responsive pleading or motion requiring a determination by a superior court judge, whichever occurs first. After filing with the appropriate Clerk of Superior Court, the parties shall deliver a copy of this form by email to the Superior Court Judge's Office. Failure to comply with the 22B Judicial District Civil Superior Court Local Rules Regarding Medical Malpractice Actions, absent good cause, will be considered a waiver of any objections to the proposed and requested trial dates and judges. This form serves as notification to and consultation with the Senior Resident Superior Court Judge.

In accordance with the requirements of N.C.G.S. § 7A-47.3(e) and the 22B Judicial District Civil Superior Court Local Rules Regarding Medical Malpractice Actions, the parties must submit this completed form for review by the Senior Resident Superior Court Judge.

Select one:

- ☐ The agreed-upon information herein is jointly submitted by the parties to this action.
- ☐ The information herein is submitted by the Plaintiff(s) only; a copy has been delivered to Defendant(s).
- ☐ The information herein is submitted by the Defendant(s) only; a copy has been delivered to Plaintiff(s).

Date Case Filed: _____

Anticipated length of trial: _____

Proposed trial dates: _____

Available dates in the next 60 days for the medical practice discovery conference: _____

Select one:

- ☐ All parties voluntarily agree to waive venue for hearing pretrial motions.
- ☐ The Plaintiff(s) voluntarily agree to waive venue for hearing pretrial motions
- ☐ The Defendant(s) voluntarily agree to waive venue for hearing pretrial motions.

Requested superior court judge for assignment to preside over all proceedings in this case and his/her judicial district:
Judge _____ (District # _____)

Confirmation required: ☐ has been consulted / ☐ is agreeable to assignment.

NOTE: In assigning a superior court judge, the senior resident superior court judge may consider, but is not bound by, the judge requested by the parties.

Submitted by:

☐ Self-Represented Plaintiff ☐ Plaintiff's Attorney ☐ Self-Represented Defendant ☐ Defendant's Attorney

Signature:

Signature:

Name:

Name:

Mailing Address:

Mailing Address:

Phone Number:

Phone Number:

Email Address:

Email Address:

Attach additional sheets as necessary to include names and contact information of all attorneys and self-represented litigants.

STATE OF NORTH CAROLINA
JUDICIAL DISTRICT 22B
COUNTY OF DAVIE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
22 R 114

ADMINISTRATIVE ORDER

Pursuant to Rule 2 and Rule 22 of the North Carolina General Rules of Practice for District and Superior Court Courts, the local rules regarding remote hearings for Judicial District 22B, County of Davie, are hereby ratified and remain in effect until further notice.

ENTERED in chambers on the 15th day of August, 2022.



MARK E. KLASS
SENIOR RESIDENT SUPERIOR COURT JUDGE

FILED
JUL 16 2022
CLERK OF COURT
JUL 16 2022
JUL 16 2022

I.
JUDICIAL DISTRICT REMOTE HEARING PROCEDURES

Pursuant to G.S. § 7A-49.6, Judicial Officials may conduct almost all types of proceedings (except for jury trials) utilizing remote audio and video transmissions. The proceeding must allow the parties, the presiding Judicial Official, and all other participants to see and hear one another. Judicial Officials "must safeguard the constitutional rights of those persons involved in the proceeding and preserve the integrity of the judicial process." G.S. § 7A-49.6(a). Each party to any proceeding involving audio and video transmission must be able to communicate fully and confidentially with his or her attorney if the party is represented by an attorney. G.S. § 7A-49.6(b).

This order is not intended to limit the court's authority to receive remote testimony pursuant to statutes that otherwise permit it, including G.S. § 15A-1225.1, 15A-1225.2, 15A-1225.3, 20-139.1, 8C-1, Rule 616, 50A-111, and 52C-3-315(f). See G.S. 71-49.6(i).

As used in the order, the following words have the listed meanings:

"Civil Proceeding" means any civil action or special proceeding, including any juvenile proceeding or estate proceeding.

"Confidential Hearing" means any proceeding closed to the public by law or by court order.

"Contact Information" means a participant's name, physical address from which the participant is participating, e-mail address to be used in the Remote Hearing Invitation, and phone number where the participant may be reached at the time of the hearing.

"Contempt Hearing" means any hearing upon the issue of either civil or criminal contempt.

"Criminal Proceeding" includes both criminal offenses and infractions.

"Host," when used as a noun, means the clerk of superior court in the county where the Remote Hearing or Hybrid Hearing occurs, or his or her designee.

"Hybrid Hearing" means a hearing where at least one participant participates remotely using WebEx or other audio-visual application approved by the NCAOC, and two or more participants are co-located. For the purpose of this definition, only a party and their counsel who are co-located are deemed a single participant.

"Judicial Official" means a presiding magistrate, clerk, or judge of the General Court of Justice.

"Juvenile Delinquency Proceeding" means a proceeding involving a juvenile alleged to be undisciplined or delinquent pursuant to Chapter 7B of the General Statutes.

"In-Person Hearing" means a hearing where the Judicial Official and all participants are co-located in the same physical space.

"Minor Child" means any child under the age of eighteen years unless legally emancipated.

"Remote Hearing" means any hearing in which no participant is co-located with any other participant, and the Judicial Official and all participants are participating via WebEx or other audio-visual technology approved by the NCAOC. For the purpose of this definition, only a party and their counsel who are co-located are deemed a single participant.

"WebEx" means the primary application approved by the NCAOC for Remote and Hybrid Hearings.

1. In-Person Hearings are Presumed

The default hearing method for all case types, unless otherwise specified in this order or determined by the presiding Judicial Official, will be In-Person Hearings. At any time prior to or during an In-Person Hearing, the Judicial Official retains the discretionary authority to conduct these hearings by Remote Hearing in accordance with G.S. § 7A-49.6.

a. Civil Proceedings

Although In-Person Hearings are presumed in Civil Proceedings, a party or parties may request a Remote Hearing by providing a motion to the Clerk of Court in District Court matters or the Court Coordinator in Superior Court matters *at least five days* before the hearing and serving the other parties with the motion. The motion shall describe the reason for the request, and the physical location(s) of the individual(s) while participating. Criminal and civil jury trials are not permitted to be conducted entirely remotely, except for witness testimony and jury management functions, as described in Section 9 of this order.

b. Criminal or Juvenile Delinquency Proceedings

Although In-Person Hearings are presumed in a Criminal Proceeding or Juvenile Delinquency Proceeding, a party or attorney may request a Remote Hearing by providing notice to the court and notifying the Clerk of Court *at least five days* before the hearing and serving other parties with the motion. A Criminal Proceeding or Juvenile Delinquency Proceeding shall not proceed via a Remote Hearing except as authorized by G.S. § 7A-49.6(e) or as otherwise permitted by law.

Specifically, a criminal defendant or a juvenile alleged to be delinquent has right to be present and a constitutional right to confront witnesses during any material portion of the proceeding. When a criminal defendant's or juvenile's right to confront witnesses or be present is implicated, G.S. § 7A-49.6(e) provides that the court must obtain a knowing, intelligent, and voluntary waiver of the applicable right(s) in order to conduct a Remote Hearing unless otherwise permitted by law.

Additionally, because Juvenile Delinquency Hearings are also Civil Proceedings, even when a juvenile consents to a Remote Hearing, all parties have a right to object to Remote Hearings pursuant to G.S. § 7A-49.6 (e) using the procedure outlined in § 1(a) above.

2. Contempt Hearings

Criminal contempt is a crime, and, therefore, the procedural and constitutional protections incident to criminal prosecution, including the right to be present and the constitutional right to confront witnesses, attach. See *O'Briant v. O'Briant*, 313 N.C. 432, 329 S.E.2d 320 (1985). In civil contempt when the alleged contemnor faces potential incarceration (which is always the case), many of the procedural and constitutional protections incident to criminal prosecution also attach, including the right of confrontation. Therefore, in order to proceed by Remote Hearing or Hybrid Hearing, the court must obtain a knowing, intelligent, and voluntary waiver of the alleged contemnor's rights pursuant to G.S. §7A-49.6(e) unless otherwise permitted by law.

If a contempt hearing proceeds by Remote Hearing or Hybrid Hearing and the Judicial Official finds contempt and orders the contemnor to a term of imprisonment, the contemnor must report to the Davidson County Detention Center as indicated in the order. If a term of imprisonment is ordered a copy of the contempt order shall be provided to the Davidson County Sheriff's Office. A contempt order requiring a contemnor to report to the Davidson County Detention Center at a specific date and time should include a Sheriff's return section for the Sheriff's Office to indicate whether the person reported as ordered or failed to appear. This provision does not prohibit the Judicial Official from having the contemnor taken into custody immediately pursuant to a commitment order directed to the Sheriff. The Sheriff's Office will notify the Clerk of the contemnor's failure to appear at the detention facility on the date and time ordered, and the Clerk shall notify a Judicial Official. A Judicial Official may issue an Order for Arrest, if authorized by law, or take such other action as the Judicial official deems appropriate in his or her discretion.

3. Hybrid Hearings

A presiding Judicial Official also has discretionary authority to conduct Hybrid Hearings in accordance with G.S. § 7A-49.6 so long as: (i) in Civil Proceedings, including Juvenile Delinquency Proceedings, any party has a right to object for good cause shown to the Hybrid Proceeding in accordance with the same procedures for objecting to Remote Hearings set forth in Section 1.a. above; and (ii) in Criminal Proceedings and Juvenile Delinquency Proceedings in which the right to confront witnesses or be present is implicated, the defendant or juvenile provides a knowing, intelligent, and voluntary waiver of the applicable right(s), unless otherwise provided by law, as provided in Section 1 above. Hybrid Hearings are specifically permitted by law in Criminal Proceedings when certain conditions are satisfied. See, e.g., G.S. § § 15A-1225.1 9 (child witness remote testimony) 15A-1225.2 (remote testimony by a witness with an intellectual or developmental disability), and 15A-1225.3 (forensic analyst remote testimony); *State v. Seelig*, 226 N.C. App. 147 (2013) (allowing a witness's remote testimony during a criminal jury trial because the witness could not travel due to health reasons).

A party may request a Hybrid Hearing by providing a motion to the Clerk of Court in District Court matters and Superior Criminal Court matters or the Court Coordinator in Superior Civil Court matters *at least five days* before the hearing and serving the other parties with the motion. The motion shall describe the reason for the request, the individuals who will appear in person, and for any individual appearing remotely, the physical location of that individual while participating and the individual's contact information. In addition, the party seeking the Hybrid Hearing shall certify that the remote individual is able to access the Hearing. Otherwise, the party shall propose a

suitable alternate location. The Judicial Official has the discretionary authority to conduct the hearing by Hybrid Hearing without the need to find good cause.

4. Scheduling/Hosting WebEx Hearings

Concurrent with the filing of a complaint, motion, or responsive pleading, attorneys and self-represented litigants must provide a valid email address to the Clerk of Court in District Court matters and in Criminal Superior Court matters and to the Court Coordinator in Civil Superior Court matters or certify that they do not have email access.

Consistent with G.S. § § 7A-95(c) and 7A-198(c), the Clerk of the Clerk's designee shall schedule and host WebEx proceedings in district and superior court. When scheduling the hearing, the Host shall follow the naming convention for the WebEx hearing as stated in Rule 17.2 of the Rules of Recordkeeping promulgated by the Director of the North Carolina Administrative Office of the Courts. (NCAOC).

The Clerk may also designate one or more co-hosts, either judge(s) and/or the Court Coordinator, for each proceeding scheduled, as provided by G.S. § § 7A-95(c) and 7A-198(c). The co-Host is authorized to begin, conduct, and record the hearing if the Host is not available. Any recording will automatically be saved in the WebEx account of the Host.

The Clerk, Court Coordinator, or judge will send the WebEx link to attorneys of record and self-represented litigants who have calendared cases. Each attorney or self-represented litigant is responsible for providing the WebEx link to his or her client(s), witness(es), and other interested individuals, as applicable. Each WebEx link shall also be published on the court calendar. If a public access link (e.g., a YouTube link for live streaming) is provided that is separate from the WebEx link used by parties and witnesses, spectators/media should access the hearing via the public access link.

5. Audio Visual Quality/Functionality

The Clerk of Court has the authority to designate a "Key Operator" because the Clerk is statutorily charged with operating electronic recording devices or designating someone else to do so under G.S. §§ 7A-95(c) and 7A-19(c).

The Clerk of Court will act as WebEx "Key Operator" pursuant to the NCAOC Rule of Recordkeeping 19.3 and may designate such deputy or assistant Clerks of Court to fulfill the role as deemed necessary and proper in the exercise of her/his discretion.

To ensure a quality recording and that all parties and the presiding Judicial Official can see and hear one another during the WebEx hearing, the audio equipment should be tested at least 30 minutes prior to the scheduled hearing by the Clerk or the Clerk's designee. The presiding Judicial Official reserves the right to conduct a pre-trial conference as needed for the purpose of ensuring the quality of the Remote Hearing.

6. Decorum and Etiquette in Remote Hearings and Hybrid Hearings

The decorum of a Remote Hearing or Hybrid Hearing shall be the same decorum as an In-Person Hearing conducted in a courtroom (e.g., eating, drinking, smoking, and profanity are prohibited). An

attorney, party, or witness participating remotely in a Remote Hearing or Hybrid Hearing should have an appropriate background and a suitably quiet location. Attorneys are bound by the same rules of dress and decorum in Remote Hearings and Hybrid Hearings as they are for In-Person Hearings. Business attire or business casual attire shall be appropriate dress for parties and witnesses during a Remote Hearing or Hybrid Hearing.

All attorneys and parties are encouraged to access the Remote Hearing or Hybrid Hearing at least 10 minutes prior to the scheduled start time of the hearing. The court shall have discretion to deny entry to a hearing if a party is not present at the appointed time.

Attorneys and self-represented litigants shall identify themselves before speaking. During a Remote Hearing or Hybrid Hearing, attorneys and parties who are not testifying or speaking should mute their microphones. The Host or co-Host reserves the right to "mute" a party or attorney who fails to mute themselves if it causes feedback, echoing, or is otherwise noisy, disruptive, or distracting. If more than one person in the same location will be participating remotely in the Remote Hearing or Hybrid hearing, they must (i) share a device, (ii) ensure proper muting to avoid audio malfunction, or (iii) participate from separate rooms to ensure audio quality.

7. Confidential Attorney-Client Communications During Remote Hearings and Hybrid Hearings

If an attorney and client are participating in a Remote Hearing or Hybrid Hearing from separate locations, they may communicate privately, for example via text message or email, during the hearing, provided, however, parties may not communicate with counsel while they are testifying via any mechanism or medium other than the audio video technology seen and heard by all other participants, unless specifically permitted by the court to communicate with his or her attorney and cannot do so by text message or email, the presiding Judicial Official should be informed, and he or she shall permit such confidential communication, by enabling a breakout session through the WebEx, taking a break to allow for telephonic communication, or such other appropriate means.

The WebEx "chat" feature should not be used for attorney-client communications because, if the hearing is recorded, all chats are also recorded, including "private" chats between two individuals. Attorneys and parties are hereby notified that chats may be recorded and will not be reminded at a hearing. For this reason, all are encouraged not to use the "private" chat feature of WebEx, but rather to request a breakout session or a break in the proceeding to allow for attorney/client communication using the attorney's own mobile phone, email, or some other method to ensure private communication. Attorneys should review Rule 1.6 of the Revised Rules of Professional Conduct as it may apply to communications with clients via various technological media during proceedings conducted via audio and video transmission.

8. Exhibits and Evidence

Failure to comply with the provisions set out regarding exhibits and evidence may result in a proposed exhibit not being considered, a continuance of the hearing, or other action in the discretion of the presiding Judicial Official.

a. Testimony

Pursuant to G.S. §7A-49.6(a), a remote proceeding must allow the parties, the presiding Judicial Official, and all other participants to see and hear one another.

The Clerk or the presiding Judicial Official shall administer oaths to witnesses during a remote proceeding. Affirmation may be used in lieu of swearing a witness. The person administering the oath must be able to see and hear the witness and the person taking the oath must be able to see and hear the official administering the oath.

Witnesses should be in a room alone when testifying in a Remote Hearing or a Hybrid Hearing, when feasible. Parties may be accompanied by their attorney if the attorney and party so choose. If a person will be in the room with a testifying witness, the attorney or witness shall advise the presiding Judicial Official prior to the witness' testimony. No person, including an attorney, may communicate with a witness about the witness' testimony while the witness is testifying via any mechanism or medium other than the audio and video technology seen and heard by all other participants, unless specifically permitted by the court to communicate privately during testimony.

If, while testifying, a witness wishes to communicate confidentially with his or her attorney, the presiding Judicial Official should be informed, and he or she may permit such confidential communication, by enabling a breakout session through the WebEx, taking a break to allow for telephonic communication, or such other appropriate means.

The presiding Judicial Official shall prescribe the manner in which and the terms upon which a Minor Child's testimony may be taken remotely and shall prescribe the appropriate location for the testimony and whether any third party may be present with the Minor Child.

b. Exhibits

Attorneys and self-represented litigants shall list all exhibits to be offered at a hearing on an exhibit log and provide copies of documentary exhibits and photographs of tangible exhibits to the other parties 5 business days prior to the hearing. All exhibits must be pre-marked for identification purposes. Attorneys and self-represented litigants are not required to provide exhibits to the other parties if doing so would disclose trial strategy or trial preparation.

Each party must deliver either a hard copy or an electronic copy of all pre-marked, proposed exhibits to the Clerk of Court in a District Court matter or a Superior Criminal Court matter or to the Court Coordinator in a Superior Court civil matter *at least five days* prior to the hearing. This includes both documents provided to the other parties and those submitted only to the Clerk, as described below. Exhibits not delivered prior to the hearing may be accepted in the discretion of the presiding Judicial Official.

Special care should be taken to preserve confidentiality when confidential records are stored or transmitted electronically. Ideally, confidential records in electronic format should be encrypted in transit and at rest. See, e.g.,

<https://www.americanbar.org/new/abanews/publications/youraba/2019/october-2019/remember-your-ethical-duties-when-it-comes-to-encryption/>.

Exhibits must be provided to the Clerk in District Court matters and Superior Criminal Court matters five business days before the court session. The pre-marked exhibits must be provided

in an envelope (case number on the outside of the envelope) and contain an exhibit log. The entirety of this submission shall not be made a part of the file and shall not be disclosed to anyone except appropriate judicial officials, absent consent of the submitting party. This rule is intended to ensure the clerk has exhibits that may be admitted into evidence during a remote hearing, yet at the same time preserve a party's ability to prevent disclosure of trial strategy and tactics.

Exhibits must be provided in a physical medium that the clerk can accept and retain (e.g., documents shall be printed out and in paper form, photos may be printed or on a disc or flash drive, and videos shall be on a flash drive, DVD, or other medium capable of retention). Exhibits that are admitted during the hearing that are not submitted to the Clerk prior to the hearing must be provided to the Clerk within 3 business days after the court session concludes in the same format as offered into evidence in the remote proceeding (e.g., documents shall be printed out and in paper form, photos may be printed or on a disc or flash drive, and videos shall be on a flash drive, DVD, or other medium capable of retention). Any non-documentary exhibit offered into evidence in a remote hearing (e.g., by displaying it on camera for all participants) shall be delivered to the clerk as presented and in a container provided by the party and appropriate for long-term preservation of the exhibit. The Clerk has no responsibility to take custody of or retain exhibits that are neither offered nor admitted.

Unless the court has ordered that some other entity retain custody of an exhibit, any exhibit offered or admitted into evidence which was admitted, but which was not provided to the Clerk prior to the commencement of the proceeding, must be submitted to the Clerk not more than five business days after the court session concludes. The Clerk has no responsibility to take custody of or retain exhibits that are neither offered nor admitted. The pre-marked exhibits must be provided in an envelope (with the case number affixed to the outside of the envelope) and contain an exhibit log. Exhibits must be provided in the physical medium that the Clerk can accept and retain and in the same format as offered into evidence in the remote proceeding (e.g., documents shall be printed out and in paper form, photos may be printed or on a disc or flash drive, and videos shall be on a flash drive, DVD, or other medium capable of retention). Any non-documentary exhibit offered into evidence in a remote proceeding (e.g., by displaying it on camera for all participants) shall be delivered to the Clerk as presented and in a container provided by the party and appropriate for long-term preservation of the exhibit.

The presiding Judicial Official may choose, but is not required, to inquire if all exhibits a party intended to introduce as evidence have been considered by the court at the conclusion of the hearing.

c. Displaying documents during Remote Hearings and Hybrid Hearings

Attorneys and self-represented litigants may display digital exhibits during a Remote Hearing or Hybrid Hearing using the "share" feature with permission of the presiding Judicial Official. Prior to displaying confidential exhibits (e.g., juvenile records), the attorney or self-represented litigant shall inform the presiding Judicial Official, who will then ensure that only those parties authorized to access the documents are allowed to observe the confidential records. Presentation of confidential exhibits may require either exclusion of non-participants from the Remote or Hybrid Hearing or some other mechanism for exchanging those exhibits among the parties.

If the proceeding is one that is open to the public, then the presiding Judicial Official must facilitate access to the proceeding by the public and the media as nearly as practicable to the access that would be available were the proceeding conducted in person in accordance with G.S. § 7A-49.6(g), while also protecting confidential information, such as juvenile case records, displayed during the Remote or Hybrid Hearing.

9. Jury Proceedings

Criminal and civil jury trials are not permitted to be conducted remotely, except for witness testimony and jury management functions, as described below.

a. Civil Jury Proceedings

A witness in a civil jury proceeding may testify remotely if the presiding Judicial Official finds that good cause exists for doing so under the circumstances in accordance with G.S. §7A-49.6(c) or as otherwise provided by law. Any party seeking to solicit witness testimony remotely shall file with the court and serve on the other parties pursuant to N.C. R. Civ. P. 5 *at least five days* prior to the hearing, a motion setting forth the specific basis of the request for remote testimony. The Judicial Official shall consider the request and make a written or recorded determination as to whether the party has shown good cause to permit the witness to testify remotely. There is no statutory authority to make this good cause determination *ex parte*, so procedures under N.C. R. Civ. P. 7(b) shall be followed. Only if the presiding Judicial Official finds that the party has demonstrated good cause for the request, may the witness testify remotely. If an emergency arises and the requesting party is unable to provide proper notice as outlined above, the requesting party may make the request orally in accordance with N.C. R. Civ. P. 7(b). Both the oral motion and the ruling on the motion should be recorded.

b. Criminal Jury Proceedings

A witness in a Criminal Proceeding may only testify remotely in accordance with G.S. § 7A-49.6(e), which provides: "Except as otherwise permitted by law, when the right to confront witnesses or be present is implicated in criminal . . . proceedings, the court may not proceed by audio and video transmission unless the court has obtained a knowing, intelligent, and voluntary waiver of the defendant's . . . rights."

Hybrid Hearings are permitted by law in Criminal Proceedings when certain conditions are satisfied. *See, e.g.*, G.S. §§15A-1225.1 (child witness remote testimony), 15A-1225.2 (remote testimony by a witness with an intellectual or developmental disability", and 15A-1225.3 (forensic analyst remote testimony); *State v. Seelig*, 226 N.C. App. 147 (2013) (Allowing a witness's remote testimony during a criminal trial because the witness could not travel due to health reasons).

10. Record of Hearing/ Official Transcript

As provided in G.S. § 7A-95(c) and 7a-198(c), the Clerk of Court, the Clerk's designee or the court reporter will crate a record of the court proceeding via the Liberty Recording System (operated by the

Clerk or the Clerk's designee), WebEx recording (operated by the Clerk or the Clerk's designee), and/or by one of several techniques employed by court reporters. The Clerk, as custodian of each of these types of recordings, shall maintain and preserve each recording made by the Clerk, the Clerk's designee, or the court reporter pursuant to G.S. §§ 7A-95(c) and 7A-198(c). During a Hybrid Hearing, it is especially important to ensure that all participants are being clearly recorded, which may require using a combination of the Liberty Recording System, the WebEx recording, and/or court reporter technique (if applicable). The court reporter maintains the responsibility for preparing the official transcript from the recording(s) prepared by the court reporter, Liberty recording, and/or WebEx recording. Only a person on the NCAOC Court Reporters and Approved Transcriptionist List may prepare the official transcript from the recording(s) prepared by the court reporter, Liberty recording, and/or the WebEx recording.

Each individual Confidential Hearing must be a separate recording in WebEx.

11. Access to WebEx Recordings

WebEx recordings of proceedings are public record unless the recordings are sealed by the court or confidential by law (e.g., involuntary commitment hearings, juvenile abuse, neglect and dependency proceedings, and Juvenile Delinquency Proceedings). WebEx recordings include the recorded audio, video, chats, and other information. Presiding Judicial Officials should keep in mind that most WebEx recordings are public record when considering whether to allow Remote Hearings or Hybrid Hearings involving police informants, minor children, jurors, sensitive family matters, etc.

Confidential WebEx recordings may only be provided to a requesting party as permitted by law. Sealed WebEx recordings may only be provided to a requesting party as permitted by order of the court.

12. Public Access

The public has a right to attend court proceedings unless a proceeding is confidential by law or the presiding Judicial Official has closed the proceeding. If the proceeding is one that is open to the public, access to a Remote Hearing or Hybrid Hearing must be provided as nearly as practicable to the access that would be available were the proceeding conducted in person pursuant to G.S. §7A-49.6(g).

To facilitate public access to a Remote Hearing, each WebEx link shall be published on the court calendar for the session. Any person who wishes to obtain access to a hearing may also contact the Clerk of Court in District Court matters and Superior Criminal Court matters at 336-242-6702 and District or Superior Court Civil matters at 336-242-6704 or the Court Coordinator in Superior Civil Court matters at 336-242-6862 *at least five business days* prior to the hearing to obtain a link to the WebEx proceeding. All spectators must access the hearing via the appropriate hearing link at the time set for the hearing. If a public access link (e.g., a YouTube link for live streaming) is provided that is separate from the WebEx link used by parties and witnesses, spectators/media should access the hearing via the public access link. For the purpose of this order, a spectator is defined as any person or entity who is not a hearing participant (e.g., party, witness).

Absent approval by the presiding Judicial Official under Rule 15 of the General Rules of Practice, the parties, attorneys, witnesses, spectators, public and media shall refrain from making any recordings, videos, or photographs of any hearing, including Remote Hearings and Hybrid Hearings. The presiding Judicial Official may permit or prohibit "electronic coverage" and "electronic media coverage" as provided in Rule 15 of the General Rules of Practice. Failure to comply with a Judicial official's

prohibition of electronic coverage or electronic media coverage may result in ejection from the hearing and appropriate sanctions to include contempt. Rule 15(i) of the General Rules of Practice provides that recordings by the media or the public permitted by the court, if any, including film, video tape, still photographs or audio reproductions shall not be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent and collateral thereto, or upon any retrial or appeal of such proceedings.

Spectator cameras may be enabled, but microphones shall be muted during any Remote Hearing. Spectators shall not speak or otherwise communicate with any party or witness during the hearing. Spectators shall not utilize the chat feature or interfere with the hearing in any way. The presiding Judicial Official will provide instructions to all parties and spectators to protect the integrity of the hearing. Once the presiding Judicial Official begins instructions for the participants, the WebEx hearing may be locked, and additional spectators may be prohibited from joining the hearing.

Any spectator, witness, or participant who violates orders given by the presiding Judicial Official pertaining to the use of WebEx, who contacts testifying witnesses or parties, who photographs, records, or videos the proceeding (without the permission of the presiding Judicial Official), or who disrupts the proceeding is subject to being ejected from the hearing and may not be allowed to rejoin the hearing in the presiding Judicial Official's discretion. They are also subject to appropriate sanctions to include contempt.

These limitations on spectator access are necessary to protect the integrity of the hearing and to ensure the hearing can proceed without reasonable interruption or delay. Further, the limitations protect the ability of the court and the parties to remotely conduct hearings without undue delay, interruption, or disruption while still granting the public's ability to attend the hearing.

13. Spoken Foreign Language Interpreters

The court shall ensure the rights of a person who needs a foreign language interpreter are protected prior to initiating a hearing. Requests for spoken foreign language court interpreters should be submitted to the Language Access Coordinator using the online request form at <https://www.nccourts.gov/request-for-spoken-language-court-interpreter>. Such requests should be submitted as soon as the attorney/party is aware of the need for an interpreter to allow sufficient time to schedule the interpreter.

If the interpreter cannot be adequately accommodated in a Remote Hearing or Hybrid Hearing, the proceeding shall be held in-person. If, at any time during a Remote Hearing, the interpretation cannot be conveyed to either the court or the party, the hearing shall be delayed to address interpretation or continued to another court session. Note: Sign language interpreters are not spoken foreign language interpreters and are instead addressed in Section 14.

14. Requests for Accommodations Under the Americans with Disabilities Act

The court shall ensure the rights of any individual that require a reasonable accommodation under the Americans with Disabilities Act. Reasonable accommodations are determined on a case-by-case basis and may include, but are not limited to, the use of licensed interpreters (e.g., sign language interpreters, deaf blind interpreters), periodic breaks, or captioning. Reasonable accommodation requests should be submitted to the Clerk of Superior Court (Disability Access Coordinator either in-person, at 336-242-

6707, by email at Davidson.DAC@nccourts.org or via online request form at <https://www.nccourts.gov/form/disability-access-request>. Such requests should be submitted as soon as the attorney/party is aware of the need for an accommodation to allow sufficient time to review the request and arrange for a reasonable accommodation.

If a reasonable accommodation cannot be provided in a Remote Hearing or Hybrid Hearing, the proceeding shall be held in-person. If, at any time during a Remote Hearing, the reasonable accommodation can no longer be provided, the hearing shall be delayed to address the reasonable accommodation or shall be continued to another court session.

STATE OF NORTH CAROLINA

File No. _____

In The General Court Of Justice

☐ District ☐ Superior Court Division_____
County

STATE VERSUS		WAIVER OF PERSONAL APPEARANCE AND CONSENT TO AUDIO-VIDEO PROCEEDING	
<i>Defendant Name</i>			
<i>Additional File No.(s) And/Or Offense(s)</i>			
<i>Date Of Proceeding</i>	<i>Location Of Defendant</i>	<i>Nature Of Proceeding (e.g. motion hearing, probable cause hearing, plea, sentencing hearing)</i>	
<i>Attorney For State</i>	<i>Location Of State's Attorney</i>	<i>Attorney For Defendant (if represented)</i>	<i>Location Of Attorney (if represented)</i>
NOTE TO CUSTODIAN/COUNSEL: Complete all fields above for the case(s) for which this remote audio-video proceeding is conducted before the defendant's execution of the waiver below. Sign the waiver as witness below after defendant has executed the waiver. Upon completion of the proceeding, deliver this waiver along with any other documents resulting from the audio-video proceeding to the clerk's office for execution by the presiding official.			
ACKNOWLEDGMENT OF RIGHTS AND WAIVER			
As the undersigned defendant in this action, I freely and voluntarily declare that: <ul style="list-style-type: none"> I have been advised of my right to appear in a courtroom and be personally present for the proceeding described above; I have been advised that I am not required to waive my right to be present, and if I do not waive that right, my case will not be unreasonably delayed; I have been advised that I have the right to appear in court for the purpose of confronting and cross-examining any witnesses who may testify in this proceeding; If represented by an attorney, I have been afforded the ability to consult privately with my attorney and understand that I will be able to consult with my attorney privately during this proceeding; If represented by an attorney, I have had the opportunity to discuss this right to personal appearance with my attorney; and I fully understand and appreciate the consequences of my decision to waive the right to appear personally in court for the proceeding described above. 			
I therefore freely, voluntarily, and knowingly waive my right to be present in the courtroom for this proceeding, including for the purpose of confronting and cross-examining any witnesses who may testify, and I consent to participate in this proceeding by audio and video transmission.			
<i>Date</i>	<i>Signature of Defendant</i>		
<i>Name Of Witness</i>	<i>Signature of Witness</i>	<input type="checkbox"/> <i>Counsel for Defendant</i> <input type="checkbox"/> <i>Other (specify)</i> _____	
CERTIFICATE OF JUDICIAL OFFICIAL			
I certify that the above named defendant was advised on the <i>Date Of Proceeding</i> above of the right to appear in a courtroom and be personally present for the proceeding described above; that he/she was advised that his/her case would not be unreasonably delayed if that right was not waived; that he/she was advised of the right to appear in court for the purpose of confronting and cross-examining any witnesses who may testify; that he/she understands and appreciates the consequences of his/her decision to waive the right to personal appearance; and that the defendant voluntarily, knowingly and intelligently waived the right to personal appearance and consented to conduct the proceeding described above by audio and video transmission.			
<i>Location Of Judicial Official During Proceeding Described Above</i>			
<i>Date</i>	<i>Name of Judicial Official (type or print)</i>	<i>Signature of Judicial Official</i>	<input type="checkbox"/> <i>District Court Judge</i> <input type="checkbox"/> <i>Superior Court Judge</i>

NOTE TO PRESIDING OFFICIAL: Upon verification of the information above that identifies the case(s) and proceeding conducted by audio and video transmission, complete this signature section and file with the clerk of superior court for the county in which the case(s) is pending.

STATE OF NORTH CAROLINA

File No. _____

County _____

In The General Court Of Justice

☐ District ☐ Superior ☐ Before The Clerk ☐ Small Claims

IN THE MATTER OF:

Name And Address Of Plaintiff / Petitioner / State

Email Address of Plaintiff / Petitioner / State

Name And Address Of Defendant / Respondent

Email Address of Defendant / Respondent

NOTICE AND MOTION FOR

☐ FULLY REMOTE HEARING

☐ HYBRID REMOTE HEARING

Nature of Hearing: _____

Date of Hearing (if scheduled): _____

NOTICE AND MOTION FOR REMOTE HEARING TO OPPOSING PARTY

The undersigned hereby requests that the hearing referenced above be conducted, or partially conducted, via audio and video transmission, pursuant to G.S. 7A-49.6 on the grounds listed below. If a hybrid hearing is requested, specify which participant(s) wants to participate remotely, their physical location while participating, and the contact information for the participant(s).

I ☐ have ☐ have not consulted the opposing party / attorney regarding this motion. The opposing party / attorney ☐ takes no position on a remote hearing ☐ agrees to a remote hearing ☐ desires an in-person hearing. (Note: An objection to the hearing being conducted via audio and video transmission must be filed within _____ days of the service of this motion.) The estimated time needed for the hearing on this motion is: _____.

Name Of Person Requesting Remote Hearing

Date

Signature

Email Address:

☐ Plaintiff or Petitioner / Attorney

☐ Defendant or Respondent / Attorney

☐ District Attorney / Assistant DA

☐ Other, _____

☐ This Motion for Remote Hearing is scheduled for hearing:

Date of Hearing

Time Of Hearing

☐ AM ☐ PM

Location of Hearing

CERTIFICATE OF SERVICE

I certify that on this date, a copy of this Motion for Remote Hearing was served by:

☐ first class mail at the address(es) as follows:

☐ plaintiff / petitioner / attorney for plaintiff or petitioner _____

☐ defendant / respondent / attorney for defendant or respondent _____

☐ district attorney _____

☐ personally, delivering a copy to the

☐ plaintiff / petitioner / attorney for plaintiff or petitioner

☐ defendant / respondent / attorney for defendant or respondent

☐ district attorney

☐ Other _____

Date

Signature

☐ Plaintiff or Petitioner / Attorney

☐ Defendant or Respondent / Attorney

☐ District Attorney / Assistant DA

☐ Other, _____

ORDER ON MOTION FOR REMOTE HEARING

☐ This Motion was reviewed by the court out of session. OR ☐ After a hearing on the motion, the Court ☐ finds ☐ does not find that the hearing shall be held via audio and video transmission.

Therefore, it is ORDERED that this hearing shall be held on _____ at _____ ☐ In person in Courtroom _____ ☐ fully remote via audio video transmission ☐ hybrid remote via audio video transmission. If the hearing is to be held via fully remote or hybrid remote means, the following participant(s) is / are permitted to testify remotely _____ from (specify the location(s) from which the participant(s) is / are testifying) _____.

Date

Signature

☐ Superior Court Judge

☐ District Court Judge

☐ Magistrate

☐ Clerk of Superior Court

☐ Asst. CSC

☐ Designee _____

NOTE: G.S. 7A-49.6 grants each presiding judicial official discretionary authority to conduct civil proceedings by remote audio and video transmission without the need to find good cause UNLESS a party objects.

STATE OF NORTH CAROLINA

File No. _____

_____ County

In The General Court Of Justice

☐ District ☐ Superior ☐ Before the Clerk ☐ Small Claims

IN THE MATTER OF:

Name And Address Of Plaintiff / Petitioner / State

Email Address of Plaintiff / Petitioner / State

Name And Address Of Defendant / Respondent

Email Address of Defendant / Respondent

OBJECTION TO REMOTE HEARING

Nature of hearing: _____

Date of Hearing (if scheduled): _____

OBJECTION

The undersigned hereby objects to the hearing referenced above being conducted, or partially conducted, via audio and video transmission, pursuant to G.S. 7A-49.6(d) on the grounds listed below:

I ☐ have ☐ have not consulted the opposing party / attorney regarding this objection. The opposing party / attorney ☐ takes no position on a remote hearing ☐ desires a remote hearing ☐ agrees to an in-person hearing. The estimated time needed for the hearing on this objection is: _____.

Name Of Person Objecting

Date

Signature

Email Address:

☐ Plaintiff or Petitioner / Attorney☐ Defendant or Respondent / Attorney☐ District Attorney / Assistant DA☐ Other: _____☐ This Objection to a Remote Hearing is scheduled for hearing:

Date of Hearing

Time Of Hearing

☐ AM ☐ PM

Location of Hearing

CERTIFICATE OF SERVICE

I certify that on this date, a copy of this Objection to a Remote Hearing was served by:

☐ first class mail at the address(es) shown as follows:☐ plaintiff / petitioner / attorney for plaintiff or petitioner _____☐ defendant / respondent / attorney for defendant or respondent _____☐ district attorney _____☐ personally, delivering a copy to the☐ plaintiff / petitioner / attorney for plaintiff or petitioner☐ defendant / respondent / attorney for defendant or respondent.☐ district attorney.☐ Other: _____

Date

Signature

☐ Plaintiff or Petitioner / Attorney☐ Defendant or Respondent / Attorney☐ District Attorney / Assistant DA☐ Other: _____

ORDER ON OBJECTION TO REMOTE HEARING

☐ This Objection was reviewed by the court out of session. OR ☐ After a hearing on the Objection, the Court ☐ finds ☐ does not find that the moving party has demonstrated good cause that the hearing should not be held via audio and video transmission.

Therefore, it is ORDERED that this hearing shall be held on _____ at _____ ☐ in person in Courtroom _____ ☐ fully remote via audio video transmission ☐ hybrid remote via audio video transmission. If the hearing is to be held via fully remote or hybrid remote means, the following participant(s) is / are permitted to testify remotely _____ from (specify the location(s) from which the participant(s) is / are testifying) _____. The participant(s) must provide contact information to the Court prior to the hearing.

Date

Signature

☐ Superior Court Judge☐ District Court Judge☐ Magistrate .☐ Clerk of Superior Court☐ Assl. CSC☐ Designee _____