

## OPEN FOR COMMENT UNTIL APRIL 12, 2021

### MSC 4(c) Finalizing Agreement.

(1) If an agreement is reached at the mediated settlement conference, then the parties shall reduce the terms of the agreement to writing and sign the writing, along with their counsel. By stipulation of the parties and at the parties' expense, the agreement may be electronically recorded. If the agreement resolves all issues in the dispute, then a consent judgment or one or more voluntary dismissals shall be filed with the court by such persons as the parties shall designate.

(2) If the agreement resolves all issues at the mediated settlement conference, then the parties shall give a copy of the signed agreement, consent judgment, or voluntary dismissal to the mediator and to all parties at the conference, and shall file the consent judgment or voluntary dismissal with the court within thirty days of the conference, or within ninety days if the State or a political subdivision of the State is a party to the action, or before expiration of the mediation deadline, whichever is later. In all cases, a consent judgment or voluntary dismissal shall be filed prior to the scheduled trial.

(3) If an agreement that resolves all issues in the dispute is reached prior to the mediated settlement conference, or is finalized while the conference is in recess, then the parties shall reduce the terms of the agreement to writing and sign the writing, along with their counsel, and shall file a consent judgment or voluntary dismissal disposing of all issues with the court within thirty days of the conference, or within ninety days if the State or a political subdivision of the State is a party to the action, or before expiration of the mediation deadline, whichever is later.

(4) If a party required to be present, as determined in 4(a) above does not attend in person, the party shall be available through electronic means to sign the final agreement or, if the party is unable to sign through electronic means, such party is responsible for providing written verification that the party's designee has authority to sign on the party's behalf.

(5) When an agreement is reached upon all issues, all attorneys of record must notify the senior resident superior court judge within four business days of the settlement and advise who will file the consent judgment or voluntary dismissal.

### MSC Comment to Rule 4(c)

Consistent with N.C.G.S. § 7A-38.1(1), if a settlement is reached during a mediated settlement conference, then the mediator shall ensure that the terms of the settlement are reduced to writing and signed by the parties, or signed by their designees, and their attorneys before ending the conference. No settlement shall be enforceable unless it has been reduced to writing and signed by the parties or signed by their designees.

Cases in which an agreement upon all issues has been reached should be disposed of as expeditiously as possible. This assures that the mediator and the parties move the case toward disposition while honoring the private nature of the mediation process and the mediator's duty of confidentiality. If the parties wish to keep the terms of the settlement confidential, then they may

timely file with the court closing documents that do not contain confidential terms (e.g., voluntary dismissal or a consent judgment resolving all claims). Mediators will not be required by local rules to submit agreements to the court.