STATE OF NORTH CAROLINA THE GENERAL COURT OF JUSTICE

28 JUDICIAL DISTRICT DISTRICT COURT DIVISION

COUNTY OF STANLY AND MONTGOMERY

ORDER ADOPTING LOCAL RULES

The attached Local Rules are hereby adopted effective January 1, 2024, and shall apply to all cases filed on or after that date and, insofar as practical, to all pending cases.

These Rules supersede all previous rules for civil and domestic cases in the District Court Division of the 28 Judicial District.

It is so ordered, this the 11th day of January, 2024.

John R. Nance

JOHN R. NANCE
CHIEF DISTRICT COURT JUDGE
28 JUDICIAL DISTRICT

TWENTIETH JUDICIAL DISTRICT
FAMILY COURT DOMESTIC RULES

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RULE 1: GENERAL

1.1 Purpose. The purpose of these Rules is to provide a framework for the fair, just, and timely resolution of legal problems affecting families and children in this district, whether court intervention is initiated by a family member or a governmental agency.

These Rules are to complement the North Carolina Rules of Civil Procedure, North Carolina Rules of Evidence, and General Rules of Practice for Superior and District Courts.

1.2 Party without an attorney must comply. Parties and attorneys shall comply with these Rules. Although a party is not required to have an attorney, any party who is not represented by an attorney must comply with these Rules, the Rules for Civil Procedure and Rules of Evidence.

1.3 Application. It is recognized that these Rules are not complete in every detail and will not cover every situation that may arise. In the event that these Rules fail to address a specific matter, they should be construed in such a manner as to avoid technical or unnecessary delay and to promote the ends of justice. The Family Court Administration Staff is authorized to act in his/her discretion subject to consultation with the presiding judge or the Chief District Court Judge in applying these Rules.

1.4 Forms. Except where specifically required herein, where local forms are required by these Rules, counsel or pro se parties may use either the forms provided or a form of their own which substantially corresponds to the specified court form.

1.5 Citation. These Rules and all amendments hereafter shall be filed with the Clerk of Superior Court of each county in the 28 Judicial District and the Administrative Office of the Courts. These Rules may be cited accordingly as **28 Judicial District Family Court Domestic Rules 28 (28FCDR).**

1.6 Availability of Rules. The Family Court Administration Staff shall distribute a copy of these Rules and any subsequent amendments to each member of the Bar of the 28 Judicial District via email. The local rules can be found on the www.nccourts.gov website under Stanly County or Montgomery County.

1.7 Goals. Family Court strives to, among other things:

- incorporate administrative practices which promote fair, effective, and efficient resolution of family legal issues;
- provide appropriate dispute resolution services as alternatives to the adversarial process;
- ensure that participants are treated with dignity, respect, and courtesy; and
- assure uniform delivery of professional services.

1.8 Attorney Fees. Hearing upon requests for attorney fees shall, upon the request of the moving party, be conducted immediately after the hearing on the issue to which the

attorney fees apply, and the court may consider the attorney's time and appropriate rate upon affidavit thereafter submitted, provided upon request opposing party shall have the opportunity to contest such affidavit.

RULE 2: FILINGS IN FAMILY COURT

2.1 **Filing.** An original and one copy of a completed AOC Cover Sheet (Form #1) shall accompany the filing with the Clerk of Superior Court of any complaint, motion, answer, response, etc., pursuant to Rule 5 of the General Rules of Practice, except for the following cases: involuntary commitments, domestic violence, IV-D, U.R.E.S.A, U.I.F.S.A., and Clerk's automatic child support enforcement cases. The Clerk of Superior Court shall provide a case number at the time of an initial filing and place the number upon the summons. All subsequent pleadings and papers filed with the Clerk and all subsequent communications to opposing counsel or parties or court personnel shall contain the proper case number. **Scheduling by Case Coordinator.** All motions and hearings shall be scheduled by the Case Coordinator. The Case Coordinator or the court shall schedule the case for the next appropriate court event as may be necessary based on the issues raised in the pleadings. No court date shall be set until a pleading is filed.

2.2 **Emergency or Ex Parte Matters**. Whenever possible, Emergency or Ex Parte Matters shall be brought before the judge then assigned to handle civil matters in the county where the action is pending.

RULE 3: GENERAL RULES FOR SCHEDULING CASES

3.1 **Case Tracking.** The Family Court Administration Staff shall establish and maintain a case tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts, and in accordance with these Rules as approved by the Chief District Court Judge. The Family Court Administration Staff shall schedule family court cases for court events as may be necessary and appropriate based on the issues raised in the pleadings. The Family Court Administration Staff shall inform the parties or their attorneys of scheduled events.

3.2 **Status or Pretrial Conferences Required.** The case manager shall schedule Family Court cases not otherwise exempted herein for appropriate status or pretrial conferences and shall inform the parties or attorneys. The following matters do not require status or pretrial conferences unless ordered by the Court in an individual case: uncontested divorces, hearings to show cause, hearings for temporary or emergency relief, attorney fees, domestic violence, U.I.F.S.A., IV-D, or child support enforcement.

3.3 **Notice.** The Case Coordinator shall publish and distribute calendars as provided in these Rules, which shall constitute adequate Notice. Matters may be added to the calendar after it has been prepared only with permission of the judge assigned to hold court that term based on notice to opposing party or counsel and the Case Coordinator and an

opportunity to be heard, and requesting party shall be responsible for notifying opposing party or counsel if the matter is calendared.

3.4 Upcoming Court Events. In all actions with pending issues, there shall be scheduled a next court date for the upcoming court event that may be appropriate in the case: initial scheduling conference, status or interim pretrial conference, pretrial hearing, final pretrial conference, or trial. The Case Coordinators will review and monitor pending actions; and in any case without a properly scheduled court event, the Case Coordinator shall schedule the case for a status conference or as otherwise appropriate to ensure that the Court addresses matters in a timely manner. Scheduling Orders are encouraged; however, trial dates are confirmed only when set at the final pretrial conference.

3.5 Consolidated Cases. 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 for trial shall be filed in all pertinent court files, and all pleadings or documents filed thereafter shall be captioned with the oldest file number only.

3.6 Required Court Appearances. The attorneys of record and all unrepresented parties, shall be present and ready to proceed as scheduled when a case is noticed for a conference, pretrial hearing, or trial (See Rule 16 regarding continuances and conflicts). If the attorneys and parties are not present and ready to proceed and have failed to notify the court of an emergency or conflict which would preclude the attorney or party from being present, the Court may impose sanctions for failure to comply with these Rules. See Rule 20.

3.7 Settlement of Contested Issues. Parties are encouraged to engage in settlement discussions at every opportunity. The Family Court recognizes the importance to the family of bringing closure to these disputes and the responsibility of the court to assist the parties in resolving these disputes.
Parties and attorneys are required to appear at scheduled court events as noticed unless otherwise ordered by the court. If a resolution of the relevant issues is reached prior to the time of court, the attorneys and the parties may, as follows:

- appear as scheduled and read the terms of the agreement into the record. Another court date will be scheduled and an appropriate Order shall be prepared, signed, and filed with the Court prior to or at that proceedings; or

- be released from appearance if a Memorandum of Judgment/Order (Form 12) has been executed and signed by the parties, their attorneys, and the assigned Judge. Another court date will be scheduled and an appropriate Order shall be prepared, signed, and filed with the Court prior to or at that proceedings; or

- be released from appearance if an appropriate Order is prepared, signed by the parties and their attorneys, and the assigned Judge, and filed prior to the time of Court.

3.8 Motions. Any motion, including all discovery and non-evidentiary motions, shall be set for hearing by the Case Coordinator.

3.9 Motions in the Cause for Contempt. All motions for Orders to Appear and Show Cause for contempt shall be submitted to the court for consideration. Whenever possible, motions to issue show cause orders shall be brought before the judge then assigned to handle civil matters in the county where the action is pending. Upon issuance of the Order to Appear and Show Cause, the Case Coordinator shall set the case on for hearing without a pretrial conference. Notice shall be contained in the Order to Appear and Show Cause.

3.10 Motions for *Ex Parte* Orders. Motions for *Ex Parte* orders shall be submitted only for such emergency circumstances as are allowed by the Rules of Civil Procedure, statute or other law.

1. Motions for *Ex Parte* orders shall be submitted to the judge assigned in the case. Please contact the Judges Office for the next assigned Judge prior to requesting the *Ex Parte*. If the assigned judge is not available to hear an *Ex Parte* or other emergency matter, another judge may hear the matter, however the review will be set before the assigned judge. All documentation, including affidavits, submitted in support of the same, shall be filed with the Court.

2. If a party is represented, reasonable steps shall be taken to contact counsel for the opposing party before an *Ex Parte* motion is submitted. When seeking an *Ex Parte* ruling, parties shall inform the court of the identity of any opposing counsel. Before considering a request for an *Ex Parte* ruling, the court shall inquire about the existence of any opposing counsel and of steps taken to advise opposing counsel in advance of the *Ex Parte* contact. *Ex Parte* Orders shall be in writing and shall include the date, time and place such order is scheduled for review.

3. The review hearing shall be limited to two (2) hours. Each party shall be allocated one (1) hour of that time to be used for review of additional affidavits submitted by either party, direct and cross examination of any witness called by the Movant or Respondent, and opening and closing statements. Examination of a child is in the discretion of the presiding judge, and the time involved will be assessed to the party presenting the child for examination. The court shall limit the issues to only the issue of whether the *Ex Parte* order should have been granted, and the judge will either (a) sustain the *Ex Parte* order, (b) sustain and then modify the *Ex Parte* order, (c) vacate the *Ex Parte* order, or (d) vacate the *Ex Parte* order and then enter such orders as may be justified and necessary considering the circumstances of the case.

4. Affidavits submitted to the court shall be no more than three (3) in number, and be comprised of not more than ten (10) pages, including attachments, with margins, spacing, and font size according to the standards established by the Rules of

Appellate Procedure. There shall be a page break between each affidavit. Affidavits shall be, in form and content, in compliance with the provisions of Rule 56(e) of the Rules of Civil Procedure.

5. If any *Ex Parte* communication with a Judge occurs, then the attorney or party must promptly deliver a written copy of such communication to the opposing party or counsel by the same means used to deliver the communication to the Judge, i.e.: hand delivery, facsimile, express mail or otherwise.

3.11 Calendar Request. An attorney of record may request that a case be placed on a non-jury trial calendar by filing a *Request For Setting* with the Clerk of Superior Court and delivering a copy to the Case Coordinator and to opposing counsel or parties of record not later than four (4) weeks before the session begins.

3.12 Jury. Issues to be determined by a jury in any domestic case shall be scheduled for trial at the final pretrial conference.

3.13 Peremptory Hearings: Requests for a peremptory setting for matters shall be submitted to the Case Coordinator in writing using the *Request for Peremptory Setting* form (FORM # 4) with a simultaneous copy sent or delivered to the opposing party or counsel. The opposing party or counsel shall respond to the Family Court Administration Staff within seven (7) days if they oppose the request for peremptory setting or date sought. When consented to, after receiving a response from the opposing party or counsel, or after ten (10) days whichever comes first, the Family Court Administration Staff shall place the request before the Judge who shall render his or her decision. A peremptory setting shall be granted only for good and compelling reason. The Judge's decision shall be transmitted to the moving party who shall then notify the opposing party or counsel.

3.14 Calendars. The schedules for Family Court Civil sessions shall be posted in the Family Court Administration Staff's Office and on the Internet, and a Notice of Hearing shall be mailed by the Family Court Administration Staff to unrepresented parties. Attorneys of record shall be delivered notice of the Internet posting either by mail, e-mail, or by notice placed in the attorneys' mail basket in the Clerk's office.

RULE 4: TEMPORARY OR INTERIM HEARINGS

4.1 Temporary Hearings. Temporary hearings shall include hearings of request for temporary custody or visitation, temporary child support, post-separation support, and interim partial distributions pursuant to NCGS §50-20(i1). When a temporary hearing for child custody or visitation is prayed for in the complaint, the attorney requesting such hearing must notice opposing counsel and the Family Court Administration Staff before it will be placed on a court docket.

4.2 **Parties and Their Attorneys.** Parties and their attorneys, if any, shall be present at the hearing.

4.3 **Temporary Hearings**. Temporary hearings shall be limited one (1) hour. Each party shall be allocated thirty minutes (30) of that time to be used for review of additional affidavits submitted by either party, direct and cross examination of any witness called by the Movant or Respondent, and opening and closing statements. Examination of a child is in the discretion of the presiding judge, and the time involved will be assessed to the party presenting the child for examination. Both sides have the option of all live testimony for their 30 minutes.

4.4 **Affidavits**. Affidavits shall be filed and served by both parties by noon on Tuesday the week before the week in which the hearing is scheduled.

Should the supporting spouse in a post-separation support matter file affidavits alleging marital misconduct on the part of the dependant spouse, dependant spouse may file and serve by 5:00 p.m. on Tuesday the week before the week in which the hearing is scheduled affidavits alleging marital misconduct on the part of the supporting spouse.

Rebuttal affidavits shall be filed and served by noon on Thursday the week before the week in which the hearing is scheduled.

Late affidavits shall be sealed when filed, and shall not be considered except upon a finding of exigent circumstances. Upon such finding of exigent circumstances, opposing party shall be allowed reasonable time to file rebuttal affidavits. Affidavits not considered shall be returned to the submitting party.

Service of Affidavits. Service of Affidavits may be by actual delivery, fax, or mail; however, service of affidavits by mail requires an additional three (3) days.

Affidavits submitted to the court shall be no more than three (3) in number, and be comprised of not more than ten (10) pages, including attachments, with margins, spacing, and font size according to the standards established by the Rules of Appellate Procedure. Hand-written affidavits will be in the discretion of the court. If the hand-written affidavits are illegible then they will not be considered. There shall be a page break between each affidavit. Affidavits shall be, in form and content, in compliance with the provisions of Rule 56(e) of the Rules of Civil Procedure.

4.5 Pretrial Conferences are not required prior to temporary hearings unless ordered by the Judge.

RULE 5: CHILD CUSTODY AND VISITATION

5.1 **Temporary Hearing.** Either party or attorney may file a Request for Setting for a temporary hearing on the issue of custody or visitation. Upon request, the Family Court Administration Staff will schedule a hearing at the assigned judge's next available court date, on the issue of temporary custody or visitation and inform the parties or their attorneys of the date, time and place of the hearing. The temporary hearing may be heard before the answer or responsive pleading is filed.

5.2 **Mandatory Child Custody and Visitation Mediation.** 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 alternate 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 will 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.

5.3 **Participation**. The parties to any custody and/or visitation case, including initial filings and modifications, shall participate in mandatory mediation prior to any pretrial conference or trial of these issues, unless exempted by the court.

5.4 **Parties Included.** The parties named as the plaintiff and defendant in the filing are required to attend orientation and at least one mediation session. The presence of other parties at the sessions will be allowed only with the consent of the parties involved and at the discretion of the Mediator. The Mediator shall set the rules of behavior for the presence of other parties at his/her discretion. Parties are not to bring any children to the orientation and/or mediation session.

5.5 **Attendance.** The parties to any custody and/or visitation case must attend and participate in the orientation session and at least one mediation session to fulfill the Court's order to participate in mediation. If a party fails to participate in accordance with the Local Rules, the case will be closed in mediation and referred to the Family Court Administration Staff. The Mediator will utilize Form Med-G, *Mediation Outcome*, to update the Case Coordinator and attorneys.

5.6 **Scheduling.** Upon filing a complaint for custody, motion for custody or visitation, or modification to a custody or visitation order, the moving party shall register the parties involved for a mediation orientation upon the filing by utilizing the Custody Mediation Orientation Calendar found in the Clerk's office. The moving party shall serve upon the opposing party and counsel the pleading and the *Notice for Custody Mediation Orientation* (Form Med-A) that identifies the orientation date. Parties should be noticed

at least ten (10) days prior to mediation orientation. Should the moving party fail to schedule mediation orientation upon the filing, this failure will be reported to the Chief District Court Judge's Office.

The Mediator will schedule subsequent mediation sessions with the parties at the time of orientation by providing a *Notice of Custody Mediation Conference* (Form Med-C).

5.7 Expedited Mediation. In some cases, the parties may be best served by attending orientation/mediation immediately. A written request for expedited mediation, *Stipulation For Expedited Mediation* (Form Med-D), signed by both parties and/or their attorneys and forwarded to the Mediator will waive the group orientation requirement. The attorneys or parties should contact the Mediator to schedule an expedited appointment that will include both a mini-orientation and a mediation session.

5.8 Waiving the Custody Mediation Process. In some instances, mediation may not be appropriate or in the best interest of the parties or their children. In these instances, a party may move to waive mediation for "good cause" and good cause is defined as including, but not limited to the following in General Statute 50-1(c): "showing of undue hardship to a party; an agreement between the parties for voluntary mediation, subject to court approval; allegations of abuse or neglect of the minor child, allegations of alcoholism, drug abuse, or spouse abuse; or allegations of psychological, psychiatric, or emotional problems." Parties desiring an exemption shall complete and submit a *Motion For Exemption From Mediation* (Form Med-E) to the Case Coordinator for the Chief District Court Judge to review. The Chief District Court Judge will make a decision based on the submission without a hearing. The Court's Decision will be recorded on the *Order As To Exemption From Mediation* (Form Med-F). If exempted, the Case Coordinator will calendar the case. If it is not exempted, refer to Rule 5.6 for scheduling mediation orientation.

5.9 Full Parenting Agreements. If the parties are able to reach a full parenting agreement, the Mediator will prepare a draft and distribute copies to all parties and their attorneys. A time will be scheduled with the parties to return to sign the final draft, usually within twenty-one days. Final signed agreements shall be presented to the Court. The Court shall review each agreement signed by the parties, and, if appropriate, make the parenting agreement an Order of the Court by signing the *Order Approving Parenting Agreement*. The Mediator will file the final Order and Parenting Agreement with the Clerk of Superior Court, and distribute copies to the parties and counsel. The Mediator will update the Case Coordinator by utilizing *Mediation Outcome* (Form Med-G).

5.10 Partial Parenting Agreements. If a partial agreement is reached, the Mediator will prepare a final draft of the partial agreement and follow the process set out in Rule 5.9. The Mediator will notify the Case Coordinator by utilizing *Mediation Outcome* (Form Med-G), identifying the issues that are to be heard by the Court.

5.11 Temporary Parenting Agreements. If the parties wish to agree to temporary

stipulations, the Mediator shall prepare an agreement for a specified period of time. The signing of the agreement will follow the process set out in Rule 5.9. The Temporary Parenting Agreement will address the issue of what happens when the agreement expires, according to the parties' wishes. It is the responsibility of the parties, not the Mediator, to initiate any follow-up appointment.

5.12 No Agreement Reached in Mediation. If the parties fail to agree, the Mediator will notify the Family Court Administration Staff, who will schedule the case for trial. Attorneys will also be notified by utilizing "*Mediation Outcome"* (FORM MED-G).

5.13 Modifications. If the parties previously attended an orientation, the moving party is responsible for contacting the Mediator to schedule a mediation appointment. The Mediator will notify the other party and arrange for a mutually convenient time for a mediation appointment. If the parties have not previously attended a mediation orientation, the moving party shall follow the instructions as outlined in Rule 5.6. If the last orientation that was attended is over 3 years then the parties have to re-attend an orientation session.

5.14 Mediation Termination. The Mediator, in her/his discretion, may terminate the mediation if the Mediator receives information during the course of the mediation that indicates continuing mediation would be inappropriate for reasons of safety, welfare, or significant psychological dynamics. The Mediator will then report to the attorneys and Case Coordinator that no agreement was reached, and the Case Coordinator will calendar the case.

5.15 Closure of Mediation. A case will be considered closed in mediation once the parties have reached an agreement, attended orientation and at least one mediation session without an agreement, reached a consent order through their attorneys, voluntarily dismissed, or if the case has been exempted from mediation. If a consent order has been reached or the case has been voluntarily dismissed, the moving party shall provide appropriate documentation to the Mediator. The Case Coordinator will not calendar for court any custody or visitation complaint that has not been closed in mediation.

5.16 Inadmissibility. All verbal or written communications from either or both the parties to the Mediator or between the parties in the presence of the Mediator made in a proceeding pursuant to these Rules are absolutely privileged and inadmissible in Court. Neither the Mediator nor any party or other person involved in mediation under these Rules shall be called to testify as to communications made during or in furtherance of such mediation sessions, provided there is no privilege as to communications made in furtherance of a crime, implied threat or fraud.

5.17 Correspondence with Attorneys. The Mediator will deliver any written communication to attorneys by using the attorney boxes located in the courthouse. If this method is unavailable, the Mediator will forward any written correspondence by U.S. mail.

RULE 6: CHILD SUPPORT

6.1 Financial Affidavit. The party filing a complaint or motion seeking the establishment of child support or the modification of an existing order for child support must attach at filing and serve upon the opposing party or attorney a completed *Financial Affidavit* (Form #8) with the complaint or motion.

The opposing party or attorney shall file and serve upon the moving party or attorney the completed *Financial Affidavit* upon the earlier of (1) the filing of the answer or responsive pleading, (2) no later than 30 days of service upon the nonmoving party in a situation where no responsive pleading is required, or (3) noon on Thursday the week before the week in which the hearing is scheduled.

6.2 Proof of Income. The opposing party or attorney shall file and serve before such hearing copies of such party's pay stubs for the preceding two (2) months (or other documentation of such party's income) and such party's latest federal tax return (including all schedules, W-2's & 1099'S).

6.3 Hearing for Temporary Child Support. Either party may file a Request for setting for a hearing on the issue of temporary child support. Upon request, the Family Court Administration Staff will schedule a hearing on the issue of temporary child support and inform the parties or their attorneys of the date, time, and place of the hearing. The temporary hearing may be held before the answer or other responsive pleading is filed. The temporary hearing shall be conducted in accordance with the provisions of Rules 4.3 and 4.4 herein.

6.4 Family Court Administration Staff. The Family Court Administration Staff will schedule permanent child support as soon as possible following the resolution of custody and/or visitation.

RULE 7: POST-SEPARATION SUPPORT AND ALIMONY

7.1 Financial Affidavit. The party filing a complaint or motion seeking the establishment of post-separation support and alimony or the modification of an existing order for post-separation support and alimony must attach at filing and serve upon the opposing party or attorney a completed *Financial Affidavit* (Form #8) with the complaint or motion.

The opposing party or attorney shall file and serve upon the moving party or attorney the completed *Financial Affidavit* upon the earlier of (1) the filing of the answer or responsive pleading, (2) no later than 30 days of service upon the nonmoving party in a situation where no responsive pleading is required, or (3) noon on Thursday the week before the week in which the hearing is scheduled.

7.2 **Family Court Administration Staff.** The Family Court Administration Staff shall set the issue of post-separation support for hearing at the assigned judges next available court date once service is perfected. The temporary hearing may be heard before the answer or responsive pleading is filed.

7.3 **Family Court Administration Staff.** The Family Court Administration Staff shall set alimony issues for a status conference within ninety (90) days of the filing of the complaint or motion.

RULE 8: EQUITABLE DISTRIBUTION

8.1 **Equitable Distribution Inventory Affidavit: Moving Party.** The moving party asserting a claim for equitable distribution shall serve the opposing party or counsel with the pleading asserting equitable distribution. *The Equitable Distribution Inventory Affidavit* is intended to aid the parties and the Court in determining the net marital and separate estates of the parties.

8.2 **Equitable Distribution Inventory Affidavit: Opposing Party.** Within 60 days after filing the request for equitable distribution, the party requesting shall file with the court and serve upon the opposing counsel or party an *Equitable Distribution Inventory Affidavit*. Within 30 days after being served, the opposing party shall file with the court and serve upon the opposing counsel or party *an Equitable Distribution Inventory Affidavit*.

8.3 **Interim Distribution.** If a party moves for an Interim Distribution pursuant to NCGS 50.20(i1), the party shall contact the Family Court Administration Staff who will schedule an Interim Distribution hearing before the assigned Judge within thirty (30) days of the filing of the complaint or motion. The temporary hearing may be heard before the answer or responsive pleading is filed.

8.4 **Status Conference.** The Family Court Administration Staff shall schedule a status conference which will occur within 120 days of the date the pleading was filed.

The Rules of North Carolina Supreme Court implementing settlement procedures in equitable distribution and other family financial cases shall be followed.

The purpose of the status conference is to ensure that the case is proceeding toward resolution in a timely and orderly fashion. At the status conference the Case Manger will confirm that each party has completed and filed his or her *Equitable Distribution Inventory Affidavit*. At the status conference an Order of Reference will be entered designating the method of ADR to be employed, the Neutral who will conduct the ADR and the deadline for the completion of the ADR process (within 90 days of the status conference). The Order will also set the date for an interim pretrial conference

approximately ninety (90) days following the status conference and a final pretrial conference approximately one hundred and twenty (120) days following the status conference, and a trial date approximately 150 days following the status conference, or 270 days from the date of the initial filing.

8.5 Attendance at Status Conference. The attorneys of record and all unrepresented parties, shall attend the status conference unless the Court waives attendance after determining in advance of the status conference, as follows:

1. Each party has completed and served the other party with the ED Inventory Affidavit, and

2. The parties have submitted to the Family Court Administration Staff the completed appropriate form, signed by the parties setting forth their chosen method of ADR, and

3. A signed Consent Order, approved by the Court, setting forth a discovery schedule.

8.6 Failure to Attend. Failure to attend the status conference or pre-trial conference, failure to properly complete, including amendments or supplements, file and exchange ED Inventory Affidavits may result in an immediate hearing. At the hearing the Judge may impose sanctions as permitted by law against the non-complying party, parties, or attorneys of record, and may order limitation or exclusion of the responsible party's proffered testimony (either written or oral).

8.7 Reference. In any equitable distribution claim, the Court may, in its discretion, and pursuant to Rule 53 and Rule 16(a)(5) of the North Carolina Rules of Civil Procedure, order a reference before proceeding further, or before entering final judgment. The Court may provide for the apportionment of the costs of said references, filing deadlines, and scope as it deems to be in the furtherance of the disposition of the claim.

8.8 Amendments/Supplements to Equitable Distribution Inventory Affidavit. All discovery in Equitable Distribution matters should be exchanged by 5:00 p.m. one week prior to the scheduled mediation date. If new materials surface in the week prior to the mediation, they will be forwarded within one business day of their receipt.

8.9 Equitable Distribution Pre-Trial Order. No later than seven (7) days prior to the equitable distribution pre-trial conference, the party initially requesting equitable distribution shall file and serve a proposed *Equitable Distribution Pre-Trial Order* (FORM #15) accurately combining the contentions of the parties as set forth in their Affidavits as amended and supplemented. At the equitable distribution pre-trial conferences the parties and the Court will sign an *Equitable Distribution Pre-Trial Order* which shall be binding on the parties at trial, unless an amendment by the Judge is allowed.

RULE 9: SHARING OF INFORMATION IN JUVENILE AND FAMILY COURT CASES

Designated Agencies. WHEREAS, N.C.G.S. 7B-2901 generally requires that records of all Juvenile cases alleging abuse, neglect, or dependency be kept confidential.

WHEREAS, N.C.G.S. 7B-3100 allows the Chief District Court Judge to adopt rules designating certain local agencies that are authorized to share information regarding abused, neglected, and dependent juveniles. Therefore, the undersigned, as Chief District Court Judge, order the following:

1. Agencies so designated shall share with one another, upon request, and to the extent permitted by Federal law and regulations, information that is in their possession that is relevant to any assessment of a report of child abuse, neglect, or dependency, or the provisions or arrangement of protective services in a child abuse, neglect, or dependency case by a local Department of Social Services pursuant to the authority granted under Chapter 7B of the General Statutes, or to any case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent.

2. Agencies so designated shall continue to share with one another until the Protective Services Case is closed by the local Department of Social Services, or if a petition is filed when the juvenile is no longer subject to the jurisdiction of Juvenile Court.

3. Agencies that may be designated as "agencies authorized to share information "include the following facilities in Judicial District 28 catchment area:

A. Mental Health, Substance Abuse, Intellectual Disability, and Developmental Disability treatment facilities and providers that have met the North Carolina Division of Health Service Regulation, Mental Health licensure and certification requirements;

B. Local Health Department of Stanly and Montgomery County;

C. Local Department of Social Services in Stanly and Montgomery County;

D. Local Law Enforcement Agencies in Stanly and Montgomery County;

E. Local School Administrative Units in Stanly and Montgomery County;

F. The District Attorneys' Office in Stanly and Montgomery County; the District Attorneys are authorized to disclose or release among agencies; however, unlike the other designated agencies, nothing herein shall be deemed to require the disclosure or release of any information in the possession of the District Attorneys;

G. The Division of Juvenile Justice of the Department of Public Safety in Stanly and Montgomery County;

H. The Office of the Guardian ad Litem Services of the Administrative Offices of the Courts in Stanly and Montgomery County;

I. The Section of Community Corrections of the Division of Adult Corrections of the Department of Public Safety;

J. Butterfly House or any authorized Child Medical Evaluation provider;

K. Atrium Health in Stanly County, BHCAC Medical Team; FirstHealth Montgomery Memorial Hospital

4. Any information shared among agencies pursuant to this Order shall remain confidential, shall be withheld from public inspection, and shall be used only for the protection of the juvenile and others, or to improve the educational opportunities of the juvenile.

5. This Order does not supersede any Federal restrictions on the release of confidential information.

RULE 10: JUVENILE ABUSE, NEGLECT, AND DEPENDENCY CASES

Rule 10.1 Scope

These rules apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected, or dependent.

Rule 10.2 Purpose

These rules are designed to help achieve stable and secure homes for children who come into the court's juvenile jurisdiction. To that end, these rules serve the following purposes:

(1) To provide for judicial oversight of case planning;
(2) To ensure a coordinated decision-making process;
(3) To eliminate unnecessary delays in court proceedings; and
(4) To encourage the involvement of families and children in the planning and decision-making process.

Rule 10.3 Construction and Enforcement

These rules shall be liberally construed to accomplish the purposes set forth in Rule 2. The court may impose sanctions against a party or attorney who fails to comply with these rules;

however, no rule shall be construed, applied, or enforced in a manner that will endanger or harm a child or prejudice the rights of a party.

Rule 10.4 Definitions

Unless the context clearly requires otherwise, for purposes of these rules:

(1) "Case Coordinator" means a person deemed qualified and so designated by the chief district court judge as a juvenile case manager.
(2) "Clerk" means the clerk or an assistant or deputy clerk of superior court.
(3) "Court" means the district court or a district court judge.
(4) "Day-one conferences" means a voluntary meeting with a case coordinator of the petitioner, the parent(s), the guardian ad litem, all attorneys involved in the case, and other appropriate persons, held on the first business day after the juvenile is taken into custody.
(5) "DSS" means the county department of social services.
(6) "Judge" means a district court judge in the 28 judicial district.
(7) "UCCJA" means the Uniform Child Custody Jurisdiction Act, Chapter 50A of the North Carolina General Statutes.

Rule 10.5 Appointment of Counsel

a. When a petition is filed alleging abuse, neglect, or dependency, the clerk shall appoint separate counsel to represent each parent named in the petition.
b. The clerk shall prepare a *Notice of Appointment of Counsel* to be served on the parent with the petition and summons. The notice shall include the attorney's name, business address and telephone number and shall encourage the parent to contact the attorney. The notice also shall inform the parent:

(1) the parent may retain counsel;
(2) that the court, at the first hearing, will determine whether the parent qualifies for appointed counsel and, if the parent does, whether the parent waives the right to counsel; and
(3) that the court will dismiss the appointed counsel if the parent does not qualify for appointed counsel or the parent waives the right to counsel.

c. Before appointing a specific attorney, the clerk shall ensure that the attorney is available for the first hearing in the case and, to the best of the attorney's knowledge, for other stages of the proceeding. The clerk may make this determination either by talking with the attorney or by pre-arrangement with one or more attorneys on the appointment list to be maintained by the Clerk.

Rule 10.6 Responsibilities of Attorneys

a. Before being eligible for appointment to represent parents, attorneys must satisfy the court:

(1) that they have sufficient experience and skills to provide competent representation;
(2) that they have a good working knowledge of juvenile law and juvenile court procedures;
(3) that they have a good understanding of child protective services and the related mandates that apply to DSS and to guardians ad litem; and

(4) that they have completed satisfactorily any initial or continuing training specified by the chief district court judge.

b. An attorney shall not accept an appointment pursuant to Rule 5 unless the attorney can be available for the day-one conference and the first hearing in the case and, to the best of the attorney's knowledge, for other stages of the proceedings.

c. After the first hearing in a case, an attorney appointed to represent a parent who has not been served and who does not appear at the hearing, shall not be responsible for further appearances until the clerk notifies the attorney that the parent has been served.

d. An attorney who has a conflict in another court shall comply with the relevant rules relating to priority and when absent from juvenile court because of a conflict, shall keep the case coordinator or courtroom clerk informed of his or her location at all times.

e. Leave of court for an attorney to withdraw from a case shall be granted only for compelling reasons.

Rule 10.7 Appointment of Guardian ad Litem and Attorney Advocate

a. When a petition is filed alleging abuse or neglect, a guardian ad litem shall be appointed by the court to represent the juvenile named in the petition. If the guardian ad litem is not an attorney, then an attorney advocate also shall be appointed. When a petition is filed alleging dependency, a guardian ad litem and attorney advocate similarly may be appointed.

b. Before assigning a specific guardian ad litem or attorney advocate, the district administrator of the Guardian Ad Litem Program shall ensure that the guardian ad litem or attorney advocate will be available for the day-one conference and the first hearing in the case and for other stages of the proceedings.

Rule 10.8 Responsibilities of Guardian ad Litem and Attorney Advocate

a. A guardian ad litem or attorney advocate shall not accept an appointment pursuant to Rule 7 unless, to the best of the guardian ad litem's or attorney advocate's knowledge, he or she can be available for all stages of the proceeding, including the day-one conference.

b. An attorney advocate who has a conflict in another court shall comply with the relevant rules relating to priority and, when absent from juvenile court because of a conflict, shall keep the case manager or courtroom clerk informed of his or her location at all times.

Rule 10.9 Service: Summons and Petition: Notice

a. From the date the petition is filed until the adjudication hearing, the petitioner shall have a continuing duty to identify and locate any parent who has not been served with a copy of the summons and petition and to have the summons and petition served on any such parent.

b. Any motion for service by certified or registered mail shall be liberally granted.

c. The *Notice of Appointment of Counsel* required by Rule 5 shall be served on each parent with the petition and summons.

d. Any time a parent is served with a copy of a non-secure custody order on the day a juvenile is taken into non-secure custody, the parent also shall be served with a notice informing the parent of the nature, date, place, and time of the day-one conference.

Rule 10.10 UCCJA Affidavit

The information required G.S. 50A-9 shall be included in the petition, in an affidavit attached to and served with the petition, or in a separate affidavit filed with the court and served on the parties as soon as feasible after the petition is filed.

Rule 10.11 Day-One Conference

a. Whenever a juvenile is taken into non-secure custody, a day-one conference shall be held on the first business day after the juvenile is taken into custody.
b. The day-one conference shall be conducted by a case coordinator.
c. At the day-one conference, the case coordinator shall:
   (1) introduce himself or herself and the parties and advise the parties of their rights, of the fact that participation in the conference is voluntary, and of the fact that a non-secure custody hearing will be held before a district court judge;
   (2) explain the nature of the proceeding and the purposes of the conference;
   (3) review the adequacy of notice and service of process;
   (4) attempt to ascertain the identity and whereabouts of any parent, guardian, or custodian of the juvenile who is not present, whether that person has been served, and what steps need to be taken to identify, locate, or serve any such person;
   (5) hear information from the parties, aimed at determining:
      (a) what condition is alleged in the petition,
      (b) what condition or risk precipitated the non-secure custody order, including considerations of the results of the petitioner's risk assessment.
      (c) whether a condition or risk justifying non-secure custody under G.S. 7A-574(a) exists, and
      (d) what efforts the petitioner has made to prevent or eliminate the need for non-secure custody.
d. After giving all parties an opportunity to present information and to ask questions of other parties, the case coordinator shall determine whether there is agreement among the parties as to the need for the juvenile to remain in non-secure custody.
e. If all parties agree that the juvenile does not need to remain in non-secure custody, the case coordinator shall:
   (1) summarize in writing, in the form of a proposed consent order releasing the juvenile from non-secure custody, the basis for that agreement, including the proposed plan for the child pending a hearing;
   (2) give all parties an opportunity to review the proposed consent order and to decide whether to sign it; an
   (3) if all parties voluntarily sign the proposed consent order, present it as soon as possible to a district court judge, who shall determine whether to approve it as an order of the court.
f. If the parties do not agree that the juvenile should be released from non-secure custody, the case coordinator shall explore the following with the parties:
   (1) placement options for the juvenile, including possible relative placements and efforts to keep siblings together,

(2) efforts needed to ensure that a school-aged juvenile's school placement and attendance are not disrupted,
(3) parental visitation,
(4) sibling visitation,
(5) service needs and referrals.
(6) financial support for the juvenile,
(7) whether a court order is needed to address the juvenile's immediate needs, such as an immediate need for medical treatment or evaluation, and
(8) specific steps the parties agree to take before the non-secure custody hearing.

g. If a judge signs a consent order releasing the juvenile from non-secure custody, the case coordinator shall explore the following with the parties:
(1) service needs and referrals, and
(2) specific steps the parties agree to take before the first hearing.

h. Before the conclusion of the day-one conference, the case manager shall:
(1) summarize what has occurred,
(2) give all parties an opportunity to ask questions,
(3) set a specific date for the first hearing,
(4) explain the purpose of the hearing,
(5) prepare and ensure that all parties have a copy of any order a judge has signed or any written agreement entered as a result of the day-one conference,
(6) in any case in which a parent's identity or whereabouts are unknown or the paternity of the child has not been legally established, specify in writing any steps that are to be taken to identify the parent, locate the parent, or establish paternity.

Rule 10.12 Non-secure Custody Hearing

a. If a juvenile remains in non-secure custody after a day-one conference, the non-secure custody hearing required by G.S. 7A-577(a) to determine the need for continued non-secure custody shall be held within seven calendar days after the juvenile was taken into non-secure custody.

b. Non-secure custody hearings shall be held before a district court judge.

c. At a non-secure custody hearing, the judge shall:
(1) introduce himself or herself and the parties;
(2) review the nature of the proceeding and the purposes of the hearing;
(3) address any issues relating to adequacy of notice and service of process;
(4) follow up on any pending issue regarding the identity or whereabouts of any parent, guardian, or custodian of the juvenile; and
(5) hear sworn testimony from the parties aimed at determining:
(a) whether a condition or risk justifying continued non-secure custody exists under G.S. 7A-574(a),
(b) what efforts the petitioner has made to eliminate the need for non-secure custody,
(c) what other steps the parties have taken since the day-one conference.

d. After giving all parties an opportunity to present evidence and to ask questions of other parties, the judge shall make appropriate findings of fact and conclusions of law, indicating:

(1) whether there is a reasonable factual basis to believe:
  (a) that the matters alleged in the petition are true,
  (b) that continued non-secure custody is supported by one or more of the criteria set forth in G.S. 7A-574(a), and
  (c) that there is no other reasonable means available to protect the juvenile;
(2) whether the petitioner has presented clear and convincing evidence that no less intrusive alternative will suffice to protect the juvenile; and
(3) whether the petitioner has made reasonable efforts to eliminate the need for the juvenile's placement.

e. If the judge finds that continued non-secure custody is necessary, the judge shall review or explore with the parties the following:
(1) the appropriateness of the juvenile's placement and other placement options, including possible relative placements and efforts to place or keep siblings together,
(2) any efforts needed to ensure that a school-aged juvenile's school placement and attendance are not disrupted,
(3) parental visitation,
(4) sibling visitation,
(5) service needs and referrals,
(6) financial support for the juvenile,
(7) whether additional orders are needed to address the juvenile's immediate needs, such as an immediate need for medical treatment or clinical evaluation, and
(8) specific steps to be taken by the parties before the next hearing.

f. If the judge finds that continued non-secure custody is not warranted, the judge shall explore with the parties the following:
(1) service needs and referrals, and
(2) specific steps to be taken by the parties before the next hearing.

g. Before the conclusion of the non-secure custody hearing, the judge shall:
(1) summarize what has occurred,
(2) give all parties an opportunity to ask questions,
(3) set specific dates for a pretrial conference and the adjudicatory hearing or, for good cause, another non-secure custody hearing,
(4) explain the purpose of the pretrial conference, if applicable, and of the next hearing,
(5) prepare and ensure that all parties have a copy of any order entered as a result of the non-secure custody hearing,
(6) in any case in which a parent's identity or whereabouts are unknown or the paternity of the child has not been legally established, specify in the order any steps that are to be taken to identify the parent, locate the parent, or establish paternity, and
(7) ensure that all documents introduced for consideration at the hearing become a part of the court file.

h. At a non-secure custody hearing, the judge may accept stipulations and approve consent orders relating to continued non-secure custody, subject to the provisions of Rule 13.

i. If an additional non-secure custody hearing is not scheduled pursuant to subsection g. of this rule, any party may request an additional non-secure custody hearing by filing a written request with the clerk, and give a copy to the case coordinator who shall calendar the hearing. The requesting party shall provide at least five days notice of the hearing to all other parties.

j. DSS shall make discovery of all discoverable information in its possession at the first non-secure custody hearing. This includes notes, summaries, dictation, case plans, safety assessments, home studies, correspondence, visitation plans, etc. This does not include mental impressions, conclusions, opinions, legal theories of an attorney or other representative of a party concerning the litigation in which the material is sought, or work product of the attorney. See Local Rule 10.14 and NCRCP Rule 26(b)(3).

Rule 10.13 Stipulations Before Judge

a. Before accepting a stipulation to findings, conclusions, or provision of an order, the judge, in open court, shall determine that the stipulating parties understand the content and consequences of the stipulation and that they voluntarily consent to the stipulation. The judge shall inquire of the parties in order to determine that the stipulation is voluntary and knowing. The judge's findings shall be set forth on the record.
b. The judge shall not be bound by any stipulation to which fewer than all of the parties who have appeared, including the guardian ad litem, have agreed.

Rule 10.14 Discovery

a. Except as protected by privilege, all parties shall disclose all relevant material and information to all other parties as early as possible. This requirement applies to counsel for the parties, including the attorney advocate for the child, to any unrepresented party, and to the guardian ad litem.
b. Any party, including the child, may file a motion to compel discovery of specific information or material. The motion shall be heard within five working days of the date it is served.
c. All means of discovery permitted by the Rules of Civil Procedure shall be available. In order to coordinate the completion of discovery and to avoid unnecessary delay, however, no such discovery may be conducted without approval of the court and the establishment of expedited time lines for its completion.
d. The court may take any action on motions to compel authorized by G.S. 1A-1, Rule 37.
e. DSS shall complete discover of discoverable information in its possession by 21 days from the filing of the petition. The obligation to provide discovery is continuing and reciprocal in nature. All parties shall complete discovery no later than 7 days prior to the scheduled adjudication date. The presiding judge shall determine if irregularities with discovery warrant a continuance or sanctions pursuant to NCRCP Rule 37.
f. All medical/psychological records shall be delivered directly to the juvenile court clerk. The juvenile court clerk shall provide notice to all attorneys involved in the case when the records are received. The attorneys (not paralegals or secretaries) shall be responsible for reviewing and copying the records at the clerk's office. Copies shall be provided by the clerk free of charge. REMINDER: Attorneys are responsible for maintaining the confidentiality of these records. Liability may attach if information from these records is disseminated to the public.

Rule 10.15 Pre-Adjudication Conference

a. A pre-adjudication conference shall be held within **thirty days** of the filing of the petition unless the judge, for good cause, orders that it be held at a later time.
b. All parties and their attorneys shall attend pre-adjudication conference.
c. The purposes of the conference shall be to explore the possibility of settlement, to narrow the issues as much as possible, and to stipulate those facts that are not in dispute.
d. At or before the conference, each party shall provide to all other parties a written list of prospective witnesses and exhibits and copies of all available listed exhibits intended for use at the adjudication hearing. Any listed exhibit that is not available for distribution at or before the pre-adjudication conference shall be distributed as soon as it is available.
e. At the pre-trial conference, the case manager or judge shall assist the parties in:
(1) sharing witness lists, exhibit lists, and exhibits,
(2) defining the issues,
(3) identifying matters that can be stipulated and making stipulations, and
(4) considering any proposed consent order.
f. At the conclusion of the pre-adjudication conference, the judge shall enter an order reflecting the outcome of the conference and ensure that each party is provided a copy of the order.
g. If a parent's identity or whereabouts remain unknown or the paternity of the child has not been legally established, the judge shall specify in the order any steps that are to be taken to identify the parent, locate the parent, or establish paternity.
h. DSS is to have their list of witnesses and exhibits to the Family Court/Judicial Administration Staff no later than 4 days prior to the court date.
i. All attorneys shall prepare a written pre-adjudication report to be distributed at the hearing which clearly sets forth the following information:
aa. Evidence likely to be offered at adjudication;
bb. Whether motions need to be heard prior to adjudication;
cc. Whether a party can make any stipulations so as to expedite the actual adjudication.
The Family Court Administration/District Court Staff shall consolidate this information into a pre-adjudication order which will then be distributed to the parties as soon as possible.

Rule 10.16 Adjudicatory Stipulations Before Judge

a. Before accepting a stipulation to findings, conclusions, or provisions of the court's adjudication order, the judge, in open court, shall determine that the stipulating parties understand the content and consequences of the stipulation, including, if applicable, the possibility that the child may be removed permanently from the home, and that they voluntarily consent to the stipulation. The judge shall inquire of the parties in order to determine that the stipulation is voluntary and knowing. The judge's findings shall be set forth on the record.
b. The judge shall not be bound by any stipulation to which fewer than all of the parties who have appeared, including the guardian ad litem, have agreed.

Rule 10.17 Adjudication

a. The adjudication hearing shall be held within **sixty days** from the filing of the petition, unless the judge, for good cause, orders that it be held at a later time.
b. The adjudication hearing shall be held before a district court judge.

Rule 10.18 Predisposition Reports

a. Whenever DSS files a petition, DSS shall prepare a predisposition report that includes at least the following:
   (1) A description of the placement plan for the child and how that plan is appropriate to the child's needs;
   (2) A description of the plan of services for the child and the child's family, and how that plan is appropriate to meet the child's needs;
   (3) A statement of changes in parental behavior that are needed to correct the conditions that led to the abuse, neglect, or dependency, and the actions the parents must take;
   (4) If there is a recommendation that the child be removed from the home,
      (a) A statement of the efforts by DSS to prevent the need for placing the child outside the home;
      (b) A description of the efforts by DSS to reunify the family, including services that have been offered, provided, or rejected;
      (c) A statement of why the child cannot be protected from the identified problems while remaining in the home;
      (d) The identity of all relatives and friends who have been contacted about providing a placement for the child, and a description of the nature and results of those contacts;
      (e) A suggested visitation plan for the child;
      (f) A statement of the child's special needs and how they may be met;
      (g) The identity and location of the child's siblings, and a statement of steps required to maintain contact between the siblings and reunify the family; and
      (h) If applicable, a description of the child's school or day-care situation and any proposed changes related to it.

b. The guardian ad litem for the child shall prepare a predisposition report to assist the court in reaching a disposition that will best serve the child's needs.

c. DSS and the child's guardian ad litem shall provide copies of their predisposition reports to all parties and their counsel before the pre-adjudication conference.

d. Predisposition reports shall not be submitted to or considered by the court until the adjudication is completed or the parties have settled all adjudication issues.

Rule 10.19 Dispositional Stipulations

a. Before accepting a stipulation relating to disposition, the judge, in open court, shall determine that the stipulating parties understand the content and consequences of the stipulation and that they voluntarily consent to it. The judge shall inquire of the parties in order to determine that the stipulation is voluntary and knowing. The judge's findings shall be set forth on the record.

b. The judge shall not be bound by any stipulation to which fewer than all of the parties who have appeared, included the guardian ad litem, have agreed.

Rule 10.20 Services from Other Public Agencies

a. Any time after adjudication, if it appears that the best interest of the juvenile may require, or that a party is recommending, that the juvenile receive services from a public agency, the court may direct the clerk or a party to serve the director or other appropriate representative of the agency with a notice of the dispositional hearing or a subsequent hearing and of the issues to be addressed that involve that agency. If the notice is served on a county agency, it also shall be served on the county attorney.
b. At the dispositional or subsequent hearing for which the agency has been served with notice, the court may hear evidence and enter orders relating to the level and type of services that the agency can and should provide to meet the juvenile's needs.
c. After proper notice, the court shall have jurisdiction to order a public agency to provide specific services to the juvenile as provided by law.

Rule 10.21 Disposition

a. The dispositional hearing shall be held immediately following the adjudication or within **30 days** thereafter.
b. If the juvenile remains out of the home at the conclusion of the dispositional hearing, the judge shall specify in the order a specific time for a review hearing.
c. At the conclusion of the dispositional hearing, the judge shall determine whether any person or agency not present or represented at the dispositional hearing needs information about the disposition in order to help meet the child's needs. The judge may order that either a copy of the dispositional order or a summary of appropriate portions of the order be provided to any such person or agency. The court also may order the parties to share specified types of information on an ongoing basis with designated persons or agencies.
d. At the conclusion of the dispositional hearing each party shall be provided a written memorandum of the judge's order.
e. If a parent's identity or whereabouts remain unknown or the paternity of the child has not been legally established, the judge shall specify in the order any steps that are to be taken to identify the parent, locate the parent, or establish paternity.

Rule 10.22 Review Hearings

a. When a juvenile remains out of the home following a dispositional hearing, a review hearing shall be held at a time the judge designates in the dispositional order, but in no event more than **ninety days** from the date of the dispositional hearing.
b. When a juvenile remains out of the home following the first review hearing, the judge shall determine and specify in the review hearing order an appropriate date for the next review hearing. In no event shall the second review hearing be held more than **six months** from the date of the first review hearing. A goal of the second review hearing shall be to develop a permanent plan for the juvenile.
c. As long as the juvenile remains out of the home, subsequent review hearings shall be held at times the judge finds appropriate, but in non event more than **six months** from the date of the

previous review hearing, unless the judge orders otherwise pursuant to G.S. 7A-657(b). A goal of each review hearing shall be to develop a permanent plan for the juvenile.

d. The DSS attorney shall deliver a written court summary to all counsel, unrepresented parties, and the Guardian ad Litem Office at least **twenty-one (21) days** before each review hearing. The summary shall describe the progress in the case since the last hearing and include DSS's recommendations. At least **two weeks** before the review hearing, every other party shall deliver in writing to the DSS attorney and all other parties any and all of the party's disagreements with or objections to the DSS summary. If DSS receives any written disagreements or objections, DSS shall ask the clerk to schedule a pre-review conference and shall notify the other parties of the conference. The judge shall participate in the conference and all parties shall attend. If a party fails to disagree with or object to DSS's summary in writing, the party may present evidence contrary to the summary only if the court finds good cause for the party's failure to disagree or object.

g. If a parent's identity or whereabouts remain unknown or the paternity of the child has not been legally established, the judge shall specify in the review hearing order any steps that are to be taken to identify the parent, locate the parent, or establish paternity.

Rule 10.23 Priority of Juvenile Court

Juvenile cases involving abuse, neglect, or dependency shall have priority over all other district court matters.

Rule 10.24 Maintaining Case on Court Calendar

a. Each case shall be maintained on the court calendar at all times as long as juvenile court jurisdiction in the case continues.

b. At or before the conclusion of each hearing, a subsequent hearing date shall be set.

Rule 10.25 Judicial Official Before Whom Case is Scheduled

a. Once a case has been heard at any stage by a judge, subsequent hearings before a judge shall be heard by the same judge, unless circumstances require otherwise.

a. Any function that these rules assign to a Family Court Administration/District Court Staff may be performed by a judge.

Rule 10.26 Extensions of Time and Continuance

a. Extensions of time and continuances beyond the times specified by statute, court order, or these rules shall be granted only for good cause, even if all parties are in agreement.

b. Orders for extensions or continuances shall appear on the record and state supporting reasons.

Rule 10.27 Reports

All reports relied upon by DSS or GAL at disposition or review shall be submitted to the attorneys no later than 7 days prior to the court date. Addendums shall be submitted no later than 2 days prior to the court date. A change in circumstances within the last 2 days can be reported orally in open court.

Rule 10.28 Orders
Attorneys shall have 5 days to review orders prior to submission to the presiding judge for signature.

RULE 11: DOMESTIC VIOLENCE

11.1 Domestic Violence Incident Report Form Required in Civil Cases. Each party seeking to file a civil complaint for a protective order pursuant to Chapter 50B shall complete a *Domestic Violence Incident Report Form* (FORM # 16).

11.2 Maintain Forms. The Clerk of Court and Magistrates Office in each County shall maintain and provide a *Domestic Violence Incident Report* form to each party seeking to file a complaint seeking a Protective Order.

11.3 Filing a *Domestic Violence Incident Report* Form. The Clerk of Court or Magistrate shall include the completed Domestic Violence Incident Reports with the Complaint in each Petitioner's file. After the form is completed, it shall be made available for the District Attorney's Office Victims First Staff to review or copy.

11.4 *Domestic Violence Incident Report* Form Required in Criminal Cases. Each party seeking to file a criminal charge involving domestic violence shall complete a *Domestic Violence Incident Report* Form.

11.5 Magistrates Office. The Magistrates in each County shall maintain and provide a *Domestic Violence Incident Report* Form to a party or law enforcement officer seeking to pursue a criminal charge(s) involving domestic violence.

11.6 Magistrate to copy *Domestic Violence Incident Report* Form. The Magistrate shall copy the *Domestic Violence Incident Report*, file the original with the Clerk to be included in the criminal file, and make the copy available to the District Attorney's Office Victims First Staff.

11.7 50-C's. 50-Cs will be heard on Domestic Violence days unless a criminal action is also pending with the same allegations, at which time they will be heard together in criminal court.

RULE 12: FAMILY COURT TIME STANDARDS

12.1 General. Unless otherwise specified, "days" are calendar days counted from the date of

filing of the initial pleading. These time frames represent **maximum** time limits set as administrative "goals" and guidelines for Family Court.

12.2 (Permanent) Alimony and Equitable Distribution Matters:

Event:	Time from Filing of Complaint:
a. Service of Complaint (or answer seeking claim)	30 days
b. Filing of Answer (or Reply)	90 days
c. First status Conference	120 days
d. Completion of ADR	210 days
e. Final Pretrial Conference	240 days
f. Order entered in 98% of cases	Within 365 days of filing

12.3 Child Support:

Event:	Time from Filing of Complaint:
Federal rules require that all IVD cases be completed w/in 6 months	
a. Permanent orders entered in 98 % of cases	Within 365 days

12.4 Post-Separation Support:

Event	Time from Filing of Complaint:
a. Order entered in 98% of cases	Within 90 days

12.5 Child Custody:

Event:	Time from Filing of Complaint:
a. Mediation Orientation Session Scheduled (in 98% of cases)	Within 45 days
b. Mediation Sessions(s) Completed: (in 98% of cases)	Within 120 days
c. Orders Entered: (in 98% of cases)	Within 360 days

12.6 Juvenile Delinquency/Undisciplined Cases:

- In every case, the child's best interest in the paramount goal.

	Event:	Statutorily Set Times:
a.	Adjudicatory Hearing	
	(1) in 90% of cases	Within 60 days of service of the petition
	(2) in 100% of cases	Within 90 days of service of the petition
b.	Dispositional Hearing	
	(1) in 95% of cases	Within 30 days of adjudication
	(2) in 100% of cases	Within 60 days of adjudication

12.7 Juvenile Abuse/Neglect/Dependency Cases:

General. Not all of the stages listed below will occur in every case; e.g., the child may not be taken into non-secure custody or the petition may be dismissed. In every case, the child's best interest is the paramount goal.

Event:	Time from Filing of Petition:
a. Non-secure custody order entered	Same day petition is filed
b. First non-secure custody hearing	7 days (second non-secure custody hearing no more the 7 days after first; subsequent non-secure custody hearings at intervals of no more than 30 days)
c. Adjudication	
(1) in 75% of cases	40 days
(2) in 100% of cases	60days
d. Disposition	
(1) in 75% of cases	60 days
(2) in 100% of cases	90 days
e. First Placement Review Hearing	150 days

f. First Permanency Planning Hearing 330 days

g. Reunification or Implementation of Other Permanent Plan (other than TPR):
   (1) in 90% of cases 330 days
   (2) in 100% of cases 365 days

h. Termination of Parental Rights (TPR):
   (1) in 90% of cases TPR petition filed within 360 days
   (2) in 100% of cases TPR petition filed within 390 days

i. TPR Hearing:
   (1) in 90% of cases 120 days from filing of TPR petition
   (2) in 100% of cases 180 days from filing of TPR petition

RULE 13: NON-DOMESTIC RELATIONS CIVIL CASES

13.1 Ready Calendar. The personnel assigned by the Chief District Court Judge, shall maintain a Ready Calendar for Non-Domestic Relations civil cases.

13.2 Jury Trials. When a complaint or other pleading is filed in which a trial by jury is requested, the phrase "Jury Trial Demanded" (or equivalent language) shall be endorsed on the face of the pleadings.

13.3 Pre-Trial Orders in Jury Cases Required. NO JURY CASE WILL BE CALLED FOR TRIAL UNLESS A PRE-TRIAL ORDER IS SIGNED BY A JUDGE OR SIGNED BY ALL ATTORNEYS AND PARTIES. Such order shall contain all stipulations, as well as the proposed issues for the jury, and shall be substantially the same as the form in Rule 22 of the General Rules of Practice.

13.4 Calendar Requests. An attorney of record may request that the case be placed upon the trial calendar by making said request in writing to the designated personnel in the District Court Judges' Office and delivering a copy to the opposing counsel or parties of record. For a jury trial, the said request must be made no later than six (6) weeks before the scheduled session. For a non-jury trial, the said request must be made no later than four (4) weeks before the session begins.

13.5 Calendar Preparation. The cases for trial will be selected from the calendar requests and the Ready Calendar. The Jury Trial Calendar shall be prepared at least 28 days prior to the first day of the session. The Non-Jury Calendar shall be prepared at least 14 days prior to the first day of the session.

13.6 Cases For Ready Calendar. After the time for requests has ended (six (6) weeks before session for jury terms; four (4) weeks before session for non-jury session) the designated personnel in the District Court Judges' Office may place on the calendar any case on the Ready Calendar in order to schedule an appropriate number of cases for that term.

13.7 Multiple Requests to Calendar. If an attorney or a party submits multiple calendar request dates for the same case, the designated personnel in the District Court Judges' Office shall place the case on the next available calendar that has not been filled and for which time for request has not expired. There shall be no further calendar request allowed for this case until a Judge has either tried or continued the case. This however does not prohibit an opposing party from filing a timely calendar request for any motion he/she might wish the Court to consider in that case at the session on which the Clerk has already placed the case.

13.8 Additions to Calendar. The said calendars thus prepared will constitute the Non-Domestic Relations Civil Calendar for the designated civil session. Any additions shall be made only with the approval of the Presiding Judge or the Chief District Judge. The Chief District Court or the presiding District Court Judge may on his/her own motion add a case to the calendar.

13.9 Order of Appearance on Calendar. Unless otherwise ordered, the cases shall be calendared in the order of the age of the case or motion, i.e., the filing date of the lawsuit for trials or pre-trial conferences and the filing date of the motion for all other cases.

13.10 Notice of Settlement. When a case on a published calendar is settled prior to a scheduled term of Court, the Court shall be notified promptly. A memorandum signed by the parties and attorneys of record shall be presented to the Court within two (2) working days designating the terms of the settlement and designating which attorney will prepare and present the final judgment for the Judge's signature. The final judgment shall be submitted to the Presiding Judge or the Chief District Court Judge in accordance with Rule 19 (28FCDR.).

13.11 Jury to Report. The jury shall be summoned to report on Monday afternoon at 2:00 p.m. unless otherwise ordered by the Presiding Judge or Chief District Court Judge.

13.12 Continuous Calendaring. Any case on a calendar and not reached shall be continued to a specific term. The Judge may continue the case to another term in which a calendar has already been prepared only if the Judge is the presiding Judge at that term.

13.13 Temporary Restraining Orders. Any District Court Judge of the 28 Judicial District signing a Temporary Restraining Order (TRO), which must be reviewed within ten (10) days as provided by Rule 65(b) of the Rules of Civil Procedure, shall set the TRO to be heard as follows: (a) before the signing Judge within the district at an appropriate date and time, or (b) after obtaining permission from another Judge to be presiding at a session within the County, before the other Judge, or (c) after obtaining permission from

the Chief District Court Judge to set the TRO before another Judge to be presiding at a session within the County, at an appropriate date and time before the other Judge.

RULE 14: MAGISTRATE (SMALL CLAIMS) APPEALS

14.1 Calendaring. The appellant shall take the Notice of Hearing of Small Claims appeal to the designated personnel in the District Court Judges' Office who shall set the matter for the first day of the next available term for which a calendar is to be published for the trial of civil or domestic actions.

14.2 Pre-Trial Conference in Jury Cases Required. If a jury trial has been requested, the designated personnel in the District Court Judges' Office shall schedule the matter for a Pretrial Conference at the next General Civil session to determine the issues for the jury and to set a trial date.

14.3 Motions to Re-plead. Following the entry of notice of appeal from the magistrate, the case will be tried upon the original pleadings unless otherwise ordered, and no further pleadings should be filed without leave of court. A motion to re-plead shall be entitled to an expedited hearing, and motions to re-plead shall be freely allowed. A motion to re-plead shall state concisely the issues, which the moving party anticipates developing in the action. An order allowing re-pleading may also set a trial date and establish a requirement for Pretrial Order.

RULE 15: ARBITRATION

15.1 Mandatory Arbitration. All cases filed in the district court which are subject to arbitration as defined by the Supreme Court Rules, or as designated by the Chief District Court Judge, shall be directed to mandatory court-ordered arbitration. Cases will be noticed into Arbitration using form AOC-CV-800.

15.2 Scheduling of Arbitration Hearing. That within sixty days of the last responsive pleading or within sixty days after service and no answer has been filed an arbitration hearing shall be conducted in accordance with the Supreme Court rules. At least ten (10) days before the date set for the hearing, the parties shall exchange: (1) lists of witnesses they expect to testify; (2) copies of documents or exhibits they expect to offer into evidence; and (3) a brief statement of issues and their contentions on the Pre-Arbitration Submission Form. (Form #7). Form AOC-CV-801 will be used to notify of upcoming hearing.

15.3 Continuances. No case shall be continued beyond the sixty day period except upon motion and order of the Chief District Court Judge. Any motions to continue must be made not less than ten days prior to the end of the sixty day period, and no continuance shall be granted except upon a showing of good cause. Good cause shall not include

"not ready or discovery not completed" since the purpose of this program is to resolve cases expeditiously without spending too much time or money on pretrial activity. No case shall be continued more than twenty days after the said sixty day deadline. Rescheduling of a case within the sixty day period may be granted by consent or by order of the arbitration coordinator.

15.4 **Removal**. If prior to the setting of an arbitration hearing, all parties notify the arbitration coordinator that the case is inappropriate for arbitration, and the coordinator agrees, then the case may be removed. Once a case is set for arbitration hearing, no case may be removed from arbitration except by the arbitration coordinator or upon motion to Chief District Court Judge through written motion and/or order.

15.5 **Conducting Arbitration Hearings**. All arbitration hearing shall be conducted within one hour and in accordance with Supreme Court rules. The Arbitrator will use AOC-CV-802 to complete the Award. If no request for trial de novo is made within thirty days, then a District Court Judge or clerk shall enter judgment in accordance with the arbitrator's decision. In the event a party requests a trial de novo, the form AOC-CV-803 needs to be filed, the first party making such request shall pay fee to perfect his request for trial de novo. That fee may be returned only if the case is tried to verdict and the trial judge finds requesting party's position improved and orders the return of the fee. If there is a trial de novo, the trial judge may include the costs incurred in the arbitration, but the trial judge may deny the costs to a party who prevails at trial but did not improve his position.

15.6 **Attendance**. If any party fails to appear, the arbitrator may proceed to hear the evidence of the parties present and make an award. Any party failing to appear may make motion for rehearing within thirty days of the award filing date to the Chief District Court Judge. However, no rehearing shall be granted except for reasons set forth in Rule 60 of the North Carolina Rules of Civil Procedure.

15.7 **Motions**. Pending motions may be heard by a District Court Judge or deferred to the arbitrator, if appropriate; **but pending motions shall not delay arbitration hearings unless the Chief District Court Judge so orders.**

15.8 **Arbitration Fees**. "In all cases referred to nonbinding arbitration as provided in this section, a fee of one hundred dollars ($100) shall be assessed per arbitration, to be divided equally among the parties, to cover the cost of providing arbitrators. Fees assessed under this section shall be paid to the clerk of superior court in the county where the case was filed and remitted by the clerk to the State Treasurer." G.S. 7A-37.1. Do not collect the arbitration fee from a party who has been granted leave under G.S. 1-110 to sue as an indigent. The new statue does NOT affect the fee for filing a request for trial de novo after arbitration. The two fees are separate and independent of each

other, and cumulative. This fee will include all cases that are not removed from the arbitration calendar for any reason 3 business days prior to the hearing. This includes cases that state a Voluntary dismissal is being filed. The fee shall be due and paid to the clerk of superior court by 5PM on the date of the scheduled arbitration hearing.

RULE 16: CONTINUANCE REQUESTS

16.1 General Rule. Domestic cases should be addressed at the earliest opportunity, including the first pretrial conference setting. However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process, a continuance may be granted for good cause. Requests for continuances that will delay the resolution of the contested issues beyond the established time standards shall only be granted for extraordinary cause.

16.2 Conflicts. Attorneys shall notify the court and opposing counsel of any other court conflict(s) as they become known and shall communicate with other Judges to resolve such conflicts. In resolving conflicts within District Court**, juvenile cases shall take precedence** over all other matters. Age of case, subject matter, and priority of setting should be given as much primacy as the level of court when resolving conflicts.

16.3 Motions. All applications for continuance shall be by written *Request for Continuance* (FORM #6) and shall be delivered to the Case Coordinator. Oral motions may be allowed only when the reason for the continuance did not become known until immediately preceding the start of the court.

16.4 Notification of the Request. All parties must be notified of a motion to continue. A copy of the motion to continue must be distributed to all counsel of record and/or un-represented parties at the same time the motion is delivered to the Case Coordinator. In addition to the service requirements set out in the statute, distribution of the motion must be made by the quickest means feasible, including facsimile transmission, electronic mail or hand delivery.

16.5 Input From All Parties. All parties should have an opportunity to be heard on a motion to continue. If the request is received within five business days of the hearing date, and there is no input regarding the opposing party's or counsel's position, the Court may be unable to address the request prior to the hearing and will address the request at the time of the scheduled hearing.

16.6 Responsibility of the Party Requesting the Continuance. The burden is on the party requesting the continuance to contact the opposing counsel or party prior to submitting the motion to the Case Coordinator, and include the opposing party's/counsel's position on the request as:

- Joining in the request

- Consenting to or not objecting to the request; or
- Opposing the request

If the opposing party cannot be reached or fails to respond, that should be noted on the request as well as a statement on the efforts made and why contact was not possible.

16.7 Responsibility of the Party Opposing the Request for Continuance. A party or counsel opposing the request has the responsibility to submit a written response to the Case Coordinator immediately upon receipt of the motion for continuance.

16.8 Factors to be Considered. Factors to be considered by the Court when deciding whether to grant or deny a motion for continuance should include:

- The effect on children and spouses if the issue is continued and not resolved;
- Whether there is a temporary order dealing with the issue that is the subject of a continuance request;
- The impact of a continuance on the safety or the parties or any other persons;
- Whether the issue has been identified statutorily as an issue which should be addressed expeditiously, i.e., child support, post-separation support;
- The age of the case or motion;
- The status of the trial calendar for the session;
- The number of previous continuances and the number, by the moving party, and grounds for previous continuances;
- The extent to which counsel had input into the scheduling of the trial date;
- The due diligence of counsel in promptly making a motion for continuance as soon as practicable;
- Whether the reason for continuance is a short-lived event which may resolve prior to the scheduled court date;
- Whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- The period of delay caused by the continuance request;
- The position of opposing counsel or un-represented parties;
- Whether the parties themselves consent to the continuance;
- Present or future inconvenience or unavailability of the parties, attorneys or witnesses if the case is continued;
- Any other factor that promotes the fair administration of justice.

16.9 New Date. In granting a motion for continuance, the Court should reschedule the conference, hearing or trial to a specific date after receiving scheduling input from all parties.

RULE 17: PRETRIAL CONFERENCES

17.1 Court Schedule. The Case Coordinator and the Judge shall schedule such status conferences and/or pretrial conferences as necessary to comply with these rules.

17.2 Participation in and Purpose of Status Conferences. Attendance at scheduled status conferences are mandatory for the attorneys of record and all unrepresented parties. The purpose of a status conference is to ensure the exchange and submission of requested documents, to set deadlines for discovery and upcoming events, to apprise participants of the dispute resolution requirements, and to provide such other information as may be appropriate .

17.3 Participation in and Purpose of Pretrial Conferences. Attendance at Pretrial Conferences are mandatory for the attorneys of record and all unrepresented parties. The purpose of a pretrial conference is, as follows:

- to assist the attorneys, or parties, for trial preparation by narrowing the issues for trial or disposition of the case
- to set deadlines for the completion of discovery
- to determine the need for reference
- to seriously explore the prospects of settlement of the case
- to finalize proposed witness lists
- to determine what facts can be stipulated and agreed upon a final pretrial order
- to address any requests for additional discovery
- to set a date for trial of the matter or such additional pretrial conferences as are necessary.

The presiding Judge will order a final pretrial order to be completed and submitted by a certain date. Failure of the moving party to complete the order or failure of the opposing party to cooperate with providing the appropriate information/documents to complete the order may result in the imposition of sanctions.

17.4 Sanctions for Failure to Participate in Status or Pretrial Conferences. Failure to timely schedule and attend status or pretrial conferences is a serious breach of the local rules. Such failure may result in a dismissal of the responsible party's claim, limitation or exclusion of the responsible party's proffered testimony (either written or oral), or the imposition of other sanctions as provided by Rule 37 of the North Carolina Rules of Civil Procedure.

RULE 18: TELEPHONE CONFERENCES

18.1 Telephone Conferences. The Court may, in its discretion, order or allow oral argument on any motion by speaker phone conference call or telephone conference call, provided

that all participants to the conference can be heard by all other parties at all times during the conference call. Counsel shall schedule such conference calls at a time convenient to all parties and the Judge. The Judge may direct which party or parties shall bear the cost of the conference call.

RULE 19: SUBMITTING TIMELY ORDERS OR JUDGMENTS

19.1 Orders and Judgments. All Orders must be filed within 15 days following the conclusion of a hearing. The presiding judge may allow additional time to file an Order following a hearing concerning equitable distribution, abuse and neglect, or termination of parental rights; however, all Orders shall be entered not later than 30 days following the hearing. The party preparing the proposed judgment or order shall provide a copy of the proposed document to the opposing party prior to submitting the document to the Judge. If the copy is provided by actual delivery or by fax, three (3) days prior is sufficient; however, if sent by mail, six (6) days prior shall be required. Using the order submission form (Form #17). The submission form is to be clocked in with the order after the judge has signed the court order.

19.2 Delinquent Orders and Judgments. Cases delinquent in the submission of Orders as required shall be identified to the Chief District Court Judge or the assigned Judge and sanctions or penalties may be imposed in such cases as deemed appropriate and as allowed by law.

RULE 20: SANCTIONS

20.1 Sanctions. Failure to comply with any section of these Rules shall subject the parties, and/or their counsel to such sanctions as are allowed by law and deemed appropriate at the discretion of the presiding Judge, including but not limited to: dismissal by the Court of any or part of any claim for relief or pleadings, disallowance of evidence and/or testimony, payment of a fine, payment of reasonable costs incurred by a party due to another party's non-compliance, or the opposing party's reasonable legal fees, or other remedy as provided at G.S. 1A-1, Rules 11 and 37.

RULE 21: REMANDED CASES

21.1 Remands. If a case is remanded to the District Court Division for hearing or other actions, appellant's counsel shall promptly notify the Case Coordinator's Office so that the case can be scheduled for a pretrial conference.

RULE 22: AMENDMENTS AND MODIFICATIONS

22.1 These rules are subject to amendment or modification as experience indicates and requires.

RULE 23: SECURE LEAVE/CLE FORM

23.1 Form #18 is to be used by all attorneys for Secure Leave periods or CLEs. Form is to be filed 90 days in advance and are to follow Rule 26 – Rule 33A Rules of Appellate Procedure.