STATE OF NORTH CAROLINA
FIRST JUDICIAL DISTRICT

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

ORDER
FOR THE DISTRICT COURTS

Pursuant to North Carolina General Statute Section 7A-146(2) and Rule 2 of the General Rules for District Courts, IT IS HEREBY ORDERED that the attached "FIRST JUDICIAL DISTRICT LOCAL RULES" are adopted by this Court and shall be effective in the District Courts on January 3, 2023.

These rules shall supersede all previously adopted local rules.

These rules were the result of the work of the Local Rules Committee:

Chairman:

Judge Meader W. Harriss, III

Members:

Judge Edgar L. Barnes	Tina Walker
Lisa Van Antwerp-Gates	Whitney Young
Aida Doss Havel	Melissa Skinner
Lisa Harman-Wakefield	Benita Lloyd
Frank Hiner	Brett Lewis
Andrew Shilling	Lauren Arizaga-Womble

In addition, the Court recognizes the significant contribution of Maria E. Fallen, who spent extensive hours editing and formatting the Rules, as well as drafting and creating the forms and appendices.

Adopted this 3rd day of January, 2023.

THE HONORABLE EDGAR L. BARNES
CHIEF DISTRICT COURT JUDGE

STATE OF NORTH CAROLINA
FIRST JUDICIAL DISTRICT

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

LOCAL RULES
ADMINISTRATIVE ORDER

Pursuant to North Carolina General Statute Section 7A-146(2) and Rule 2 of the General Rules for District Courts, IT IS HEREBY ORDERED that the "FIRST JUDICIAL DISTRICT LOCAL RULES" adopted by this Court and effective in the District Courts on January 3, 2023, are hereby AMENDED AND SUPERSEDED by the attached "AMENDED FIRST JUDICIAL DISTRICT LOCAL RULES," which are adopted and effective in the Districts as of the entry of this Order.

Entered this 20 day of July, 2023.

THE HONORABLE EDGAR L. BARNES
CHIEF DISTRICT COURT JUDGE

THE FIRST JUDICIAL DISTRICT LOCAL RULES

Rule 1. GENERAL RULES

1.1 PURPOSE.

In accordance with N.C.G.S. Section 7A-34 and Rule 2 of the General Rules of Practice, the Judges of this District adopt these Local Rule to institute a case management plan to provide for the just, orderly and prompt disposition of the matters discussed herein.

1.2 EFFECTIVE DATE.

These Rules shall become effective on January 3, 2023, and shall supersede and replace all prior versions of the Local Rules or prior Orders of the Court which are contrary to these Rules, including, but not limited to the previously adopted Civil Calendar Rules (adopted on July 1, 1980), the Rules for Juvenile Court for Camden, Chowan, Currituck, Gates, Pasquotank and Perquimans Counties, and the Rules for Mediation in Child Custody and Visitation Cases, which were previously published and available on the website for the North Carolina Judicial Branch.

1.3 CITATION.

These Rules may be cited as "The First Judicial District Local Rules," and shall be published on the website of the North Carolina Judicial Branch.

1.4 AMENDMENTS AND MODIFICATION.

These rules are subject to amendment and modification as experience indicates and requires. Any amendment shall be published on the website of the North Carolina Judicial Branch.

1.5 ARBITRATION.

Pursuant to N.C.G.S. 7A-37.1(d), it has been determined that the use of court-ordered, nonbinding arbitration may assist in the administration of justice and may be a more economical, efficient and satisfactory procedure to resolve certain civil actions than by traditional civil litigation. Accordingly, the Rules for Court-Ordered Arbitration, which have been codified by the Office of Administrative Counsel of the Supreme Court of North Carolina, are hereby implemented in the First Judicial District, and are incorporated herein by reference. Said Rules can be found here:
https://www.nccourts.gov/courts/supreme-court/court-rules/rules-for-court-ordered-arbitration

Rule 2. REQUIRED FORMS

2.1 REQUEST FOR CIVIL ACTION HEARING.

A party requesting to calendar a motion, claim or other matter shall prepare and serve a Request for Civil Action Hearing, using the form attached hereto as Appendix A. The party making such a request shall confer with the opposing counsel/party to obtain availability prior to making such a request. This form should be submitted electronically and can be found at: https://www.nccourts.gov/documents/local-rules-and-forms/fdcvd-05-request-for-civil-action-hearing.

2.2 FINANCIAL AFFIDAVIT.

In all cases involving claims for child support, post-separation support or alimony, the parties shall complete and exchange, in accordance with applicable statutes and the other provisions of these Rules, a Financial Affidavit, using the form attached hereto as Appendix B. Each party shall exchange said affidavits no less than five (5) business days prior to any hearing on any claim involving child support, post-separation support or alimony.

2.3 EQUITABLE DISTRIBUTION AFFIDAVIT.

In all cases involving claims for equitable distribution, the parties shall complete and exchange, in accordance with the relevant statutes and the other provision of these Rules, an Equitable Distribution Affidavit, using the form attached hereto as Appendix C.

2.4 UNREPRESENTED PARTIES.

Parties without attorneys are known as *pro se* litigants. Although no party is required to have an attorney, any party who is not represented by an attorney must follow all Court rules and is presumed to know and understand them. All *pro se* litigants must keep the Court informed of changes in their addresses and telephone numbers by notifying the office of the Clerk in the county in which the matter is pending. If a party moves before his case is completed and fails to inform the Court of the new address and telephone number, this will not be grounds to continue the case if notices are not received. *Pro se* litigants, like attorneys, may not have, or attempt to have, *ex parte* communication with the Judge assigned to their case. *Ex parte* communication is any method of communication between a litigant and the Court or an attorney and the court without all parties being present. The assigned Judge will not return telephone calls, listen to recorded telephone messages, or read mail which is deemed inappropriate *ex parte* communication. The assigned Judge will not open mail which does not contain the name

and return address of the sender. Violations of the ex parte communication rule may, in the discretion of the assigned Judge, subject the offending party to sanctions.

2.5 CUSTODY MEDIATION COVER SHEET.

The party filing a complaint, answer, counterclaim, motion or other pleading for custody, visitation or other parenting issues (not including child support) shall complete a Custody Mediation Cover Sheet, using the form attached hereto as Appendix D.

Rule 3. EXPEDITED HEARINGS

3.1 MOTION FOR EXPEDITED HEARING.

In any action seeking post-separation support, child support, equitable distribution, child custody or visitation, a party seeking a temporary order on a matter of urgency may file a motion for an expedited hearing. The motion should state the nature of the matter, the reason that an expedited hearing is sought, and the nature of the relief requested. The motion for an expedited hearing may be heard outside of court. If the Court grants the motion, a hearing shall be scheduled within 30 days of the Court granting the motion.

3.2 LIMITATIONS.

Any expedited hearing shall be limited to a period of two (2) hours and shall only address the specific matters set forth in the Motion seeking the expedited hearing. Any order from an expedited hearing shall be strictly temporary in nature.

Rule 4. FAMILY FINANCIAL CASES

4.1 PURPOSE.

These Rules are adopted pursuant to G.S. 7A-38.4A, and the Rules for Settlement Procedures in District Court Family Financial Cases ("the FFS Rules"), which were promulgated by the Supreme Court. *These Rules establish a framework by which all eligible cases are directed to a mediated settlement conference.* Nothing herein 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. If all parties agree, another settlement procedure authorized by the FFS Rules may be utilized and will be ordered in lieu of a mediated settlement conference, but judicial settlement conferences will not be utilized in this district. Failure of a party to comply with these Rules, however, may result in sanctions.

4.2 FAMILY FINANCIAL ISSUES.

Per the FFS Rules, a family financial issue includes equitable distribution, child support (excluding IV-D cases) alimony, postseparation support, or a claim arising out of a contract between the parties under N.C.G.S. §§ 50-20D., 52-10, or 52-10.1, or under Chapter 52B of the General Statutes of North Carolina.

4.3 DESIGNATION OF MEDIATOR.

As set forth in Rule 2 of the Rules for Settlement Procedures in District Court Family Cases, the parties will be given an opportunity to select their mediator or have one appointed by the Court. If the parties select a mediator, the parties and their counsel shall file a Designation of Mediator Form (AOC-CV-825) with the court at the Initial Pre-Trial Conference. If the parties and their counsel do not file the form at the Initial Pre-Trial Conference, the court shall appoint a mediator to the case.

4.4 DUTY OF COUNSEL TO CONSULT WITH CLIENTS AND OPPOSING COUNSEL CONCERNING SETTLEMENT PROCEDURES.

In furtherance of this purpose, counsel, upon being retained to represent any party to a district court case involving family financial issues, including equitable distribution and alimony, shall advise his or her client regarding the settlement procedures approved by these Rules and shall attempt to reach agreement with opposing counsel on the appropriate settlement procedure for the action.

4.5 SCOPE OF SETTLEMENT PROCEEDINGS.

Any matter which includes a family financial issue shall be governed by these rules. Any other family financial issue existing between the parties at the time that the equitable distribution settlement proceeding is ordered, or at any time thereafter, may be discussed, negotiated, or decided at the equitable distribution settlement proceeding. A child custody or visitation issue may be the subject of settlement proceedings ordered under these Rules, but only by agreement of all parties, and provided that the Court has granted a Request to Waive the Custody Mediation Program pursuant to Rule 5.4 (c) of the Local Rules or the parties have fulfilled the program requirements. Any party to an action involving family financial issues not otherwise ordered to a mediated settlement conference may move the Court to order the parties to participate in a settlement procedure. Such motion shall be made in writing and be served on the non-moving party. Unless the opposing party objects, the Court shall order a mediated settlement conference conducted pursuant to these Rules. The Court may, for good cause shown, order the parties to participate in a mediated settlement conference over objection of one of the parties. A party's physical presence out of the jurisdiction does not constitute good cause for dispensing with mediation or another settlement procedure.

4.6 ORDERING SETTLEMENT PROCEDURES.

A. SCHEDULING AND DISCOVERY CONFERENCE.

The filing of a pleading which includes a family financial issue shall be considered an application to conduct a Scheduling and Discovery conference in accordance with G.S. Section 50-21D. Upon the filing of such a pleading, the Clerk of the Court in which the pleading was filed shall set the matter for a scheduling and discovery conference which shall take place on a regularly scheduled civil session of District Court within 120 days after the filing of the initial pleading.

i. The Scheduling and Discovery Conference may be continued for good cause shown.

ii. If the adverse party has not been served with the initiating pleading, the Scheduling and Discovery Conference shall be rescheduled for a period of time within which service can reasonably be expected to be made.

iii. If service of the initial pleading has been made but the time for filing a responsive pleading has not yet expired, the Scheduling and Discovery

Conference shall be continued to the next regularly scheduled civil session of District Court after responsive pleadings are due.

iv. At the Scheduling and Discovery Conference, the Court shall enter a Scheduling and Discovery Order, as set forth in Appendix E. Any other motion permitted by G.S. Section 50-21D may be heard at the Scheduling and Discovery Conference, provided that a written motion and notice of hearing has been filed with the Court and served upon the opposing party no less than 10 days prior to the Scheduling and Discovery Conference.

v. Under FFS Rule 1(c)(1), at the Scheduling and Discovery Conference the court shall issue an order that includes a requirement that the parties and their counsel attend a mediated settlement conference, or if the parties agree, another settlement procedure. Using an Order for Mediated Settlement Conference in Family Financial Case (Form AOC-CV-824), the court shall establish a deadline for the completion of the conference.

B. INITIAL PRE-TRIAL CONFERENCE.

i. The Initial Pre-Trial Conference shall take place at the next regularly scheduled civil session after the entry of the Scheduling and Discovery Order.

ii. At the Initial Pre-Trial Conference, the Court shall enter an Initial Pre-Trial Conference Order, as set forth in Appendix F.

iii. The parties shall submit a Designation of Mediator in Family Financial Case (Form AOC-CV-825) if the parties have selected a mediator by agreement, or the court shall enter the order appointing a mediator from the list of available certified mediators who will accept court appointments within the First District.

C. FINAL PRE-TRIAL CONFERENCE.

i. At the conclusion of the Mediated Settlement Conference, if any issues remain unresolved, the parties shall file a Request for Hearing, for the setting of the Final Pre-Trial Conference.

ii. The date of the Final Pre-Trial Conference shall be set by the Court after the filing of a Request for Hearing. At the Final Pre-Trial Conference, the

Court shall set a date for Trial and for the hearing of any pending pre-trial motions.

iii. At the Conclusion of the Final Pre-Trial Conference, the Court shall enter a Final Pre-Trial Order, as set forth in Appendix G.

4.7 MOTION TO DISPENSE WITH SETTLEMENT PROCEDURES.

A party may move the Court to dispense with the mediated settlement conference or other settlement procedure. Such motion shall be in writing and shall state the reasons the relief is sought. Such a motion shall be heard at the Scheduling and Discovery Conference. For good cause shown, the Court may grant the motion, but shall enter the Initial Pre-Trial Conference Order and schedule a Final Pre-Trial Conference.

4.8 THE MEDIATED SETTLEMENT CONFERENCE.

A. WHERE CONFERENCE IS TO BE HELD.

The mediated settlement conference shall be held in any location agreeable to the parties and the mediator. If the parties cannot agree to a location, the mediator shall be responsible for reserving a neutral place, in the county where the action is pending, and for scheduling the conference and giving timely notice of the time and location of the conference to all attorneys and pro se parties.

B. WHEN CONFERENCE IS TO BE HELD.

As a guiding principle, the conference should be held after the parties have had a reasonable time to conduct discovery but well in advance of the trial date. The mediator is authorized to assist the parties in establishing a discovery schedule and completing discovery. Said conference shall be completed no later than 90 days after the Initial Pre-Trial Conference, or the deadline set by the court. If the parties and the mediator are unable to agree on a date and time for the conference, the mediator shall set a date and time for the conference.

C. REQUEST TO EXTEND DEADLINE FOR COMPLETION.

A party, or the mediator, may move the Court to extend the deadline for completion of the conference by filing a motion. Such motion shall state the reasons the extension is sought and shall be served by the moving party upon the other parties and the mediator. If any party does not consent to the motion, said party shall promptly communicate its objection to the Court. Forms AOC-DRC-19 and AOC-CV-835 should be used by the parties for the purposes set forth herein.

D. RECESSES.

The mediator may recess the conference at any time and may set times for reconvening. If the time for reconvening is set during the conference, no further notification is required for persons present at the conference.

E. DELAY OF OTHER PROCEEDINGS.

The mediated settlement conference shall not be cause for the delay of other proceedings in the case, including the completion of discovery, the filing or hearing of motions, or the trial of the case, except by order of the Court. Specifically, the Court may hear issues of post separation support, temporary child support, interim allocations and attorney's fees prior to the Mediated Settlement Conference.

F. WHAT DOCUMENTS MUST BE EXCHANGED PRIOR TO CONFERENCE.

At least 5 days prior to the scheduled Mediated Settlement Conference, the parties shall exchange relevant documents which shall include:

i. Equitable Distribution Inventory Affidavits which identify, classify, and value the relevant assets and debts as of the date of separation, and which displays a proposed distribution of such assets (unless ED is not in dispute).

ii. In the event a party has requested an unequal division of marital property, a statement describing a) the extent to which an unequal division of marital property is requested and b) the legal grounds or factors that will be asserted to justify the unequal division.

iii. A verified Financial Affidavit which includes itemization of the party's income and expenses (unless neither nor Alimony/PSS are in dispute).

iv. Any other items agreed upon by the parties.

G. SANCTIONS.

Failure to comply with these Rules may result in a party being prevented from entering evidence at trial that was not timely provided prior to the mediation or costs.

4.9 DUTIES OF PARTIES, ATTORNEYS AND OTHER PARTICIPANTS IN MEDIATED SETTLEMENT CONFERENCES.

A. ATTENDANCE.

The following individuals shall attend a mediated settlement conference:

i. Parties,

ii. Attorneys,

iii. At least one counsel of record for each party whose counsel has appeared in the action,

iv. Any person required to attend a mediated settlement conference shall attend--either physically or virtually--until such time as an agreement has been reached or the mediator, after conferring with the parties and their counsel, if any, declares an impasse. No mediator shall prolong a conference unduly. Any such person may have the attendance requirement excused or modified, including allowing a person to participate by phone, by agreement of both parties and the mediator or by order of the Court.

B. FINALIZING BY NOTARIZED AGREEMENT, CONSENT ORDER AND/OR DISMISSAL.

The essential terms of the parties' agreement shall be reduced to writing and signed by the parties. Within thirty (30) days of reaching agreement at the conference, all final agreements shall be executed by the parties and notarized, and judgments or voluntary dismissals shall be filed with the Court by such persons as the parties or the Court shall designate. In the event the parties fail to agree on the wording or terms of a final agreement or court order, the mediator may schedule another session if the mediator determines that it would assist the parties. If said additional session is scheduled, the mediator shall inform the Court.

C. REPORT OF MEDIATOR.

The Mediator shall file Form AOC-CV-827 after the conclusion of the Mediated Settlement Conference. If the report indicates a result other than an agreement on all issues, the parties shall also file a Request for a Hearing with the Court, requesting that a Final Pre-Trial Conference be set.

4.10 SANCTIONS FOR FAILURE TO ATTEND MEDIATED SETTLEMENT CONFERENCES.

If any person required to attend a mediated settlement conference fails to attend without good cause, the Court shall impose upon that person any appropriate monetary sanction including, but not limited to, the payment of attorney's fees, mediator fees, expenses and loss of earnings incurred by persons attending the conference. A party to the action seeking sanctions shall do so in a written motion stating the grounds for the motion and the relief sought. Said motion shall be served upon all parties and on any person against whom sanctions are being sought. The Court, on its own motion, may also impose sanctions. If the Court imposes sanctions, it shall do so, after notice and a hearing, in a written order, making findings of fact supported by substantial evidence and conclusions of law.

4.11 AUTHORITY AND DUTIES OF MEDIATORS.

A. AUTHORITY OF MEDIATOR.

i. Control of Conference.

The mediator shall be in control of the conference and the procedures to be followed. However, the mediator's conduct shall be governed by Standards of Conduct promulgated by the Supreme Court upon the recommendation of the Dispute Resolution Commission.

ii. Private Consultation.

The mediator may communicate privately with any participant during the conference. However, there shall be no *ex parte* communication before or outside the conference between the mediator and any counsel or party on any matter touching the proceeding, except about scheduling matters. Nothing in this rule prevents the mediator from engaging in *ex parte* communications, with the consent of the parties, for the purpose of assisting settlement negotiations.

B. DUTIES OF MEDIATOR.

i. The mediator shall define and describe the following at the beginning of the conference:

a. The process of mediation;

b. The differences between mediation and other forms of conflict resolution;

c. The costs of the mediated settlement conference;

d. That the mediated settlement conference is not a trial, the mediator is not a judge, and the parties retain their right to trial if they do not reach settlement;

e. The circumstances under which the mediator may meet and communicate privately with any of the parties or with any other person;

f. The inadmissibility of conduct and statements as provided by G.S. 7A-38.4A(j);

g. The duties and responsibilities of the mediator and the participants; and

h. The fact that any agreement reached will be reached by mutual consent.

ii. Disclosure.
The mediator has a duty to be impartial and to advise all participants of any circumstance bearing on possible bias, prejudice or partiality.

iii. Declaring Impasse.
It is the duty of the mediator to determine in a timely manner that an impasse exists and that the conference should end. To that end, the mediator shall inquire of and consider the desires of the parties to cease or continue the conference.

iv. Reporting Results of Conference.

The Mediator shall report the outcome of the Conference within 10 days of the conference.

v. Scheduling and Holding the Conference.
The mediator shall schedule the conference and conduct it prior to the conference completion deadline set out in the Initial Pre-Trial Order. The mediator shall make an effort to schedule the conference at a time that is convenient with all participants. In the absence of agreement, the mediator shall select a date and time for the conference. Deadlines for completion of the conference shall be strictly observed by the mediator unless changed by written order of the Court.

4.12 COMPENSATION OF THE MEDIATOR AND SANCTIONS.

A. BY AGREEMENT.

When the mediator is selected by agreement of the parties, compensation shall be as agreed upon between the parties and the mediator.

B. BY COURT ORDER.

When the mediator is appointed by the Court, the parties shall compensate the mediator for mediation services at the rate set forth in Rule 7 of the Rules for Settlement Procedures in District Court Family Financial Cases, adopted by the Supreme Court.

C. PAYMENT OF COMPENSATION BY PARTIES.

Unless otherwise agreed to by the parties or ordered by the Court, the mediator's fee shall be paid in equal shares by the parties. Payment shall be due and payable upon completion of the conference.

D. POSTPONEMENTS AND FEES.

i. As used herein, the term "postponement" shall mean reschedule or not proceed with a settlement conference once a date for a session of the settlement conference has been scheduled by the mediator. After a settlement conference has been scheduled for a specific date, a party may not unilaterally postpone the conference.

ii. A conference session may be postponed by the mediator for good cause beyond the control of the moving participant(s) only after notice by the movant to all parties of the reasons for the postponement and a finding of good cause by the mediator.

iii. Without a finding of good cause, a mediator may also postpone a scheduled conference session with the consent of all parties. A fee of $150 may be paid to the mediator if the postponement is allowed, or if the request is within seven (7) business days of the scheduled date the fee shall be $300. The postponement fee shall be paid by the party requesting the postponement unless otherwise agreed to between the parties. Postponement fees are in addition to the one time, per case administrative fee provided for in Rule 7(b) of the FFS Rules.

iv. If all parties select or nominate the mediator and they contract with the mediator as to compensation, the parties and the mediator may specify in their contract alternatives to the postponement fees otherwise required herein.

V.

Rule 5. CUSTODY AND VISITATION MEDIATION

5.1 SCOPE.

This Rule shall apply to all child custody and visitation cases.

5.2 PURPOSE.

The purpose of this Rule 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 DEFINITIONS.

A. CUSTODY CASE.

An action or motion in the cause which includes an issue of establishing or modifying a custody or visitation order.

B. MEDIATOR.

Any qualified person designated by the Chief District Judge who will schedule and facilitate orientation, education and mediation sessions.

C. PARENTING AGREEMENT.

An agreement reached between parties in a custody case regarding some or all of issues involving custody and/or visitation as mediated by the Custody Mediation Program. If adopted by the court by a Judge's signature, such agreement is a child custody order for all purposes.

5.4 MANDATORY MEDIATION.

A. MEDIATION IS MANDATORY FOR ALL CUSTODY AND VISITATION ISSUES.

The parties to any custody and/or visitation case, including initial filings, modifications or enforcement, shall participate in mandatory mediation prior to any pretrial conference or other hearing of these issues unless exempted by the Court.

B. WHEN MEDIATION MAY BE INAPPROPRIATE.

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 N.C. General Statute 50-1C.: "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."

C. WAIVER OF MEDIATION.

Parties desiring an exemption shall complete and submit a Motion to Waive Mediation to the Chief District Court Judge, along with the proposed Order to Waive Mediation (Motion, Order and Certificates of Service set forth in Appendix H). Said motion and proposed order shall be reviewed by the Chief District Court Judge who will make a decision based on the submission without a hearing. The Court's decision will be recorded on the Order for to Waive Mediation. If waived, a Request for Civil Action Hearing can be filed, unless the parties are participating in a combined custody and FFS mediation, pursuant to Rule 4.5 of the Local Rules.

5.5 THIRD PARTIES.

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.

5.6 CUSTODY MEDIATION COVER SHEET.

The party filing a complaint, answer, counterclaim, motion or other pleading for custody, visitation or other parenting issues (not including child support) shall complete a Custody Mediation Cover Sheet. The Cover Sheet shall be transmitted by the Clerk to the Mediator.

5.7 NOTICE FOR CUSTODY MEDIATION ORIENTATION.

When advised by the Mediator, the moving party shall serve upon the opposing party and counsel the pleading and the Notice for Custody Mediation Orientation that identifies the orientation date. Parties should be noticed at least 10 days prior to mediation orientation.

5.8 SCHEDULING.

The Mediator will schedule the Custody Mediation Orientation within 30 days of the filing of the request for custody and/or visitation and the Mediator will schedule individual sessions at the time of the orientation. The location of Custody Mediation Orientation and individual sessions shall be determined by the Mediator after consulting with the parties or their attorneys.

5.9 EXPEDITED MEDIATION.

In some cases, the parties may be best served by attending orientation/mediation immediately. A written request for expedited mediation, 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.

5.10 ATTENDANCE REQUIREMENTS.

The parties to any custody and/or visitation case must attend and participate in the orientation session, a one-hour parent education session, and at least one mediation session to fulfill the Court's order to participate in mediation. Any party who fails to attend and participate in mediation as ordered shall be subject to the contempt powers of the Court.

5.11 RECESSES.

The Mediator may recess the mediation session at any time and may set times for reconvening. If the time for reconvening is set during the session, no further notice is required for individuals present at the session.

5.12 PARENTING AGREEMENTS.

If the parties reach a full or partial Parenting Agreement, the Mediator will prepare a draft and distribute copies to all parties and their attorneys, advising the parties to review the agreement with 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. If there are unresolved issues and only a partial agreement is reached, the Mediator shall notify the Court of the remaining issues that need to be heard by the Court.

5.13 APPROVAL OF PARENTING AGREEMENT.

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/or counsel.

5.14 IMPASSE.

If the parties fail to agree, and the Mediator determines that no further progress towards a resolution can reasonably be made, the Mediator will notify the Chief District Court Judge who will then calendar the case for trial and send to each party or their Attorney Notice of Assignment for Hearing.

5.15 UNCONTESTED ISSUES.

Whenever the Mediator learns that no answer or other mandatory responsive pleading has been filed within the time prescribed by law or a responsive pleading has been filed admitting or consenting to all of the allegations of the claimant, the Mediator shall take steps to cancel any scheduled mediation sessions or parent education classes and notify the Chief District Court Judge that the matter is ready for hearing.

5.16 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.

5.17 TERMINATION.

The Mediator, in her/his discretion, may terminate the mediation if the Mediator receives information that continuing the mediation would be inappropriate for reasons of safety, welfare, or significant psychological dynamics. The Mediator will then report to the attorneys and Chief District Court Judge that no agreement was reached, and the Chief District Court Judge will calendar the case for hearing.

5.18 INADMISSIBILITY.

All verbal or written communications from either or both the parties to the Custody Mediator or between the parties in the presence of the Custody Mediator made in a proceeding pursuant to these rules are absolutely privileged and inadmissible in Court. Neither the Custody 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.

Rule 6. ABUSED, NEGLECTED OR DEPENDENT JUVENILES

6.1 PURPOSE.

This Rule establishes procedures for Juvenile Court in cases involving juveniles alleged to be abused, neglected, and/or dependent, and are designed to fulfill the purposes of the Juvenile Code, Chapter 7B of the North Carolina General Statutes. To that end, these rules serve the following purposes:

A. To secure for the child a safe and appropriate placement when removal from the child's parent or legal custodian is necessary and in the child's best interests;

B. To provide a just, thorough, speedy and efficient determination of each juvenile protection matter before the court and ensure due process for all persons involved in the proceedings;

C. To reduce unnecessary delays in court proceedings;

D. To encourage early involvement of families and, when appropriate, children in the planning and decision-making process;

E. To help the parties present issues and evidence to the Court in an efficient and simple manner;

F. To promote the integration of services for families and children and to facilitate access to community services.

6.2 CONSTRUCTION AND ENFORCEMENT.

These rules shall be construed to accomplish the purposes set forth above. The Court may impose sanctions against a party or an 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. It is recognized that these rules are not complete in every detail and may not cover every situation that may rise. In the event that these rules do not cover a specific matter, all parties shall act in accordance with the North Carolina Juvenile Code and orders of the Chief District Court Judge or the assigned or presiding Court Judge.

6.3 DEFINITIONS.

A. COURT.

The district court division of the General Court of Justice.

B. DSS.

The county Department of Social Services in the county in which a case is being initiated.

C. GUARDIAN AD LITEM.

A volunteer or one representing the volunteer who has been screened and trained by the GAL program and appointed by the Court to advocate for children who come into the court system primarily as a result of an alleged abuse or neglect.

6.4 PRIORITY.

Cases involving abuse, neglect and/or dependency shall have priority over all other district court matters.

6.5 PETITION AND JUVENILE SUMMONS AND NOTICE OF HEARING.

A. FILING THE PETITION.

The DSS attorney in each county or the Child Protective Services Supervisor within that county's Social Services Agency shall contact the Juvenile Case Manager when a petition of abuse, neglect, and/or dependency is being filed, if possible.

B. INITIAL NONSECURE CUSTODY HEARING.

The date, time and place of the initial Nonsecure Custody Hearing will be placed on the Juvenile Summons and Notice of Hearing by the designated person in the county of the filing.

6.6 APPOINTMENT OF COUNSEL.

A. When a petition is filed alleging abuse, neglect and/or dependency, the Clerk shall appoint separate counsel to represent each parent/respondent named in the petition prior to the Child Planning Conference.

B. Before appointing a specific attorney, the Clerk shall ensure that the attorney will be available for the Child Planning Conference and the first hearing in the case and, to the best of the attorney's knowledge, for every stage of the proceeding. It shall be the responsibility of counsel to immediately inform the Clerk by the quickest means available of any inability to attend a Child Planning Conference.

C. The Juvenile Summons and Notice of Hearing for a petition alleging abuse, neglect, and/or dependency shall include the name, address, business telephone number, and facsimile number of the provisional attorney. The Juvenile summons shall also inform the parent/respondent:

i. That the parent/respondent may retain counsel of his or her own choosing;

ii. That the court, at the first hearing, will determine whether the respondent qualifies for appointed counsel and, if the respondent does, whether the respondent waives the right to such counsel;

iii. That the court will dismiss the appointed counsel if the respondent does not qualify for appointed counsel, if the respondent waives the right to counsel; or if the respondent does not appear at the first hearing.

6.7 RESPONSIBILITIES OF ATTORNEY.

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

i. That they have sufficient experience and skills to provide competent representation;

ii. That they have a good working knowledge of juvenile law and juvenile court procedures; and

iii. That they have a good understanding of child protective services and the related mandates that apply to DSS and to guardian ad litems.

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

C. After a parent's attorney or juvenile's attorney enters an appearance or accepts an appointment in a case, he or she shall represent his or her client through all stages of the proceedings as long as the child continues within the jurisdiction of the court, except when allowed to withdraw by the presiding Judge.

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

6.8 APPOINTMENT OF GUARDIAN AD LITEM AND ATTORNEY ADVOCATE.

A. When a petition is filed alleging abuse, neglect or dependency, the judge shall appoint a guardian ad litem and, if the guardian ad litem is not an attorney also an attorney advocate to represent the juvenile named in the petition.

B. The Guardian ad Litem district administrator shall ensure that the guardian ad litem appointed to a case or a GAL designee will be available for the Child Planning Conference and the first hearing in the case and for other stages of the proceeding.

C. At any point in the proceeding, if the judge determines that a guardian ad litem or attorney advocate is not necessary for a juvenile who is alleged only to be dependent, the judge may dismiss the guardian ad litem or attorney advocate or both.

6.9 SERVICE.

A. IDENTIFICATION AND LOCATION OF PARENTS.

From the date of the filing of the petition, DSS has a continuing duty to identify, locate and obtain service of process on each parent/respondent.

B. PETITIONS AND OTHER DOCUMENTS.

All petitions, Juvenile Summons, Notice of Hearings, Notice of the date and time of the Child Planning Conference, Notice of the Nonsecure Custody Hearing and any other documents relevant to the proceedings shall be served in accordance with N.C.G.S. 7B-406 through 7B-413.

C. LAW ENFORCEMENT.

The law enforcement agency responsible for serving summons, petitions, notices, subpoenas and other legal documents in juvenile cases shall give priority to the timely service of such documents.

6.10 NONSECURE CUSTODY HEARING.

A. At a nonsecure custody hearing, the judge shall:

i. Review the nature of the proceeding and the purposes of the hearing;

ii. Address any issues relating to adequacy of notice and service of process;

iii. Address the requirements set forth in G.S. 7b-506 in determining the need for continued custody;

iv. Encourage the parties to engage in limited discovery of records that may be necessary in the representation of any party to the proceeding;

v. Hear sworn testimony from the parties aimed at determining:

a. Whether a condition or risk justifying continued nonsecure custody exists under G.S. 7B-503,

b. What efforts the petitioner has made to eliminate the need for nonsecure custody, and

c. What other steps the parties have taken since the Child Planning Conference.

B. 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 whether there is a reasonable factual basis to believe:

i. That continued nonsecure custody is supported by one or more of the criteria set forth in G.S. 7B-503, and

ii. That there is clear and convincing evidence that the juvenile's placement in custody is necessary. The court shall be bound by the criteria set forth in G.S. 7B-503 in determining whether continued custody is warranted.

C. If the judge finds that continued nonsecure custody is necessary, the judge shall review or explore with the parties the following:

i. The appropriateness of the juvenile's placement and other placement options, including possible relative placements and efforts to place or keep siblings together,

ii. Any efforts needed to ensure that a school-aged juvenile's school placement and attendance are not disrupted,

iii. Parental visitation,

iv. Sibling visitation,

v. Service needs and referrals,

vi. Financial support for the juvenile,

vii. Whether additional orders are needed to address the juvenile's immediate needs, such as an immediate need for medical treatment or evaluation, and

viii. Specific steps to be taken by the parties before the next hearing.

D. If the judge finds that continued nonsecure custody is not warranted, the judge shall explore with the parties the following:

i. Service needs and referrals, and

ii. Specific steps to be taken by the parties before the adjudication hearing.

E. Before the conclusion of the nonsecure custody hearing, the judge shall:

i. Summarize what has occurred,

ii. Give all parties an opportunity to ask questions,

iii. Set specific dates for the next nonsecure custody hearing, if applicable, and for the adjudicatory hearing,

iv. Explain the purpose of the next hearing,

v. Make findings as to whether reasonable efforts have been made by DSS to eliminate the need for placement of the juvenile as required by G.S. 7B507, and

vi. Prepare and ensure that all parties have a copy of any order entered as a result of the hearing.

F. At a nonsecure custody hearing, the judge may accept stipulations and approve consent orders relating to continued nonsecure custody. Before accepting a stipulation to findings, conclusions, or provisions 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.

6.11 SHARING OF INFORMATION/DISCOVERY.

A. A DSS agency shall share with any other party information which is relevant to the subject matter of an action pending under Chapter 7B of the North Carolina General Statutes. This sharing of information may be done without a motion and order being filed and shall not include information which could lead to the disclosure of the identity of the reporter or any other identifying information about the reporter.

B. It shall be the responsibility of the parent's attorney to contact DSS in writing to schedule a time to review the DSS record. At such time that the parent's attorney goes to DSS and reviews the record, DSS shall furnish copies of documents designated by the parental attorney. Attorneys shall be charged for these copies at a rate not to exceed the rate charged in the office of the Clerk of Superior Court; however, if the parent's attorney is providing services through Indigent Defense Services (IDS) than the cost of copies may not exceed the reimbursement rate paid by IDS.

C. A parent, guardian or caretaker who is a party shall share information with any other party information which is relevant to the subject matter of an action pending under Chapter 7B of the North Carolina General Statutes. The sharing of information may be done without a motion and order being filed and shall not include information which is covered by the attorney/client privilege or constitutes attorney work product.

D. It shall be the responsibility of the DSS attorney to contact the parent's attorney in writing to schedule a time to review the parent attorney's record. At such time that the DSS attorney goes to the parent attorney's office and reviews the record, the parental attorney shall furnish copies of documents designated by the DSS attorney. The DSS attorney shall be charged for these copies at a rate not to exceed the rate charged in the office of the Clerk of Superior Court.

E. Any party, including the child, may file a motion for discovery of specific information or material. This motion shall contain a specific description of the information sought and a statement that the requesting party has made a reasonable effort to obtain the information or that the information cannot be otherwise obtained.

F. Any motion for discovery shall be served upon all parties and heard and ruled upon within 10 business days of the filing of the motion. The court may grant, restrict, defer or deny the relief request.

G. Any party served with a motion for discovery may request that the discovery be denied, restricted, or deferred and shall submit, for in camera inspection, the document, information, or materials the party seeks to protect. If the court enters any order granting relief, copies of the documents, information, or materials submitted in camera shall be preserved for appellate review in the event of an appeal.

H. Information obtained through discovery or sharing of information under 7B-700 may not be redisclosed if the redisclosure is prohibited by State or federal law.

6.12 ADJUDICATORY STIPULATIONS BEFORE JUDGE.

Before accepting a stipulation from any party the judge, in open court, shall determine that the stipulating parties understand the content and consequences of the stipulation. The judge shall determine that the stipulation is voluntary and knowing. The court's findings shall be set forth on the record.

6.13 ADJUDICATION.

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 date. The adjudication hearing shall take place at the earliest possible date thereafter.

6.14 SERVICES FROM OTHER PUBLIC AGENCIES.

If at any time after adjudication, it appears that the best interest of the juvenile may require, or that a party is recommending, that the juvenile, parent or legal custodian receive services from a public agency, the court may direct the clerk 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 involved that agency. If the notice is served on a county agency, it also shall be served on the county attorney. At the disposition 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, based on available services, to meet the juvenile's needs.

6.15 CONTINUANCES.

A. The best interest of the child shall be considered in ruling on motions to continue. Juvenile cases shall be disposed of at the earliest possible time and motions to continue shall only be granted for good cause. Consent or agreement of the parties alone is not good cause.

B. All motions for continuance shall be made to the District Court Judge presiding over the session of court for which the case is calendared. If the trial judge is not known or is unavailable at the time the request is made, the application should be addressed to the Chief District Court Judge.

C. Attorneys shall notify the court and opposing counsel of any other court conflict(s) as they become known and shall keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts, juvenile cases shall take precedence over all other district court matters.

D. In the event any attorney knows that he/she is unable to attend a scheduled session of Court, he/she will advise and give 21 days notice to the Chief District

Court Judge's office that he/she will be unavailable. If the attorney fails to so advise, the case will not be continued.

E. All orders for continuance shall be prepared by the moving party, in writing, and shall include the name of the moving party, any objections to the continuance, and the basis for the continuance.

F. All applications for continuance should be made as soon as a conflict is identified and all impacted—opposing counsel, unrepresented parties, subpoenaed witnesses, or court staff charged with subpoenaing witnesses—shall be notified as soon as possible by the moving party.

G. All parties should have an opportunity to be heard on a motion to continue.

H. Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

   i. The best interest of the child;

   ii. The opportunity to exercise the right to effective assistance of counsel;

   iii. The age of the case and the seriousness of the charge(s);

   iv. The incarceration status of the juvenile;

   v. The effect on children and spouses if the issue is continued and not resolved;

   vi. The status of the trial calendar for the session;

   vii. The number, moving party, and grounds for previous continuances;

   viii. The impact of a continuance on the safety of the parties or any other persons;

   ix. The due diligence of counsel in promptly making a motion for continuance as soon as practicable and notifying opposing counsel and witnesses;

   x. The period of delay caused by the continuance requested;

xi. The presence of witnesses, including the juvenile;

xii. The availability of witnesses for the present session, or for a future session;

xiii. Whether the basis of the motion is the existence of a legitimate conflict with another court setting;

xiv. The availability of counsel;

xv. The consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued; and

xvi. Any other factor that promotes the fair administration of justice.

I. Upon granting a motion for continuance, the judge shall reschedule the case for a specified date, taking into consideration the availability of counsel, parties and witnesses.

6.16 ADJUDICATION, DISPOSITION AND REVIEW REPORTS.

A. Contents of DSS reports. In each case, DSS shall prepare a report that includes at least the following:

i. A description of the placement plan for the child and how that plan is appropriate to the child's needs;

ii. 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;

iii. 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;

iv. If there is a recommendation that the child be removed from the home, a statement of the efforts by DSS to prevent the need for placing the child outside the home;

v. A description of the efforts by DSS to reunify the family, including services that have been offered, provided or rejected;

vi. A statement of why the child cannot be protected from the identified problems while remaining in the home;

vii. 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;

viii. A suggested visitation plan for the child;

ix. A statement of the child's special needs and how they may be met;

x. 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;

xi. If applicable, a description of the child's school or day-care situation and any proposed changes related to it; and

xii. The status of any treatment previously ordered.

B. GAL reports. The guardian ad litem for the child shall prepare a report to assist the court in reaching a decision that will best serve the child's needs.

C. When reports are provided. All parties with written disposition/review reports shall provide copies of their reports to all other parties and their counsel no later than 12:00 noon on the 3rd business day preceding the adjudication, disposition or review hearings. If court is on: Monday - reports need to be sent out the prior Wednesday Tuesday - reports need to be sent out the prior Thursday Wednesday - reports need to be sent out the prior Friday Thursday - reports need to be sent out by the prior Monday of the same week Friday - reports need to be sent out by the prior Tuesday of the same week Failure to do so may result in sanctions to be imposed by the Court.

6.17 DISPOSITION.

A. The dispositional hearing shall be held immediately following the adjudication or within thirty 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 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 specific types of information on an ongoing basis with designated persons or agencies.

D. 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.

6.18 MAINTAINING CASE ON COURT CALENDAR.

Each case shall be maintained on the court calendar at all times as long as juvenile court jurisdiction in the case continues unless the court orders that no further reviews are required. At or before the conclusion of each hearing, a subsequent hearing date shall be set.

6.19 JUDICIAL ASSIGNMENT.

Once a case has been adjudicated by a Judge, subsequent hearings regarding the case shall be heard by the same judge, unless circumstances require otherwise. This includes TPR hearings involving the same children.

6.20 PREPARATION AND ENTRY OF ORDERS.

A. In cases involving DSS, the DSS attorney or designated person shall prepare all orders, unless otherwise provided herein or instructed by the presiding judge.

B. All orders must be filed within 30 days following the conclusion of a hearing. A draft of all orders shall be circulated among the attorneys involved in the proceeding prior to the submission of the original order to the Court for signature. In no event, shall an order be entered later than 30 days following the hearing.

APPENDIX A

REQUEST FOR CIVIL ACTION HEARING

STATE OF NORTH CAROLINA

COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE

DISTRICT COURT DIVISION

FILE № _____

REQUEST FOR CIVIL ACTION HEARING

_____ Plaintiff

_____ Counsel for Plaintiff

vs.

_____ Defendant

_____ Counsel for Defendant

NATURE OF ACTION: MOTION ☐ PRETRIAL ☐ HEARING ☐ OTHER NON-JURY DISPOSITION ☐

SPECIFIC RELIEF SOUGHT BY THIS REQUEST _____

NUMBER OF WITNESSES (both parties) _____

ESTIMATED LENGTH OF TIME FOR HEARING _____

HAS THE CASE BEEN CALLED FOR PRETRIAL? _____

NATURE OF LAST ORDER ENTERED _____ DATE ENTERED _____

CONSENT ORDER? ☐ EVIDENCE PRESENTED? ☐

NAME OF JUDGE ENTERING LAST ORDER _____

CUSTODY CASES ONLY:

MANDATORY MEDIATION HELD: ☐ Yes (date held): _____ ☐ No (why?) _____

MEDIATION WAIVED: ☐ Yes (date waived) _____ ☐ No

I have conferred with opposing counsel/party and certify that we are available for hearing within the next 90 days on those dates shown as follows: _____

I hereby request that the above named case be set for hearing. To the best of my knowledge, the case is ready for hearing, and I do not know of any reason why it will have to be continued.

_____ Date of Request

_____ Signature of Attorney/Party Requesting Hearing

Printed Name: _____

Address: _____

_____

Telephone/Fax: _____

DO NOT WRITE BELOW THIS LINE – FOR COURT USE ONLY

****

ORDER OF ASSIGNMENT

The above case is hereby assigned to Judge _____ for hearing on the _____ day(s) of _____, 20 ____, at _____ a.m. or as soon thereafter as may be heard _____

This the _____ day of _____, 20 ____.

_____

Edgar L. Barnes
Chief District Court Judge

Copy to: Clerk of Superior Court
Assigned Judge
Requesting Counsel or Party
Opposing Counsel or Party
Sheriff

Submit

(updated 6/2015)

APPENDIX B

FINANCIAL AFFIDAVIT

NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. ___ -CVD- _____

_____,
Plaintiff

v.

_____,
Defendant

FINANCIAL AFFIDAVIT OF
_____

Date Completed: _____

Employer: _____ Employer telephone: _____

Employer Address: _____

I am paid: ☐ Weekly ☐ Every Other Week ☐ Twice Monthly ☐ Monthly ☐ Other _____

Last Taxable Year Adjusted Gross Income:		
Current Monthly Gross Income before Deductions:		
Current Monthly Take-home Pay after all Deductions:		
Detail of Monthly Gross Income	**Date of Separation**	**Current**
Monthly Gross Wages:		
Investment Income, Interest, Dividends:		
Bonus, Commissions:		
Alimony Received:		
Child Support Received:		
Overtime:		
Social Security/Disability:		
Other: (car allowance, shift pay, vacation/holiday pay) Circle One		
Mandatory Monthly Deductions	**Date of Separation**	**Current**
Federal Income Tax:		
State Income Tax:		
Social Security Taxes:		
Medicare Taxes:		
Retirement:		
Garnishment:		
Other:		
Voluntary Monthly Deductions	**Date of Separation**	**Current**
Health Insurance:		
Dental Insurance:		
Vision Insurance:		
Life Insurance:		
Disability Insurance:		
Medical Spending Account:		
Retirement:		
Other:		
NET PAY:		

Part 1
Regular Recurring Monthly Expenses

Expense	Date of Separation	Current
	Date_____	Date: _____
Rent or Mortgage Payment		
Renters/Homeowners Insurance		
Taxes Not Included in Mortgage		
Routine House & Appliance Repair/Maintenance		
Electricity		
Gas/Heating Fuel Oil for Home		
Water		
Garbage		
Cable, Digital Television		
Telephone		
Internet Service		
Yard Maintenance		
Home Security System		
House Cleaning Service		
Pest Control Services		
Automobile Payment		
Auto Insurance		
Gasoline (auto)		
Auto Repair/Maintenance, Registration, Taxes		
Food & Household Supplies		
Pets (insurance, vet, food, kennel)		
Other:		
Other:		
Other:		
Other:		
GRAND TOTALS FOR PART 1:		

Part 2

Individual Monthly Expenses

Expense	Date of Separation			Current		
	Date: _____			Date: _____		
	Self	Children	Total	Self	Children	Total
Medical Insurance Premium						
Dental/Vision Insurance Premium						
Uninsured Medical Expenses (co-pays, deductibles)						
Uninsured Dental & Orthodontic Expense						
Uninsured Prescription and OTC Drugs & Medication						
Other Uninsured Medical Expenses (e.g. optical)						
Other Insurance Premiums (life, disability, etc.)						
Work-Related Childcare Expense (Incl. Summer Camp)						
Cellular/Digital Mobile Telephone						
Eating Out						
School Lunches						
Newspapers, Magazines						
Clothing & Accessories						
Personal Upkeep (barber, hair stylist)						
Laundry, Dry Cleaning						
Education (tuition, fees, supplies)						
Babysitting, Childcare, Summer Camp (not incl. above)						
Dues (professional, social, school)						
Extracurricular (music, sports, dance, etc.)						
Church Donations						
Other Charitable Contributions						
Entertainment & Recreation						
Club Dues & Assessments						
Allowances for Children						
Annual Vacation						
Gifts (holidays, birthdays)						
Child Support for Another Child						
Spousal Support for Another Spouse						
Professional Fees (CPA, etc.)						
School Loans						
Retirement & Investments						
Savings						
College Fund						
Other:						
Other:						
Other:						
Other:						
GRAND TOTALS FOR PART 2:						

Part 3
Debts

Creditor	DOS		Current	
	Balance Due	Monthly Payment	Balance Due	Monthly Payment
GRAND TOTALS FOR PART 3:				

VERIFICATION

_____, being first duly sworn, deposes and says that he/she is the _____in the above-entitled action, that he/she has read the foregoing document and knows the contents thereof, that the same are true of his/her own knowledge, except as to those matters and things stated upon belief, and as to those matters and things, he/she believes them to be true.

_____

STATE OF _____
COUNTY OF _____

I certify that the following person personally appeared before me this day, and ☐ I have personal knowledge of the identity of the principal, or ☐ I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a _____, or ☐ a credible witness has sworn to the identity of the principal; acknowledging to me that he/she voluntarily signed the foregoing document for the purpose stated therein, and in the capacity indicated: _____

Date: _____
My commission expires: _____

_____
Notary Public

(Official Seal)

_____ v. _____
Financial Affidavit of _____

NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. ___ -CVD- _____

_____,
Plaintiff

v.

_____,
Defendant

CERTIFICATE OF SERVICE
OF FINANCIAL AFFIDAVIT
OF _____

I hereby certify that a copy of this verified Financial Affidavit dated _____ has been served on the opposing party/counsel in the following manner:

☐ By depositing a copy in the US Mail in a properly addressed, postpaid envelope to:

_____

_____

_____

_____

☐ By hand delivery to: _____

☐ By facsimile to: _____ Fax No.: _____

☐ Other: _____

Date: _____

_____
☐ Plaintiff ☐ Defendant
☐ Attorney for Plaintiff ☐ Attorney for Defendant

APPENDIX C

EQUITABLE DISTRIBUTION INVENTORY AFFIDAVIT

DOM: _____
DOS: _____

AFFIDAVIT OF _____

NORTH CAROLINA

COUNTY OF_____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO.: ____-CVD-_____

_____, Plaintiff
vs.
_____, Defendant.

: EQUITABLE DISTRIBUTION INVENTORY
: AFFIDAVIT OF _____

: DATE OF MARRIAGE: _____
: DATE OF SEPARATION: _____

THE AFFIANT, being first duly sworn and under oath as shown below, states as follows:

1. I am filing with the Court, as required by its Rules, this Affidavit for its use in scheduling the course of this litigation.

2. That Affidavit consists of this and the attached _____ pages.

3. The information contained in this Affidavit is true and accurate to the best of my knowledge. Areas of uncertainty are duly noted in the "Comments" sections.

4. In this Affidavit I have made a full and complete disclosure of all marital and separate property known to me, and I have attached to this Affidavit copies of all appraisals of marital property (obtained within three years of the date of separation) that are currently available to me. I have obtained, and have attached copies of the following appraisals: _____

5. I understand that this Affidavit may be amended from time to time as additional or different information becomes known.

6. At the Discovery and Scheduling Conference, I am requesting the following (include all applicable categories):

* Appointment of Real Estate Appraiser(s)

My Nominee(s) is/are: _____

* Appointment of Business Appraiser(s)

My Nominee(s) is/are: _____

* Appointment of Personal Property Appraiser(s)

DOM: _____
DOS: _____

AFFIDAVIT OF _____

My Nominee(s) is/are: _____

* Appointment of a Referee

My Nominee(s) is/are: _____

* Appointment if Other Expert (specify) _____

My Nominee(s) is/are: _____

7. The date this equitable distribution action was filed is _____

8. (If applicable) I was divorced from my spouse on _____

This the ____ day of _____, 20___.

_____
AFFIANT

STATE/COMMONWEALTH OF _____
CITY/COUNTY OF _____ to wit;

Sworn to and subscribed before me this the ____ day of _____, 20___

_____
Notary Public

DOM: _____
DOS: _____

AFFIDAVIT OF _____

PART I: MARITAL PROPERTY & MARITAL DEBTS

SCHEDULE I: REALTY & MOBILE HOMES

INSTRUCTIONS: For each parcel of realty, give date of acquisition, tax basis (if known), book and page number of deed, and a brief description of the property. For each mobile home, list the make, model and year, and indicate whether the mobile home is titled or has been made part of realty. For each lien or mortgage, list the lender, account number, book and page number of deed of trust, and original loan amount.

	Description	Possession as of DOS	Title	Tax Basis (If Known)	Value Or Amount at DOS	Current Value or Amount	Proposed Distribution
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
TOTAL							

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE II. TRANSPORTATION

INSTRUCTIONS: For each vehicle, list the year, make, & model. For each lien, list the lender, account number, and original loan amount. If you used nada or some other standard reference to determine value, attach a copy of the page(s) you used, with the appropriate entries circled. If the vehicle is paid for, leave the "lien" row blank.

	Asset	Possession as of DOS	Title	Net FMV at DOS	Net FMV Now	Proposed Distribution
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
TOTAL						

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE III. STOCKS AND BONDS

INSTRUCTIONS: List bonds and publicly traded stock on this schedule. Stock in closely held corporations should be listed on schedule x (business interests).

	Asset & Possession	Title	Net FMV at DOS	Net FMV Now	Proposed Distribution
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
TOTAL					

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE IV. BANK ACCOUNTS

INSTRUCTIONS: List bank and last four of account number in first column.

	Asset / Account Number	Possession as of DOS	Title	Balance as of DOS	Proposed Distribution	Account In Use / Depleted Since DOS	In Use / Depleted by Whom
1.							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
TOTAL							

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE V. - ARTWORK, ETC.

	Asset & Possession	Net FMV at DOS	Net FMV Now	Proposed Distribution
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
TOTAL				

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE VI. – MISC. NOTES, ACCOUNTS RECEIVABLE

	Note Holder	Title	Net FMV at DOS	Net FMV Today	Proposed Distribution
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
TOTAL					

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE VII. - SILVERWARE, CHINA AND CRYSTAL

	Asset & Possession	Net FMV at DOS	Net FMV Today	Proposed Distribution
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
TOTAL				

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE VIII. - JEWELRY

	Asset	Possession as of DOS	Net FMV as DOS	Net FMV Today	Proposed Distribution
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
TOTAL					

Comments:

_____
_____
_____
_____
_____
_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE IX. - PETS & LIVESTOCK

	Asset	Possession at DOS	Registration	Net FMV at DOS	Net FMV Today	Proposed Distribution
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
TOTAL						

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE X. - BUSINESS INTERESTS

INSTRUCTIONS: Indicate whether business is a proprietorship, partnership, corporation, or other entity in "type of entity" column. Also indicate number of shares owned, if applicable, and percentage of ownership. If business is a partnership, list other partners after "comments." Also indicate after "comments" if you and/or your spouse currently play a managerial or employment role in the business. Publicly traded stocks should be listed on Schedule III.

	Type of Entity	Title	Net FMV at DOS	Net FMV Today	Proposed Distribution
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
TOTAL					

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE XI-A - HOUSEHOLD GOODS IN WIFE'S POSSESSION

INSTRUCTIONS: List only the household goods now in the wife's possession. Add as many rows as necessary.

	Description of Item	Net FMV at DOS	Net FMV Today	Proposed Distribution
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
	TOTAL			

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE XI-B. - HOUSEHOLD GOODS IN HUSBAND'S POSSESSION

INSTRUCTIONS: List only the household goods now in the husband's possession. Add as many rows as necessary.

	Description of Item	Net FMV at DOS	Net FMV Today	Proposed Distribution
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
TOTAL				

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE XII. - DEFINED CONTRIBUTION PLANS

INSTRUCTIONS: You should list all defined contribution plans on this schedule, including IRAs, 401(k)s, profit sharing plans and other tax deferred savings and or investment plans. If the plan is not 100% marital property, so indicate in the first column (under "description of plan")

	Description of Plan	Owned By	Net FMV at DOS	Net FMV Today	Proposed Distribution
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
TOTAL					

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE XIII. - DEFINED BENEFIT PENSION OR RETIREMENT PLANS

INSTRUCTIONS: Use this schedule only for defined benefit plans. Ira's, 401(k) plans, profit sharing plans, etc., should not be listed on this page.

Name of Plan: _____
Name and Address of Plan Administrator: name: _____
street address: _____
city, state, zip: _____
"Present Value" as of Date of Separation: _____
Your date of hire was: _____
Participation in Plan began: _____
Number of months of participation in Plan during marriage: _____
Total number of months in Plan: _____
Are you currently in this Plan? _____
Is this Plan currently in pay status? _____
Have you obtained an appraisal of this plan? _____
Is the appraisal attached? _____
If the appraisal is not attached, give the
Name and address of the appraiser: name: _____
street address: _____
city, state, zip: _____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SPOUSE'S PLAN: Does the opposing party have a defined benefit plan? If so, describe as fully as possible:

Name of Plan: _____
Name and Address of Plan Administrator: name: _____
street address: _____
city, state, zip: _____
"Present Value" as of Date of Separation: _____
Your date of hire was: _____
Participation in Plan began: _____
Number of months of participation in Plan during marriage: _____
Total number of months in Plan: _____
Are you currently in this Plan? _____
Is this Plan currently in pay status? _____
Have you obtained an appraisal of this plan? _____
Is the appraisal attached? _____
If the appraisal is not attached, give the Name and address of the appraiser: name: _____
street address: _____
city, state, zip: _____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE XIV. - MISCELLANEOUS

INSTRUCTIONS: Use this schedule to list any items of marital property that do not belong in any of the categories in schedules I-XIII.

	Asset	Possession	Title	Net FMV at DOS	Net FMV Today	Proposed Distribution
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
29						
30						
TOTAL						

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE XV. - UNSECURED MARITAL DEBTS

INSTRUCTIONS: List only unsecured debts. For credit - card debt, list the account number. Secured debts should be listed on the appropriate schedule as a lien, mortgage or other encumbrance against a specific marital asset. In the "comments" section, indicate whether you have paid or are paying any of these debts.

	NAME & ADDRESS OF CREDITOR	AMOUNT OWED AT DOS	AMOUNT OWED NOW	REASON INCURRED
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
TOTAL				

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE XVI. - ACTIVE INCREASE IN VALUE OF SEPARATE PROPERTY PRIOR TO SEPARATION

Do you contend that any separate property owned by the other party has actively increased in value (i.e., increased because of you efforts, or your spouse's efforts, or the efforts of both of you) during the course of the marriage and prior to the date of separation? If so, complete the following:

	Description of Asset	Possession of Asset	Owner of Asset	Net FMV at DOS	Net FMV Now	Amount of Active Increase
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
TOTAL						

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

SCHEDULE XVII. – DIVISIBLE PROPERTY

	Asset	Possession of Asset	Title	Net FMV at DOS	Net FMV Today	Proposed Distribution
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
TOTAL						

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

PART II. - DISTRIBUTIONAL FACTORS

1. SEPARATE DEBTS & DEBTS INCURRED FOLLOWING SEPARATION

INSTRUCTIONS: List all debts in excess of $500 which are either non - marital debts incurred during the marriage, or debts incurred by you following separation from your spouse.

	NAME OF CREDITOR & ACCOUNT #	REASON INCURRED	AMOUNT INCURRED	BALANCE OWED NOW
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
TOTAL				

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

2. SEPARATE PROPERTY

INSTRUCTIONS: List all real or personal property which is your separate property, this does not include property acquired after separation. This means property owned by you as of the date of separation which is not marital property and was not listed as marital property in this affidavit.

	Asset	Possession	Manner of Acquisition	FMV at DOS	FMV Now
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
TOTAL					

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

3. PROPERTY ACQUIRED AFTER SEPARATION

INSTRUCTIONS: List here property acquired by you with funds acquired by you after the date of separation having a net value in excess of $500 and which is your property. Property acquired after separation with marital funds should be listed on the marital - property schedules

	Asset	Possession	Lien or Encumbrance	Net FMV Now
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
TOTAL				

Comments:

_____

_____

_____

_____

_____

_____

DOM: _____
DOS: _____

AFFIDAVIT OF _____

4. POST-SEPARATION DISPOSAL OF MARITAL PROPERTY

List all marital assets which have since separation been totally or partially sold, transferred, consumed, destroyed, or exchanged for other property, including but not limited to: sale of property, withdrawal of funds from accounts, and rollover of retirement benefits. Identify the amount of money or other consideration resulting from the disposal, who effected the disposal (i.e., H, W, or JT.), and what has been done with the net proceeds, if any (i.e., debts paid, other property acquired).

	Description of Property	Date of Disposal	Type of Disposal	Sale Proceeds	Use of Proceeds	How Much Did Non-Disposing Party Receive?
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
TOTAL						

Comments:

_____

_____

_____

_____

_____

IMPORTANT: READ THESE GENERAL INSTRUCTIONS

1. If the other party has previously filed his or her inventory, use the same numbering sequence for each item listed by the other party, even if your values are different. If the other party failed to list items, you should list the omitted items on the appropriate schedule after you have listed the items on the other party's inventory in the same order as use by the other party.

2. If you do not know a value or amount, you may leave the appropriate box blank or write "Unknown" in the box.

3. If a value you list is supported by a written appraisal, you should so indicate in the "Comments" section of each Schedule, and you should attach a copy of the appraisal to this inventory.

4. For all items, whether real property or personal, encumbered by a security interest, list the item first, at full fair market value, followed immediately, in the next row, by the amount of the loan or lien, which should be expressed as a negative number.

5. Use H or W immediately after the description of each item to indicate whether Husband or Wife has current possession of an item. Also use H or W to indicate which party you contend should receive the item. In the "Title" column, use H to show title Husband, W to show title in Wife, and JT to show joint title.

6. Using the Schedules list all marital property and all marital debts known to you.

7. "DOS" means "date of separation"
   "DOM" means "date of marriage"
   "FMV" means "fair market value"
   "H' means "husband"
   "W" means "wife"
   "JT" means "joint"

8. Only the schedules used needs to be submitted. Blank sheets can be discarded.

9. YOU MAY PRINT AS MANY ADDITIONAL SHEETS OF EACH SCHEDULE AS NEEDED.

DOM: _____
DOS: _____

AFFIDAVIT OF _____

	Item: _____	FMV at DOS	FMV Today	Proposed Distribution
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
TOTAL				

Comments:

_____

_____

_____

_____

_____

_____

APPENDIX D

CUSTODY MEDIATION COVER SHEEET

Custody Mediation Cover Sheet
And
Notice for Custody Mediation and Orientation

County: ☐Camden ☐Chowan ☐Currituck ☐Dare ☐Gates ☐ Pasquotank ☐ Perquimans	File #: ___-_____-_____
Parent/Caretaker's Name: _____ Address: _____ _____ Telephone: _____ Email Address: _____ Interpreter needed? Primary Language:	Plaintiff's Attorney: _____
Parent/Caretaker's Name: _____ Address: _____ _____ Telephone: _____ Email Address: _____ Interpreter needed? Primary Language:	Defendant's Attorney: _____ *Please check one below:* ☑Initial Filing for Custody/Visitation ☐Motion to Modify Custody/Visitation

THE PARTIES WILL BE SCHEDULED TO ATTEND A MANDATORY CHILD CUSTODY ORIENTATION SESSION AS LISTED BELOW.

NOTE: If you have attended an orientation session in the last five (5) years, you are not required to attend again. Please contact the Mediator to inform her of your completion of this program requirement. Orientation will last approximately one (1) hour. After all parties to the case have completed Orientation, your Child Custody Mediation session will be scheduled.

The moving party shall serve upon the opposing party and counsel the pleading and this Notice of Custody Mediation Orientation.

Questions & requests for appointments may be directed to
Tina D. Walker at tina.d.walker@nccourts.org

CERTIFICATE OF SERVICE

I certify that a copy of this Notice for Custody Mediation Orientation was served as follows:

☐ By depositing a copy enclosed in a postpaid, properly addressed wrapper in a Post Office or official depository under the exclusive care and custody of the U.S. Postal Service directed to:
☐ Plaintiff ☐ Defendant ☐ Plaintiff's Attorney ☐ Defendant's Attorney

☐ By delivering a copy personally to:
☐ Plaintiff ☐ Defendant ☐ Plaintiff's Attorney ☐ Defendant's Attorney

☐ By Sheriff's Service with a copy of Complaint to:
☐ Plaintiff ☐ Defendant ☐ Plaintiff's Attorney ☐ Defendant's Attorney

_____ Signature
☐ Plaintiff ☐ Plaintiff's Attorney
☐ Defendant ☐ Defendant's Attorney

_____ Date

(OVER)

WHAT IS ORIENTATION?

Parties with Child Custody and Visitation matters must participate in the mandatory North Carolina's Custody Mediation Program in an effort to resolve their disputes without having to go through a trial in court. The first of this two-step process is the ORIENTATION SESSION. Parties in the custody case are court ordered to attend one orientation session and at least one mediation session. Orientation is usually scheduled within 30 days of the date the case is sent to the Custody Mediation Program.

The Orientation is a group presentation and is designed to provide participants with a general understanding of what Mediation involves. You will complete information necessary for the Mediator's file and you will be provided with informational material about the program as well as referrals to local resources for children and parents.

This IS NOT your individual Mediation Session.
Your Mediation Session will be scheduled
after all parties to the case have attended Orientation.

Notify the Mediator prior to your attendance to Orientation if you have a No Contact/Domestic Violence Protective Order that is currently in place.

Remember, if you have attended an Orientation session in the last five (5) years, you are not required to attend again. You are directed to contact the person listed on the front of this form to schedule a mediation session.

WHAT IS MEDIATION?

Mediation is a guided conversation. Custody Mediation offers a "family-friendly" way of handling a custody disagreement. The Mediator helps the parties look at their parenting concerns and the needs of the children. Mediation reduces the stress and anxiety often involved in custody disputes. It gives you, the parents, the opportunity to make the important decisions regarding your child(ren) without having to go through a trial in court.

For more information about the Custody Mediation Program, please visit:
https://www.nccourts.gov/help-topics/family-and-children/custody-mediation

APPENDIX E

DISCOVERY & SCHEDULING ORDER

NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. _____

_____,
Plaintiff

v.

_____,
Defendant

SCHEDULING AND
DISCOVERY ORDER

1. AFFIDAVITS AND DISCOVERY.

The parties shall exchange affidavits in accordance with the provisions of N.C.G.S. 50-21. The parties shall otherwise respond to discovery requests within the time periods set in the Rules of Civil Procedure and shall comply with the Local Rules regarding the exchange of documents prior to the Mediated Settlement Conference.

2. COMPLIANCE WITH AFFIDAVITS AND DISCOVERY.

Upon motion of either party or upon the court's own initiative, the court shall impose an appropriate sanction on a party when the court finds that:

A. The party has willfully obstructed or unreasonably delayed, or has attempted to obstruct or unreasonably delay, discovery proceedings, including failure to make discovery pursuant to G.S. 1A-1, Rule 37, or has willfully obstructed or unreasonably delayed or attempted to obstruct or unreasonably delay any pending equitable distribution proceeding, and

B. The willful obstruction or unreasonable delay of the proceedings is or would be prejudicial to the interests of the opposing party.

3. <u>INITIAL PRETRIAL CONFERENCE.</u>

The initial Pretrial Conference in this matter will be take place on:

_____ at _____
Date Time

Entered this ____ day of _____, 20___.

_____
JUDGE

APPENDIX F

INITIAL PRETRIAL CONFERENCE ORDER

STATE OF NORTH CAROLINA

COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. _____

_____,
Plaintiff

vs.

INITIAL
PRETRIAL CONFERENCE ORDER

_____,
Defendant

SETTLEMENT CONFERENCE:

__ A mediated settlement conference shall be completed within 90 days of the entry of this order. If the mediated settlement conference does not result in a resolution of all issues, the parties are ordered to submit a request for a Final Pre-Trial Conference within 10 days after the conclusion of the mediated settlement conference.

Or

__ For good cause shown, the Court shall not require a Mediated Settlement Conference in this matter. The Final Pre-Trial Conference shall take place on the ___ day of _____, 20___.

Pursuant to N.C.G.S. Section 50-21, the Court sets the following deadlines and dates:

1. All pre-trial motions shall be filed and served prior to the Final Pre-Trial Conference.

2. A trial date shall be set at the Final Pre-Trial Conference.

3. No discovery shall be propounded less than 45 days prior to trial.

4. The parties shall complete discovery, including depositions, no later than 30 days before the final pre-trial conference. Discovery and depositions may be taken after the specified time period by agreement of counsel of record or for good cause shown. The foregoing deadlines shall not relieve a party of the obligation to respond to discovery requests within the time periods set forth in the Rules of Civil Procedure, including, in particular, the duty to supplement or amend prior responses.

Entered this ___ day of _____, 20___.

_____
JUDGE

APPENDIX G

EQUITABLE DISTRIBUTION PRETRIAL ORDER

DOM: _____
DOS: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. _____

_____,
Plaintiff,

vs.

_____,
Defendant.

EQUITABLE DISTRIBUTION
PRETRIAL ORDER

THIS MATTER COMING ON TO BE HEARD upon Pretrial Conference before the undersigned Presiding Judge upon pleadings seeking a determination of marital property and an equitable distribution of such property as shall be determined to be marital;

AND IT APPEARING that the parties have reached agreement on certain facts and on certain issues and have delineated the areas of agreement and disagreement;

AND IT APPEARING that by their signatures affixed hereto, each party stipulates that he or she agrees with the facts and issues classified as agreed upon and stipulates that the facts and issues classified as being in dispute are accurately and reflected and that there are no other issues to be determined by the Court;

AND IT FURTHER APPEARING that each party by signing this Pretrial Order warrants and avows that her or she has disclosed the existence of all property, both separate and marital, to which he or she may have claim at the date of valuation of marital property, regardless of to whom such property may be titled or in whom actual ownership may be designated. Said disclosure has been full and honest and is free from taint of fraud;

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED and stipulated as follows:

1. All parties are properly before the Court and the Court has jurisdiction over the parties and subject matter of this action.

2. It is stipulated that all parties have been correctly designated and there is no question as to misjoinder or nonjoinder of the parties or of necessary or additional parties.

3. No parties are appearing in a representative capacity.

4. There are no third-party defendants or cross-claimants.

5. It is stipulated and agreed that opposing counsel will be furnished a copy of each exhibit identified or to be identified by the Plaintiff 7 days prior to trial.

6. It is stipulated and agreed that each of the exhibits identified by the Plaintiff is genuine, and if relevant and material may be received in evidence without further identification or proof.

7. It is stipulated and agreed that opposing counsel will be furnished a copy of each exhibit identified or to be identified by the Defendant 7 days prior to trial.

8. It is stipulated and agreed that each of the exhibits identified by the Defendant is genuine, and if relevant and material may be received in evidence without further identification or proof.

9. The list of the names and addresses of all known witnesses the Plaintiff may offer at the trial will be provided to Defendant seven days prior to trial.

10. The list of the names and addresses of all known witnesses the Defendant may offer at the trial will be provided to the Plaintiff seven days prior to trial.

11. There are no pending motions and neither party desires further amendments to the pleadings.

12. Counsel for the parties announce that all witnesses are available and the case is in all respects ready for trial. The probable length of the trial is estimated to be _____ day.

13. Plaintiff and Defendant were married on _____.

14. There were ____ children born to the marriage of the parties, to-wit:

_____ Born: __/__/____ _____ Born: __/__/____

_____ Born: __/__/____ _____ Born: __/__/____

_____ Born: __/__/____ _____ Born: __/__/____

15. The date of the parties' separation is _____.

16. The parties contend that an equal division would be equitable inequitable.

17. Schedule A is a list of marital property and debts upon which there is agreement as to value and distribution (as between Plaintiff and Defendant).

18. Schedules B-1 and B-2 are lists of marital property and debts upon which there is agreement as to distribution and disagreement as to value.

19. Schedule C is a list of marital property and debts upon which there is agreement as to value and disagreement as to distribution.

20. Schedule D is a list of marital property and debts about which there is disagreement as to distribution and disagreement as to value.

21. Schedule E is a list of property and debts about which there is disagreement as to whether the item is marital property or a marital debt.

22. Schedule F is a list of divisible property.

23. Schedule G is a list of WIFE's contentions as to why equal division is not an equitable division.

24. Schedule H is a list of HUSBAND's contentions as to why equal division is not an equitable division.

25. Plaintiff and defendant have added additional schedules needed to state any other issues to be decided by the Court. They are labeled as follows:

_____ _____

_____ _____

26. Copies of all appraisals and other expert witness reports ordered by the court are admissible into evidence without further foundation or authentication, have been placed in the court file, and are labeled as Exhibits as follows:

_____ _____

_____ _____

27. The Presiding Judge shall rule on the following:

a. What is the value of each item on Schedule B-1 and B-2?

b. To which party should the items on Schedule C be distributed?

c. What is the value of and which party shall be the owner of the items on Schedule D?

d. Are the items on Schedule E marital property (or debts)? If so, what is their value and which party shall be the owner of the items?

e. What is the value of and to which party shall the divisible property be distributed on Schedule E.

f. What is the value of and to which party shall any divisible property be distributed on Schedule F?

g. Which contentions of either party supporting an unequal distribution have been proved, and which should be given weight? (If parties have not stipulated to an equal division) what division is equitable.

h. The Judge shall rule on issues raised in the Supplemental Schedules attached hereto.

28. Current possession of an item is indicated by placing H ("Husband") or W ("Wife") after the description of the item.

29. Counsel for the parties represent to the Court that, in advance of the preparation of this Order, there was a full and frank discussion of settlement possibilities. Counsel for the Plaintiff will immediately notify the Clerk in the event of material change in settlement prospects.

This the ___ day of _____, 20___.

_____
Presiding Judge

DOM: _____
DOS: _____

CONSENTED TO:

_____

_____

Plaintiff

_____

_____

Plaintiff's Attorney

_____

_____

Defendant

_____

_____

Defendant's Attorney

SCHEDULE A

ITEMS AS TO WHICH THERE IS AGREEMENT AS TO VALUE & DISTRIBUTION

	DESCRIPTION AND CURRENT POSSESSION OF ITEM	VALUE TO W	VALUE TO H
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
TOTAL			

DOM: _____
DOS: _____

SCHEDULE B - 1

ITEMS THAT THE PARTIES AGREE SHOULD BE DISTRIBUTED TO HUSBAND, BUT DISAGREE AS TO VALUE

	DESCRIPTION AND CURRENT POSSESSION OF ITEM	$$ to H Per W	$$ to H Per H	$$ to H Per Judge
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
TOTAL				

DOM: _____
DOS: _____

SCHEDULE B - 2

ITEMS THAT THE PARTIES AGREE SHOULD BE DISTRIBUTED TO WIFE, BUT DISAGREE AS TO VALUE

	DESCRIPTION AND CURRENT POSSESSION OF ITEM	$$ to W Per H	$$ to W Per W	$$ to W Per Judge
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				
26				
27				
28				
29				
30				
TOTAL				

DOM: _____
DOS: _____

SCHEDULE C

ITEMS AS TO WHICH THERE IS AGREEMENT AS TO VALUE BUT DISAGREEMENT AS TO DISTRIBUTION

	ITEM & CURRENT POSSESSION	VALUE	GIVE TO, PER W	GIVE TO, PER H	JUDGE'S DECISION	
					$$ to W	$$ to H
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
TOTAL						

DOM: _____
DOS: _____

SCHEDULE D

ITEMS AS TO WHICH THERE IS DISAGREEMENT AS TO DISTRIBUTION AND DISAGREEMENT AS TO VALUE

	ITEM & CURRENT POSSESSION	VALUE PER W	VALUE PER H	GIVE TO, PER W	GIVE TO, PER H	JUDGE'S DECISION	
						$$ to W	$$ to H
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
TOTAL							

DOM: _____
DOS: _____

SCHEDULE E

ITEMS AS TO WHICH THERE IS DISAGREEMENT AS TO WHETHER THE ITEM IS MARITAL PROPERTY OR MARITAL DEBT

	ITEM & CURRENT POSSESSION	W - SAYS:	H - SAYS:	VALUE PER W	VALUE PER H	GOES TO, PER W	GOES TO, PER H
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
TOTAL							

DOM: _____
DOS: _____

JUDGE'S DECISION

	IS MARITAL, $$ TO W	IS MARITAL, $$ TO H	IS NON-MARITAL, $$ TO W	IS NON-MARITAL, $$ TO H
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
TOT.				

DOM: _____
DOS: _____

SCHEDULE F

DIVISIBLE PROPERTY

North Carolina General Statute §50-20 (b) (4) defines "divisible property" as follows:

1. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of postseparation actions or activities of a spouse shall not be treated as divisible property.

2. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.

3. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.

4. Passive increases and passive decreases in marital debt and financing charges and interest related to marital debt.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

DOM: _____
DOS: _____

SCHEDULE G

WIFE'S CONTENTIONS WHY EQUAL DIVISION IS NOT EQUITABLE

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

SCHEDULE G, CONTINUED

JUDGE'S DECISION

W'S CONTENTION NUMBER	IS PROVED OR NOT PROVED	SHOULD OR SHOULD NOT BE GIVEN WEIGHT
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

DOM: _____
DOS: _____

SCHEDULE H

HUSBAND'S CONTENTIONS WHY EQUAL DIVISION IS NOT EQUITABLE

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

13. _____

14. _____

15. _____

DOM: _____
DOS: _____

SCHEDULE H, CONTINUED

JUDGE'S DECISION

H'S CONTENTION NUMBER	IS PROVED OR NOT PROVED	SHOULD OR SHOULD NOT BE GIVEN WEIGHT
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

DOM: _____
DOS: _____

SCHEDULE I

HUSBAND'S AND WIFE'S SEPARATE PROPERTY

	ITEM & CURRENT POSSESSION	HOW PROPERTY WAS ACQUIRED	VALUE PER W	VALUE PER H	W SP Value	H SP Value
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
TOTAL						

DOM: _____
DOS: _____

JUDGE'S DECISION, SUMMARY

1. An equal division would be: ___ equitable ___ inequitable

2. In light of: Schedule F factors, numbered: _____
and Schedule G factors numbered: _____

It would be equitable to award the following shares of the net marital estate to the parties in the below percentages in light of Schedule F and Schedule G factors listed above: ___% Wife ___% Husband

3. The net value of the parties' marital estate is $_____

4. The Court orders an in-kind division as follows:

Items	$$ TO WIFE	$$ TO HUSBAND
FROM SCHEDULE A		
FROM SCHEDULE B1		
FROM SCHEDULE B2		
FROM SCHEDULE C		
FROM SCHEDULE D		
FROM SCHEDULE E		
FROM SCHEDULE F		
FROM SCHEDULE G		
FROM SCHEDULE H		
FROM SCHEDULE I		

5. In order to equalize the division of property, or in order to effectuate and/or supplement the Court's decision, the Court orders a distributive award to:

___Wife ___ Husband in the amount of $_____ payable as follows:

_____

_____

6. The Court orders that ____ Wife's ____ Husband's retirement benefits be divided by Qualified Domestic Relations Order(s), or Domestic Relations Order(s), to be prepared by ____ Wife, ____ Husband and presented to the Court for approval by ___/___/_____ The terms of said order(s) shall be as follows:

_____

_____

APPENDIX H

MOTION & ORDER TO WAIVE MEDIATION

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. ___-CVD-_____

_____
Plaintiff

vs.

_____
Defendant

MOTION TO
WAIVE MEDIATION

Pursuant to N.C.G.S. §50-13.1 and Rule 4(b) of the First Judicial District Local Rules, the undersigned party/attorney moves that mediation of this custody/visitation case through the mandatory custody mediation program be waived, and in support of this motion states *(check all that apply)*:

☐ The party making this motion lives more than one hundred (100) miles away from the Court. *[This exception is within the Court's discretion. NOTE: Telephone conferencing/WebEx conferencing is available as an option.]*

☐ The parties have agreed to combined FFS/custody or private mediation subject to approval from the Court.

☐ The other party has abused/neglected the minor child(ren) involved in this case.

☐ The other party ☐ suffers from alcoholism ☐ abuses drugs ☐ abuses me.

☐ The other party suffers from severe psychological, psychiatric, or emotional problems.

☐ Other: _____

☐ Documents supporting the above allegations are attached hereto.

Date _____	Signature of Movant: _____ Printed Name: _____	☐ Plaintiff/ Attorney ☐ Defendant/ Attorney

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. ___-CVD-_____

_____
Plaintiff

vs.

_____
Defendant

CERTIFICATE OF SERVICE
OF MOTION TO
WAIVE MEDIATION

I certify that a copy of this Motion was served on the Defendants by:

☐ US Mail properly addressed as follows: _____

_____

_____

_____

☐ Facsimile to: _____

☐ E-Mail to: _____

Other: _____

This the ____ day of _____, 20___.

_____

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. ___-CVD-_____

_____
Plaintiff

vs.

_____
Defendant

ORDER
GRANTING/DENYING
CUSTODY MEDIATION

☐ The Court concludes that the movant has shown good cause to waive mediation under the mandatory custody mediation program, and the motion is allowed.

☐ Mandatory custody mediation is waived because the case is being referred to private custody mediation. If private mediation is unsuccessful, then the case is to be returned to Court for referral to the mandatory custody mediation program.

☐ The motion is denied and it is ordered that this case be referred to the custody mediation program for mediation of all unresolved custody and visitation matters in the case.

☐ Other: _____

Date	*Name of District Court Judge*	*Signature of District Court Judge*

NOTICE OF HEARING

NOTICE TO THE DEFENDANT(S)/PLAINTIFF(S):

You are hereby notified that this Motion To Waive Custody Mediation will be heard on the date, time and at the location set out below. You must be present if you wish to be heard

Date of Hearing	*Time of Hearing* ☐ *AM* ☐ *PM*	*Location of Hearing*
Date	*Name of District Court Judge*	*Signature of District Court Judge*

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO. ___-CVD-_____

_____
Plaintiff

vs.

_____
Defendant

CERTIFICATE OF SERVICE
OF ORDER TO
WAIVE MEDIATION

I certify that a copy of this Order was served on the Defendants by ☐ US ☐ US Mail properly addressed as follows: _____

_____

_____

_____

☐ Facsimile to: _____

☐ E-Mail to: _____

Other: _____

This the ____ day of _____, 20___.

_____