

Family Court Rules

Judicial District 19B

Domestic

Effective May 1, 2008

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Rule 1 General

- 1.1 Purpose** The purpose of these Rules is to provide a framework for the fair, just, and timely resolution of legal problems affecting families and children in this district, whether court intervention is initiated by a family member or a government agency. The Rules are to complement the North Carolina Rules of Civil Procedure, North Carolina Rules of Evidence, and General Rules of Practice for Superior and District Courts.
- 1.2 Goals** Family Court strives to, among other things:
- incorporate administrative practices which promote timely resolution of family legal issues;
 - provide appropriate dispute resolution services as alternatives to the adversarial process;
 - ensure that participants are treated with dignity, respect, and courtesy; and
 - assure uniform application and enforcement of procedures.
- 1.3 Application** It is recognized that these Rules are not complete in every detail and will not cover every situation that may arise. In the event that these Rules fail to address a specific matter, they should be construed in such a manner as to avoid technical or unnecessary delay and to promote the ends of justice. The Family Court Administrative Staff is authorized to act with discretion subject to consultation with the presiding judge or the Chief District Court Judge in applying these Rules.
- 1.4 Attorneys and Unrepresented Parties Must Comply** Parties and attorneys shall comply with these Rules. Although a party is not required to have an attorney, any party who is not represented by an attorney must comply with these Rules.
- 1.5 Citation** These Rules and all amendments shall be filed with the Clerk of Superior Court of each county in Judicial District 19B and the Administrative Office of the Courts. These Rules may be cited accordingly as Judicial District 19B Family Court Domestic Rules (19BFCDR).
- 1.6 Availability of Rules** The Family Court Administrative Staff shall distribute a copy of these Rules and any amendments to each member of the Bar of Judicial District 19B. The Family Court Case Coordinators will maintain a supply of Rules and associated forms to be furnished to attorneys and the public upon request.
- 1.7 Forms** Except where specifically required herein, where local forms are required by these Rules, counsel or unrepresented parties may use either the forms provided or a form of their own which substantially corresponds to the specified court form.
- 1.8 Communication with Judges** Attorneys and parties shall not communicate ex parte with a judge except:
- In the course of official proceedings;

- In writing, if a copy of the writing is furnished simultaneously to the other party;
- Orally, upon adequate notice to opposing party; or
- As otherwise permitted by law.

Before any ex parte communication concerning a case between an attorney and a judge, the attorney must first inform the judge of any other attorneys that might be involved in the case at hand, or in a case in another court that might have overlapping issues. In addition, attorneys shall not engage in conduct intended to disrupt a court; including but not limited to failing to comply with known local customs of courtesy or practice of the Bar or of a particular court without giving opposing counsel timely notice of the intent not to comply, and shall not engage in undignified or discourteous conduct.

This Rule is designed to promote impartiality and decorum of the Court with the same intent of the North Carolina Rules of Professional Conduct.

- 1.9 Notice of Other Actions** Attorneys and unrepresented parties must notify the Court of any other pending actions that may affect a pending case including bankruptcy and other civil or criminal matters in this district or other districts.

Rule 2 Domestic Case Filings

- 2.1 Commencement** No domestic matter, with the exceptions noted below, shall be filed in Judicial District 19B without (1) a date set for an upcoming court event (status conference, pre-trial conference, mediation orientation or hearing) as required by these Rules and (2) a judicial assignment.

Exceptions:

Uncontested divorce actions shall not require a date set for an upcoming court event or a judicial assignment. However, if a date is not set within ninety days, the Case Coordinator shall set the case for a hearing date.

The following filings shall not require either the AOC Cover Sheet or the Certification of Judicial Assignment: IV-D cases, UIFSA cases, Involuntary Commitments, and Domestic Violence matters).

- 2.2 Requirements** The following steps are required for a party to file:

Step 1 Complete the AOC *Cover Sheet* and provide a copy to the Case Coordinator along with a copy of the Complaint.

Step 2 Meet with or contact the Case Coordinator to receive a court date and a judicial assignment. The Case Coordinator shall set a court date in accordance with these rules and assign the case to a Family Court Judge on a random basis. Those

families with issues previously assigned to, or heard by, a Family Court Judge (including juvenile court matters) will be assigned to that same Family Court Judge whenever possible.

- Step 3** Complete the *Notice of Hearing and Certification of Judicial Assignment* using the judicial assignment and court dates obtained from the Case Coordinator. Failure to truthfully file this Certification may result in sanctions deemed appropriate by the assigned Family Court Judge.

The party must provide the Case Coordinator with the copy of the completed *Notice of Hearing and Certification of Judicial Assignment* form.

- Step 4** File the case with the Clerk of Superior Court accompanied by the original *AOC Cover Sheet* and the *Notice of Hearing and Certification of Judicial Assignment*. The Clerk of Superior Court shall provide a case number at the time of the initial filing and place the number upon the summons. All subsequent pleadings and papers filed with the Clerk and all subsequent communications to opposing parties, attorneys, or court personnel shall contain the proper case number.

Rule 3 General Calendaring

- 3.1 Case Tracking** The Family Court Administrative Staff shall establish and maintain a case tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts, and in accordance with these Rules as approved by the Chief District Court Judge. The Family Court Administrative Staff shall schedule family court cases for court events as may be necessary and appropriate based on the issues raised in the pleadings. The Family Court Administrative Staff shall inform the parties or their attorneys of scheduled events, and publish a calendar and distribute the calendar 10 days before the scheduled session.
- 3.2 Attorneys Must Subscribe** Attorneys must subscribe to receive Family Court calendars directly via email. Subscriptions are available through www.nccourts.org. Once the Family Court Administrative Staff posts any calendar on the web, subscribed attorneys will be notified via email that the calendar is available. Therefore, all attorneys are deemed to have notice of every calendar published on the website. Attorneys may request a waiver from this requirement from the Chief District Court Judge.
- 3.3 Status or Pretrial Conferences Required** The Case Coordinator shall schedule domestic cases not otherwise exempted herein for the appropriate status or pretrial conferences. The following matters do not require status or pre-trial conferences unless ordered by the Court in an individual case: uncontested divorces, hearings to show cause, hearings for temporary or emergency relief, attorney fees, domestic violence, UIFSA, IV-D, or child support actions.

- 3.4 Notice is Responsibility of Moving Party** It is the responsibility of the moving party to give notice to the opposing party or counsel immediately of the date, time, and place of the event as set by the Court. The notification must be in accordance with these Rules on a *Notice of Hearing* form. The moving party shall file all notices with the Clerk's Office for inclusion in the case file.
- 3.5 Upcoming Court Events** In all actions with pending issues other than uncontested divorces, there shall be scheduled a next court date for the upcoming court event that may be appropriate in the case such as initial scheduling conference, status or interim pre-trial conference, pre-trial hearing, final pre-trial conference, or trial. The Case Coordinators will review and monitor pending actions; and in any case without a properly scheduled court event, the Case Coordinator shall schedule the case for a status conference or as otherwise appropriate to ensure that the Court addresses matters in a timely manner. Scheduling Orders are encouraged; however, trial dates are confirmed only when set by the assigned Judge at the final pre-trial conference.
- 3.6 Consolidated Cases** When cases have been consolidated for trial, they will be regarded as one case for calendaring purposes and will appear under the oldest case number. A copy of the Order consolidating the cases for trial shall be filed in all pertinent court files, and all pleadings or documents filed thereafter shall be captioned with the oldest file number only.
- 3.7 Required Court Appearances** Parties and attorneys shall be present and ready to proceed as scheduled when a case is noticed for a conference, pre-trial hearing, or trial. If the attorneys and parties are not present and ready to proceed and have failed to notify the court of any emergency or conflict which would preclude the attorney or party from being present, the Court may impose sanctions for failure to comply with these Rules.
- 3.8 Dismissal for Missed Court Appearances** Any case noticed for a court event, including pre-trial conferences, is subject to dismissal for failure to prosecute if, at the time the matter is called for hearing, the attorneys and parties are not present and ready to proceed, or have failed to notify the court of any emergency, which would preclude the attorney or party from being present.
- 3.9 Settlement of Contested Issues** Parties are encouraged to engage in settlement discussions at every opportunity. The Family Court recognizes the importance to the family of bringing closure to these disputes and the responsibility of the Court to assist the parties in resolving these disputes. Parties and attorneys are required to appear at scheduled court events as noticed unless otherwise ordered by the Court. If a resolution of the relevant issues is reached prior to the time of court, the attorneys and the parties may, as follows:
- (1) Appear as scheduled and read the terms of the agreement into the record. If needed, another court date will be scheduled and an appropriate Order shall be prepared, signed, and filed with the Court prior to or at that proceeding; OR
 - (2) Be released from appearance if a Memorandum of Judgment/Order has been executed and signed by the parties, their attorneys, and the assigned Judge. If

needed, another court date will be scheduled and an appropriate Order shall be prepared, signed, and filed with the Court prior to or at that proceeding; OR

- (3) Be released from appearance if an appropriate Order is prepared, signed by the parties and their attorneys, and the assigned Judge, and filed prior to the time of court.

3.10 Setting Motions for Hearing All motions shall be set for hearing by the Case Coordinators.

3.11 Motions in the Cause for Contempt All motions for Orders to Appear and Show Cause for contempt filed with the Clerk of Superior Court shall be submitted to the assigned judge. If the assigned Judge is not available, another Family Court Judge in that county may hear the matter. If a Family Court Judge is not available, any District Court Judge may hear the motion. Upon issuance of the Order to Appear and Show Cause, the Case Coordinator shall set the case on for hearing before the assigned judge without a pre-trial conference. Notice shall be contained in the Order to Appear and Show Cause.

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

- (1) Motions for *Ex Parte* Orders shall be submitted in writing to the judge assigned to the case. If the assigned judge is not available to hear an *ex parte* or other emergency matter, another Family Court Judge may hear the matter. If a Family Court Judge is not available, the matter may be heard by any District Court Judge.
- (2) If a party is represented, reasonable steps should be taken to contact counsel for the opposing party before an *Ex Parte* motion is submitted. When seeking an *Ex Parte* ruling, parties shall inform the Court of the identity of any opposing counsel. Before considering a request for an *Ex Parte* ruling, the Court should inquire about the existence of any opposing counsel and of steps taken to advise opposing counsel in advance of the *Ex Parte* contact. *Ex Parte* Orders shall be in writing and shall include the date, time and place such order is scheduled for review within ten (10) days.
- (3) If any *Ex Parte* communication with a Judge occurs without the other party or lawyer present, then the attorney or party must promptly deliver a written copy of such communication to the opposing party or counsel by the same means used to deliver the communication to the judge, i.e. hand delivery, facsimile, express mail or otherwise.

3.13 Jury Issues to be determined by a jury in any domestic case shall be scheduled for trial by the assigned judge at the final pre-trial conference.

3.14 Peremptory Hearings Requests for a peremptory setting for matters shall be submitted to the Case Coordinator in writing using the *Request for Peremptory Setting* form with a simultaneous copy sent or delivered to the other party or counsel. The other party or

counsel shall respond to the Case Coordinator within seven (7) days if they oppose the request for peremptory setting or date sought. When consented to, after receiving a response from the other party or counsel, or after ten (10) days whichever comes first, the Case Coordinator shall place the request before the assigned judge who shall render a decision. A peremptory setting shall be granted only for good and compelling reason. The judge's decision shall be transmitted to the moving party who shall then notify the other party or counsel.

3.15 Sessions of Family Court The schedules for Family Court civil sessions shall be posted in the Family Court office. The schedules will also be placed in the attorneys' mail boxes located in the Clerk's Office or posted on the website.

3.16 Managing and Closing Cases The Family Court Administrative Staff shall monitor the pending docket and manage the cases so that all issues can be expeditiously resolved. Attorneys shall cooperate in assisting the Case Coordinators in identifying the issues to be heard in cases in which they are involved. Therefore, attorneys and parties should be careful in using and accurately preparing the *AOC Cover Sheet* required for domestic filings.

In Family Court matters, when a Judgment or Order is entered which renders moot issues not addressed in the Order, the Clerk shall close the moot issues administratively upon being informed of the Judgment or Order resolving the main issue. Therefore, the Clerk shall administratively enter as closed and remove from the pending docket the following issues, which are moot:

- (1) The entry of a final Equitable Distribution Order shall close any request for an Interim Distribution;
- (2) The entry of an Alimony order shall close any request for Post-Separation Support;
- (3) The entry of a Divorce Judgment shall close a request for Divorce from Bed and Board, whether the Divorce is entered in the main action or in a collateral action between the parties. To complete the record, the Clerk may place a certified copy of the Divorce Judgment in the case in which the Divorce from Bed and Board is pending if the Divorce was granted in a separate action;
- (4) A final Custody Order shall close any request for Temporary Custody; and
- (5) Orders for Judgments resolving all other issues shall close any request for "such other relief as may be appropriate" or similar requests for unspecified additional relief.

Rule 4 Temporary or Interim Hearings

4.1 Temporary Hearings Temporary hearings include hearings requesting custody, visitation, child support, post-separation support, reviews of *Ex Parte* Orders (except domestic violence cases) and interim partial distributions. Temporary hearings may be heard on affidavits.

- 4.2 Service of Affidavits** Unless otherwise stated in these Rules, affidavits for temporary hearings must be served in accordance with the North Carolina Rules of Civil Procedure - when a motion is supported by affidavit, the affidavits shall be served with the motion; opposing affidavits shall be served at least two days before the hearing. If the opposing affidavit is not served on the other parties at least two days before the hearing on the motion, the court may continue the matter for a reasonable period to allow the responding party to prepare a response, proceed with the matter without considering the untimely served affidavit or take such other action as the ends of justice require. For the purpose of the two day requirement, service shall mean personal delivery, facsimile or other means such that the party actually receives the affidavit within the required time. The affidavits shall be filed with the Court on the date of hearing.
- 4.3 Parties and Their Attorneys** Parties and their attorneys, if any, shall be present at the hearing.
- 4.4 Time Limits** Temporary hearings for custody shall be limited to two hours. Temporary hearings for all other matters shall be limited to one hour. Each party shall be allocated one-half of the time to be used for direct examination of the party's witnesses, cross-examination of the other party's witnesses, examination of affidavits, and opening and closing statements. It is anticipated that most Temporary Hearings will conclude within these time limits because of the exchange of information between the parties before the hearing; however, this time limit may be extended in the discretion of the presiding Family Court Judge for good cause.

Rule 5 Custody and Visitation Procedures

- 5.1 New Actions, Modifications, or Any Pleading Seeking Custody/Visitation** After a party has met with the Case Coordinator as required by these Rules, the party may file the pleading with the Clerk of Court. If the party does not file the pleading within 10 days of meeting with the Case Coordinator, the party must notify the Case Coordinator of this fact.
- 5.2 Scheduling** The Case Coordinator shall schedule the Orientation to Mediation for the parties within 45 days and allowing for ten days notice.
- 5.3 Temporary Hearings** Either party or attorney may file a Request for Setting for a temporary hearing on the issue of custody or visitation. Upon request, the Case Coordinator will schedule a temporary hearing within 30 days before the assigned Judge on the issue of temporary custody or visitation and inform the parties or their attorneys of the date, time, and place of the hearing. The parties will still participate with Custody Mediation.

- 5.4 Responsibility of the Moving Party at the time of filing** The moving part shall serve on the opposing party:
- (1) The pleading;
 - (2) The Notice of Mediation; and
 - (3) The Notice of Hearing and Certification of Judicial Assignment setting the temporary hearing date, if temporary relief was requested.

The following Rules reflect NCGS 7A-494, 7A-495 and 50-13.1:

- 5.5 Mandatory Child Custody and Visitation Mediation** The parties to any custody and/or visitation case, including initial filings and modifications, shall participate in mandatory mediation prior to any pre-trial conference or trial of these issues, unless exempted by the Court.
- 5.6 Purpose** The purpose of the Child Custody and Visitation Mediation program is to provide the services of a skilled Mediator to the parties involved in a custody or visitation dispute. The goal of the program is to reduce stress and anxiety experienced by children in separation and divorce by furnishing an alternate way for the parties to resolve contested custody or visitation issues. Ideally, an educational process begins in mediation that helps the parties focus on parenting their children during this stressful period by recognizing and planning for the needs of their children during the changes in the family structure. A successful mediation may help the parties put a Parenting Agreement in writing, assist them in resolving future problems without recourse to the courts, and reduce the stress of re-litigation of custody and visitation issues.
- 5.7 Opportunities for Parties through the Mediation Program** Through mediation the parties have the opportunity to:
- (1) Reduce any acrimony that exists between the parties regarding the dispute of custody or visitation.
 - (2) Develop custody and visitation agreements that are in the child's best interest.
 - (3) Participate in a process that invites informed choices and, where possible, gives the parties the responsibility for making decisions about their child's custody and visitation.
 - (4) Minimize the stress and anxiety experienced by the parties, especially the child.
 - (5) Reduce the stress and expense of litigation of custody and visitation disputes.
- 5.8 Attendance** The parties named as the plaintiff and defendant in the filing are required to attend (1) an orientation to mediation, (2) a Parent Information or Education Class, and (3) at least one mediation session. If a party fails to participate in accordance with these Rules, the case will be closed in mediation and referred to the Case Coordinator for a Show Cause Order. The Mediator will use a *Mediation Outcome* form to update the Case Coordinator and attorneys.

5.9 Orientation Prior to the mediation sessions, parties shall attend an orientation to mediation where the goals and procedures of the mediation process are explained by the mediator. Orientation lasts approximately 1½ hours (including the completion of a mediation questionnaire and the scheduling of appointments for the first mediation session). Children are not included in the orientation session. Once the parties have attended the orientation, they do not need to attend the orientation again, even if they return to mediation years later.

5.10 Mediation Session Only parties named in the suit are permitted to be present in the mediation session; however, other parties may be present only with the consent of the parties involved and at the discretion of the Mediator. Generally, children are not permitted to attend the mediation session unless that is agreed to in advance by both parties and the mediator. All participants in mediation are bound by the statutory requirement of confidentiality. The Mediator shall set the rules of behavior for the presence of other parties at his/her discretion. Each mediation session lasts approximately two hours. Frequently, parents spend more than one session resolving issues centered on parenting their children. Each case is unique, but the number of mediation sessions is usually one to three. The mediator helps to provide an environment where parents can:

- (a) engage in problem-solving that focuses on the needs of their children;
- (b) utilize the strengths of all concerned in reorganizing the family;
- (c) find ways to provide continuity and stability in the child's life; and
- (d) examine their responsibility for their children.

The mediator does not decide issues, but provides a structure where parents can develop a parenting plan. Parents are not required to reach an agreement in mediation.

5.11 Discovery No discovery regarding a custody or visitation claim shall be conducted until the mediation process is complete or has been exempted by the Court. With the exception of oral depositions of parties, discovery may proceed regarding financial considerations.

5.12 Subsequent Mediation Sessions The Mediator will schedule any subsequent mediation sessions with the parties.

5.13 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 Case Coordinator will waive the group orientation requirement. The attorneys or parties should contact the Case Coordinator to schedule an expedited appointment that will include both a mini-orientation and a mediation session.

5.14 Waiving the Custody Mediation Process In some instances, mediation may not be appropriate or in the best interest of the parties or their children. In these instances, a party may move to waive mediation for "good cause". Good cause is defined as including, but not limited to the following as set out in General Statute 50-13.1(c): "(1) showing of undue hardship to a party; (2) an agreement between the parties for voluntary

mediation, subject to court approval; (3) allegations of abuse or neglect of the minor child, (4) allegations of alcoholism, drug abuse, or spouse abuse; or (5) allegations of psychological, psychiatric, or emotional problems.” A showing by either party that the party resides more than 50 miles from the court shall be considered good cause. Parties desiring an exemption shall complete and submit a Motion to Waive Mediation to the Case Coordinator for the assigned Family Court Judge to review. The assigned Family Court Judge will make a decision based on the submission without a hearing. If exempted, the Case Coordinator will set the matter for a hearing within 45 days.

- 5.15 Full Parenting Agreements** If the parties are able to reach a full parenting agreement, the Mediator will prepare a draft and distribute copies to all parties and their attorneys. A time will be scheduled with the parties to return to sign the final draft, usually within 14 days. Final signed agreements shall be presented to the assigned Family Court Judge. The assigned Judge shall review each agreement signed by the parties, and, if appropriate, make the parenting agreement an order of the Court by signing the Order Approving Parenting Agreement. The Mediator will file the final order and Parenting Agreement with the Clerk of Superior Court, and distribute copies to the parties and counsel. The Mediator will update the Case Coordinator with the *Mediation Outcome* form.
- 5.16 Partial Parenting Agreements** If a partial agreement is reached, the Mediator will prepare a final draft of the partial agreement and follow the same process for a full parenting agreement. The Mediator will notify the Case Coordinator by with the *Mediation Outcome* form and identify the issues that are to be heard by the Court.
- 5.17 Temporary Parenting Agreements** If the parties wish to agree to temporary stipulations, the Mediator shall prepare an agreement for a specified period of time. The signing of the agreement will follow the same process for a full parenting agreement. The Temporary Parenting Agreement will address the issue of what happens when the agreement expires, according to the parties’ wishes. It is the responsibility of the parties, not the Mediator, to initiate any follow-up appointment.
- 5.18 Enforcement** Custody Orders developed through mediation shall have the same force and effect and shall be enforced as any other Court Order.
- 5.19 No Agreement Reached in Mediation** If the parties fail to agree, the Mediator will notify the Case Coordinator and the attorneys with the *Mediation Outcome* form. If no agreement is reached in Mediation, the Case Coordinator will set the matter for hearing within 45 days.
- 5.20 Modifications of Existing Agreements without Re-filing with the Court** If the parties previously attended an orientation, the moving party is responsible for contacting the Mediator to schedule a mediation appointment. The Case Coordinator will notify the other party and arrange for a mutually convenient time for a mediation appointment.
- 5.21 Mediation Termination** The Mediator, in his/her discretion, may terminate the mediation if the Mediator receives information during the course of the mediation that

indicates continuing mediation would be inappropriate for reasons of safety, welfare or significant psychological dynamics. The Mediator will then report to the attorneys and Case Coordinator that no agreement was reached with the *Mediation Outcome* form. If mediation is terminated, the Case Coordinator will set the matter for hearing within 45 days.

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

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

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

5.25 Family Court Time Standards The Family Court time standards are goals as established by the statewide Family Court Advisory Committee under the direction of the North Carolina Supreme Court. The following time frames represent maximum time limits that are goals for custody matters. Unless otherwise specified, “days” are calendar days.

<u>Event</u>	<u>Time from Filing of Complaint</u>
a. Temporary Custody Orders, if requested by one or both parties:	
(1) in 90% of cases	Within 30 days
(2) in 100% of cases	Within 45 days
b. Orientation to Mediation Scheduled:	
(1) in 100% of cases	Within 45 days
c. Mediation Sessions Completed:	
(1) in 90% of cases	Within 90 days
(2) in 98% of cases	Within 120 days
(3) in 100% of cases	Within 150 days
d. Orders Entered:	
(1) in 90% of cases	Within 150 days
(2) in 100% of cases	Within 180 days

Rule 6 Child Support Procedures

- 6.1 New Actions, Modifications or Any Pleading Seeking Child Support** After a party has met with the Case Coordinator as required by these Rules, the party may file the pleading with the Clerk of Court. If the party does not file the pleading within 10 days of meeting with the Case Coordinator, the party must notify the Case Coordinator of this fact.
- 6.2 Scheduling** The Case Coordinator shall set a temporary child support hearing within 45 days of the filing of the pleading (unless paternity is involved).
- 6.3 Compliance with Federal and North Carolina Regulations** A temporary child support order shall be entered in each case within 60 days of service of the pleadings requesting child support.
- 6.4 Responsibility of Moving Party at the Time of Filing** The moving party shall serve on the opposing party:
- (1) The pleading; and
 - (2) The Notice of Hearing and Certification of Judicial Assignment including any temporary hearing dates.
- 6.5 Presence Required** Both the parties and their attorneys, if any, shall be present at the hearing.
- 6.6 Proof Required** Parties shall exchange documentation of income (W-2, federal tax return, pay stubs, etc.) and insurance costs at or before the hearing.
- 6.7 Establishment of a Permanent Child Support Order** If at the hearing both parties and the presiding judge agree, the Court may proceed with the establishment of a permanent order of child support.
- 6.8 Pre-Trial Conferences** Pre-Trial Conferences are not required unless requested by a party or ordered by the assigned Family Court Judge.
- 6.9 Settlement Proceedings** Cases may be sent by the Chief District Judge, or designee, to mediation by motion and order after notice of hearing to all parties, or by a Consent Order signed by the parties, or in the discretion of the presiding Judge.
- 6.10 Family Court Time Standards** The Family Court time standards are goals as established by the statewide Family Court Advisory Committee under the direction of the North Carolina Supreme Court. The following time frames represent maximum time limits that are goals for child support matters. Unless otherwise specified, “days” are calendar days.

<u>Event</u>	<u>Time from Filing of Complaint</u>
a. Temporary Child Support Orders entered, if requested, and do not involve paternity determinations:	
(1) 90% of cases	Within 30 days of filing
(2) 100% of cases	Within 45 days of filing
b. Permanent Orders entered:	
(1) 75% of cases	Within 90 days of service
(2) 90% of cases	Within 180 days of service
(3) 100% of cases	Within 270 days of service

Rule 7 Post-Separation Support and Alimony Procedures

- 7.1 **Actions for Post-Separation Support and Alimony** After a party has met with the Case Coordinator as required by these Rules, the party may file the pleading with the Clerk of Court. If the party does not file the pleading within 10 days of meeting with the Case Coordinator, the party must notify the Case Coordinator of this fact.
- 7.2 **Scheduling** The Case Coordinator shall set the issue of post-separation support for hearing within 60 days of the filing of the pleading. The Case Coordinator shall set alimony issues for a Status Conference within 120 days of the filing of the pleading.
- 7.3 **Mandatory Use of Financial Affidavits** It shall be mandatory that financial affidavits be used in cases seeking post-separation support and/or alimony.
- 7.4 **Responsibility of the Moving Party at the Time of Filing** The moving party must serve the other party with the following:
- (1) the pleading seeking post-separation support and/or alimony and
 - (2) the Notice of Hearing and Certification of Judicial Assignment.
- 7.5 **Responsibilities of Moving Party before the Post-Separation Support Hearing** The moving party must serve the completed financial affidavit and proof of income on the opposing party within ten days of filing the pleading requesting the relief.
- 7.6 **Responsibility of the Opposing Party Before the Post-Separation Support Hearing** The opposing party must serve the completed financial affidavit and proof of income on the moving party upon the earlier of (1) the filing of the answer or responsive pleading or (2) noon on Thursday the week before the week of the hearing.
- 7.7 **The Post-Separation Support Hearing** Both parties must file the completed financial affidavits with the court at or before the hearing. Both parties and their attorneys, if any, shall be present at the hearing.

7.8 Settlement Proceedings Cases may be sent by the Chief District Judge, or designee, to mediation by motion and order after notice of hearing to all parties, or by a Consent Order signed by the parties, or in the discretion of the presiding Judge.

7.9 Family Court Time Standards The Family Court time standards are goals as established by the statewide Family Court Advisory Committee under the direction of the North Carolina Supreme Court. The following time frames represent maximum time limits that are goals for post separation and support matters and alimony matters. Unless otherwise specified, “days” are calendar days.

<u>Event</u>	<u>Time from Filing of Complaint</u>
<u>Post Separation Support</u>	
Order entered 75% of cases	Within 60 days
100% of cases	Within 90 days
<u>Alimony</u>	
a. First Status Conference	120 days
b. Completion of ADR*	210 days
c. Final Pre-Trial Conference	240 days
d. Start of Trial	270 days
e. Order entered 90% of cases	Within 270 days of filing
100% of cases	Within 365 days of filing

* Completion of mediation session(s) – not when report is filed

Rule 8 Equitable Distribution Procedures

8.1 Actions for Equitable Distribution After a party has met with the Case Coordinator as required by these Rules, the party may file the pleading with the Clerk of Court. If the party does not file the pleading within 10 days of meeting with the Case Coordinator, the party must notify the Case Coordinator of this fact.

8.2 Scheduling The Case Coordinator shall set the issue of interim distribution, if requested, for hearing within 60 days of the filing of the pleading. The Case Coordinator shall set the issue of equitable distribution for a Status Conference within 120 days of the filing of the pleading.

8.3 Supreme Court Rules These Rules are supplemental to the Rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases. Any conflict between the Rules should be resolved in favor of the Supreme Court Rules.

8.4 Mandatory Settlement Procedures These Rules shall allow for settlement procedures including binding or non-binding arbitration as permitted by law in N.C.G.S. 7A-37.1 and Arbitration Rule 1(b).

- 8.5 Mediation Procedures and Settlement** The Chief District Court Judge or designee shall have administrative authority to make decisions with regard to mediation procedures and scheduling. The Case Coordinator shall be the contact person and shall have administrative authority to make decisions with regard to mediation procedures and scheduling.
- 8.6 Responsibility of Initiating Party** Within 30 days from the receipt of an Answer to a Complaint containing a claim for equitable distribution, or within 30 days from the filing of a Counterclaim for equitable distribution, the moving party shall serve upon opposing counsel a completed *Equitable Distribution Worksheet* on a form approved by the Chief District Court Judge or designee.
- 8.7 Responsibility of Responding Party** Within 20 days of receiving the equitable distribution worksheet, it is the responsibility of the responding party to indicate on the worksheet provided, what his or her contentions are along with any additions thereto, and serve the same on the moving party.
- 8.8 Exchange of Worksheet** The parties shall continue to exchange the worksheet until such time as each party has listed their contentions as to the classification, value, possession, and proposed distribution of all property to be divided. Every block for each item listed on the worksheet shall be completed. The failure of any one party to provide such a listing without good cause constitutes substantial evidence of a lack of good faith. Prior to mediation, it is expected that the parties will have in their possession a full and final listing of all property that the trial judge may be asked to distribute.
- The Court understands that there may be values and other issues that cannot be resolved by the First Status Conference. It is the intent of the Court though, that the parties list the items that are identified and the values as close as possible so that the Pre-Trial Order may be completed. If there are items whose value cannot be determined, the parties should be prepared to have a plan for the Court, previously discussed with the opposing counsel, as to how values can be determined: i.e., appraisals, sale, etc. If there are items that need discovery, a plan for discovery should be presented at the First Status Conference. It is expected that each party will share with the other party, records that they have in their possession as to items that are clearly marital, and that the parties will cooperate with opposing counsel prior to the Status Conference to allow for access to the records and items for inspection. The Court intends for the parties to exchange data and information in order that the proposed Pre-Trial Order may be as thorough as possible at the Pretrial Conference. The Court recognizes that follow-up Scheduling/Status Conferences may be necessary to allow completion of pretrial matters.
- 8.9 Settlement** If the parties reach a settlement, they shall notify the Case Coordinator of the settlement within 10 business days.
- 8.10 Fast Track to Mediation** The parties may at any time enter a Consent Order referring a case to mediation and selecting a mediator as otherwise described in these Rules.

8.11 Expedited Equitable Distribution At the Status Conference, the Judge or designee, shall determine the estimated net value of the marital estate to determine whether the case is eligible to be diverted to the Expedited Equitable Distribution procedure. The parties, at any time, may consent by signing a Consent Order to divert a case into Expedited Equitable Distribution.

If the Chief District Court Judge or designee, determines the net value of the estate is less than \$25,000.00 and of an uncomplicated nature, the case may be diverted to the Expedited Equitable Distribution. The Chief District Court Judge or designee, shall set a date for an Expedited Equitable Distribution hearing.

If the parties agree, they may stipulate that a case is eligible for expedited equitable distribution subject to review of that stipulation by the presiding judge, regardless of the \$25,000.00 value. Cases also may be placed into expedited equitable distribution without the consent of the parties by a judge's order.

8.12 Expedited Equitable Distribution Hearing At the hearing, the judge or designee will accept written briefs, affidavits, appraisals and other written documentation, but will only allow each party a total of thirty minutes to present their case through summary argument or testimony of the party and witnesses.

8.13 Interlocutory Order After Expedited Hearing The judge shall review the inventory affidavits of the parties and other documents and shall render within thirty days an Interlocutory Equitable Distribution Order, which is an advisory opinion of how the judge would divide the marital estate.

Either party may reject the Interlocutory Order by filing a request in writing for a trial de novo within thirty days following entry of the Interlocutory Order. Filing such a request for trial de novo shall cause the case to be heard in a normal course of equitable distribution procedure including mediation. The judge who issues the Interlocutory Order may not hear the case after it is returned to the normal equitable distribution procedure. If neither party files an objection to the Interlocutory Order within thirty days, the Interlocutory Order shall become the final equitable distribution judgment when filed with the Clerk of Superior Court or when entered in the action at the time of the entry of the final divorce judgment.

8.14 Appointment of Mediators While the Court will freely appoint qualified persons selected by mutual consent as mediators, especially when the list of certified mediators is short, it is encouraged that all attorneys seeking to become certified as mediators, will begin the process of certification set out by the Supreme Court of North Carolina.

The Court is only permitted to select certified mediators. However, the parties may, by written stipulation at the Status Conference, submit to the Court a list of acceptable non-certified mediators and request that the appointment be made from that alternative list of mediators upon which the parties can agree. The Court shall appoint only qualified persons to mediate who have already consented to take the case at an agreed rate of pay.

8.15 Authority and Duties of Mediators The mediator shall define and describe the following at the beginning of the conference: The inadmissibility of conduct and statements as provided by G.S. 7A-38.1(l), which includes:

Evidence of statements made and conduct occurring in a settlement proceeding shall not be subject to discovery and shall be inadmissible in any proceedings in the action or other actions on the same claim. However, no evidence otherwise discoverable, shall be inadmissible merely because it is presented or discussed in a settlement proceeding.

No neutral observer shall be compelled to testify or produce evidence concerning statements made and conduct occurring in a settlement proceeding in any civil proceeding for any purpose, except proceedings to attest to the signing of any agreements and except proceedings for sanctions, disciplinary hearings before the State Bar or any agency established to enforce standards of conduct for mediators or other neutrals and proceedings to enforce laws concerning juvenile or elder abuse.

8.16 Payment of Administrative Fee The parties shall pay the fee of \$125 to the mediator at the mediation in equal shares unless otherwise agreed by the parties.

8.17 Judicial Settlement Conferences Judicial Settlement Conferences are not authorized at this time, except upon the consent and Order of both the trial judge and the judge presiding over the settlement conference who would be involved in the disposition of the case.

8.18 Family Court Time Standards The Family Court time standards are goals as established by the statewide Family Court Advisory Committee under the direction of the North Carolina Supreme Court. The following time frames represent maximum time limits that are goals for post separation and support matters and alimony matters. Unless otherwise specified, “days” are calendar days.

<u>Event</u>	<u>Time from Filing of Complaint</u>
a. First Status Conference	120 days
b. Completion of ADR*	210 days
c. Final Pre-Trial Conference	240 days
d. Start of Trial	270 days
e. Orders entered	90% of cases Within 270 days of filing
	100% of cases Within 365 days of filing

* Completion of mediation session(s) – not when report is filed.

Rule 9 Continuance Requests

- 9.1 General Rule** Domestic cases should be addressed at the earliest opportunity, including the first pre-trial or status conference. However, when compelling reasons for continuance are presented, a continuance may be granted for good cause.
- 9.2 Conflicts** Attorneys shall notify the Court and other counsel or unrepresented party of any other court conflicts as they become known.
- 9.3 Motions** Requests for continuance shall be in writing and delivered to the Case Coordinator with a copy to opposing counsel or unrepresented party via the quickest means available. Oral requests are allowed when the moving party did not have reasonable notice of the need for the continuance prior to the scheduled court time. Any objection to any written request for continuance must be in writing.

If the request is made before the court docket is published and both sides consent, the Case Coordinator may reschedule the matter as long as the new date is reasonably in accordance with the time standards. Otherwise, the Case Coordinator should consult with the presiding Judge.

Rule 10 Timely Orders and Judgments

- 10.1 Orders and Judgments** All proposed domestic orders or judgments must be submitted to the court within 15 days following the ruling by the judge. The party preparing the proposed judgment or order shall provide a copy of the proposed document to the opposing party three days (six if by mail) prior to submitting the document to the judge. The Family Court Judge may allow additional time for submission of the proposed order or judgment for good cause, but all proposed orders must be submitted to the court within 30 days following the ruling.
- 10.2 Delinquent Orders and Judgments** Parties delinquent in submitting orders and judgments shall be identified to the Chief District Court Judge or the assigned Family Court Judge and sanctions or penalties may be imposed as deemed appropriate and as allowed by law.

Rule 11 Sanctions

- 11.1 Failure to Comply** Failure to comply with these Rules may subject the parties and/or their attorneys to such sanctions as allowed by law and deemed appropriate by the assigned Family Court Judge. The purpose of this section is to encourage an efficient flow of cases and is not designed to create an unfair advantage to one party. The sanctions may include, but are not limited to:

(1) Dismissal by the Court of all or any part of any claim for relief or pleading; or

- (2) Disallowance of evidence and/or testimony; or
- (3) Payment of a fine; or
- (4) Payment of the reasonable cost incurred by a party due to the other party's non-compliance with these Rules; or
- (5) Payment of the opposing party's reasonable attorney's fees.

Rule 12 Remanded Cases

12.1 Remands When cases are remanded by the Appellate Division, appellant's counsel shall promptly notify the Case Coordinator so that the case can be scheduled for a pre-trial conference within 30 days of being notified by appellant's counsel.

Rule 13 Telephone Conferences

13.1 Telephone Conferences The Court may, in its discretion, order or allow oral argument on any motion by telephone conference call or speaker phone conference call, provided that all participants to the conference can be heard by all other parties at all times during the conference call. The attorney shall schedule such conference calls at a time convenient to all parties and the judge. The judge may direct which party or parties shall bear the cost of the conference call.