23 R 792

TWELFTH JUDICIAL DISTRICT COURT DIVISION
FAMILY COURT DIVISION
CASE MANAGEMENT PLAN

FILED
2023 MAY 24 A 11: 19

RULE 1. GENERAL RULES

1.1 The purpose of these rules is to institute a Case Management Plan that will provide for the orderly, prompt, and just disposition of domestic matters. These rules are promulgated in compliance with Rule 40(a), Rules of Civil Procedure, and Rule 2(a) General Rules of Practice for Superior and District Courts and are to be administered under the direction of the Court Manager III.

1.2 These rules shall, at all times, be construed in such a manner as to promote justice and avoid delay. Attorneys shall adhere to the Canons of Ethics and the Rules of Professional Conduct as promulgated by the North Carolina State Bar.

1.3 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 do not cover a specific matter, all parties shall act in accordance with the orders of the Chief District Court Judge, assigned Domestic Judge, or at the direction of the Court Manager III.

1.4 The Court Manager III 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 Local Rules. This system shall be used to monitor the number, age, type, and procedural status of all pending cases and provide for the calendaring of the same.

1.5 A trial schedule for the disposition of Domestic Relations cases in the Twelfth Judicial District, Cumberland County, District Court Division, shall be set and maintained by the Court Manager III in accordance with these rules and under the supervision of the Chief District Court Judge.

1.6 These rules and procedures, and all amendments hereafter, shall be filed with the Clerk of Superior Court for Cumberland County and may be cited accordingly.

1.7 The Family Court Office in the Twelfth Judicial District shall distribute a copy of these rules and any subsequent amendments hereafter to each member of the Domestic Bar in Cumberland County. The Court Manager III shall maintain a supply of printed rules, as well as associated forms to be provided upon request.

1.8 The Clerk of Superior Court for Cumberland County shall provide a case number at the time of filing and place the number upon the summons in accordance with the Rules of Recordkeeping. All subsequent pleadings and papers filed with the Clerk and all subsequent communication to opposing counsel or parties or court personnel shall accurately reflect this case number.

1.9 When a party files a complaint, answer, or counterclaim the filing party shall complete the following:

(a) Domestic Filing without a Child Support Claim

(1) A Domestic Civil Action Cover Sheet (AOC-CV-750) plus one (1) copy, which is to be placed in the Family Court/Domestic Relations mailbox in the Clerk's office at the time of filing. The cover sheet shall contain the address of the opposing party.

(2) If any emergency/temporary custody hearings are scheduled for hearing pursuant to these rules, a copy of the Notice of Hearing (Emergency/Temporary Hearings) shall be attached to the front of each complaint and answer before service. [The Notice of Hearing (Emergency/Temporary Hearings) shall be on form CCLF-FC-002 as prepared and distributed by the Family Court Office.]

(b) Domestic Filing including a Child Support claim

(1) An original Domestic Civil Action Cover Sheet (AOC-CV-750) plus one (1) copy, which is to be placed in the Family Court/Domestic Relations mailbox in the Clerk's office at the time of filing. The cover sheet shall contain the address of the opposing party.

(2) A Child Support Cover Sheet (AOC-CV-640 and AO-CV-645) which shall contain the full name of each party including a middle or maiden name along with any suffix; a complete mailing address, to include the street address and post office box (if both); and the date of birth of all parties.

(3) If any emergency/temporary hearings are scheduled for hearing pursuant to these rules, a copy of the Notice of Hearing (Emergency/Temporary Hearing) shall be attached to the front of each complaint and answer before service. [The Notice of Hearing (Emergency/Temporary Hearings) shall be on form CCLF-FC-002 as prepared and distributed by the Family Court Office.]

1.10 No Complaint, Answer, or Counterclaim shall be accepted by the Clerk of Superior Court, unless the accurately completed Domestic Civil Action Cover Sheet, Child Support Coversheet [if applicable], and Notice of Hearing (Emergency/Temporary Hearing) [if applicable], are attached to the pleading.

1.11 Upon the filing of a domestic relations case, other than uncontested divorces, IV-D child support establishment/enforcement cases, U/FSA cases, and civil termination of parental rights, the case shall be assigned to one of the Family Court Domestic Judges and that judge's assigned Court Manager II or Court Coordinator. Requests for reassignment shall be directed to the Chief District Court Judge. The Court Manager II or Court Coordinator shall monitor the number of cases assigned to each judge.

RULE 2. READY CASES

2.1 Except where prohibited by statute, or where Child Custody/Visitation Mediation or Equitable Distribution Mediation is applicable as set forth in Rule 8 and Rule 10 below, a case shall be ready to set for trial when the Court Manager II or Court Coordinator has determined at least one of the following has occurred:

(a) A contested case has been on file for ninety (90) days or more; or

(b) An uncontested divorce case has been on file for thirty (30) days or more; or

(c) Prior to the expiration of the respective time periods designated in Local Rules 2.1(a) and 2.1(b) above, the assigned Court Manager II or Court Coordinator has been notified that all counsel/unrepresented parties have consented to an earlier hearing date; or

(d) After the expiration of the respective time periods designated in Local Rules 2.1(a) and 2.1(b) above, and either party has notified the assigned Court Manager II or Court Coordinator that the party desires to schedule their case for hearing;

(e) Service by publication has been completed. (Counsel/unrepresented parties shall notify the assigned Court Manager II or Court Coordinator of the notice of publication and the date established in the notice that time to answer shall expire.)

(f) Counsel/unrepresented parties have notified the assigned Court Manager II or Court Coordinator that a case is designated as an "uncontested" action.

2.2 The Court Manager II or Court Coordinator shall place those cases determined to be ready for trial on the calendar pursuant to Local Rules 3 and 4 below.

RULE 3. CASES CALENDARED BY THE COURT MANAGER II OR COURT COORDINATOR

3.1 Once the Court Manager II or Court Coordinator has determined that a case is ready for trial under the guidelines set forth in Rule 2.1(a) and 2.1(b) above, and more than thirty days has expired, allowing counsel an opportunity for scheduling pursuant to Rule 2.1(d), the assigned Court Manager II or Court Coordinator will notify all counsel/unrepresented parties of a firm trial date.

3.2 Contested cases shall be scheduled for hearing not less than thirty (30) days in advance.

3.3 Uncontested cases shall be scheduled for hearing within six (6) weeks of the completion of service.

3.4 Service by Publication cases shall have a firm trial date established on all pending issues within six (6) weeks of the completion of service.

3.5 Any domestic relations case currently on file for one hundred and fifty (150) days or more, will be subject to immediate notice and the expedited assignment of a trial date.

3.6 Requests for alternative settings by the parties or their counsel will not be honored once the Court Manager II or Court Coordinator established a trial date, except for extraordinary cause which could not have been foreseen.

RULE 4. CASES CALENDARED BY THE PARTIES OR THEIR COUNSEL

4.1 Parties or their counsel desiring to schedule a trial date in accordance with Local Rules 2.1(c) or 2.1(d) above shall contact the assigned Court Manager II or Court Coordinator, who will provide a date and time certain for hearing.

4.2 Parties or their counsel desiring to schedule a trial date in accordance with Local Rule 2.1(c) or 2.1(d) above shall not attempt to schedule any trial/hearing date for any issues of post separation support, interim equitable distribution, temporary child support, temporary custody or any permanent issue, except cases where an ex parte order has been issued, until there is proof of service.

4.3 Parties or their counsel desiring to schedule a trial date in accordance with Local Rule 2.1(c) or 2.1(d) above shall fax a fully completed Domestic Court Notice of Hearing Calendar Request Form [CCLF-FC-003] to the assigned Court Manager II or Court Coordinator leaving the court date blank. The Court Manager II or Court Coordinator will assign a date and return to the party or counsel by fax or email. The party or counsel MUST then approve the date and fax the notice back to the assigned Court Manager II or Court Coordinator to confirm the date. No case will be calendared until such time as a copy of the Domestic Case Notice of Hearing Calendar Request form [CCLF-FC-003), is received by the assigned Court Manager II or Court Coordinator. Said notices must be completed on a Notice of Hearing with all requested information. Any notice not in compliance with these Local Rules will result in the matter not being calendared by the assigned Court Manager II or Court Coordinator.

4.4 No case shall be heard by the Court unless it is calendared through the assigned Court Manager II or Court Coordinator.

4.5 Service of the completed Calendar Request/Notice of Hearing form on the assigned Court Manager II or Court Coordinator shall be made by hand delivery, U.S. Mail, facsimile transmission or electronic mail.

4.6 Counsel or pro se party requesting claim to be heard is responsible for service on the opposing party. The domestic relations office will send a courtesy notice out but the responsibility of notice and service on the opposing party rests with the party scheduling the claim.

RULE 5. TRIAL CALENDAR

5.1 Whether directly scheduled by the Court Manager II or Court Coordinator or requested by counsel, contested or uncontested Domestic Relations cases will be set during each domestic court session.

5.2 If possible, all the relief sought in the Complaint, Answer, or Counterclaim will be scheduled and heard together, with the exception of those matters not allowed by law.

5.3 All issues to be determined by jury trial in any Domestic Relations case shall be resolved in General Civil District Court pursuant to the case management plan enacted by the Chief District Court Judge and administered by the Trial Court Administrator.

5.4 Published calendars, forms and local rules may be downloaded from the following web site: http://www.nccourts.gov.

5.5 It is the responsibility of counsel and unrepresented parties to be aware of cases appearing on trial calendars. Cases are placed in time slots by the Court Manager II or Court Coordinator assigned to the judge and distributed to the Cumberland County Domestic Bar prior to calendar

call. Unrepresented parties can contact the Family Court Office to determine if their case received a time slot and, if so, the date and time.

5.6 The call of the calendar will take place pursuant to a schedule promulgated by the Chief District Court Judge. Counsel or unrepresented parties with cases appearing on the final calendar are required to appear at this time.

5.7 Pursuant to Rule 2(e), General Rules of Practice for Superior and District Courts, counsel for all parties in an action, when notified to appear for a pre-trial conference, hearing of a motion, or for trial, must, consistent with ethical requirements, appear or have a partner, associate, or other attorney familiar with the case present. Pursuant to Rule 3.1, General Rules of Practice for Superior and District Courts, counsel for all parties in an action, when notified to appear for a pretrial conference, hearing of a motion, or for trial must notify the Court of any conflicts in scheduling in other courts. Pursuant to Rule 12, General Rules of Practice for Superior and District Courts, except for some unusual reason connected with the business of the court, attorneys will not be sent for when their cases are called in their regular order. Counsel are at all times to conduct themselves with dignity and propriety.

5.8 Any case noticed for trial is subject to dismissal for failure to prosecute if, at the time it is called for trial, the attorneys or pro se parties are not present or ready to proceed. No case will be called and dismissed prior to 9:30 AM on any given court day.

RULE 6. TIME STANDARDS

Absent exigent circumstances or requirements of law, all Domestic Relations cases filed should be tried or disposed within the following deadlines:

- Contested Claims twelve months; and
- Uncontested Claims four months; and

- As to individual claims within a case file, the Family Court Time Standards will apply.

RULE 7. DIVORCE CASES

7.1 All pleadings containing a claim for absolute divorce shall state a specific date of separation being at least a year and a day prior to the filing of the claim.

7.2 If the date of separation is contested, the case will be tried as a contested case, regardless of whether both dates fall more than one year before the date of filing.

7.3 Calendar notices for uncontested divorces must be submitted to the Court Manager III's Office pursuant to the domestic calendar schedule promulgated by the Domestic Court Coordinator. Submission of the calendar notice may be made by hand delivery, U.S. Mail, facsimile transmission, or by electronic mail.

RULE 8. EQUITABLE DISTRIBUTION CASES

8.1 DEFINITIONS

(a) Moving Party: The spouse who first files a claim for equitable distribution.

(b) Responding party: The spouse against whom the first claim for equitable distribution has been filed.

8.2 INVENTORY AFFIDAVITS

(a) The inventory affidavit of each party shall be the result of a good faith effort by each party to list each and every item of marital, divisible and separate property (including debts) and the party's best opinion as to the date of separation fair market value of each item.

(b) The inventory affidavit of each party shall be in the same form as the Equitable Distribution Inventory Affidavit and shall comply with the instructions contained on the

inventory affidavit. [The Equitable Distribution Inventory Affidavit shall be on form CCLF-FC004 as prepared and distributed by the Family Court Office.]

(c) Property shall be listed in the following order: all marital property, all divisible property, and all separate property. Within each category, the property shall be listed in the following order: real property, vehicles, recreational vehicles, bank accounts, stocks and bonds, insurance policies, furniture and household goods, pensions, business or professional associations, miscellaneous, debts.

8.3 SCHEDULING CONFERENCE

(a) Within sixty (60) days after service of the initial pleading for Equitable Distribution, both parties shall file with the clerk and serve on each other an Equitable Distribution Inventory Affidavit. [The Equitable Distribution Inventory Affidavit shall be on form CCLF-FC-004 as prepared and distributed by the Family Court Office.]

(b) A scheduling conference shall be noticed by the court within ninety (90) days after service of the initial pleading for Equitable Distribution. The assigned Court Manager II or Court Coordinator shall monitor the case for the filing of inventory affidavits.

(c) At least seven (7) days prior to the scheduling conference, each party or counsel shall file an Equitable Distribution Affidavit stating:

(1) Inventory affidavit has or has not been filed,

(2) The date of separation is;

(3) The appointment of experts is or is not requested;

(4) Any valuation issues;

(5) An estimate of the net value of the marital estate;

(6) The selected method of alternative dispute resolution; and,

(7) The name of the mediator/evaluator selected by the parties.

[The Equitable Distribution Affidavit shall be on form CCLF-FC-005 as prepared and distributed by the Family Court Office.]

(d) Parties and their attorneys will not be required to attend the scheduling conference if all inventory affidavits have been filed, there is no contest about the date of separation, and there is no request for the appointment of experts and appropriate selection of alternative dispute resolution has been made.

(e) An Equitable Distribution Discovery Conference and Pretrial Conference will be scheduled not more than one hundred twenty (120) days from the scheduling conference.

(f) Discovery should begin as soon as practicable after the filing of the claim; and nothing in these rules should be construed to mean that discovery should not begin until after the scheduling conference.

8.4 EQUITABLE DISTRIBUTION DISCOVERY CONFERENCE AND PRETRIAL CONFERENCE

(a) At the Equitable Distribution Discovery Conference and Pretrial Conference, the court shall:

(1) Enter the date for the completion of discovery;

(2) Enter the date for the filing and service of motions;

(3) Enter the date for the service and completion of the final pre-trial order;

(4) Enter the date on which the judicial pre-trial conference shall be held; and

(5) Enter the date on which the case shall proceed to trial.

(b) The trial shall be scheduled not less than forty-five (45) days and not more than one hundred eighty (180) days from the Equitable Distribution Discovery Conference and Pretrial Conference.

(c) Each party shall either be present in court or available by telephone to his/her attorney at the time of this conference. Counsel shall attend the conference fully apprised of any scheduling conflicts existing for themselves and their clients.

(d) A judge may schedule a case for a discovery conference at any time during the pendency of an action. Attorneys may also request that a case be scheduled for a discovery conference at any time during the pendency of an action.

(e) At the discovery conference, attorneys and/or parties shall be prepared to report on the list of property to be considered at trial; stipulations as to classification, valuation, or distribution of property; the need for appraisals of any property; needed documents; and any other issues or motions that the judge may need to resolve. If a party appears through counsel, it will be presumed that the attorney is authorized to stipulate on behalf of the party.

(f) The Court shall prepare a discovery conference order setting out stipulations; appraisals to be done, by which party, and by when; documents to be provided, by which party, and by when; motions to be heard and when; and subsequent motion, conference or trial dates.

8.5 PRETRIAL ORDER

(a) Every equitable distribution case shall have a completed pretrial order prior to trial signed by the parties and counsel. (CCLF-FC-013.)

(b) The pretrial order will set out the date of marriage, the date of separation, the date of divorce or a statement that the parties are not yet divorced, the name and birth date of any children born to or adopted by the parties and the status of the custody of any minor children.

(c) The pretrial order will contain the following schedules:

Schedule A - all property, including debts, stipulated to be marital with each party's contention as to value;

Schedule B - all property, including debts, stipulated to be separate with each party's contention as to value;

Schedule C - all property, including debts, stipulated to be divisible with each party's contention as to value;

Schedule D - all property, including debts, contested as to classification with each party's contention as to value;

Schedule E - plaintiff's contentions, if any, supporting an unequal division of property; and

Schedule F - defendant's contentions, if any, supporting an unequal division of property.

8.6 TRIAL

Trial dates that are assigned by the Court are firm dates that shall not be continued except for exigent circumstances that could not have been foreseen and managed at the time of the Equitable Distribution and Pretrial Conference.

8.7 ALTERNATE DISPUTE RESOLUTION (ADR)

All Equitable Distribution actions are ordered to mandatory alternate dispute resolution procedures as outlined below, these rules are designed to focus the parties' attention on settlement rather than trial preparation and to provide a structured opportunity for settlement negotiations to take place. Nothing in these rules is intended to limit or prevent the parties from engaging in settlement procedures voluntarily at any time before or after those ordered by the court pursuant to these Rules. All provisions of the Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases are incorporated into these rules. All cases involving two or more attorneys shall be scheduled initially by the mediation coordinator for neutral evaluation. A neutral evaluator shall

be assigned from a list maintained by the coordinator. The neutral evaluator shall be compensated in the same manner as a mediator and shall file a report with the mediation coordinator following the proceeding. Neutral evaluators shall have at least five years' experience as an attorney and shall be familiar with the Cumberland County Domestic Courts. All cases not resolved following neutral evaluation may be scheduled for formal mediation pursuant to the Supreme Court rules. All cases reported as impasse and not scheduled for trial within 30 days shall be scheduled for a pretrial conference before the assigned judge to determine any discovery issues, date for trial and preparation of a pretrial order. All cases involving one pro se party shall be scheduled by the mediation coordinator for a judicial settlement conference before a judge who is not assigned to the case.

RULE 9. CHILD SUPPORT CASES

9.1 Any Domestic Relations cases filed wherein child support is sought either by complaint, or by counterclaim shall be set for hearing on temporary child support on the first temporary child support date at least two weeks after filing.

A notice of the temporary child support hearing shall be indicated on the Notice of Hearing (Emergency/Temporary Hearings) and shall be attached to the complaint before service. A copy of the notice shall be provided to the assigned Court Manager II or Court Coordinator. [The Notice of Hearing (Emergency/Temporary Hearings) shall be on form CCLF-FC-002 as prepared and distributed by the Family Court Office.] It is imperative that all Cover Sheets (AOC-CV-640 and 645) accurately reflect the child support issue, an address for the opposing party and both parties' social security number. (See Rule 1.8 above concerning completing and filing of all cover sheets.)

9.2 At the temporary child support hearing, an order shall be entered establishing some reasonable amount of child support to be paid by the non-custodial or supporting parent pending the final disposition of matters of custody and child support. Each party should bring income verification to the hearing. The hearing shall be conducted by affidavit and by argument of counsel, however, at the discretion of the judge live testimony may be required. The order

shall be based on the North Carolina Child Support Guidelines. Motions for deviations must be noticed 10 days in advance in writing. The Court on its own may deviate with the proper findings of fact.

9.3 A copy of all orders dealing with ongoing support or support arrearage shall be filed with the Domestic Division of the Office of the Clerk of Superior Court along with a Child Support Cover Sheet (pink sheet) containing required information about the parties.

9.4 In those cases where service has not been perfected, the case will be continued to a date certain at the call of the calendar. Counsel shall notify any unrepresented parties of the continuance date.

9.5 Continuances involving child support hearings will only be granted at the call of the calendar and then always to a date certain. Moving counsel shall notify any unrepresented parties of the continuance date, if such pro se party is not present in court when the continuance is granted.

RULE 10. CHILD CUSTODY

10.1 In every action where it is determined that a contested issue as to custody and/or visitation exists, the Custody Mediation Office shall schedule the case for mediation of the contested custody and/or visitation claims prior to calendaring before the Court.

10.2 Each case, which is subject to Custody/Visitation Mediation, shall also be subject to a mandatory Parenting Education program. The Parenting Education program shall be incorporated into the Custody Mediation Orientation session. There shall be no cost for the Parenting Education program; however, attendance shall be mandatory, and such shall be enforced in accordance with Rule 10.7.

10.3 A case shall be ready to set for orientation/mediation when the Custody Mediation Office has determined that:

(a) A custody and/or visitation case has been filed; and

(b) The case has been opened in the NCAOC database by the Court Manager II or Court Coordinator.

10.4 When it is determined a case is ready for mediation, the Custody Mediation Office Staff will notify the attorneys of record and the parties of the date, time, and place the parties are to appear for initial mediation orientation and parent education session/mediation session.

10.5 Attorneys shall reinforce with their clients that attendance at the mediation orientation session, parent education session and the individual mediation sessions is mandatory.

10.6 NOTICE

(a) Attached to each Custody Mediation and Parent Education Orientation Notice shall be The Goals and Benefits of Child Custody/Visitation and Mediation form (CCLF —FC- 009). In each case, the Custody Mediation Office shall distribute a copy of the notice and form to each counsel of record/unrepresented party.

(b) In each case, counsel shall provide to their respective party a copy of the Notice and form identified above.

(c) Each Domestic Civil Action Cover Sheet (AOC — CV — 750) filed with the Court shall contain the address of all counsel/unrepresented party.

(d) After receipt of the Parent Education and Custody Mediation Orientation Notice, all further communications regarding mediation scheduling shall be directed to the Custody Mediation office.

10.7 SANCTIONS

Notice from the Custody Mediation Office instructing the parties to appear for mediation shall have the same force and effect as an order of the Chief District Court Judge. Parties who fail to comply with this notice shall be subject to the contempt powers of the Court.

10.8 MOTIONS TO MODIFY PRIOR ORDER

(a) Motions to modify a prior custody and/or visitation Court order shall also be scheduled for mediation prior to any hearing before the Court. Counsel shall receive notification from Custody Mediation Office Staff of the date and time of the mediation orientation session or mediation session.

(b) If the parties have already attended a mediation orientation session for initial agreement within 5 years of the modification filing, the case will be scheduled for a mediation session. All parties must complete and submit the required intake form prior to the mediation session being scheduled.

(c) The Custody Mediation Office shall be responsible for providing notice of orientation/mediation to all parties pursuant to Rule 10.4 above.

(d) Motions referred directly by the Court shall be scheduled for mediation by the Custody Mediation Office.

10.9 EXEMPTIONS

(a) For good cause, on the motion of either party or on the Court's own motion, the Court may waive the mandatory setting of a contested custody and/or visitation matter for mediation. Good cause is defined under North Carolina General Statute 50-13.1(c).

(b) Counsel desiring an exemption shall complete and file a Motion to Exempt Child Custody/Visitation Mediation form with the Clerk of Court for approval by the Court. Exemptions from mediation are discretionary with the court. Exemptions from mediation do not exempt one or more parties from attendance of the one (1) hour Parenting Education Orientation. Parties who receive a mediation exemption must contact the Custody Mediation Office to be scheduled for the Parent Education Orientation class. (Motions shall be on form CCLF-FC010)

(c) The Custody Mediation Office shall monitor the number of contested custody and/or visitation case filings in relation to mediator staffing levels. In the mediator's discretion and in accordance with the policies of the Court Manager III's office, a contested custody case or post decree motion may bypass mediation and be scheduled directly for hearing before the Court. This action shall only be taken when the next regularly available mediation session would result in undue delay to the parties.

(d) Mere notification that the parties have reached agreement is not sufficient to exempt any party from attendance at a scheduled orientation session, parenting education session, or mediation session. The assigned Court Manager II or Court Coordinator or Custody Mediation Office must have actual receipt of a consent order, memorandum of judgment, or voluntary dismissal in order for a party to be excused from attendance at a scheduled orientation session, parenting education session, or mediation session.

10.10 PRIVILEGED COMMUNICATIONS

(a) 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.

(b) 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 or fraud.

(c) No party shall bring into a mediation session any electronic device capable of audio, video, or still picture recording or transmitting. No audio or video recording of a mediation session shall be made. No transmission of any portion of a mediation session shall occur.

10.11 JOINT CUSTODY PROVISIONS

In all matters where joint custody is ordered, the court may enter joint custody provisions as indicated below and make them a part of the custody order. Counsel may object to any provisions and be heard by the court, however failure to lodge any objections will result in the provisions being incorporated. Child referred to herein shall refer to children and children shall refer to child as the circumstances dictate. The court may modify any provisions in its discretion.

JOINT CUSTODY PROVISIONS

Mutual Respect: The parties shall respect the need for the child(ren) for close, frequent, and continuing contact with both parents and the need for each parent to have input into the decisions affecting the rearing of the child(ren).

Communication: The parties shall communicate and cooperate effectively and consistently with each other toward the best interest of their child(ren). They shall encourage the free flow of information about the child(ren) between the parties.

Exchange Location: That the parties may agree to a location to exchange the minor child(ren). However, if the parties are unable to agree, then the parties are to meet at the law enforcement center closest to the child(ren)'s primary residence or, if shared custody, closest to where the child(ren) is/are staying at the time of the exchange to exchange the minor child(ren). If the parties cannot agree to transportation costs, the visiting party will pay until the Court determines who is responsible. That the parties' legal spouse and/or other family members and friends known to the child(ren) may assist in the exchange of the minor child(ren).

Contact Information: That the parties shall each provide to the other party a current address and telephone number and notice of any changes of the address and/or telephone number within seventy-two (72) hours of its occurrence.

Telephone Contact: The expense of the child(ren) contacting the other parent shall be borne by the party having custody of the child(ren) at that time, unless otherwise agreed. Each non-custodial parent may maintain regular phone, Skype or Facetime, or video supported contact with the minor child(ren); however, no phone calls shall be made to the child(ren) between the hours of 9:00 p.m. and 7:00 a.m.

Medical Providers:

(a) Each party shall have direct access to the child(ren)'s doctors, dentists or other physical or mental healthcare provider(s) the same as if the parent were the sole custodian of the child(ren). Neither party shall attempt to inhibit the free flow of information from any of the child(ren)'s healthcare providers to the other party. Each party shall immediately notify the other party of any information obtained regarding the health and general welfare of the minor child(ren) to include illnesses, medical treatments, and appointments. Each party shall have the right to authorize medical treatment for the minor child(ren).

(b) Medical care providers and any other person deemed by law to have a confidential relationship to the minor child(ren) as patient are hereby authorized to discuss with both Plaintiff and Defendant all matters regarding the child(ren)'s health as if he or she was the full legal custodian of the child(ren). On notice from a party that a provider will not release records to a party, each party will sign a release of records at the medical provider within ten (10) days of the notice.

(c) Each party shall promptly inform the other of any serious injury or illness sustained by the child(ren) requiring medical treatment. Each party shall inform the other of any medical or health problem that arose while the child(ren) was in their respective custody. Both parties will provide the other with any medications that the child(ren) is taking at the time of transfer of the child(ren). Both parties will provide the other with sufficient information to allow the other to obtain medicine refills, if necessary.

(d) Both parties will provide the other with the names, addresses, telephone numbers, and other necessary information concerning the child(ren)'s healthcare providers.

Educational Provisions:

(a) Each party shall have direct access to the child(ren)'s teachers, counselors, school and religious advisors the same as if the parent were the sole custodian of the child(ren). Neither party shall attempt to inhibit the free flow of information from any of the child(ren)'s teachers or advisors to the other parent. Each party shall immediately notify the other party of any information obtained regarding the education and general welfare of the child(ren). This includes advising each other of grades, progress in school, lessons or tutoring, and activities relating thereto.

(b) Educational personnel and any other person deemed by law to have a confidential relationship to the minor child(ren) as student is hereby authorized to discuss with both Plaintiff and Defendant all matters regarding the child(ren)'s education, religious rearing and general welfare as if he or she was the full legal custodian of the child(ren).

(c) Subject to school rules, both parents shall have the right of access to the child(ren) at school including scheduled lunches with the child(ren) and attending parent-teacher conferences, award assemblies and other events at the schools, daycares, or extracurricular activities of the minor child(ren) and the parties shall keep each other informed of these events and activities.

(d) The primary custodial parent shall provide to the other parent the web address of the child(ren)'s school/daycares so that the parent may access the school/daycare schedule and activities and shall provide any passwords necessary to access the child(ren)'s information. The primary custodial parent shall provide the other parent a copy of the child(ren)'s report cards within seven (7) days of receiving them and information about school/daycare pictures in a timely manner.

(e) Only the primary custodial parent may check the child(ren) out of school during the school day. The non-primary custodial parent may check the child(ren) out of school during the day only when he/she has written permission from the primary parent to do so. If the visitation schedule provides that the visitation begins at the end of the school day, the parent may pick up the child(ren) from school but only at the end of the school day.

(f) Only the primary custodial parent may withdraw the child(ren) from the school where the child(ren) is enrolled.

Visitation: Visitation may also be exercised at any other time the parties may agree.

Travel: That if either parent is traveling with the child(ren) outside of the jurisdiction, where the parent lives, the traveling parent is to provide the other parent an itinerary of the travel for the child(ren), which includes the airline name and flight number, date(s) of travel, duration of the trip, hotel/residence name and address where the child(ren) will be located, and cruise line name to include the ship name.

Disagreements: Any plans, arrangements, or disagreements that may arise between the Plaintiff and Defendant, regarding the minor child, will be discussed between the parties and not in the presence of the minor child(ren). Parties will refrain from making any disparaging remarks about the other party to or in the presence of the minor child(ren). Parties shall discourage others from making remarks about the other party to or in the presence of the minor child(ren).

Social Media: No party shall post any derogatory remarks or pictures about a parent, other relative or significant other on any social media site or allow others to do so in

their place. Each party shall limit placement of photos of the minor child(ren) on any social media site.

Law Enforcement Assistance: That the Cumberland County Sheriff, his deputy and other appropriate law enforcement officials, are ordered and directed to assist the litigants in any way to peacefully enforce the provisions of this order.

Driver's License: That both parties shall have a valid driver's license, insurance and proper child restraints if transporting the child(ren) by personal vehicle or ensure that the person transporting the child(ren) has a valid driver's license, insurance, and proper child restraints.

Drugs and Alcohol: That neither parent will abuse alcohol or other substances during the period of visitation or allow others in the presence of the minor child(ren) to abuse alcohol or other substances. The parties shall keep the child(ren) in a clean, wholesome environment at all times and shall not be exposed to any condition hazardous to the welfare of the child(ren).

Guns, Firearms, and Ammunition: That while in the care of either parent, the minor child(ren) shall not have access to, or be exposed to, unsecured guns, firearms or ammunition without parental or adult supervision.

Pornographic Materials: That while in the care of either parent, the minor child(ren) shall not have access to, or be exposed to, pornographic materials.

Parenting Provisions:

(a) When the child(ren) is in the custody of one of the parties, that parent shall have the right to make and the responsibility for making the minor day-to-day routine decisions in connection with the child(ren).

(b) The cooperation and involvement of both parties in the child(ren)'s life is in the best interest of the child(ren). The parties shall conduct themselves at all times in a manner which promotes the cooperation and involvement of the other on any matter which concerns the mental, physical, emotional and moral well-being of the child(ren).

(c) Neither party will discuss, nor allow anyone else to discuss, the conduct of the other parent in the presence of the child(ren).

(d) Neither parent will say or do anything in the presence of the child(ren) that would interfere with or otherwise diminish the natural love, affection, or respect that the child(ren) has for the other parent.

(e) Neither issues relating to visitation or to child(ren) support shall be discussed in the presence of the child(ren).

(f) A party's time with the child(ren) shall not be withheld because of nonpayment of child support and child support will not be withheld because of visitation problems.

(g) Neither party shall threaten to withhold from the other the scheduled time with the child(ren) nor threaten to extend their time or refuse to return the child(ren) at the end of their scheduled time.

(h) The child(ren) shall be ready at the appointed time for transfer, together with all of his/her clothing, personal items and necessities.

(i) Neither party shall question the child(ren) regarding the activities of the other parent.

(j) Neither party shall use the child(ren) as a conduit of information or requests from one parent to the other either in person or by other means of communication, nor shall they use the child(ren) to exert pressure on the other parent to comply with any previously conveyed request.

(k) Each party shall make known to any subsequent spouse, significant other, grandparents, aunts, uncles, or adult cousins the conditions of this Order and will encourage them to act in accordance with the expectations set forth herein.

Deploying Parents Provisions

(a) A deploying parent shall, in writing, notify the other parent of a pending deployment no later than seven (7) days after receiving notice of deployment, unless the deploying parent is reasonably prevented from notifying the other parent at that time, then the notification shall be made as soon as reasonably possible thereafter.

(b) A deploying parent (Plaintiff, Defendant or both) shall, in writing, provide the other parent with a plan for fulfilling the other parent's visitation and other custodial responsibility during his or her deployment within seven (7) days after receiving notice of deployment or as soon as reasonably possible thereafter.

(c) If an existing order prevents disclosure of the address or contact information of the other parent, the notification of the deployment or notification of a plan for custodial responsibility during deployment may be made only to the issuing court. The court shall forward the notification to the other parent and shall keep confidential the address or contact information of the other parent.

(d) If an existing order prevents disclosure of the address or contact information of the other parent, that parent must keep the court informed of his or her current contact information.

(e) Any individual who has been assigned or granted custodial responsibility of a minor child(ren) during that custodial parent's deployment shall provide the other parent with a change of mailing address or residence until the assignment is terminated.

RULE 10A. CHILD CUSTODY EXPERT

10A.1 DEFINITION AND ROLE OF CHILD CUSTODY EXPERT (CCE)

Pursuant to Rule 706 of the North Carolina Evidence Code, a CCE may be appointed by the Court to investigate and report on issues regarding a child's best interests in a contested custody case. The CCE acts as an investigator and may make recommendations to the parties and to the Court regarding any issues affecting the child's welfare.

10A.2 PROCEDURE TO APPOINT

Upon written motion, notice and hearing, a CCE will be appointed to investigate issues related to a child's best interests in a contested case. A Motion shall clearly state the basis for the request of a CCE in the court action. A CCE may also be appointed on the Court's own motion. (CCLF-FC012.) An Order setting out the duties and requirements of the CCE shall be entered at the time of the appointment of the CCE, preferably in open court with both parties present. The Order shall authorize the CCE to speak with the child's teachers, health care providers, mental health providers or other individuals who may have confidentiality requirements. (CCLF -FC-011.)

10A.3 QUALIFIED INDIVIDUALS

A CCE shall be chosen from a list maintained by Cumberland County Family Court To be included on this list, the CCE must possess the following and produce verification in writing upon request:

(a) Education: Juris Doctor degree, Masters or Ph.D. degree in psychology, social work, counseling and relevant training or experience; and

(b) Training/Experience: no less than five (5) years of post-graduate work-related experience.

10A.4 PAYMENT OF CCE

Compensation of the CCE shall be determined and outlined in the order at the time of the appointment of the CCE. The standard fee per hour may be allocated between the parties in proportion to their income or divided equally, whichever the Judge determines to be fair and equitable. The CCE should provide regular detailed bills to the parties to avoid fee disputes and delay in the court action. The appointment order should state any initial deposits to be paid to the CCE, to include amounts, dates to pay and the party responsible for the payments. The CCE shall not begin his or her duties until the appropriate deposits have been paid AND SHALL NOT EXCEED THE NUMBER OF HOURS AUTHORIZED BY THE COURT IN ITS ORDER WITHOUT PRIOR APPROVAL OF THE COURT.

10A.5 SCOPE OF CCE

The CCE may at any time, request a "court review" of the case upon proper notice to the parties. There shall be no ex parte communications between the CCE and the presiding Judge. The CCE may file a Motion requesting appointment of any additional experts and a Motion for payment of fees. The CCE may contact or meet with a parent individually without the consent of the parent's attorney. A CCE may communicate with one attorney without the express consent of the other attorney on administrative matters but communication on substantive matters should involve both attorneys. Any communication between the CCE and another court appointed expert must be simultaneously communicated to the parties' attorneys including any written documentation that the CCE provides to the expert. The CCE may be authorized to speak to the teachers, counselors, therapists, medical providers for the minor child, as well as other relevant witnesses in his or her investigation of the best interests of the minor child. The

order appointing the CCE should clearly state the scope of the CCE's authority to investigate and the duties of the CCE in each particular case.

10A.6 RECOMMENDATIONS AND WRITTEN REPORTS BY A CCE

A written CCE report is required in all cases, within ninety (90) days of appointment unless specifically waived by the Court. The written report is to be provided to the attorneys of record of all parties, or to a pro se party, a minimum of two (2) weeks prior to a permanent custody trial and by noon on the business day when Court is open that immediately precedes the court hearing date in the case of a temporary custody hearing. The CCE shall disclose all sources of information provided. No report will be submitted to the presiding Judge pretrial without the consent of the parties' attorneys. Per Rule 706, the CCE may be called to testify by the Court or any party and shall be subject to cross examination.

10A.7 TERMINATION OF CCE DUTIES

Upon completion of duties or other just cause, the CCE shall file a Motion requesting an Order of Release as CCE in the case to confirm the cessation of the CCE's obligations.

RULE 11. EMERGENCY MATTERS/TEMPORARY ORDERS

11.1 Requests for ex parte temporary custody orders, domestic violence protective orders, or temporary restraining orders, should be directed to a District Court Judge for issuance.

11.2 Requests for other emergency relief should be directed to the assigned District Court Judge when available. If the assigned District Court Judge is unavailable, the relief request may be directed to the Chief District Court Judge and then to any other District Court Judge.

11.3 In all cases wherein the moving party knows the other litigant to be represented by counsel, reasonable notice shall be given to opposing counsel who shall be given the opportunity to be present at the time of making the motion before the Court. Reasonable notice shall be presumed to be notice given at least two (2) hours prior to appearance before

the Court for the purpose of making the motion. At all times practicable, and unless emergency circumstances warrant otherwise, reasonable notice of the motion shall also be given to an opposing party not represented by counsel. When an existing custody order is in place, no modification shall be made without a filed motion to modify. If there is a motion for an ex parte or temporary order to modify, the initial motion must allege exigent circumstance or a new motion must allege exigent circumstance and must be filed. For all "two hour hearings", exigent circumstance must be alleged, if not in the initial complaint, there must be a motion filed alleging exigent circumstances. The attorney filing for ex parte relief must file a certificate of notice.

11.4 Failure of moving counsel to notify opposing counsel, where known, may result in an automatic denial of the relief sought upon objection of opposing counsel or party and may result in the Order being set aside to give the opposing counsel the opportunity to be heard.

11.5 An emergency/temporary hearing pursuant to this section shall be conducted in chambers upon arguments of counsel.

11.6 If an ex parte temporary/emergency order is executed by the Judge, a Return Hearing shall be scheduled pursuant to a schedule promulgated by the Court Manager III. Moving counsel shall receive a date and time certain for the Return Hearing from the schedule published by the Court Manager III or by contacting the assigned Court Manager II or Court Coordinator.

(a) For temporary/emergency orders issued prior to the service of the complaint, the date and time certain for hearing shall be cited in the order and the Notice of Hearing

(Emergency/Temporary Hearings) form (CCLF-FC-002) and shall be filed with the Family Court Office and upon opposing counsel/unrepresented party.

(b) For temporary/emergency orders issued after service of the complaint, the date and time certain for hearing shall be cited in the order and the Domestic Case Notice of Hearing Calendar Request form (CCLF-FC-003) and shall be filed with the Family Court Office and upon opposing counsel/unrepresented party.

11.7 The assigned Court Manager II or Court Coordinator shall receive a copy of the Notice of Hearing.

(Emergency/Temporary Hearings) form (CCLF-FC-002) or the Domestic Case Notice of Hearing Calendar Request form (CCLF-FC-003). Failure to provide a copy of the notice to the assigned Court Manager II or Court Coordinator will result in the matter not being calendared or heard.

11.8 Returns of temporary custody orders will be scheduled for hearing within ten (10) days of issuance of any ex parte temporary custody order. Hearings on requests for temporary custody will be heard pursuant to a schedule promulgated by the Chief District Court Judge. Hearings on returns of or for temporary custody will be heard on affidavits and arguments without live testimony, unless the presiding judge elects to hear testimony. All affidavits for the judge shall be served hand-delivery or by mail service (no facsimile or email) in the judge's office no later than 12 noon on the business day when the court is open that immediately precedes the court hearing date. The aggregate total number of pages for all affidavits are not to exceed 15 pages and all exhibits are to be attached to the affidavits and served upon opposing counsel for review. (example — client may submit one affidavit of 15 pages or 3 affidavits of 5 pages or 5 affidavits of 3 pages). Exhibits are NOT to be attached to any affidavits provided to the judge (this is to allow counsel to lodge appropriate objections) during the hearing on admissibility. Exhibits may be limited in the discretion of the judge, objections to exhibits would be raised prior to commencement of argument/closing statement so Judge can rule on the objection. All affidavits and exhibits are to be served upon opposing counsel at his/her office (not the courthouse box). Service of affidavits upon opposing counsel, along with exhibits, shall be accomplished via facsimile, email or hand delivery to the attorney's office not later than 12 noon on the business day prior to the scheduled hearing date.

11.9 The court shall hold no temporary return order hearing unless it is calendared through the assigned Court Manager II or Court Coordinator.

11.10 Complaints or answers containing claims for Post Separation Support (hereafter "PSS") shall be scheduled at the first PSS date at least four (4) weeks after service and pursuant to a

schedule promulgated by the Chief District Court Judge. A notice of the PSS hearing shall be on the Notice of Hearing form. Hearings on PSS shall be heard on affidavits presented to the court on the Post Separation Support Affidavit and on arguments without live testimony unless the presiding judge elects to hear testimony. [The Post Separation Support Affidavit shall be on form CCLF-FC-006 as prepared and distributed by the Court Manager III's Office.]

11.11 All PSS affidavits for the judge shall be served hand-delivery or by mail service (no facsimile or email) in the judge's office **no later than 12 noon** on the business day when the court is open that immediately precedes the court hearing date. Objections to exhibits would be raised prior to commencement of argument/closing statement so Judge can rule on the objection. All affidavits and exhibits are to be served upon opposing counsel at his/her office (not the courthouse box). Service of affidavits upon opposing counsel, along with exhibits, shall be accomplished via facsimile, email or hand delivery to the attorney's office not later than 12 noon on the business day prior to the scheduled hearing date. Exchanged affidavits between counsel should be accurate but need not be signed by a party. A final affidavit submitted and referenced at the court hearing must be signed under oath prior to the hearing. A copy of a current pay statement should be attached. The Court in its discretion may require proof of expenses.

RULE 12. MOTIONS

12.1 All motions (except Motions to Withdraw) shall be scheduled for hearing through the Office of the Court Manager II or Court Coordinator prior to the assigned trial date. (See Rule 12.6 below relating to Motions to Withdraw.)

12.2 Pursuant to Rule 4.2, prior to scheduling a motion, counsel/ pro se party shall contact the assigned Court Manager II or Court Coordinator, who will provide date and time certain for hearing. The courtroom location, date and time certain should be cited in the Domestic Case Notice of Hearing Calendar Request form, filed with the Family Court Office and served upon opposing counsel/ pro se party with a copy provided to the assigned Court Manager II or Court Coordinator. If a notice of hearing is not filed in the court file, there must be a certificate of

service filed which provides addresses for all parties to the action, the nature of what pleading — motion or document was served and the court date, time and location is listed. Any fees charged by the clerk of court must be paid.

12.3 Failure of moving counsel to notify opposing counsel or party may result in an automatic denial of the relief sought upon objection of opposing counsel or party.

12.4 The assigned Court Manager II or Court Coordinator shall be provided a copy of the Domestic Case Notice of Hearing Calendar Request form. Failure to provide a copy of the notice to the assigned Court Manager II or Court Coordinator will result in the matter not being calendared or heard.

12.5 Motions not reached or continued from Domestic Relations Calendars must be re-calendared by moving counsel through the assigned Court Manager II or Court Coordinator in accordance with Rule 12.2 above. When a motion has been continued in open court to a specific date, counsel shall provide notice of the new date to any unrepresented party.

12.6 All motions to withdraw should be scheduled, filed and noticed for hearing at least 28 days prior to any assigned trial date. All withdrawal motions must state the reason for the withdrawal and include addresses for all parties to the action. All withdrawal notices shall advise the client to be present on the withdrawal hearing court date. It is counsel's responsibility to inform the court of any upcoming hearing dates at the time of withdrawal.

12.7 No motion shall be double calendared or re-calendared until such time that it is continued or not reached by the Court.

RULE 13. SPECIAL SESSIONS

13.1 Requests for Special Sessions for cases involving persons who must travel long distances, have numerous expert witnesses or where other extraordinary reasons for such a request exist, must be made to the Court Manager II or Court Coordinator.

13.2 Requests for a Special Session must be in writing, in letter or motion form, and a copy thereof must be served upon all counsel/pro se party(ies) and a copy provided to the assigned Domestic Case Manager. Motions for S shall set out the issues to be heard and indicate with specificity the reasons for the request. Requests for peremptory settings may be ruled upon by the court without hearing and notice provided to the parties by the Court Manager II or Court Coordinator, Assigned Judge and/or Chief District Court Judge. The Judge assigned may set a Special Session case on his/her own motion. The Court Manager II or Court Coordinator shall set the Special Session trial date and each party has fifteen (15) days to file objections for good cause with the assigned judge and/or the Chief District Court Judge. (Please attempt to reserve these requests for parties located out of state and/or hearings that are expected to last longer than 1 day).

13.3 Cases scheduled for a Special Session shall be calendared for a pretrial conference at least four (4) weeks before the trial date before the assigned judge. All counsel and parties shall be present at the final pre-trial conference. If a party appears through counsel, it will be presumed that the attorney is authorized to stipulate on behalf of the party. Out of state parties may be present by WEBEX or other approved video platform with approval of the presiding judge. Sanctions may be imposed by the court for failure to cooperate in the discovery process and preparation of the final pretrial order.

13.4 PRETRIAL ORDER

(a) Every Special Session case shall have a completed pretrial order prior to trial signed by the parties and counsel. The moving party shall prepare the pretrial order and present it to the opposing party at least seven (7) days prior to trial, opposing party shall provide within two (2) days of the receipt of the pretrial order of any additional issues to be added to the pretrial order. Four days prior to trial, each party will provide to the opposing party a list of witnesses with addresses and a list of all exhibits. The parties will exchange four (4) days prior to trial copies of all exhibits. The final pretrial order with the list of witnesses and exhibits shall be presented to the assigned judge for signature at least three (3) days prior to trial.

(b) The pretrial order will set out the date of marriage, the date of separation, the date of divorce or a statement that the parties are not yet divorced, the name and birth date of any children born to or adopted by the parties and the status of the custody of any minor children.

(c) The pretrial order will list out all witnesses' full names, title and addresses to be called.

(d) The pretrial order shall identify and list all exhibits.

(e) The pretrial order shall list out all stipulations, if any.

(f) Failure to follow this rule, allows the trial judge to enter an order for sanctions which include but is not limited to prohibiting the presentation of evidence by the party failing to follow the rule and/or awarding attorney fees/cost.

13.5 SHOW CAUSE ORDERS

All parties/counsel shall contact the opposing party prior to obtaining a show cause order and upon consent, an order can be presented to the judge. Otherwise, the party filing the motion for contempt shall file the motion and set the matter for hearing on whether a show cause order shall be issued. If the party fails to appear the court may issue a show cause order for that person's failure to appear, proceed with the hearing on the motion for issuance of a show cause order and/or proceed with the contempt hearing if all parties have been properly serve and notice to appear.

RULE 14. MOTIONS FOR CONTINUANCE

14.A.1 Any requests for continuance shall be made to the Court Manager III prior to the printing of the calendar by written motion on a Domestic Case Motion for Continuance form and specify with particularity the reason(s) for continuance. [The Domestic Case Motion for Continuance shall be on form CCLF-FC-007 as prepared and distributed by the Family Court Office, or be in letterform which essentially provides the same information] Motions shall be presented:

(a) As soon as counsel/unrepresented parties become aware of the reason for the motion for continuance.

(b) Any requests made after the printing of the calendar will not be heard, except for an exigent circumstance that could not have been foreseen. Moving counsel/party shall notify any unrepresented parties of any such emergency continuance request that is allowed in open court, at the assigned session or the call of the calendar.

14.A.2 Opposing counsel/unrepresented parties must be notified of the motion for continuance prior to the delivery of the request to the Court Manager III. The manner and date of notice to opposing counsel/unrepresented parties shall be indicated on the motion.

14.A.3 Opposing counsel/unrepresented parties shall thereafter have three (3) working days to file an objection to the motion for continuance with the Court Manager III. All objections shall be made by written motion on the Domestic Case Objection to Request for Continuance form setting forth the particular reasons for objection and served on opposing counsel/unrepresented parties. If a response is not received from the opposing counsel/parties within three (3) working days of the receipt of the motion to continue, it will be assumed that the opposing counsel/ parties do not object. [The Domestic Case Objection to Request for Continuance shall be on form CCLF-FC-008 as prepared and distributed by the Court Manager III's Office, or in letterform which essentially provides the same information].

14.A.4 Motions for continuance pursuant to Rules 14.1(a) shall be ruled upon by the Court Manager III within five (5) working days.

14.A.5 Motions for continuance pursuant to Rule 14.1(b) may be ruled upon by the Court Manager III provided all provisions of Rule 14.2 and 14.3 above are met, and all parties may be notified of the ruling prior to the scheduled court session.

14.A.6 Requests for continuance will only be granted when compelling reasons are presented which affect the fundamental fairness of the trial and it is clearly in the interest of justice and in the judge's discretion. In addition, consideration will be given to the following factors:

- Age of the case;
- Status of the trial calendar for the session;
- The order in which the case appears on the calendar, to include peremptory setting status;
- Number of previous continuances;
- The extent to which counsel had input into the scheduling of the trial date;
- The diligence of counsel in promptly filing the continuance motion,
- The reason for continuance and length of the continuance requested;
- Consent or opposition by other counsel/parties to the continuance motion; and
- Present or future inconvenience or unavailability of witnesses/parties.

14.A.7Reasons that shall not be considered valid bases for allowing a continuance motion include:

- First time scheduling of the case for trial;
- Failure to calendar motions for hearing; or
- Potential conflicting scheduling of other trials in other courts.

14.A.8 Should an objection arise, any failure on the part of the moving party to comply with the rules concerning written motion and notice to opposing counsel/ unrepresented parties shall result in the voiding of any continuance granted.

14.A.9 The Court Manager III, under the supervision of the Chief District Court Judge and/or the assigned Domestic Judge, has the authority to continue cases prior to the scheduled trial session. Motions for Continuance shall be in writing with the reason(s) for the request. After the second Motion for Continuance, all Motions for Continuances should be submitted to the Chief District Court Judge or the assigned Judge. Continuances may only be granted for good cause and approved by the assigned judge or the Chief District Court Judge in his/her absence.

14.A.10 Appeals from the decision of the Court Manager III shall be directed to the assigned Domestic Judge.

14.A.11 When a case has been continued or not reached during a trial session, the case shall be rescheduled by the request of either party in a manner consistent with the provisions set forth in Rules 12.2 through 12.4 above; or, by order of the court.

14.B.1. CONTINUANCE REQUEST AFTER CALENDAR IS POSTED.

After the posting of the calendar, any continuance request must be noted on the party's status sheet. Contemporaneously with the sending of your status sheet to the Court, the party moving must send a written motion to continue on the Court's form to other parties by email or fax. If the opposing party is pro se, the motion must be mailed to the pro se party the same day.

14.B.2. CONTINUANCE REQUEST AT CALENDAR CALL OR DAY OF HEARING/TRIAL.

Motion to Continue made at calendar call or at the time of the hearing, must be written on the court's form that must be filed prior to the hearing/trial or contemporaneously with the making of a motion to continue in open court. If the motion to continue is filed prior to the hearing/trial, the moving party must send a copy of the continuance motion to other parties by email or fax. If the opposing party is pro se, the motion must be mailed to the pro se party the same day. If motion to continue is in open court, a copy of the motion to continue will be given to the opposing party at the time the motion is made. If the party is not present, the Motion to Continue will be mailed to the opposing party based upon Rule 5 of the North Carolina Rules of Civil Procedure.

14.B.3. CONTINUANCE REQUEST FOR TEMPORARY CHILD SUPPORT AND TEMPORARY CUSTODY.

For a continuance request of hearings for temporary child custody and/or temporary child support, the motion to continue, shall be on the court's form, and shall be filed contemporaneously with the making of the motion in open court. A copy of the motion to continue will be given to the opposing party at the time the motion is made. If the party is not

present, the Motion to Continue will be mailed to the opposing party based upon Rule 5 of the North Carolina Rules of Civil Procedure.

RULE 15. SETTLEMENTS

15.1 Pursuant to Rule 2(g), General Rules of Practice for Superior and District Courts, when a case is settled, all attorneys of record must notify the assigned Court Manager II or Court Coordinator or, where appropriate, the Custody Mediation Office within twenty-four (24) hours of the settlement and advise who will prepare and present the judgment.

15.2 Cases will not be removed from the trial calendar or mediation calendar until such time that a copy of a file-stamped consent order, memorandum of judgment, or dismissal is provided to the assigned Court Manager II or Court Coordinator or Custody Mediator,

15.3 Any time that a case is settled at a scheduled court hearing and all parties and counsel are present, the settlement should be reduced to writing in a Memorandum of Judgment (MOJ) or Consent order and signed by all parties and the court. Oral stipulations are disfavored since they do not finally resolve the issues. If a party is not present and counsel has been given express authority to consent to a settlement, that authority should be noted on the signature line of the MOJ.

RULE 16. DELINQUENT ORDERS OR JUDGMENTS

16.1 Cases or motions, which are reported as settled shall be assigned a deadline for submission of the consent order, memorandum of judgment, or dismissal. This deadline shall be not less than four weeks from the date settlement is reported

16.2 Orders entered by a presiding judge shall be assigned a deadline for submission of the order of judgment. This deadline shall be not less than four weeks from the Monday of the session in which the order is entered.

16.3 All orders shall be prepared on plain paper. In order to properly identify responsibility for delinquent orders, the following language shall be required text at the end of every order filed with the Court:

Counsel certifies that a copy of this order was provided to opposing counsel for review on

The _____ day of _____, 20___.

_____
Plaintiff/Defendant's Counsel Read and approved as to form:

_____
Plaintiff/Defendant's Counsel

16.4 All Order/Judgments must state on the front page below the words Order or Judgment, to the right of the caption, what the Order/Judgment resolves, using the following acronyms:

a. Alimony (ALIM)
b. Annulment (ANUL)
c. Attorney Fees (ATFE)
d. Change of Venue (TRFR)
e. Child Support (CSUP)
f. Contempt (CNPT)
g. Custody (CUST)
h. Divorce (DIVR)
i. Divorce From Bed And Board (DIVB)
j. Domestic Violence (DOME)
k. Equitable Distribution (EQUD)
l. Interim Equitable Distribution (INDS)
m. Intervention (INTR)
n. Modify Alimony (MALI)
o. Modify Child Custody (MCUS)
p. Modify Child Support (MSUP)
q. Paternity (PATR)
r. Post Separation Support (PSSU)
s. Rule 59 for New Trial (NWTR)
t. Rule 60 to Set Aside (SADS)
u. Rule 65 Restraining Order (TROR)
v. Qualified Domestic Relations Order (QDRO)
w. Temporary Child Custody (TCC)
x. Temporary Child Support (TCS)
y. Visitation (VIST)
z. Withdrawal of Attorney (WDCN)

16.5 All Order/Judgments must state on the front page, below the filed number, *using the words "OPEN" or "CLOSED", whether the* entry of this Order/Judgment concludes all matter in this case file.

16.6 Child Custody orders shall contain facts upon which the Court's jurisdiction pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act is based. Additionally, the order shall contain a conclusion of law setting out the jurisdictional basis for the Court's entry of an order of child custody.

16.7 All orders shall include a caption indicating the nature of the order. For example, Equitable Distribution and Dismissal of Alimony, Permanent Child Custody and Temporary Child Support, Interim Equitable Distribution and Post Separation Support.

16.8 Orders involving pro se parties or orders which have been denoted as read and approved by opposing counsel shall be placed in the appropriate Judge's box (located in the District Court Judges' Office) for signature.

16.9 Orders, which are not agreed upon between counsel, shall be brought to the attention of the appropriate judge for resolution prior to the date on which the order or judgment is due. Copies of the proposed orders or other documentation should be provided to the judge for review. Either party may schedule a hearing before the judge who heard the matter, for entry of judgment.

16.10 Orders in which opposing counsel have made no response within ten days of receipt shall be placed in the appropriate Judge's box (located in the District Court Judges' Office) for signature. If counsel objects on the 10th day, the objecting party has five (5) business days to deliver a copy of their proposed order and a copy a transcript of the trial proceedings with the highlighted portions (a delivery of just the recorded CD is NOT acceptable). Failure to abide by this provision may result in the submitted order being signed by the judge.

16.11 The Court Manager II or Court Coordinator will identify those cases that are delinquent pursuant to Rule 16, and provide notice to responsible counsel for each such delinquency. Non-compliance by counsel with any section of Rule 16 shall result in the imposition of any and all sanctions deemed appropriate and allowed by law, including monetary sanctions, as determined by the Chief District Court Judge or the presiding judge.

RULE 17 MOTIONS FOR EXTENSION OF TIME ON DISCOVERY

Any initial requests for extension of time for discovery responses may be made to the Court Manager III prior to the expiration of time to produce/respond by written motion. Motions shall be filed and served on all parties and may be presented to the Court Manager III

RULE 18. SANCTIONS

Failure to comply with any section of these rules shall subject an action to dismissal or other sanctions allowed by law as deemed appropriate at the discretion of the Chief District Court Judge or presiding judge.

RULE 19. FORMS

Local forms for use by counsel/unrepresented parties in accordance with these rules are available at www.nccourts.gov and are subject to change as legislation and/or policy dictates.

RULE 20. RULES OF PROCEDURE AND RULES OF EVIDENCE

All North Carolina rules of civil procedure and evidence apply that are not inconsistent with the rules contained herein.

THESE RULES SUPERSEDE ALL PREVIOUS CALENDAR RULES FOR DOMESTIC RELATIONS CASES IN THE DISTRICT COURT OF CUMBERLAND COUNTY, TWELFTH JUDICIAL DISTRICT. THEY SHALL

BECOME EFFECTIVE JUNE 1, 2023 FOR ALL ACTIONS, CASES AND CLAIMS PENDING.

This 24 day of May, 2023.

Toni S. King
Chief District Court Judge

Domestic Steering Committee:
Timothy D. Edwards
Melinda Flinn
Harold Lee Boughman, Jr
Lila Washington
Tracey Henderson
James H. Cooke, Jr.

FILED
2023 MAY 24 A 11: 19
CUMBERLAND CO., C.S.C.
BY