



25TH JUDICIAL DISTRICT RULES OF COURT

ARTICLE 5.

RULES FOR FAMILY COURT – DOMESTIC CIVIL CASES

Article 5. Rules for Family Court – Domestic Civil Cases

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Article 5. Rules for Family Court – Domestic Civil Cases

Dom Rule 1. Application / Purpose / Scope / Overview.

- 1.1 **Application.** These rules and all amendments thereto will be applicable to the 25th Judicial District and will be filed with the Clerk of Superior Court of Burke, Caldwell and Catawba Counties. They may be cited accordingly as the 25th Judicial District Family Court Rules – Domestic Civil Cases. These rules supersede and replace all previous local rules and Administrative Orders controlling actions in the Domestic court. **The effective date of the rules contained herein is 8/1/2013.**
- 1.2 **Purpose and Scope.** The purpose and scope of these rules is to implement in the 25th Judicial District the principles of a unified Family Court, including a comprehensive case management plan for all domestic cases. These principles include: assignment of cases involving a family to one judge, establishing and maintaining case management of all cases, implementing strict deadlines for disposition of such cases, encouraging specialization of judges through training and experience, utilizing and referring families to community resources, encouraging less adversarial resolution procedures for family court issues, creating a more family friendly system and maintaining fairness and due process in the implementation of these goals.
- 1.3 **Overview.** From the moment of filing to the time of disposition cases are aggressively managed by the Court and case management staff. Time guidelines are established and cases are resolved as quickly as possible using accepted case management principles. Issues are referred to Alternative Dispute Resolution programs to maximize the possibility of resolution through non-adversarial procedures. The parties are provided information about techniques and resources available in the community to lessen the negative effects of family disputes on the parties and their children. Conferences are held to narrow issues and promote greater efficiency in the use of court resources.
- 1.4 **Definitions.**
 - a) **Alternative Dispute Resolution (ADR)** - A procedure whereby specially trained mediators attempt to assist parties to resolve family financial issues such as child support, equitable distribution and alimony without litigation.
 - b) **Child Support Enforcement / IV-D** - The county agency that handles all IV-D child support cases. It also acts to establish paternity as well as to establish, enforce, modify, collect and disburse child support in non IV-D cases upon request of the payee parent or upon Order of Court.
 - c) **Child Support Guidelines** - The formula and amount set forth by Statute that is used to determine the monthly financial obligation of each parent for their minor child or children.
 - d) **Clerk** - The Clerk of Superior Court or any Assistant Clerk or Deputy Clerk.
 - e) **Collaborative Law** - A procedure in which a husband and wife who are separated and are seeking a divorce and their attorneys agree to use their best efforts to resolve their disputes by mutual agreement without a trial. In the event of an

irreconcilable dispute, neither party is allowed to use the same attorneys involved in any subsequent contested action.

- f) Child Custody Case - An action or motion in the cause which includes an issue of establishing or modifying a child custody or child visitation order.
- g) Child Custody Mediation - The process provided for by §N.C.G.S. 7A-494, 7A-495 and 50-13.1., in which the parties in a dispute involving child custody, child visitation or other parenting issues, meet with a qualified mediator to attempt to resolve their issues and attempt to enter into a Parenting Agreement. All cases involving child custody and/or child visitation issues are ordered by the Court to attend mediation.
- h) Custody / Visitation Mediator(s) - Judicial staff employed by the Chief District Court Judge to mediate the child custody and child visitation cases assigned to Family Court Judges.
- i) Domestic Case - Any claim for absolute divorce, divorce from bed and board, annulment of marriage, child custody/visitation, child support, alimony, post-separation support, equitable distribution, interim distribution of marital property, domestic violence, paternity or related enforcement action. This includes cases involving claims under §N.C.G.S. Chapter 50, and all other cases involving family law disputes, such as breach of a separation agreement if that breach involves their minor children, property distribution or the payment of monies in the settlement of issues pursuant to §N.C.G.S. Chapter 50. This does not include domestic violence cases filed pursuant to Chapter 50B (using 50B forms), civil no-contact cases filed pursuant to Chapter 50C (using 50C forms) or juvenile cases filed pursuant to Chapter 7B. (**Note:** the Court in its discretion may consolidate Chapter 50 B or Chapter 50 C cases with a pending Family Court case)
- j) Equitable Distribution - The issue of equitable distribution of marital property N.C.G.S. § 50-20. At any time after a husband and wife begin to live separate and apart from each other, a claim for equitable distribution may be filed and adjudicated either as a separate civil action or together with any other action brought pursuant to Chapter 50 of the General Statutes or as a Motion in the Cause as provided by §N.C.G.S. 50-11 (e) or (f).
- k) Equitable Distribution Affidavit - The local form (also known as Form G - (FC 088 – Revised 7/23/13 electronic excel version) is required to be filed in equitable distribution cases (§N.C.G.S. 50-21). See Dom Rule 5.1 (f)(1). Also short form FC 030 – ED-EZ New 3/1/11) may be used in lieu of Form G (FC 088 – Revised 7/23/13).
- l) Ex Parte Communication - A communication with the court, either written or verbal, by one party without the other party being present and/or without the other party's consent.
- m) Family Court Administrator - RESERVED.
- n) Family Court Case Coordinator - Judicial staff person in each county employed by the Chief District Court Judge. The case coordinator's primary responsibility is to manage the domestic cases assigned to Family Court Judges. The case coordinator assigns a Family Court Judge to each domestic case, schedules all court hearing dates, manages a tracking system of pending cases, i.e., disposition of issues, pending orders and any other related correspondence necessary for expediting

cases. The case coordinator is responsible for entering all data into CaseWise as required by the Administrative Office of the Courts for statistical reporting.

- o) Family Court Case Management Notice - The Family Court Form FC001 (A,B,C) by county. The management notice is delivered the case coordinator by the party prior to filing certain domestic claims. The notice informs the parties of rights and obligations, indicates the assigned Family Court Judge and establishes future court events. The case coordinator reviews and signs the notice prior to the filing of any domestic claims. Inclusion of absolute divorce cases is the prevue of the family court judges and clerks in the county of filing. **Note: No other form other than the Family Court Case Management Notice will be used for scheduling purposes.**
- p) Family Court Judge - District Court Judge assigned to Family Court in a designated Family Court District to hear matters involving domestic issues.
- q) Family Financial Mediator - A neutral person who has specialized training in mediating cases. The mediator acts to encourage and facilitate the resolution of a pending domestic action and may be appointed by the judge or agreed upon by both parties.
- r) Initial Status Conference - The first hearing or case review by the assigned Family Court Judge to gather case information and set in place orders for subsequent court events. The initial status conference must be heard within state mandated timelines. All further conferences to determine the status of the case are set at the pleasure of the judge or as set by the case coordinator.
- s) Mediation - a non-adversarial process conducted by a mediator with the objective of helping the parties voluntarily settle their disputes.
- t) Parenting Agreement - An agreement reached between the parties in a child custody case regarding some or all of the issues involving child custody and/or child visitation as mediated by an AOC certified mediator in the Custody Mediation Program. If adopted by the court by a judge's signature, such agreement becomes a child custody order for all legal purposes.
- u) Ready Trial Calendar – Cases that have issues “ready” for trial may be marked by the case coordinator and managed in CaseWise. This ready calendar is a tool that aids the case coordinator in scheduling issues that are ready for trial within the required timelines for completion. The case coordinator may use pre-empt sequence numbers or event codes to maintain the Ready Trial Calendar. The Ready Trial Calendar is an option available to the case coordinator and may be used if needed to maintain continuous calendaring.

1.5 General Domestic Rules.

- a) Family Court forms, whenever possible, in the 25th Judicial District shall be uniform.
- b) The mailing of calendars, as required by statute, will include electronic mail. All calendars will be posted on the nccourts.org website and will be automatically provided to all litigants once they have subscribed to the nccourts.org website. All litigants are required to keep the clerk's office and the case coordinator informed of a functional e-mail address (**see Form A**) or a US postal address if no e-mail address is available. The Chief District Court Judge or his/her designee may exempt a litigant and require the use of the postal service for the delivery of calendars for a particular

attorney or litigant upon the showing of good cause. (*North Carolina General Rules of Practice, Rule 2(b) as set out in N.C.G.S. 7A-34*)

- c) Except in the case of an emergency, all requests for a continuance will be in writing and will be served upon opposing counsel or the opposing party if not represented by counsel. (*See §N.C.G.S. 1A-1, Rule 40(b).*) **Note:** Motions to continue should be made (five) 5 days prior to any trial term and as soon as conflict is known on a summary trial week. (Note: NC Supreme Court Rule 3.1 regarding Scheduling conflicts will apply)
- d) Any request for verbatim transcript of a hearing must be addressed to the civil clerk using form **AOC-G-114**.
- e) **Foreign Language interpreters** are only provided for Child Custody matters (child custody hearings and child custody mediation sessions). Indigent litigants are not entitled to an interpreter provided by and paid for by the State in matters of contempt or domestic violence matters. The clerk's office should set the OLAS (Office of Language Access Service) flag in the civil indexing system to identify these cases as language access cases. All persons providing interpreting services to Family Court for the Spanish language must be listed on an AOC certified interpreter list. Parties are responsible for securing and paying for any interpreter utilized in their case, unless covered by one of the exceptions above. Interpreters for languages other than Spanish must either be on the list provided by the AOC, referred by the AOC Court Services staff or have been approved by the presiding judge. All interpreters must comply with the Foreign Language Guidelines provided by the AOC and posted on the nccourts.org web site. For specific questions, please contact 919-890-1407. (olas@nccourts.org)
- f) **Deaf interpreters** - Arrangements and reimbursement of deaf interpreters must follow the State guideline(s) posted on the nccourts.org web site. Requests for deaf interpreters must be made to the Clerk of Court's office with sufficient advance notice to enable the clerk to secure an interpreter for each specific hearing date.
- g) At the discretion of the assigned judge, calendar call for trial weeks may be held a week or more prior to the beginning of the trial session. In lieu of calendar call the assigned judge or case coordinator may contact the parties by telephone to confirm a date and time certain for trial.
- h) **Proposed orders** drafted and sent to opposing parties must be responded to with written consent or exceptions within ten (10) days unless given an extension by the court. If the ten (10) day timeline has passed, the party who drafted the order may motion the court for intervention and court action. Likewise, if written response or exceptions is given, the party who drafted the order must respond within ten (10) days unless given an extension by the court. If the said ten (10) day timeline has passed, the party who is waiting on the return of the proposed order may contact the case coordinator for scheduling before the court and for further court action. (**See Dom Rule 2.11 regarding Orders and Judgments Finalized**).

- i) In the event of the death of a plaintiff or defendant in a pending case, the assigned judge shall designate the case “Inactive”. If appropriate and upon Motion of the Estate of the deceased litigant, the estate may be made a party and the case may be reopened to address any remaining financial issues.

Dom Rule 2. The Basic Process of Case Management.

2.1 The Filing Process.

- a) Cover Sheets and Pleadings. Unless exempted by statute or these rules, an original and one copy (filed with clerk and a copy to the case coordinator) of a completed AOC Cover Sheet will accompany the filing of any Complaint, Motion, Answer, other Pleading or Order as required by *Rule 5 of the General Rules of Practice*. Attorneys and parties shall exercise special care to indicate the existence of all issues in the pleadings upon which they wish to proceed. The Cover Sheet should also specify whether a party requests a jury trial on any issues. The attorneys shall indicate on the cover sheet any issue(s) they want the court to resolve and the clerk may rely on this information for data entry. The court shall review the pleadings with the parties/attorneys at the initial status conference or judicial review to verify that the data entered by the clerk and the prayer for relief is accurate and make any appropriate changes. The clerk shall assign a case number at the time of filing and all subsequent pleadings, filings, and correspondence between parties and/or their attorneys shall contain the proper case number. The Cover Sheet shall also include the address and telephone number of the party(ies). The addresses of the parties shall be keyed into the civil case processing system (VCAP) by the clerk as required by statute.
- b) Family Court Case Management Notice (FC 001 (A,B,C)). All new domestic cases and motions in the cause will be accompanied by the filing of a Family Court Case Management Notice. The management notice is prepared by the plaintiff or by the movant, submitted to the case coordinator for review and signature, and filed with the Clerk of Court. This includes but is not limited to motions in the cause on the issue of child custody. The exchange of information and forms between a filing party/attorney and the case coordinator may be by e-mail and/or by “fax” transmission. If for any reason a case coordinator is not available on the date of filing, the filing of the Family Court Case Management Notice may be delayed to the next business day during which a case coordinator is available. **EXCEPTIONS:** Claims for absolute divorce (with no other claims except change of name or incorporation of a separation agreement), domestic violence cases, IV-D cases, and UIFSA cases. Answers and/or counter claims filed in absolute divorce claims which deny a significant fact relevant to the divorce or raise a new issue shall include the filing of a Family Court Case Management Notice prepared by the responding party and shall be submitted to the case coordinator for review, scheduling of any court event(s) and for signature.
- c) Filing with the Clerk. Once a Family Court Case Management Notice has been reviewed and signed by the case coordinator, the pleadings and Family Court

Management Notice must be filed with the Clerk of Court within three (3) days or the case coordinator will be required to cancel any dates reserved by the requesting party.

- d) Sanctions. Opposing parties may motion the court for dismissal or other remedies for cases which are not properly filed with the court which include cases filed without a Family Court Case Management Notice signed by the case coordinator.

2.2 Judge Assignment - One Judge, One Family. With the exception of those cases mentioned in **Dom Rule 2.1 (b)** above, when filing a new domestic case and/or motion(s), the party seeking relief will provide a copy of the Cover Sheet to the case coordinator. The case coordinator will immediately assign the case to a Family Court Judge and schedule the matter for the next appropriate court event as provided by these rules. The case coordinator will review and sign a Family Court Case Management Notice. Those cases previously assigned or heard by a particular Family Court judge will be assigned to such judge.

2.3 Emergency and Ex Parte matters (New 2013). Emergency or Ex Parte matters may be heard by the assigned judge regardless of the court session in which the judge may be presiding. If the judge assigned to the case is not available to hear an Ex Parte or other emergency matter, any other Family Court Judge in that county may hear the matter. If no other Family Court Judge is available in the county, the matter may be heard by the Chief District Court Judge or by any judge designated by the Chief District Court Judge. The clerk or case coordinator may schedule Ex Parte reviews as necessary in their county.

NOTE: If a request for emergency or ex parte order is filed in an ongoing open file, the filing attorney shall notify the opposing attorney that he/she plans on seeking an ex parte order from the court. This notification shall include the date, time, location and judicial official the filing attorney will be meeting to obtain the ex parte order. (New 2013)

2.4 Case Management.

- a) Case Tracking. The Family Court Coordinators will establish and maintain a case tracking system. Coordinators will schedule Family Court cases for court events as appropriate based on the issues raised in the pleadings and these rules.
- b) Court Events. All pending claims will be scheduled for a court event from the time the matter is filed until placed on a Ready Trial Calendar or until an Order is entered resolving the claim.
- c) Attorneys Consulted. In order to avoid conflicts when setting dates and times for future court events, the court and/or the case coordinator will attempt to consult with the attorneys representing the parties for input in setting such dates and times.

2.5 Status Conferences.

- a) Scheduling. The case coordinator will schedule all equitable distribution and alimony claims for an Initial Status Conference **within ninety (90) days** of filing of the claim. Subsequent status conferences may be scheduled by the court and/or the case

coordinator until the matter is ready for a Final Pretrial Conference. The scheduling of Alternative Dispute Resolution sessions will not delay scheduling the matter for a Final Pretrial Conference.

- b) Initial Status Conference. The Initial Status Conference may be facilitated by the case coordinator, by correspondence, a conference call, or a court hearing as deemed appropriate by the assigned Judge.
- c) Purpose. The following tasks are to be accomplished at the Initial Status Conference:
 - 1. Give the court an abbreviated view of the case so the court may classify the case in terms of its complexity and anticipated resource needs;
 - 2. Check the accuracy of the cover sheet and pleadings to make sure that:
 - a) the parties' addresses are clearly noted;
 - b) all claims are accurately noted; and
 - c) jury trial requests are clearly and appropriately noted.
 - 3. Verify that the parties have complied with statutory requirements to file Affidavit of Status of Minor Child and list the last four digits of the Social Security numbers or partial Social Security numbers of children for child custody and child support claims;
 - 4. Make decisions about the most appropriate (ADR) Alternative Dispute Resolution Programs for a case;
 - 5. Appoint the ADR Mediator if one has not been chosen and set the date by which the ADR should be completed (not to exceed 210 days);
 - 6. Allow parties to file FC 030, ED-EZ affidavit or short form inventory affidavits in appropriate equitable distribution cases;
 - 7. The court shall establish a discovery plan pursuant to *Rule 26 (f) of the NC Rules of Civil Procedure* or enter other appropriate orders relating to discovery;
 - 8. In the event service has not been obtained at the time of the Initial Status Conference, the court may enter appropriate orders to set out alternative steps authorized by law to achieve service;
 - 9. Schedule subsequent status conferences as needed to evaluate settlement options/efforts and to direct the progress of the case pertaining to discovery issues and deadlines; expert witness appointment(s); timelines for task completion and any other preparatory steps necessary to move the matter to trial readiness; and
 - 10. Schedule the matter for a Pretrial conference as court dates are available and at the discretion of the case coordinator and/or assigned judge.
- d) Administrative Case Management. The Chief District Court Judge can intervene in cases as necessary for the purpose of expediting the progress of the case or to facilitate compliance with these rules.

2.6 Pretrial Conferences.

- a) Scheduling. Except as herein provided, all claims for child support, child custody, alimony and equitable distribution that are not resolved or settled by mediation or other alternative dispute resolution programs must have a Pretrial Conference before the matter can be scheduled for trial. The Pretrial Conference may be combined with any other court event to expedite cases or alleviate undue hardship for those who live outside the judicial district. Matters are placed on the Ready Trial Calendar upon completion of a Pretrial Conference if a trial date is not set. Matters not requiring a Pretrial Conference include, but are not limited to: uncontested divorces, hearings for emergency or temporary relief, attorney fees, domestic violence claims and contempt hearings. The assigned judge may choose to fulfill the requirements of the Pretrial Conference by correspondence with the parties or may choose to set the case on a calendar to conduct a Final Pretrial Conference in open court.
- b) Purpose. In general, the purposes of a pretrial conference may include executing a Pretrial Order, exploring settlement options, defining and organizing the order of presentation of evidence, identifying all witnesses and determining, as far as possible, the expected length of trial. The Pretrial Order should detail all stipulations between the parties and clearly designate all issues remaining for trial.

2.7 The Ready Trial Calendar / Scheduling Cases for Trial. Matters that are “ready” for trial may be calendared on the Ready Trial Calendar at a pretrial conference held for each claim. Priority will given based on the age of the claim and the time standards set for the disposition of type of claim. For each trial session, the case coordinator will prepare a trial calendar which will include a portion of the highest priority claims on the Ready Trial Calendar and other cases at the discretion of the case coordinator that can be reasonably addressed during the term. The number of cases that will be scheduled for trial will be determined by the case coordinator and the assigned judge. The case coordinator will continue to update the trial calendar as events occur affecting the order and times of cases scheduled during that court session.

2.8 Child Custody Mediation and Other Alternative Dispute Resolution Programs (ADR). All claims for child custody must first attempt mediation unless excused by the court. All claims for alimony, equitable distribution and breach of contract must attempt an alternative dispute resolution process unless excused by the court. Parties failing to participate in either program may be subject to sanctions by the court. Claims for child support and post separation support may be referred to alternative dispute resolution by the assigned judge or by consent of the parties.

2.9 Notice is the Responsibility of the Filing Party. It is the responsibility of the **filing party to give notice** to the opposing party or counsel of the date, time and place of court events set by the case coordinator and/or the court. Notice must comply with *these rules*; the *NC Rules of Civil Procedure* and a *properly prepared and signed Family Court Case Management Notice* to be effective. The Family Court Case Management Notice must be filed with the clerk within **three (3) days** of being signed by the case coordinator. It is important that the clerk and/or case coordinator be provided with current mailing addresses of the parties for the mailing of court documents.

2.10 Time Standards. Mediation, Alternative Dispute Resolution (ADR), discovery, trial and order preparation will be accomplished within the time deadlines established by the *NC Rules of Civil Procedure*; these rules or by the orders of the court. See specific rules as hereinafter set forth.

2.11 Orders and Judgments are Finalized (Revised 2013). In every Family Court case, all orders and judgments will be prepared by the court or counsel at the direction of the court and executed by the court within **thirty (30) days** of the completion of the trial or settlement of the claim(s). Unless otherwise ordered by the court, the party preparing an order or judgment will give the opposing counsel or opposing party (if the party appeared pro se) **ten (10) days** to review the order prior to submitting it to the court for signature. The reviewing party will immediately review the proposed order or judgment and respond within **ten (10) days** to the preparing counsel or party with consent or specific objections to the terms of the order. If a dispute arises as to what should or should not be included in the order or judgment, the parties will note their respective positions in writing when the matter is submitted to the court for signature. The court will then give further instructions as it deems appropriate regarding the completion of the order. The case coordinator will maintain a tracking system for this time requirement and will schedule the case on a Pending Order Docket, during any session, before the assigned or presiding judge. If the court finds that either party or counsel has failed to take reasonable measures to either prepare the order or cause the order to be signed, sanctions may be imposed for such failure by the assigned or presiding judge. Also see *Civil Rules of Procedures, Chapter 1A, Article 7 (Rules 54-63) regarding Judgments and Domestic Rule 2.12 herein* for rules relating to the Pending Order Docket.

2.12 Pending Order Docket. In every domestic case where an order is to be prepared by a party, counsel for a party or by the court, the matter will be scheduled on a Pending Order Docket during any session of court before the assigned or presiding judge. At the latest, this scheduling will be scheduled for the first term of court, **but no more than thirty (30) days after trial or settlement**. If the order is filed after the publication of the Pending Order Docket, the case coordinator will inform the presiding judge and remove the matter from the docket. If the order or judgment has not been filed prior to such time, both parties and their attorneys will appear on said court date to show good cause for the failure to have the order or judgment filed within the times prescribed by these rules or the court. (**See Dom Rule 2.11**). The judge presiding over the Pending Order Docket may:

- a) Allow additional time for the responsible party or attorney to prepare and file the order and reschedule the matter on the next Pending Order Docket before the assigned judge;
- b) Impose any appropriate sanction(s) on a party or attorney where good cause has not been shown;
- c) If it appears that other parties or attorneys need to appear to show cause for the delay in the entry of the order or to facilitate the entry of the order, the court may continue the case to the next Pending Order Docket and order their appearance;
- d) Enter any additional orders necessary to facilitate the preparation of the order;
- e) If it appears that the case has not been resolved, enter appropriate orders necessary to cause the matter to be mediated or tried as soon as possible;

- f) If the assigned judge is responsible for the preparation of the order, he/she shall take necessary steps immediately to complete the order. If additional administrative time is needed to prepare the order, the judge or the case coordinator will contact the Chief District Court Judge immediately for assignment to an administrative session to allow completion of the order.
- g) The Court may choose to have these files taken to the courtroom by the clerk. This decision will be determined by the court and the clerk's office.

2.13 Continuances. In general, continuance policies set forth in these local rules (**General Dom Rule 1.5(c)**) apply to Family Court cases. The time standards set forth under these rules place additional restrictions on such continuances. The burden is on the requesting party to contact the opposing party or counsel prior to submitting the motion. **Requests for continuances must be made in writing as required by §N.C.G.S. 1A-1 Rule 40 (b).** The request for continuance should be made (5) five days prior to any trial term and as soon as the conflict is known on summary terms. The requests are submitted to opposing party or counsel and then filed with the clerk and a copy is sent by fax or email to the case coordinator. The case coordinator will, if necessary, bring the request to the attention of the assigned judge. The continuance request should include information as to:

- a) whether the opposing party joins in or consents to the continuance;
- b) opposes the continuance;
- c) whether the opposing party or counsel could not be reached;
- d) or the opposing party or counsel did not respond to the continuance request.

Any party opposing a continuance has the burden of submitting a written response, if possible, to the case coordinator immediately upon receipt of the request for a continuance. If a matter is continued, the Order of Continuance will be served upon all parties and that order will serve as **notice** of the new court date. Hearings and conferences scheduled for a date and time certain may be rescheduled by the case coordinator or the assigned judge to an alternate date and time certain with proper notice to all parties. Wherever possible, the case coordinator will consult with the parties and/or their attorneys for date and time preferences to avoid conflicts.

2.14 Jury Trials. A demand for a jury trial applies to the following issues:

- a) divorce (date of separation at issue)
- b) paternity
- c) alimony
- d) divorce from bed and board
- e) specific performance
- f) breach of contract.

The court will schedule any jury demand issues at the next appropriate jury term in the county where such action is pending. The Court may require the completion of a pretrial conference and the execution of the pretrial order before scheduling a jury trial if deemed appropriate. If possible, the judge assigned will preside over the jury trial. However, if such judge is unavailable the matter may be heard by any judge.

- 2.15 Consolidated Cases.** Whenever practical and possible, new pleadings will be filed in pending cases between the same parties instead of filing claims in a new action. When cases have been consolidated for trial, they will be regarded as one case for calendaring purposes and will appear under the oldest case number. A copy of the order consolidating the cases will be filed in all pertinent court files and all pleadings or documents filed thereafter will be captioned with the oldest file number only.
- 2.16 Appearances Required.** Unless excused by the assigned judge or the court's designee, attorneys and unrepresented parties must be present for all scheduled status and pretrial conferences required by the court. Sanctions may be imposed for failure to attend such conferences unless excused by the court for good cause. If an attorney or an unrepresented party is scheduled to attend such conferences, it is their responsibility to keep the court informed of their schedule and/or whereabouts continuously during the entire domestic session until they are released by the court.
- 2.17 Peremptory Settings.** A motion for preemprory setting is administratively deferred in the 25th Judicial District to the judge assigned to the case. The filing party will submit the request for a peremptory setting to the case coordinator in writing using the **Request for Peremptory Setting (form FC 012)** and will serve a copy of the request to the opposing party or counsel. The opposing party or counsel must respond to the case coordinator **within seven (7) days** if they oppose the request for a peremptory setting and/or the setting date. After receipt of the opposing party or counsel's objection to the preemprory setting and/or the setting date *or* after the passage of **ten (10) days** (whichever comes first), the case coordinator will submit the request before the assigned judge who will render a decision. A peremptory setting will be granted only for good and compelling reason(s). The judge's decision will be transmitted by fax or email to the filing party who will then notify the opposing party or counsel.
- 2.18 Calendars.** Except for certain child support matters, uncontested divorces and domestic violence matters, the case coordinator is responsible for scheduling all domestic matters and will create the calendars as follows: summary hearings and motions **no less than three (3) days** prior to the first day of such court; trials or other evidentiary hearings **no later than four (4) weeks** prior to the first day of such court. Calendars will be posted in an area easily accessible to the public. Notice of calendaring will be given within the time frame above to each attorney, unrepresented party and the assigned judge. Per the *North Carolina General Rules of Practice, Rule 2(b) as set out in N.C.G.S. 7A-34*, calendars "shall be published and distributed by the clerk". However, case coordinators are responsible for publishing calendars on the NC Courts website and any e-mail distribution deemed appropriate. Cases may be added to such calendars after the four (4) week deadline provided the **notice** required by applicable statutes is given; by consent of the of the parties or by Order of the Court. A minimum notice of five (5) days prior to the beginning of the session shall be the standard. See special rules for uncontested divorces set out in **Dom Rule 10** below. (NC Supreme Court Rule 3.1 regarding scheduling conflicts shall apply)
- 2.19 Remanded Cases.** When a case is remanded for trial by the Appellate Division, the appellant's counsel and the clerk will promptly notify the case coordinator so the matter can

be scheduled for pretrial conference or other court event before the assigned judge for disposition. Notice will be served on the party or counsel by the case coordinator.

2.20 Telephone Conferences Authorized. The court may, at its discretion, order or allow oral argument on any non-evidentiary motion or may conduct a status conference by speaker phone conference or other electronic media provided that all participants can be heard by all other parties at all times. The judge may further order which party or parties may bear any costs related to the conference. Such conferences shall be recorded unless the parties consent otherwise.

2.21 Issues Rendered Moot or Closed Administratively. When an order is filed which renders moot issues not addressed in the order, the clerk will administratively enter as closed such issues without further written court order. Such issues include:

- a) Entry of final custody order renders moot any request for temporary custody;
- b) Entry of final equitable distribution order renders moot any request for interim distribution, possession of personal property or preservation of property;
- c) Entry of alimony order renders moot any request for post separation support;
- d) Entry of divorce judgment renders moot any request for divorce from bed and board;
- e) Entry of order resolving all other issues shall render moot any request for “such other relief as may be appropriate” or similar request for unspecified relief as well as any request for attorney fees which remains unheard.
- f) A case placed on the “inactive” docket will automatically be transferred to a closed status by the clerk and case coordinator. A motion to reactivate must be filed by one of the parties, scheduled by the case coordinator and heard by the assigned judge or Chief District Court Judge. If the motion to reactivate is granted by the court, then the clerk will reopen the issues in the Civil Indexing System (VCAP). The newly activated issues must match the issues in the court’s order. The new issues will be reopened as of the date of the court’s order and the disposition date in VCAP will not be altered. However, this does not include cases that were automatically discontinued for lack of service by the VCAP system, they reopen with the original filing date.

Note: A case can be reactivated by a consent order prepared by the attorneys and approved by the assigned Judge in lieu of a hearing. The case coordinator must be provided with a filed copy of the consent order for scheduling purposes.

- g) **Companion files or issues:** Where two cases involve the same issues the clerk will place a certified copy of the order in the companion file to complete the record and close the file. The entry of the order in one file renders the same issue in another file moot as set forth above.

2.22 Communications between Family Court Case Coordinators and Judges.

- a) Oral and written communications between case coordinators and judges regarding pending cases are limited to administrative issues regarding:

1. Consolidation of a family's multiple cases;
 2. Scheduling hearing and trial dates;
 3. Court-ordered services to families (including availability, scheduling and attendance of appointments);
 4. Court deadlines and timely filing of court documents, reports, orders, etc.;
 5. Motions for exemption from custody mediation or financial mediation;
 6. Continuance motions or requests for preemptory settings;
 7. Sanction proceedings and hearings for failure of a party or attorney to comply with these local rules.
 8. Motions to withdraw filed on Off-Docket notices in (Catawba County only).
- b) Case coordinators shall refrain from communicating information to judges that may jeopardize or compromise judicial neutrality in any way. This includes but is not limited to communications regarding the merits of a case and personal opinion or bias of any individual involved in the case.
- c) If a case coordinator is unsure whether or not certain information is appropriate to communicate to a judge, he or she can discuss and obtain feedback from:
1. Other case coordinators;
 2. Family Court Judges not assigned to the case to determine the best course of action; or
 3. Chief District Court Judge.
- d) If a case coordinator determines that information should not be orally communicated to the Judge, he or she will:
1. Refrain from passing on the information in any form; and
 2. Inform litigants and attorneys of their right to file motions to bring the information in question before the court.
- e) Case coordinators will maintain a record of their communications with judges regarding pending cases in the event that such communications may be questioned in the future. These records should be kept in a file drawer in the case coordinator's office and a note made in CaseWise that references the ex parte nature of the communication. Written correspondence will be maintained for two (2) years as required by the AOC Rules of Record Keeping.

2.23 Collaborative Family Law. Collaborative Family Law is also available upon the consent of the parties. Under *N.C.G.S. § 50-70 through 50-79 et seq.*, Collaborative Family Law is a procedure in which the parties and their counsel agree in writing to use their best efforts and to make a good faith attempt to resolve all issues affecting the dissolution of the marriage on an agreed basis. The procedure will include an agreement by the parties to attempt to resolve their disputes, without judicial intervention, except to have the court approve the settlement agreement and sign the orders required by law to effectuate the agreement of the parties as the court deems appropriate. When the parties consent to Collaborative Family Law, the following conditions apply:

- a) The parties' collaborative counsel may not serve as litigation counsel except to ask the court to approve the settlement agreement(s) and/or enter orders necessary to effectuate the parties' agreement.
- b) The confidentiality of statements made or documents exchanged during collaborative law conferences and other procedures shall be recognized by the court, and all verbal or written communications or work product among the parties, their counsel and any third party experts utilized pursuant to the collaborative law agreement are absolutely privileged and inadmissible in court.
- c) To the extent that the court finds issues are being reasonably addressed in a collaborative law process, the court may extend the filing deadlines for discovery and mediation as set forth in these rules.
- d) As supported by the local association of collaborative attorneys, an assigned judge shall review the case every **ninety (90) days** in an informal status conference, set by the case coordinators, to assure legitimacy of the process by assessment of the case's progress.

2.24 Other Claims Where No Special Rules Set Forth. In the event no specific rules are set out herein for certain domestic claims filed, the same case management principles will apply to all domestic actions and these general rules will apply to all such claims.

2.25 High Resource Cases. At any time a case may be identified as a "high resource case" to indicate the need for quick evaluation for any additional use of court resources the case may require. Identification of a case may originate from the case management notice, any court officer or those in their employ. The case coordinators will arrange for the assigned judge or the Chief District Court Judge to hold a status conference, pre-trial conference or case review. This court event will be used to assess the need for mental health evaluations, appointment of a guardian ad litem or parent coordinator, the assignment of a Special Judge, scheduling of a special session or any other court resource needed for the case. If an alternate judge is necessary, the assigned judge or the Chief District Court Judge will order a change of judicial assignment to an Emergency Judge or one within the district. This type of case may fall outside the recommended timelines for completion.

2.26 Subpoenas. *§N.C.G.S. 1A1-Rule 45* to address functional service of Subpoenas. The assigned judge may continue subpoenas in effect if noted on the order to continue signed by the judge.

Dom Rule 3. Child Custody/Visitation Claims.

3.1 New Child Custody Cases.

3.1.1 Filing Process.

- a) **Case Management.** The initial filing party will, prior to filing with the Clerk of Court, deliver a copy of the Cover Sheet and Family Court Case Management Notice to the case coordinator. The case coordinator may request a copy of the first page of the filing as well as the page containing the prayer for relief. See limited exception under next rule.

- b) **Filing with Clerk.** Except as herein provided, the clerk will not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case coordinator. The filing party must complete and file with the clerk the following:
 1. Cover Sheet and Civil Summons;
 2. Pleading(s) setting forth the claim (complaint, motion, counterclaim, etc.);
 3. Family Court Case Management Notice (completed with dates and signed by the case coordinator);
 4. Affidavit as to Status of Minor Child (AOC–CV-609);
 5. Court Order to Attend Child Custody Mediation (FC 070 – front page and map- if provided) **or** Motion for Exemption from Custody Mediation (Form P)

EXCEPTION: If the case coordinator is not available within a reasonable time to review a filing, the party may file without such review and annotate on the Cover Sheet that the case coordinator was unavailable. The filing party must then comply with **Dom Rule 3.1.1(a)** above before the end of the next business day during which a case coordinator is available. The clerk will inform the party of the requirements of this rule. Filing by mail will not excuse a party from compliance with these filing requirements.

- c) **Case Coordinator Assigns and Schedules.** Upon receipt of the properly executed Cover Sheet and Family Court Management Notice, the case coordinator will:
 1. Review the Pleadings or Cover Sheet;
 2. Assign a Family Court Judge to the case;
 3. Review for referral to or exemption from custody mediation. The filing party will provide the FC 070 or Form P to the case coordinator for appropriate scheduling and signature. The case coordinator will complete and return the appropriate form to the filing party for filing and service. All cases are scheduled for Custody Mediation Orientation (FC 070) **unless** a Motion for Exemption (Form P) is filed prior to the mediation session scheduled and in all events within 45 days;
 4. Schedule the matter for a temporary custody hearing within 45 days; if requested in the initial pleadings or by subsequent motion;

5. Sign three (3) copies of Family Court Case Management Notice for the filing party to distribute, stating the name of the assigned judge and the dates of any scheduled court events. (if received by fax only 1 copy is required to be signed by the case coordinator)
- d) Notice by Filing Party Required. Upon filing the action and receiving a completed Family Court Case Management Notice, the filing party shall cause the opposing party to be served with the pleading, civil summons, FC 070 (front and back page with map, if provided), Form P or supplemental pleading and the Family Court Case Management Notice pursuant to the *NC Rules of Civil Procedure §N.C.G.S. 1A-1 Rule 4 or Rule 5 and these rules.* The service of such Family Court Management Notice shall constitute notice of hearing for all court events indicated on the management notice including mediation dates.
 - e) Temporary Child Custody Hearings.
 1. Either party to an initial custody/visitation dispute may request a temporary hearing provided that a temporary hearing has not been previously held, including ex parte reviews (**See 4 below**).
 2. Requests for a temporary hearing should be made to the case coordinator at the time such pleading is filed.
 3. It is the preference of the court to schedule temporary hearings after custody mediation orientation has occurred.
 4. Orders executed as a result of ex parte review hearing on the issue of child custody/visitation may constitute a temporary hearing and in such case, no additional temporary hearings will be scheduled unless an additional emergency issue arises justifying the entry of further emergency orders.
 5. Parties may motion the court for a temporary custody hearing after an ex parte hearing [provide that the hearing or the order did not address custody per se or the court allowed a follow-up hearing in the ex parte order].
 6. Rules relating to summary hearings will apply. **See Dom Rule 16.**
 7. Additional time may be added to a temporary hearing by the case coordinator or the assigned judge. The additional time will be annotated on the Family Court Case Management Notice with notice to the parties or at the judge's discretion as the court schedule allows.
 - f) Hearing Following Entry of Emergency or Ex Parte Order. Per statute, such hearings must be held **within ten (10) days** of entry of an emergency order. Procedures and scheduling will be the same as those for other temporary child custody hearings. **See Dom Rule 16.** Additional time may be added for an ex parte review hearing by the case coordinator or at the judge's discretion; however the standard should be a one hour hearing.
 - g) Friendly Suit. An attorney or party may file a friendly suit at any time by notifying the case coordinator by email or fax that the suit being filed is uncontested. In the event that the case remains open after **thirty (30) days**, the case coordinator may

schedule court events as necessary to move the case forward and in compliance with these local rules.

- h) Registration of Foreign Child Custody Order. Upon the confirmation of Registration of a Foreign Custody Order (AOC-CV-664), the clerk must notify all persons served of the confirmation in accordance with §N.C.G.S. 50A -305(e).
- i) Enforcement of Registered Determination (New 2013). §N.C.G.S. 50A-306 (a&b) or §N.C.G.S 50A-308, Expedited Enforcement. This will be handled in the discretion of the assigned judge.

3.1.2 Case Management. Upon completion of the procedures set forth in **Dom Rule 3.1** above, the case coordinator will maintain the schedule of the assigned judge and monitor the court events of each case.

- a) If a matter is successfully mediated, the case coordinator will monitor the matter until it is resolved by formal order or parenting agreement in accordance with these rules.
- b) If a matter is otherwise successfully resolved prior to completion of the scheduled mediation process, the case coordinator will monitor the matter until an appropriate court order is filed in accordance with these rules.
- c) If a matter is not resolved within the state mandated timelines the assigned judge may choose to fulfill the requirements of the pretrial conference by correspondence with the parties or may choose to set the case for final pretrial conference in open court. Following such conference the assigned judge may set the matter for trial or set the matter on the Ready Trial Calendar for further calendaring by the case coordinator.
- d) Upon completion of the permanent hearing, the case coordinator will continue to monitor the case until a final Order is executed by the court and filed.

3.1.3 Child Custody and Visitation Mediation Program.

- a) Child Custody Mediation Mandatory. The parties to any custody and/or visitation case, including initial filings and modifications, will participate in mandatory mediation prior to any trial of these issues except as provided in **Dom Rule 11**. Unless a court order exempts the parties from participating in custody mediation, no custody case can be calendared for a custody trial until the Custody Mediation office notifies the case coordinator that the mediation process has been completed (§N.C.G.S. 50-13.1 (b) and §N.C.G.S. 7A-494). If the custody mediator determines that the mediation process is unsuccessful, then the case coordinator or assigned judge may schedule a pretrial conference by appearance or by correspondence to set the matter for trial or place the matter on the Ready Trial Calendar.
- b) Exemption from Custody Mediation. Upon filing a claim for child custody/visitation or five (5) days before the scheduled mediation orientation date or the private mediation appointment date, a party may move the Court to be exempt from the mediation of the custody issue through the Custody Mediation

Program. **Note:** Custody Mediation is offered in North Carolina statewide, so all parties to a child custody/visitation action in North Carolina should attend the Mediation Orientation session. The parties may attend separate orientation sessions if safety concerns are an issue in their case. The parties or attorneys may contact the mediation program directly for assistance in setting up separate mediation orientation sessions. See **Dom Rule 11.3** for specific procedures.

- c) Failure to Attend Custody Mediation Orientation or Private Session. *(Revised 2013)*
If a party fails to appear for a court ordered custody mediation session, that party is subject to a Show Cause issued by the court.

3.1.4 Pretrial Conference. See **Dom Rule 17** for specific rules relating to Pretrial Conferences. At a Pretrial Conference, the assigned judge shall:

- a) Encourage and explore further settlement possibilities;
- b) Address the necessity or desirability of amendments to the pleadings;
- c) Attempt to obtain binding stipulations as to length of trial; encourage the stipulation into evidence of facts, reports, records and other documents whose authenticity is not at issue;
- d) Define and organize the order and presentation of evidence;
- e) Identify all witnesses;
- f) Determine as far as possible the expected length of trial;
- g) Set matter for trial or the Ready Trial Calendar.

3.1.5 Time Standards. The following time standards shall apply to all child custody issues:

- TEMPORARY ORDERS – 100% of cases – **within 45 days** of request.
- MEDIATION ORIENTATION – 100% of cases – **within 45 days** of filing.
- MEDIATION completed – 100% of cases – **within 150 days** of filing.
- PERMANENT ORDERS - 100% of cases – **within 180 days** of filing.

3.2 Motions to Modify Child Custody/Visitation Claims.

3.2.1 Filing Process

- a) Case Management. The initial filing party will, prior to filing with the Clerk of Court, deliver a copy of the Cover Sheet and Family Court Case Management Notice to the case coordinator. The case coordinator may request a copy of the first page of the filing as well as the page containing the prayer for relief. See limited exception under next rule.
- b) Filing with Clerk. Except as herein provided, the clerk will not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case coordinator. The filing party must complete and file with the clerk the following:
 1. Cover Sheet;
 2. Pleading(s) setting forth claim (motion, responsive pleading, etc.);
 3. Family Court Case Management Notice;
 4. Affidavit as to Status of Minor Child (form AOC-CV-609);
 5. Court Order to Attend Child Custody Mediation (FC 070) front page and map (if provided) or Motion for Exemption from Custody Mediation (Form P)

EXCEPTION: If the case coordinator is not available within a reasonable time to review a filing, a party may file without such review and annotate on the Cover Sheet that the case coordinator was unavailable. The filing party must then comply with **Dom Rule 3.2.1 (a)** above before the end of the next business day when a case coordinator is available. The clerk will inform the party of the requirements of this rule. Filing by mail will not excuse a party from compliance with these filing requirements.

- c) Case Coordinator Assigns and Schedules. Upon receipt of the properly executed Cover Sheet and Family Court Case Management Notice the coordinator will:
 1. Indicate review of filing on the Family Court Case Management Notice;
 2. Review for previous judicial assignment;
 3. Review for referral to or exemption from custody mediation. The filing party will provide the FC 070 (front page and map if provided) or Form P to the case coordinator for signature and appropriate scheduling. The case coordinator will complete and return the appropriate form to the filing party for filing and service. All cases are scheduled for mediation unless a motion for exemption is filed with 45 days;
 4. Sign three (3) copies of Family Court Case Management Notice for the filing party to distribute, stating the name of the assigned judge and the dates of any scheduled court events. (if received by fax only 1 copy is required to be signed by the case coordinator)
- d) Notice by Filing Party Required. Upon filing the action and receiving a completed Family Court Case Management Notice, the filing party shall cause the opposing party to be served with the supplemental pleading, FC 070 (front and back page with

map, if provided), Form P and the Family Court Case Management Notice pursuant to the *NC Rules of Civil Procedure §N.C.G.S. 1A-1 Rule 5 and these rules*. The service of such Family Court Management Notice shall constitute notice of hearing for all court events indicated on the management notice including mediation dates.

- e) Motions in the Cause to Modify Child Custody. (Revised 2013) Prior to any hearing, parties to a motion in the cause to modify child custody will complete the Custody and Visitation Mediation Program pursuant to *§N.C.G.S. 50.13.1 (c)*.
(See Dom Rule 3.1.3 (a) (b) (c). If the mediator determines that the mediation process is unsuccessful then the case coordinator or assigned judge may schedule a pretrial conference by appearance or correspondence or set the matter for trial or place the matter on the Ready Trial Calendar.

EXCEPTION: Motions to modify child custody that contain an Ex Parte Order will comply with **Dom Rule 3.1.1 (f)** above.

- f) Friendly Suit. An attorney or party may file a friendly suit at any time by notifying the case coordinator by email or fax that the suit being filed is uncontested. In the event that this case remains open after thirty (30) days, the case coordinator may schedule court events as necessary to move the case along and comply with these rules.

3.2.2 Time Standards. The following time standards shall apply to all modification of child custody issues:

- MEDIATION ORIENTATION – 100% of cases – **within 45 days** of filing.
- MEDIATION completed – 100% of cases – **within 150 days** of filing.
- PERMANENT ORDERS completed – 100% of cases – **within 180 days** of filing;

Dom Rule 4. Non IV-D Child Support

4.1 Child Support Establishment Claims

4.1.1 Filing Process.

- a) **Case Management.** Initial filing party must, prior to filing with the Clerk of Court, deliver a copy of the Cover Sheet and Family Court Case Management Notice (FC 001-A,B,C) to the case coordinator. If requested, a temporary hearing date for child support will be given and the parties must file the appropriate Child Support Affidavit (Form F) within five (5) days) of the hearing. If the required affidavit is not filed, the case coordinator may remove the issue from the court calendar or the court may refuse to hear the matter. See limited exception under next rule.

- b) **Filing with Clerk.** Except as herein provided, the clerk will not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case coordinator. The filing party must complete and file with clerk the following:
 1. Cover Sheet and Civil Summons;
 2. Pleading(s) setting forth claim (complaint, motion, counterclaim, etc.);
 3. Family Court Case Management Notice (completed with dates and signed by the case coordinator);
 4. Child Support Affidavit (Form F) - If self employed copies of tax returns for two years.

EXCEPTION: If the case coordinator is not available within a reasonable time to review a filing, a party may file without such review and annotate on the Cover Sheet that the case coordinator was unavailable. The filing party must then comply with **Dom Rule 4.1.1 (a)** above before the end of the next business day when a case coordinator is available. The clerk will inform the party of the requirements of this rule. Filing by mail shall not excuse a party from compliance with these filing requirements.

- c) **Case Coordinator Assigns and Schedules.** Upon receipt of the properly executed Family Court Case Management Notice the case coordinator will:
 1. Indicate review of filing on the Family Court Case Management Notice;
 2. Assign the case a Family Court Judge;
 3. If requested, schedule the matter for a temporary child support hearing. See rules for **Summary Hearings Dom Rule 16**;
 4. Schedule the matter for a pretrial conference if case coordinator determines such conference is necessary;
 5. Sign for distribution by the filing party three (3) copies of the Family Court Case Management Notice stating the name of the assigned Judge and the dates of any scheduled court event(s) in the case.

- d) Notice Given by Filing Party. Upon filing the action and receiving a completed Family Court Case Management Notice, the filing party shall cause the opposing party to be served with the pleading pursuant to the *NC Rules of Civil Procedure - §N.C.G.S. 1A-1 Rule 4 or Rule 5*. The filing party shall further serve the opposing party with the Family Court Case Management Notice and a completed Child Support Financial Affidavit (Form F). Service of the Family Court Case Management Notice shall constitute notice of hearing for all court events.
- e) Temporary Child Support Hearings. If requested by either party a hearing to establish a temporary child support order should be held within forty-five (45) days after filing of the claim. If at the temporary hearing, both parties and the assigned judge agree, the parties may proceed with a hearing for the establishment of a permanent child support order. The rules established for summary hearings apply (**see Dom Rule 16 for Summary Hearing rules**). If the parties consent, the court may enter an order of child support based solely on the affidavits filed and the application of the North Carolina Child Support guidelines. The parties may also choose the option of child support being referred to ADR mediation at the discretion and approval of the assigned judge. (*§N.C.G.S. 50-13.4*)
- f) Income Verification Must be Filed and Served. (Revised 2013) Income Verification Must be Filed and Served no later than **ten (10) days** prior to any temporary child support hearing and **twenty (20) days** prior to a final hearing for child support. Both parties must file with the court and serve on the opposing party or counsel a completed Child Support Financial Affidavit (Form F). Parties may use a current check stub or affidavit from the employer(s) showing their year-to-date earnings (FC 004 - Employer Wage Affidavit).

EXCEPTION: If the parties are self-employed, a copy of their tax returns for the last two calendar years will be filed as set forth above in addition to the completed Child Support Financial Affidavit (Form F). Any original or certified copies of these affidavits or verifications, properly served, shall be admissible at the temporary hearing or final hearing. Unless there is a serious dispute as to the authenticity or accuracy of the verification documents they shall be admissible in any action or proceeding without further certification or authentication. Any party who wishes to raise an objection as to the admissibility of such documents at the temporary or final hearing must notify the submitting party in writing of such objection **within five (5) days** of the hearing. .

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

- g) Sanctions for Failure to File Affidavits. (New 2013) Failure to file and serve accurate up-to-date Child Support Financial Affidavits, Employer Wage Affidavits or Tax Returns in a timely manner may result in the imposition of a sanction if such failure necessitates a significant delay in the hearing of the matter or undue prejudice to a

party. Failure to timely file and serve affidavits in accordance with Dom. Rule 4.1.1 (f) above may result in the responsible party's proffered testimony not being allowed into evidence by the court and may result in the imposition of other sanctions. The court may extend the time limits for the filing of the affidavit(s) for good cause shown.

- h) Other Claims. In addition to the requirements under this rule, a party filing an action with other claims (child custody, alimony, post separation support, equitable distribution, etc.) must comply with the requirements of the other rules herein pertaining to those claims.
- i) Deviation from the NC Child Support Guidelines. Any party wishing to deviate from the North Carolina Child Support guidelines should include that claim in their original pleading setting out why a deviation from the guidelines is appropriate or by written motion **ten (10) days** prior to any hearing on child support.
- j) Registration of Foreign Child Support Order. Confirmation of a Foreign Child Support order as set out in §N.C.G.S. 52C-6-605 or §N.C.G.S. 52C-6-608.
- k) Friendly Suit. An attorney or party may file a friendly suit at any time by notifying the case coordinator by email or fax that the suit being filed is uncontested. In the event that this case remains open after 30 days, the case coordinator may schedule court events as necessary to move the case along and comply with these rules.

4.1.2 Alternative Dispute Resolution (ADR). At any time prior to disposition of any child support claim, the parties may agree to submit the child support issue to the Alternative Dispute Resolution (ADR) process. The court, in its discretion, may order the issue of child support to mediation along with other family financial issues.

4.1.3 Final Pretrial Conference. At such conference the judge shall:

- a) Encourage and explore further settlement possibilities;
- b) Address the necessity or desirability of amendments to the pleadings;
- c) Encourage the stipulation into evidence of facts, reports, appraisals, records and other documents whose authenticity is not in dispute;
- d) Define and organize the order and presentation of evidence;
- e) Identify all witnesses;
- f) Determine as far as possible the expected length of trial;
- g) Verify that both parties have filed accurate, up to date, information on their Child Support Financial Affidavits and Income Verification information as required by 4.1.1 (f) including copies of tax returns;
- h) Set matter for trial or on Ready Trial Calendar.

In lieu of a pretrial conference, the presiding judge may direct the case coordinator to address the pretrial issues by appearance of the attorneys and parties or by correspondence from the attorneys or parties.

4.1.4 **Payments due by:** (New 2013) All child support payments are due and payable on the 1st day of each month, see §N.C.G.S. 50-13.4 (c)

4.1.5 **Time Standards.** The following time standards shall apply to child support issues:

- TEMPORARY CHILD SUPPORT ORDERS – 100% of cases – **within 45 days** of request unless paternity at issue. **NOTE:** If custody and child support is an issue, the temporary support hearing should be heard at the same time as, or subsequent to the time the temporary custody order is entered.
- PERMANENT CHILD SUPPORT ORDERS – 100 % of cases – **within 270 days** of service of pleading requesting support.

4.2 Motions to Modify Child Support.

4.2.1 Filing Process

- a) Case Management. Initial filing party must, prior to filing with the Clerk of Court, deliver a copy of the Cover Sheet, Family Court Case Management Notice.
- b) Filing with Clerk. Except as herein provided, the clerk will not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case coordinator. The filing party must complete and file with the clerk the following:
 1. Cover Sheet and Civil Summons;
 2. Pleading(s) setting forth claim (complaint, motion, counterclaim, etc.);
 3. Family Court Case Management Notice (completed with dates and signed by the case coordinator);
 4. Child Support Affidavit (Form F) - If self employed copies of tax returns for two years.

EXCEPTION: If the case coordinator is not available within a reasonable time to review a filing, a party may file without such review and annotated on the Cover Sheet that the case coordinator was unavailable. The filing party must then comply with **Dom Rule 4.2.1 (a)** above before the end of the next business day. The clerk will inform the party of the requirements of this rule. Filing by mail will not excuse a party from compliance with these filing requirements.

- c) Case Coordinator Assigns and Schedules. Upon receipt of the properly executed Family Court Case Management Notice the case coordinator will:
 1. Indicate review of filing on the Family Court Case Management Notice;
 2. Review for previous judicial assignment;
 3. Schedule the matter on an appropriate domestic term to address the modification issue;
 4. Sign for distribution by the filing party three (3) copies of Family Court Case Management Notice stating the name of the assigned judge and the dates of any scheduled court event(s) in the case. (if received by fax only 1 copy is required to be signed by the case coordinator)
- d) Notice Given by Filing Party. Upon filing the pleading and receiving a completed Family Court Case Management Notice, the filing party will cause the opposing party to be served with the pleading pursuant to the *NC Rules of Civil Procedure* (§N.C.G.S. 1A-1, Rule 5). The filing party will further serve the opposing party with the Family Court Case Management Notice and a completed Child Support Financial Affidavit (Form F). Service of the Family Court Case Management Notice shall constitute notice of the hearing for all court events. (§N.C.G.S. 50-13.4)

- e) Income Verification Must be Filed and Served (Revised 2013). Income verification must be filed and served **no later than twenty (20) days** prior to a final child support hearing, both parties must file with the court and serve on the opposing party or counsel a completed Child Support Financial Affidavit (Form F) and an Employer Wage Affidavit (FC 004). Parties may use a current check stub or affidavit from the employer(s) showing their year-to-date earnings. If a motion to modify is set on a summary (one-hour) term, then the income verification documents must be **filed ten (10) days** in advance of the one hour hearing date given.

EXCEPTION: If the parties are self-employed a copy of their tax returns for the last two calendar years shall be filed as set forth above in addition to the completed Child Support Financial Affidavit (Form F). Any original or certified copies of these affidavits or verifications, properly served, shall be admissible at the final hearing. Unless there is a serious dispute as to the authenticity or accuracy of the verification documents they shall be admissible in any action or proceeding without further certification or authentication. Any party who wishes to raise an objection as to the admissibility of such documents at the final hearing must notify the submitting party in writing of such objection **within five (5) days** of the hearing.

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

- f) Sanctions for Failure to File Affidavits (New 2013). Failure to file and serve accurate up-to-date Child Support Financial Affidavits, Employer Wage Affidavits or Tax Returns in a timely manner may result in the imposition of a sanction if such failure necessitates a significant delay in the hearing of the matter or undue prejudice to a party. Failure to timely file and serve affidavits in accordance with Dom. Rule 4.1.1 (f) above may result in the responsible party's proffered testimony not being allowed into evidence by the court and may result in the imposition of other sanctions. The court may extend the time limits for the filing of the affidavit(s) for good cause shown.
- g) Other Claims. In addition to the requirements under this rule, a party filing an action with other claims (child custody, alimony, post separation support, equitable distribution, etc.) must comply with the requirements of the other rules herein pertaining to those claims.
- h) Deviation from the NC Child Support Guidelines. Any party wishing to deviate from the North Carolina Child Support guidelines should include that claim in their original pleadings, setting out why a deviation from the guidelines is appropriate or by written motion **ten (10) days prior** to any hearing on child support.
- i) Friendly Suit. An attorney or party may file a friendly suit at any time by notifying the case coordinator by email or fax that the suit being filed is uncontested. In the

event that this case remains open after 30 days, the case coordinator may schedule court events as necessary to move the case along and comply with these rules.

4.2.2 Payments due by: (New 2013) All child support payments are due and payable on the 1st day of each month, see §N.C.G.S. 50-13.4 (c)

4.2.3 Time Standards.

- PERMANENT MODIFICATION ORDERS – 100 % of cases – **within 270 days** of service of pleading requesting support.

Dom Rule 5. Equitable Distribution Claims.

5.1 Filing Process.

- a) **Case Management.** Initial filing party will, prior to filing the claim with the Clerk of Court, deliver a copy of the Cover Sheet and the Family Court Case Management Notice to the case coordinator. The case coordinator may request a copy of the first page of the filing as well as the page containing the prayer for relief. See exception under next rule.
- b) **Filing with Clerk.** Except as herein provided, the clerk will not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case coordinator. The filing party must complete and file with clerk the following:
 1. Cover Sheet and Civil Summons;
 2. Pleading setting forth claim (complaint, motion, counterclaim, etc.);
 3. Family Court Case Management Notice (completed with dates and signed by the case coordinator);

EXCEPTION: If the case coordinator is not available within a reasonable time to review a filing, a party may file without such review and annotate on the Cover Sheet that the case coordinator was unavailable. The filing party must then comply with **Dom Rule 5.1 (a)** above before the end of the next business day during which a case coordinator is available. The clerk will inform the party of the requirements of this rule. Filing by mail will not excuse a party from compliance with these filing requirements.

- c) **Case Coordinator Assigns and Schedules.** Upon receipt of the properly executed Family Court Case Management Notice, the case coordinator will:
 1. Indicate review of filing on Family Court Case Management Notice;
 2. Assign the case a Family Court Judge;
 3. If requested, schedule the matter for an Interim Distribution/Preservation hearing within 60 days;
 4. Schedule the matter for an Initial Status Conference within ninety (90) days;
 5. Advise any pro se filing party of the online web site containing all “Alternative Dispute Resolution” rules and information;
 6. Sign for distribution to the filing party three (3) copies of the Family Court Case Management Notice stating the name of the assigned judge and the dates of any scheduled court events. (if received by fax only 1 copy is required to be signed by the case coordinator)
- d) **Notice Given by Filing Party.** Upon filing the action and receiving a completed Family Court Case Management Notice, the filing party shall cause the opposing party to be served with the pleading pursuant to the *NC Rules of Civil Procedure* (§N.C.G.S. 1A-1, Rule 4). The filing party shall further cause to be served on the opposing party a copy of the Family Court Case Management Notice. Service of such

Notice shall constitute notice of hearing for all scheduled court events. (§N.C.G.S. 50-20)

- e) Interim Distribution/Preservation Hearing (Revised 2013). Either party to an equitable distribution dispute may request that an interim order of distribution or preservation of marital and/or separate property be made. Request should be made to the case coordinator at the time of the filing of the pleading or motion making the request for interim distribution or preservation. When possible such hearings shall be scheduled within 60 days. See **Dom Rule 16** for specific rules related to summary hearings. The party requesting the interim distribution or preservation shall include in their pleading or motion a detailed listing of the items they contend should be distributed or preserved. This detailed listing should be provided to the opposing party **ten (10) days prior** to the scheduled hearing. If the filing party fails to provide the detailed listing to the other party as set out above, the case coordinator or assigned judge may remove the matter from the court's calendar.

Note: During the pendency of the action for equitable distribution, discovery may proceed and the court shall enter temporary orders as appropriate and necessary for the purpose of preventing the disappearance, waste or destruction of marital or separate property or to secure the possession thereof. Real or personal property located outside of North Carolina is subject to equitable distribution in accordance with the provisions of §N.C.G.S. 50-20 and the court may include in its order appropriate provisions to ensure compliance with the order of equitable distribution.

- f) Affidavits Must be Filed and Served (Revised 2013).
1. Equitable Distribution Affidavit. Affidavits are to be filed as required by §N.C.G.S. 50-21(a) **Within ninety (90) days** after service of a claim for equitable distribution, the party who first asserts the claim will prepare and serve upon the opposing party an equitable distribution affidavit listing all property claimed by the party to be marital property and all property claimed by the party to be separate property and the estimated date-of-separation fair market value of each item of marital and separate property. **Within thirty (30 days)** after service of the equitable distribution affidavit, the party upon whom service is made will prepare and serve an equitable distribution affidavit upon the other party. The equitable distribution affidavits prepared and served pursuant to this subsection shall be subject to amendment and shall not be binding at trial as to completeness or value. The court may extend the time limits in this subsection for good cause shown.

Approved Form to be used: The equitable distribution affidavit must be on an approved form (FC 088 – Revised 7/23/13 - Electronic Excel Version or FC 030 ED-EZ Revised 3/1/11) which has been approved by an Administrative Order of the Chief District Court Judge. In the event that an affidavit is not submitted to the opposing party in a timely manner, the opposing party may file their equitable distribution affidavit first. Each

party shall comply with §N.C.G.S. 50-21(a) with regard to the timely filing of accurate equitable distribution affidavits. In addition to the paper filing in the clerk's office, the affidavit shall be served on the opposing counsel or party by electronic mail in a form which may be changed or modified by the recipient. Exception: Parties who do not have the ability to create or respond to an electronic affidavit may file a paper copy only.

The equitable distribution affidavits are subject to the requirements of §N.C.G.S. 1A-1, Rule 11, and are deemed to be in the nature of answers to interrogatories propounded to the parties. Any party failing to supply the information required by this subsection in the affidavit is subject to §N.C.G.S. 1A-1, Rules 26, 33, and 37. During the pendency of the action for equitable distribution, discovery may proceed and the court shall enter temporary orders as appropriate and necessary for the purpose of preventing the disappearance, waste or destruction of marital or separate property or to secure the possession thereof. Real or personal property located outside of North Carolina is subject to equitable distribution in accordance with the provisions of §N.C.G.S. 50-20 and the court may include in its order appropriate provisions to ensure compliance with the order of equitable distribution.

2. Use of Form ED-EZ. It is also permissible, if approved by the court at the Initial Status Conference, to use FORM ED-EZ when there is no more than 50 items of property items in dispute. (FC 030 – ED-EZ New 3/1/11)
 3. Affidavit Waived by Court: If allowed by the assigned judge, the parties may be allowed to proceed without filing an equitable distribution affidavit. When allowed by the Court a signed copy of that order shall be sent to the case coordinator.
 4. Sanctions for Failure to File Affidavits. Failure to timely file and serve affidavits in accordance with Dom. Rule 5.1 (f) above may result in the responsible party's proffered testimony not being allowed into evidence by the court and may result in the imposition of other sanctions. The court may extend the time limits for the filing of the affidavit(s) for good cause shown.
 5. Sanctions for Altering Electronic Affidavits. If a party willfully makes changes to an electronic affidavit in an effort to defraud the other party or the court, those persons subject themselves to sanctions by the Court.
- g) Other Claims. In addition to the requirements under this rule, a party filing an action with other claims (child custody, child support, alimony, post separation support, etc.) must comply with the requirements of the other rules herein pertaining to those claims.
- h) Friendly Suit. An attorney or party may file a friendly suit at any time by notifying the case coordinator by email or fax that the suit being filed is uncontested. In the

event that this case remains open after 30 days, the case coordinator may schedule court events as necessary to move the case along and comply with these rules.

- 5.2 Case Management.** Upon filing, an equitable distribution claim is scheduled for an Initial Status Conference. For purposes of case management, additional status conference(s) may be scheduled at the discretion of the case coordinator and/or judge.
- 5.3 Initial Status Conferences.** Case coordinators will set the Initial Status Conference no later than **ninety (90) days** after filing of the claim. Parties and their attorneys will participate in status conferences in accordance with **Dom Rule(s) 2.5**. At this conference parties appear before the assigned judge to give an overview of the case. Parties wishing to file a short form Equitable Distribution Affidavit (FC 030 ED-EZ New 3/1/11) should make such request at this conference. Guidelines and deadlines for discovery are set at this conference and the matter is scheduled for a method of Alternative Dispute Resolution (ADR). The Judge sets guidelines regarding the form and the filing of the Equitable Distribution Affidavit.
- 5.4 Alternative Dispute Resolution / Family Financial Settlement Processes (ADR).** All equitable distribution cases will be referred to ADR Mediation or another approved family financial settlement process unless an order exempting the case from financial mediation is filed. The parties must agree upon a mediator, arbitrator, or other neutral by the time of the Initial Status Conference. A failure to agree upon an ADR neutral will result in the appointment of a mediator by the court. The parties will comply with the provisions of the Rules of the Supreme Court Implementing Settlement Procedures in Equitable Distribution and Family Financial Cases and these rules pertaining to Alternative Dispute Resolution (*§N.C.G.S. 7A-38.4A*). **See Dom Rules 12 – 15 for further specific rules related to ADR procedures.**
- 5.5 Pretrial Conferences.** At such conference the judge will:
- a) Encourage and explore further settlement possibilities;
 - b) Address the necessity or desirability of amendments to the pleadings;
 - c) Address the advisability or necessity of a reference of the case, either in whole or in part for complex financial cases;
 - d) Encourage the stipulation into evidence of facts, reports, appraisals, records and other documents whose authenticity is not at issue.
 - e) Define and organize the order and presentation of evidence;
 - f) Identify all witnesses;
 - g) Determine as far as possible the expected length of trial;
 - h) The filing party is required to put all stipulations in writing in the Pretrial Order;
 - i) Clearly designate all issues remaining for trial in the Pretrial Order;
 - j) Verify that both parties have filed accurate, up to date, information on their Equitable Distribution Affidavits;
 - k) Require parties to present proposed Pretrial Order for the judge's signature;
 - l) Set matter for trial or on the Ready Trial Calendar.
- 5.6 Pretrial Order (Revised 2013).** After the parties have attended the final pretrial conference pursuant to *§N.C.G.S. 50-21 (d)*, the party first asserting a claim for equitable distribution shall prepare a proposed final pretrial order and serve upon the opposing party both a paper

copy and an electronic mail copy which may be changed by the recipient. Pretrial orders drafted and sent to opposing parties must be responded to with written consent or exceptions within 45 days unless given an extension by the court. If the said 45 day timeline has passed, the party who drafted the order may motion the court for intervention and court action. Likewise, if written consent or exceptions are given, the party who drafted the order must respond within 45 days unless given an extension by the court. If the said 45 day timeline has passed, the party who is waiting on the return of the pretrial order may contact the case coordinator for scheduling before the court and for further court action. Contentions of the parties regarding an item shall not be included in the description portion of the schedule. Each party is allowed to include his or her contentions in total on a separate page clearly labeled “contentions”. Contentions for an unequal distribution of property are included on Schedule H or Schedule I of the Pre-trial Order Form FC 090. (Revised 7/23/13 - Excel Pretrial Order - FC 090) **See also Dom Rule 17.5 / Pretrial Order**

5.7 Time Standards. The following time standards shall apply to Equitable Distribution cases:

- INITIAL STATUS CONFERENCE – 100% of cases – **within 90 days of filing**
- INTERIM DISTRIBUTION/PRESERVATION HEARING – 100% of cases – **within 60 days** of request.
- ADR complete – 100% of cases – **within 210 days** of filing.
- FINAL PRETRIAL CONFERENCE – 100% of cases – **within 240 days** of filing.
- FINAL ORDER ENTERED – 90% of cases – **within 270 days** of filing and 100% of cases – **within 365 days** of filing

Dom Rule 6. Post Separation Support and Alimony Claims.

6.1 Filing Process.

- a) Case Management. Initial filing party must prior to filing a claim with the Clerk of Court, deliver a copy of the Cover Sheet and Family Court Case Management Notice to the case coordinator. See limited exception under next rule.
- b) Filing with Clerk. Except as herein provided, the clerk will not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case coordinator. The filing party must complete and file with clerk the following:
 1. Cover Sheet and Civil Summons;
 2. Pleading setting forth claim (complaint, motion, answer, etc.);
 3. Family Court Case Management Notice (completed with dates and signed by the case coordinator);
 4. Alimony Financial Affidavit (forms FC 040.1 or Form D) – If self employed copies of tax returns for two years.

EXCEPTION: If the case coordinator is not available within a reasonable time to review a filing, a party may file without such review and annotate on the Cover Sheet that the case coordinator was unavailable. The filing party must then comply with **Dom Rule 6.1 (a)** above before the end of the next business day during which a case coordinator is available. The clerk will inform the party of the requirements of this rule. Filing by mail will not excuse a party from compliance with these filing requirements.

- c) Case Coordinator Assigns and Schedules. Upon receipt of the properly executed Family Court Case Management Notice, the coordinator will:
 1. Indicate review of filing on Cover Sheet or Family Court Management Notice;
 2. Assign a Family Court Judge to the case;
 3. If requested, schedule the matter for a Post Separation Support hearing;
 4. Schedule the matter for an Initial Status Conference within **ninety (90) days**. If a Post Separation Support hearing is held and if time permits, an Initial Status Conference may be conducted at such hearing as to the Alimony claim;
 5. Sign for distribution to the filing party three (3) copies of the Family Court Case Management Notice stating the name of the assigned judge and the dates of any scheduled court events in the case. (if received by fax only 1 copy is required to be signed by the case coordinator)
- d) Notice Given by Filing Party. Upon filing the action and receiving from the office of the case coordinator the Family Court Case Management Notice, the filing party shall cause the opposing party to be served with the pleading pursuant to the *NC Rules of Civil Procedure* (N.C.G.S. § 1A – Rule 4). The filing party shall further serve the opposing party with the Family Court Case Management Notice. Service of the

Family Court Case Management Notice shall constitute notice of hearing for all court events.

- e) Post Separation Support Hearings (Revised 2013). The party requesting post separation support may request a summary hearing. This request must be made to the case coordinator at the time of the filing of the pleading or motion and the case coordinator will schedule the matter for summary hearing and the rules relating to summary hearings will apply. No later than **ten (10)** days prior to a hearing for post separation support, the filing party must file and serve on opposing party or counsel an Alimony Financial Affidavit (the parties may use the electronic Excel PSSU Affidavit FC 040.1 or Form D). The responding party or attorney must file and serve a completed Alimony Financial Affidavit (FC 040.1 or Form D) no less than **five (5)** days prior to the post separation support hearing. Any original or certified copies of these affidavits properly served shall be admissible at the summary hearing for Post Separation Support. Further, a current check stub or affidavit from the employer(s) (Employer Wage Affidavit-Form FC-004) showing their year-to-date earnings as additional evidence of their income. In the event a party is self-employed, that party must supply copies of their tax returns for the last two calendar years. **Note: Parties who do not have the ability to create or respond to an electronic affidavit may file a paper copy only.**

See Dom Rule 16 for specific rules related to summary hearings. If time permits, the court may conduct an Initial Status Conference regarding the alimony claim at scheduled summary hearing. If the issue of post separation support is still pending when the matter is mediated, the financial mediator may undertake that issue in and along with the other financial issues.

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

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

- f) Affidavits Must be Filed and Served / Affidavits Admissible (Revised 2013). No later than **twenty (20) days** prior to a hearing for alimony, both parties must file with the court and serve on the opposing party or counsel an Alimony Financial Affidavit (the parties' may use the electronic Excel PSSU Affidavit FC 040.1 or Form D).

Note: Further, copies of their tax returns for the last two calendar years and a current check stub or affidavit from the employer(s) (Employer Wage Affidavit-Form FC-004) showing their year-to-date earnings. In the event a party is self-employed, that party must supply copies of their tax returns for the last two calendar years.

If the Alimony Financial affidavit is not filed within the court ordered timeframe, the court may dismiss the Alimony claim if scheduled and called for trial. Unless there is serious dispute as to the authenticity or accuracy of the verification documents they shall be admissible in any action or proceeding without further certification or authentication. Any party who wishes to raise an objection as to the admissibility of such documents at the hearing must notify the submitting party in writing of such objection **five (5) days** prior to the hearing.

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

- g) Sanctions for Failure to File Affidavits. Failure to timely file and serve an accurate, up-to-date Alimony Financial affidavit, Employer Wage affidavit or Federal Tax returns pursuant to these rules may result in the imposition of an immediate sanction if such failure results in a significant delay of the matter or unfair prejudice to a party. In addition, failure to timely file and serve affidavits in accordance with these rules may result in the responsible party's proffered testimony not being allowed into evidence by the court and may result in the imposition of other sanctions. The court may extend the time limits for the filing of the affidavit(s) for good cause.
- h) Other Claims. In addition to the requirements under this rule, a party filing an action with other claims (child custody, child support, equitable distribution, etc.) must comply with the requirements of the other rules herein pertaining to those claims.
- i) Friendly Suit. An attorney or party may file a friendly suit at any time by notifying the case coordinator by email or fax that the suit being filed is uncontested. In the event that this case remains open after 30 days, the case coordinator may schedule court events as necessary to move the case along and comply with these rules.

6.2 Case Management. Upon filing, an alimony claim is scheduled for an Initial Status Conference. If a summary hearing for post separation support is requested and scheduled, the case coordinator may set the Initial Status Conference for the alimony claim at the same time. At the Initial Status Conference, the attorneys and parties without attorneys appear before the judge for a brief meeting to give an overview of the case so the judge can determine the resources and the amount of time necessary for the matter to be heard. Guidelines and deadlines for discovery are set at this session and the matter is scheduled for some type of

alternative dispute resolution program. Further status conferences may be set before the case coordinator as necessary.

6.3 Alternative Dispute Resolution / Family Financial Settlement Processes (ADR). All alimony cases shall be referred to an approved Alternative Dispute Resolution and/or other family financial settlement process unless an order exempting the case financial mediation is filed. The parties must agree upon a mediator or arbitrator prior to the Initial Status Conference scheduled by the case coordinator. Failure to agree upon a mediator or arbitrator by that time will result in the court appointment of a Certified Mediator. The parties will comply with the provisions of the Rules of the Supreme Court Implementing Settlement Procedures in Equitable Distribution and Family Financial Cases and the rules herein pertaining to Alternative Dispute Resolution. See *N.C.G.S. § 7A-38.4A* (See **Dom Rule(s) 12 – 15** for further specific rules related to ADR procedures)

6.4 Pretrial Conferences and Settlement Conferences. At such conference the judge shall:

- a) Encourage and explore further settlement possibilities;
- b) Address the necessity or desirability of amendments to the pleadings;
- c) Address the advisability or necessity of a reference of the case, either in whole or in part for complex financial cases;
- d) Encourage the stipulation into evidence of facts, reports, appraisals, records and other documents whose authenticity is not at issue;
- e) Define and organize the order and presentation of evidence;
- f) Identify all witnesses;
- g) Determine as far as possible the expected length of trial;
- h) Verify that both parties have filed accurate, up to date, information on their Alimony Financial Affidavits;
- i) Set matter for trial or on Ready Trial Calendar.

6.5 Motions to Modify Post Separation Support or Alimony (New 2013). Motions to modify post separation support or alimony are handled on a case by case basis and at the discretion of the court. Financial information required will follow the rules set out in Dom. Rule 6 for Post Separation Support and Alimony claims.

6.6 Time Standards. The following time standards shall apply to Post Separation Support and Alimony cases:

- POST SEPARATION SUPPORT ORDER – 75% of cases – **within 60 days** of filing and 100% of cases – **within 90 days** of filing.
- ALIMONY INITIAL STATUS CONFERENCE – 100% of cases – **within 120 days** of filing.
- ADR complete – 100% of cases – **within 210 days** of filing.
- FINAL PRETRIAL CONFERENCE – 100% of cases – **within 240 days** of filing.
- FINAL ALIMONY ORDER – 90% of cases – **within 270 days** of filing and 100% of cases – **within 365 days** of filing.

Dom Rule 7. Domestic Violence Cases [Reserved].

- 7.1 **Community resource referral and screening processes.**
- 7.2 **Filing, service and notice requirements.**
- 7.3 **Case management.**
- 7.4 **Time standards.**

Dom Rule 8. Contempt or Enforcement of Orders/Orders to Show Cause (not including IV-D and Clerk Child Support Enforcement Matters).

8.1 Filing, Service and Notice Requirements.

- a) Case Management. The initial filing party must, prior to filing with the Clerk of Court, deliver a copy of the Cover Sheet and Family Court Case Management Notice to the case coordinator. The case coordinator may request a copy of the first page of the filing as well as the page containing the prayer for relief. See limited exception under next rule.
- b) Filing with Clerk. Except as herein provided, the clerk will not accept for filing any pleading or motion until the documents to be filed have been reviewed by the case coordinator. The filing party must complete and file with clerk the following:
1. Cover Sheet (with indication of prior review by the case coordinator);
 2. Motion or Other Pleading setting forth request for Show Cause Order;
 3. Order to Show Cause with Return of Service; and
 4. Family Court Case Management Notice.

EXCEPTION: If the case coordinator is not available within a reasonable time to review a filing, a party may file without such review and annotate on the Cover Sheet that the case coordinator was unavailable. The filing party must then comply with **Dom Rule 8.1 a)** above before the end of the next business day during which a case coordinator is available. The clerk will inform the party of the requirements of this rule. Filing by mail will not excuse a party from compliance with these filing requirements.

- c) Case Coordinator Assigns and Schedules. Upon receipt of the properly executed cover sheet the case coordinator shall:
1. Indicate review of filing on Cover Sheet or Family Court Case Management Notice;
 2. Verify and assign a Family Court Judge to the case;
 3. Schedule the matter for an Court Appointed Counsel Review at the first available date and schedule the matter for hearing on the Order to Show Cause;
 4. Sign for distribution to the filing party three (3) copies of the Family Court Case Management Notice stating the name of the assigned judge and the dates of any scheduled court events in the case.
- d) Notice Given by Filing Party. Upon filing the action and receiving a completed Family Court Case Management Notice, the filing party shall cause the opposing party to be served with the Motion or other Pleading and the Order to Show Cause pursuant to the *NC Rules of Civil Procedure 1A-1, Rule 5*. The filing party shall further serve the opposing party with the Family Court Case Management Notice.

Service of such Family Court Case Management Notice shall constitute notice of hearing for all court events.

- e) Other Claims. In addition to the requirements under this rule, a party filing an action with other claims must comply with the requirements of the other rules herein pertaining to those claims; which includes the filing of financial affidavits and sanctions for failure to file financial affidavits.

8.2 Court Appointed Counsel Review. The Court Appointed Counsel Review must be scheduled in all actions for contempt. A court appointed review will be scheduled by the case coordinator prior to any contempt hearing, but **no sooner than seven (7) days** from the filing of the motion. If a party charged with contempt appears unrepresented by counsel, the assigned or presiding judge shall consider the party's eligibility for court appointed counsel. Failure of a party to appear after being properly served with an Order to Show Cause and the Family Court Case Management Notice at the scheduled Court Appointed Review hearing shall constitute a waiver of said party's right to court appointed counsel. **NOTE:** Special notice provisions shall be applicable to these cases. The responding party shall be informed on the Family Court Case Management Notice of his or her right to appear before the court and apply for Court Appointed Counsel, at this hearing the judge determines if the individual is indigent and eligible for court appointed counsel.

8.3 Contempt Hearing. The party filing a Motion to Show Cause and Motion for Contempt may request either a one (1) hour summary hearing or request the matter be scheduled on a trial term. If a summary hearing is selected by the filing party, the opposing party or attorney may file an objection to the one (1) hour time limitation set out in a summary hearing. The objection should set forth the specific reason why such limits should not apply to the case and the objection should be filed within **five (5) days** of the hearing. Whenever possible, the objection will be made at the Court Appointed Counsel Review. The court has the discretion to move the case to a date and time certain to best accommodate all parties in the action or hear the matter on the date first scheduled.

EXCEPTION: Burke and Caldwell County - The party filing a Motion to Show Cause and Motion for Contempt may be scheduled during a trial term due to the limited number of summary hearing dates available. Scheduling will be determined by the Burke and Caldwell County case coordinators.

8.4 Time Standards. The following time standards shall apply to Show Cause matters (not including IV-D and Clerk Child Support Enforcement matters):

- COURT APPOINTED COUNSEL REIVEW – 100% of cases – **within 30 days** of service.
- ORDER ENTERED – 100% of cases – **within 90 days** of service.
(this time standard may be extended to 180 days if modification of custody becomes an issue)

Dom Rule 9. Motions Practice.

9.1 Motions Requiring Evidence. Motions filed requiring the presentation of evidence will be managed and scheduled in accordance with the rules for specific claims set forth above or at anytime deemed appropriate by the case coordinator and/or assigned judge.

9.2 Motions to Withdraw. In Burke and Caldwell counties, motions to withdraw are noticed for hearing on a Family Court Case Management Notice and scheduled by the case coordinator before the assigned judge. However, motions to withdraw may be handled by consent rather than a court hearing at the judge's discretion. The opposing side must agree to the withdrawal in order for the case coordinator to bring the matter to the assigned judge for signature.

EXCEPTION: for **Catawba County** - the parties will file an Off-Docket Notice for Withdrawal of Counsel (FC 009). This notice will be served on all parties along with the Motion to Withdraw. Once the date given by the coordinator has passed and no response has been received, the filing attorney should forward the Order to Withdraw to the case coordinator for signature by a judge.

9.3 Non-Evidentiary Motions. Non-evidentiary motions regarding family court issues will be set for hearing by the case coordinator **within thirty (30) days** of the filing of such motion.

a) Filing, Service and Notice Requirements.

1. Case Management. The initial filing party must prior to filing with the Clerk of Court, deliver a copy of the **Cover Sheet and Family Court Case Management Notice** to the case coordinator. The case coordinator will sign three (3) copies of the Family Court Case Management Notice stating the name of the assigned judge and the date of the scheduled hearing on the motion. See limited exception below.
2. Filing with the Clerk. Except as herein provided, the clerk will not accept for filing any motion until the documents to be filed have been reviewed by the case coordinator. The filing party must complete and file with the clerk the following:
 - a. Cover Sheet (with indication of prior review by the case coordinator);
 - b. Motion; and
 - c. Family Court Case Management Notice.

EXCEPTION: If the case coordinator is not available within a reasonable time to review a filing, a party may file without such review and annotate on the Cover Sheet that the case coordinator was unavailable. The filing party must then comply with the provisions above regarding filings with the case coordinator before the end of the next business day during which a case coordinator is available. The clerk will inform the filing party of this requirement.

3. Notice Given by Filing Party. Upon filing the motion and receiving from the case coordinator the Family Court Case Management Notice, the filing party shall cause the opposing party to be served with the motion pursuant to the *NC Rules of Civil Procedure*. The filing party shall further cause to be served on the opposing party a copy of the Family Court Case Management Notice. Service of such notice shall constitute notice of hearing for all such court events.
- b) Scheduling. Non-evidentiary motions will be scheduled by the case coordinator when filed. In its discretion, the court may utilize conference calls to resolve such motions. See **Dom Rule 2.19.**

9.4 Time Standards. The following time standards shall apply to the hearing of non-evidentiary motions:

- ORDER ENTERED – 100% of cases – **within 60 days.**

Dom Rule 10. Absolute Divorce.

10.1 Filing Process.

- a) Filing with the clerk. The initial filing party must file with the Clerk of Court a copy of the **Cover Sheet**.
- b) Case Management. Filing with the case coordinator is necessary **only** if the divorce is contested or other issues are raised in a responsive pleading, answer, counterclaim, reply, motion, etc. Upon the filing of a responsive pleading indicating that a divorce is contested, the case coordinator will:
 1. Review the Cover Sheet;
 2. Assign a Judge to the case; and
 3. Indicate review of filing on the Family Court Case Management Notice completed with dates and signed by the case coordinator.

The parties will comply with these rules as set out herein that govern the issues raised by the new pleading.

EXCEPTION: If the case coordinator is not available within a reasonable time to review a filing, a party may file without such review and designate on the Cover Sheet that the case coordinator was unavailable. The filing party must then comply with **Dom Rule 10.1 (a)** above before the end of the next business day during which a case coordinator is available. Filing by mail will not excuse a party from compliance with these filing requirements.

- c) Scheduling. **Unless contested**, parties filing divorce actions shall be responsible for scheduling such matters for hearing. The clerk shall maintain and publish a calendar of such matters properly noticed for hearing. Matters may be added to such calendar until seven (7) days before the hearing time. Matters shall not be added on such calendar after such time. The case coordinator will monitor such cases to insure time deadlines are met. If an **uncontested** divorce claim is not scheduled **within 150 days** of the filing of such matter, the case coordinator may schedule the matter for hearing and send notice to the parties/attorneys.
- d) Notice Given by Filing Party. Upon filing the action, the filing party shall cause the opposing party to be served with the pleading pursuant to the *NCGS 1A.1, Rule 4*. The filing party shall further serve the opposing party with Notice of Hearing as may be required by the *NCGS Rule 5*. The party filing a pleading contesting an absolute divorce shall cause the opposing party to be served with a Family Court Case Management Notice.
- e) Other Claims. In addition to the requirements under this rule, a party filing an action with other claims must comply with the requirements of the other rules herein pertaining to those claims.

10.2 Summary Judgment Motions Recommended (Revised 2013). It is recommended but not required that uncontested actions for absolute divorce be resolved by the filing of Summary Judgment motion pursuant to Rule 56 of the NC Rules of Civil Procedure. Such motions shall be scheduled at the time for uncontested divorces or for hearing by the clerk.

NOTE: Uncontested actions for absolute divorce with accompanying claims for Incorporation of Separation Agreement and/or Resumption of Former Name may also be resolved by summary judgment hearing.

Divorce actions with “uncontested” child custody issues must be resolved by a consent order in addition to the divorce judgment.

Uncontested child custody issues are not appropriate for a summary judgment hearing due to the fact it requires the presentation of evidence if not resolved by a consent order.

The clerk may not hear a divorce with a custody issue included in the divorce judgment.

10.3 Time Standards. The following time standards shall apply to divorces:

- TRIAL/FINAL ORDER (Non-Jury - Contested and Uncontested) – 100% of cases – **within 150 days**
- TRIAL/FINAL ORDER (Jury) – 100% of cases – **within 12 months**

Dom Rule 11. Custody Mediation Rules.

The 25th Judicial District Custody and Visitation Mediation Program is established under the following *North Carolina General Statutes, 7A-494, 7A-495 and 50-13.1.*

11.1 Purpose and Goals of the Program. The purpose of the Child Custody and Visitation Mediation Program is to provide the services of a skilled mediator to the parties involved in a custody and visitation dispute. The goal of the program is to reduce stress and anxiety experienced by children in separation and divorce by furnishing an alternative means for the parties to resolve their disputes. This program helps the parties focus on parenting their children during this stressful period by recognizing and planning for the needs of their children. A successful mediation shall help the parties put a Parenting Agreement in writing, assist them in resolving future problems without recourse to the courts, and reduce the re-litigation of custody and visitation disputes.

11.2 Referral to Mediation. Any action involving custody and/or visitation issues, including initial filings and modification actions, shall participate in a **mandatory** orientation and private mediation session prior to a trial of such matter unless waived by the court. In enforcement or Show Cause actions involving custody/visitation issues, the issue of whether to submit the matter to mediation shall be addressed at a Status Conference. The court may order the parties to participate in mediation prior to the Show Cause hearing.

- a) Scheduling. A mediation orientation session must be scheduled for parties who have not previously attended such a session. The Custody Mediation Program shall schedule the mandated private mediation session at the orientation. If the parties have previously attended an orientation session, the Family Court office shall contact the Custody Mediation office for a private session appointment. The Custody Mediation Program may reschedule mediation dates for good cause. If the dates change, the Custody Mediation Program shall notify the parties of the change.
- b) Expedited Mediation. In some cases, the parties may be best served by attending orientation/mediation immediately. The attorneys or parties should contact the Custody Mediation office to schedule an expedited appointment that shall include both a private orientation and a private session.
- c) Failure to Appear. The failure of any party to appear for a scheduled mediation orientation or private session shall be reported to the court by the Custody Mediation Program. A Custody Mediation Report shall be filed with the clerk and a copy given to the case coordinator. The party who fails to appear may be subject to sanctions at the judge's discretion. (See **Dom. Rule 3.1.3(c)**).
- d) No Service. When a party has not been served prior to a scheduled orientation or private session, the case coordinator shall monitor the case and reschedule the orientation or private session once service is obtained.

11.3 Exemption from Mediation. For good cause and/or for reasons defined in *NC General Statutes 50-13.1 (c)*, on the motion of either party or of the court, the court or the case

coordinator may excuse the parties from mediation (Form P). Attorneys or parties desiring an exemption from mediation shall file with the clerk and the case coordinator and serve on the opposing party a Motion for Exemption from Mediation (Form P). The opposing party shall have **fourteen (14) days** to object in writing to the case coordinator. After such time the case coordinator shall cause such matter to be reviewed by the assigned judge who shall rule upon the motion without a hearing or if the matter is scheduled for a temporary hearing the court may rule upon the motion for exemption during that session of court. The case coordinator shall cause a copy of the Court's order to be filed and served on both parties. If the request is denied, the case coordinator shall cause such matter to be scheduled for mediation and shall serve written notice of the times and places of such mediation on all parties. If a case already scheduled for mediation is later exempted, the mediator must be informed immediately.

11.4 Confidentiality. Except for the initial group orientation session, mediation proceedings shall be held in private and shall be confidential. All verbal or written communications from either party to the mediator or between the parties in the presence of the mediator are privileged and inadmissible in any proceedings between the parties or in discovery. Neither the mediation staff nor any party involved in mediation sessions shall be competent to testify to communications made during mediation sessions. Any subpoena served on mediation staff shall be deemed quashed when it is filed and no mediation staff may be required to comply with any subpoena. No mediation staff shall be deposed concerning anything that was said or done by any party during the mediation process. Nothing herein shall prohibit any person from presenting testimony in a criminal case regarding evidence of criminal conduct occurring during a mediation session that is the subject of prosecution in such criminal case.

11.5 Mediation Results.

- a) Parties Reach Parenting Agreement. Upon reaching a Parenting Agreement in a custody case, the Custody Mediation Program shall distribute copies of the agreement to the parties and their attorneys along with a letter of instructions including options for signing. The signing session shall be set within twenty-one (21) days of the date of the Parenting Agreement. Each party shall be responsible for consulting with their attorney prior to signing the Parenting Agreement.
- b) Judge Signs. If the parties sign a Parenting Agreement, the Custody Mediation program shall present the agreement to a District Court Judge for execution. Once the judge has signed the Order Approving Parenting Agreement, the Custody Mediation program shall make copies, file the original with the clerk and send each party and their attorneys a signed, file-stamped copy. The Custody Mediation program shall file a report with the clerk's office indicating that a Parenting Agreement has been signed. **Only** representatives of the Custody Mediation Program or the Family Court office may present an Order Approving Parenting Agreement to a judge for execution.
- c) Enforcement. Orders Approving Parenting Agreements are enforced as any other court order, through the legal system in place. They are not enforced by the mediation

office although parties do have the opportunity to return to modify their existing Parenting Agreement without re-filing with the court.

- d) Settlement - Notification Required. If a custody case is settled during the period of time the case is assigned to the Custody Mediation program, the party responsible for preparing the consent order shall notify the case coordinator **and** the Custody Mediation Program no later than the **next business day** after the settlement has been reached of such fact. Parties shall continue to be responsible for attending all scheduled sessions set by the Custody Mediation program unless notification of the settlement is given to the program. Mere notification that the parties have reached an agreement is not sufficient to excuse any party from attendance at a scheduled orientation or private session. A consent order, memorandum of judgment or voluntary dismissal must be filed in the Clerk's office before a case may be excused from the Custody Mediation Program. ***Please note that this does not include temporary orders.***
- e) Settlement – Incorporation of Parenting Agreement. If a case is otherwise settled as discussed above and the parties developed a draft while in mediation, the party or attorney responsible for preparing the consent order shall file **CIV FORM Z** along with the consent order which states whether or not the terms of a parenting agreement mediated by the Custody Mediation Program were contained in whole or in part in the consent order.
- f) No Agreement Reached. If the parties do not reach an agreement in mediation, the Custody Mediation program shall file a report with the clerk's office indicating such.
- g) Completion of Mediation. A case is considered complete in mediation once a Custody Mediation Report is filed in the clerk's office indicating such. The exceptions are mediation reports indicating *Failure to Appear* or *No Service*. The case coordinator **shall not** calendar for court any custody or visitation case that has not completed mediation.
- h) Reporting in CaseWise. The Custody Mediation program shall key its results into the CaseWise system for tracking by the Administrative Office of the Courts and shall use the guidelines for reporting as set out by the Administrative office of the Courts.

Dom Rule 12. Additional Rules for Early Neutral Evaluation.

See N.C.G.S. § 7A-38.4A

Dom Rule 13. Additional Rules for Arbitration.

13.1 Exchange of Information.

- a) Pre-hearing Exchange of Information. At least **ten (10) days** before the date set for the arbitration hearing, the parties will exchange:
1. Lists of witnesses they expect to testify;
 2. Copies of documents or exhibits they expect to offer in evidence; and
 3. A brief statement of the issues and contentions.

Parties may agree in writing to rely on stipulations and/or statements (sworn or unsworn) rather than a formal presentation of witnesses and documents for all or any part of the hearing. A copy of all exchanged material will also be forwarded to the arbitrator.

- b) Exchanged Documents Considered Authenticated. Any document exchanged in accordance with the above rule may be received in the hearing as evidence without further authentication; however, the party against whom it is offered may subpoena and examine as an adverse witness anyone who is the author, custodian or witness through whom the document might otherwise have been introduced. Documents not so exchanged may not be received if to do so would, in the arbitrator's opinion, constitute unfair, prejudicial surprise.
- c) Copies of Exhibits Admissible. Copies of exchanged documents or exhibits are admissible in arbitration hearings.

13.2 Arbitration Hearings.

- a) Arbitrator disclosures. The arbitrator has a duty to be impartial and to advise the parties of any circumstances bearing on possible bias, prejudice or partiality.
- b) Witnesses. Witnesses may be compelled to testify under oath or affirmation and produce evidence by the same authority and to the same extent as if the hearing were a trial. The arbitrator is empowered and authorized to administer oaths and affirmations in arbitration hearings.
- c) Subpoenas. Rule 45 of the *NC Rules of Civil Procedure* shall apply to subpoenas for attendance of witnesses and production of documentary evidence at an arbitration hearing under these Rules.

- d) Authority of Arbitrator to Govern Hearings. Arbitrators shall have the authority of a trial judge to govern the conduct of hearings, except for the power to punish for contempt.
- e) Conduct of Hearing. At the opening of the hearing, the arbitrator shall make a written record of the place, time and date of the hearing, and the presence of the parties and counsel. The arbitrator and the parties shall review the list of witnesses, exhibits and written statements concerning issues previously exchanged by the parties pursuant to the above rules. Plaintiff may then present exhibits and witnesses, who may be cross-examined. Defendant may then present exhibits and witnesses, who may be cross-examined. The arbitrator may, his/her discretion, vary the order of presentation of evidence.
- f) Evidence. The *NC Rules of Evidence* shall not apply in an arbitration hearing, except as to privilege or protection, but shall be considered as a guide toward full and fair development of the facts. The arbitrator shall consider all evidence presented and give it the weight and effect the arbitrator determines appropriate.
- g) Conclusion of Hearing. When the parties state they have no further exhibits or witnesses to offer, the arbitrator shall declare the hearing closed. Counsel may make oral argument, but the filing of post-hearing briefs shall ordinarily not be permitted. If the arbitrator decides to accept post-hearing briefs, such briefs must be submitted within **three (3) business days** after the hearing has been concluded or otherwise agreed among the parties and the arbitrator. The arbitrator shall file FORM AOC-CV-827 within **ten (10) days** after issuance of the decision.

13.3 The Decision.

- a) Issuance of Award. The arbitrator shall issue and mail to the parties a decision **within seven (7) business days** of the date of the closing of the hearing or the receipt of post-hearing briefs, whichever is later.
- b) Findings, Conclusions, Opinions. No findings of fact, conclusions of law or opinions supporting a decision are required.
- c) Scope of Award. The decision must state all issues addressed in the arbitration.

13.4 Modification of Procedure. Subject to approval of the arbitrator, the parties may agree to modify the procedures required by these Rules for Arbitration.

Dom Rule 14. – Alternate Dispute Resolution by Mediated Settlement Conference (ADR)

See N.C.G.S. § 7A-38.4A – Rule 3

Dom Rule 15. – Alternate Dispute Resolution by Judicial Settlement Conference (ADR)

See N.C.G.S. § 7A-38.4A – Rule 12

Dom Rule 16. Special Rules for Summary Hearings, Temporary Hearings & Ex Parte Hearings. **If the parties resolve the case prior to their scheduled hearing time it is the responsibility of **BOTH** parties to inform the case coordinator as soon as possible to allow another hearing to be scheduled in that time slot.*

- 16.1 Limitations on Issues.** Summary domestic sessions are limited to temporary hearings on temporary issues of child custody, visitation, child support, interim distribution or preservation of marital property/debts, post separation support and contempt. Follow-up hearings after entry of emergency and ex parte orders shall only be allowed by written order of the court and will also be tried in the format set out for summary hearings, in that each side is allotted **twenty (20) minutes** to put on their evidence. These temporary issues may be heard during summary sessions if raised in a party's complaint, counterclaim, motion or motion in the cause alleging changed circumstances (for custody issues only which rise to the level of an emergency). Claims for which a temporary order has already been entered will not be scheduled or rescheduled during a summary session unless scheduled by the assigned judge for further emergency relief. Any returns involving Family Court injunctive relief will be calendared for the first emergency relief day following issuance of the temporary restraining order regardless of judicial assignment; however, the case coordinator shall try to schedule the matter before the judge assigned to the case.
- 16.2 Limitations on Time.** Unless ordered otherwise by the presiding or assigned judge, plaintiff(s) and defendant(s) shall have **twenty (20) minutes**, including cross-examination and rebuttal, to present evidence. Time for hearing objections will be assessed to the objecting party unless the court rules otherwise. Additional time may be scheduled by the case coordinator or at the judge's discretion and notice provided to the opposing counsel or party that additional time has been granted for hearing the issue. The clerk shall assist the judge in maintaining a record of each party's time. Parties may request an independent one hour hearing for other issues, only if and when the complexity of the issue warrants special treatment and as the court schedule allows.
- 16.3 Negotiations; Effect on Time Limits.** Parties may use the time scheduled for hearing in settlement negotiations; however, the time scheduled for hearing will not be enlarged and the case will not be continued or re-calendared on another summary session as a consequence of such negotiations. Time used for negotiating will be deducted equally from each party's time to present evidence if the negotiations are unsuccessful.
- 16.4 Effect of Failure of Party/Attorney to Appear.** If the party requesting the hearing fails to appear, the relief sought shall be denied. If his/her attorney fails to appear, the relief sought will be denied unless such party chooses to go forward without counsel. If the opposing party or his/her attorney fails to appear at the designated time and place, the hearing will not be delayed.

- 16.5 Continuance Motions.** Ordinarily, hearings will not be continued from the summary session calendars. Only the assigned judge or the Chief District Court Judge may continue a matter from the summary hearing calendar. The case coordinator may, with consent of all of the parties and the assigned judge may reschedule the matter. The fact that both parties agree to the removal of a matter shall not necessarily be good cause for continuance by the court.
- 16.6 Court Conflicts.** Continuance requests arising from court conflicts will be denied unless there is a showing by the filing party that the conflict is with a court of superior priority as defined by *Rule 3.1 of the General Rules of Practice* and these rules herein and that the presiding judge of the court having priority has been notified of the conflict and refuses to allow the attorney or party to be released for the summary session for the one (1) hour hearing.

Dom Rule 17. Rules Governing the Conduct of Pretrial Conferences.

17.1 Parties/Attorneys Required to be Present. Parties and attorneys are required to be present at a Pretrial Conference.

17.2 Parties to Make Submissions at Pretrial. Parties shall bring to the Pretrial Conference items of proof relevant to the presentation of the particular cause of action to be tried including, but not limited to the following:

- a) List of expert witnesses with brief summary or their testimony;
- b) Appraisals;
- c) List of all witnesses;
- d) Proposed stipulations;
- e) Proposed matters of judicial notice;
- f) Up to date, accurate affidavits required by rules;
- g) Financial documents regarding intangible personal property, such as bank statements, records, brokerage statements, reports, financial statements, pension/profit-sharing documents, credit card statements, other evidence of debt, etc.;
- h) Documents of title;
- i) Documents evidencing liens;
- j) Documents relating to real estate;
- k) Tax consequence memorandum, if party asking court to consider tax consequence of any aspect of distribution or allocation; and
- l) Other documents tending to show existence, value of marital property, divisible property and/or separate property of the parties.

17.3 Stipulations. At the pretrial hearing, the judge, shall actively encourage and solicit from the parties stipulations regarding matters about which the parties have no serious dispute. The judge shall also seek stipulations as to limitations on the number of witnesses, the length of their testimony, the issues for hearing, the order and manner of the presentation of evidence and the length of the trial. All stipulations agreed upon shall be set forth in writing and signed by the attorneys and/or the parties. Nothing herein shall prevent the judge from entering appropriate orders pursuant to the *NC Rules of Civil Procedure and Evidence* limiting a party's evidentiary presentation without such party's consent where such evidence is deemed by the court to be repetitious, irrelevant, immaterial or otherwise lacking in sufficient probative value in light of the other evidence to be presented and the time restraints relevant to the trial of matters before the court.

17.4 Categories Required in Pretrial Order for Equitable Distribution Cases. The Pretrial Order in Equitable Distribution cases shall contain the following categories of information:

- a) Marital property upon which there is agreement as to value and distribution;
- b) Marital property upon which there is agreement as to value and disagreement as to distribution;
- c) Marital property upon which there is agreement as to distribution and disagreement as to value;
- d) Marital property upon which there is disagreement as to distribution and as to value;

- e) Property which the wife and husband agree is the separate property of the wife with contentions or agreements as to value;
- f) Property which the wife and husband agree is the separate property of the husband with contentions or agreements as to value;
- g) Property which the wife claims is her separate property and the husband disagrees and their contentions or agreements as to value;
- h) Property which the husband claims is his separate property and the wife disagrees and their contentions or agreements as to value;
- i) Property which a party contends has mixed marital and separate characteristics and their contentions or agreements as to value;
- j) Other divisible property with their contentions and agreements as to value;
- k) Any other relevant category of property not listed above;
- l) Marital debts, separate debts with amounts due, paid at relevant times;
- m) Contentions of each party, if any, as to why equal division is not equitable division;
- n) Any stipulations entered pursuant to **Dom Rule 17.3** above;
- o) Complete witness list;
- p) Date of separation; and
- q) Evidentiary stipulations.

17.5 Pretrial Order Required for Equitable Distribution Cases (Revised 2013). After the parties have attended the Final Pretrial conference pursuant to §N.C.G.S. 50-21, the party first asserting a claim for equitable distribution will prepare a proposed final pretrial order and serve upon the opposing party both a paper copy and an electronic mail copy which may be changed by the recipient. Pretrial orders drafted and sent to opposing parties must be responded to with written consent or exceptions within 45 days unless given an extension by the court. If the said 45 day timeline has passed, the party who drafted the order may motion the court for intervention and court action. Likewise, if written consent or exceptions are given, the party who drafted the order must respond within 45 days unless given an extension by the court. If the said 45 day timeline has passed, the party who is waiting on the return of the pretrial order may contact the case coordinator for scheduling before the court and for further court action. Contentions of the parties regarding an item shall not be included in the description portion of the schedule. Each party is allowed to include his or her contentions in total on a separate page clearly labeled “contentions”. This contention is related to an item of marital or separate property. Contentions for unequal distribution of property are included on Schedule H or Schedule I of the Pre-trial Order Form FC 090. (Revised 7/23/13 - Excel Pretrial Order - FC 090)

Dom Rule 18. Rules Governing Parent Coordinators [Reserved].

Dom Rule 19. Rules Governing Guardians ad Litem [Reserved].

Dom Rule 20. Rules Governing Reference [Reserved].