

DISTRICT COURT DIVISION

CIVIL JURY, NON-JURY AND DOMESTIC RELATIONS

CASE MANAGEMENT PLAN

(1). GENERAL RULES

- 1.1 The purpose of these rules is to institute a case management plan for the Thirtieth Judicial District, which will allow for the just, orderly and prompt disposition of civil jury, non-jury, and domestic relations cases. They are promulgated in compliance with Supreme Court's direction in Rule 2, General Rules of Practice, requiring all Chief District Court Judges to adopt and administer a case management plan for the calendaring of civil cases.
- 1.2 The Court calendars for the disposition of civil cases in the 30th Judicial District shall be set by the Clerks of Superior Court in Cherokee, Clay, Graham, Haywood, Jackson, Macon and Swain Counties with the supervision of the Chief District Court Judge and the Presiding Judge of a particular session.
- 1.3 Pursuant to 1.2 above, the Chief District Court Judge requests that one or more clerks in each county be designated "Civil Clerks", to handle all civil calendaring matters with the Chief District Court Judge and the presiding District Court Judge. It is further requested that a clerk who monitors child support payments be designated to monitor child support cases under Section 10 of these rules for compliance with G.S. 50-32.
- 1.4 It is recognized that these rules are not complete in every respect and will not cover all situations, which may arise. In the event these rules fail to address a specific matter, the Clerks of Superior Court or their designee are authorized to act in their discretion, subject to consulting with the Chief District Court Judge or the Judge Presiding at a particular term.
- 1.5 The Clerk of Superior Court shall print and distribute a copy of these rules to each member of the Bar in their county. The Clerks of Superior Court will monitor a supply of printed rules, as well as associated forms, to be furnished to attorneys outside of the 30th Judicial District, and unrepresented parties, upon request.
- 1.6 These rules may be cited as, "30th Local Rule _____".
- 1.7 Priority of cases in Mixed Sessions of District Court shall be as follows:
- (1) Jury (2) Domestic (3) Non-Jury

- 1.8 In all civil cases, including domestic, the attorneys and/or unrepresented parties shall mark and exchange all exhibits at least seven (7) days prior to the trial. Sanctions for failure to comply may include, but are not limited to, exclusion of exhibits from evidence. (Amended 10/31/95)

(2). CONTINUANCES

- 2.1 Except as set forth herein the District Court Continuance Policy attached hereto as Attached A shall be followed and requests for continuances may be filed as follows:
- (A). At any time prior to the 10th day before the term begins.
- (B). For good cause at any time before trial.
- 2.2 Any request, at any time prior to the beginning of the calendared session, for a continuance of any matter on the docket, shall be made to the Presiding Judge on Form 30A or by letter which includes the same information. The reason for request must be clearly stated. The position of the case on the trial calendar alone will not necessarily be considered a valid reason for granting the requested continuance. Any engagement in another court as a reason for a continuance must state the case number, the court in which the other case is pending, its position on that calendar, and date of trial. The counsel or unrepresented party making the request shall include, if they know, the response of the opposing counsel or unrepresented parties making the request for continuance.
- 2.3 Opposing counsel must be notified in writing, with certification of service, of the request for continuance prior to or at the same time of the delivery of this request to the Presiding Judge. If a party objects to the request, they must immediately file a reply to the request for continuance to the Presiding Judge.
- 2.4 A continuance will be granted five (5) working days after the mailing date, if no objection is made or received and the Presiding Judge finds good cause to continue the matter.
- 2.5 The attorney or unrepresented party requesting a continuance prior to the ten (10) day cut off date will enclose, with the motion for continuance, a stamped, self-addressed, envelope for return of the order. The movant shall be responsible for filing the original with the clerk and notifying the opposing parties of the granting or denial of the motion.
- 2.6 Motions for continuances will be heard at the calendar call at the beginning of that particular session unless a continuance has been granted by the Presiding

Judge. If a party objects to a continuance request and it is important that the motion for continuance be heard before the beginning of the session, the Presiding Judge will try to hear the motion at any time before the court date if it can be arranged at a time convenient to the Presiding Judge.

- 2.7 If good cause arises to request a continuance after the ten (10) day cut off time passes, the party requesting a continuance should notify the other parties in writing, with certification of service, if enough time remains for delivery. If not enough time, notice should be made by phone, even as late as the day before the beginning of the term.
- 2.8 Motions for continuance may be heard by telephone conference calls (all parties and judge on line). The moving party must arrange and pay for these conference calls. (Amended 10/31/95)

(3). JUDGMENTS - SETTLEMENTS - DELINQUENT ORDER OR JUDGMENT

- 3.1 All judgments and orders in civil cases are to be submitted to the Presiding Trial Judge for signature not more than thirty (30) days after the entry of the judgment or order. This includes Juvenile, IV-D, child support and Uniform Interstate Family Support Act (UIFSA) cases. When a case is taken under advisement by the Presiding Judge, the judgment must be submitted for signature not more than thirty (30) days from the time the attorney who is designated to prepare the judgment is notified.
- 3.2 If any case or motion on the trial calendar is settled prior to the beginning of the scheduled term, the plaintiff or plaintiff's attorney of record must notify the designated civil clerk of the appropriate county within twenty-four (24) hours of the settlement and advise who will prepare the judgment or order. Said order or judgment must be presented to a District Court Judge within thirty (30) days of the notice to the designated Clerk.
- 3.3 Extensions: The attorney designated to prepare a judgment or order may file a motion with any District Court Judge for an extension of time in which to prepare the judgment or order prior to the expiration of the initial thirty (30) days. Such motion shall be made in writing, without notice to opposing counsel or party and may be allowed for good cause shown.
- 3.4 Simultaneous with the presentation of the judgment or order to the Presiding Judge for signature, the attorney preparing and submitting the same shall tender a copy thereof to the opposing counsel (or in the absence of counsel, to the opposing party). Any objection by opposing counsel or opposing party must be made within five (5) working days of the receipt of the judgment or order or the Presiding Judge will sign the same. This tender of judgment or order is not necessary in IV-D or U.I.F.S.A. cases.
- 3.5 If any case or motion on the trial calendar is settled prior to the beginning of a scheduled term, the court requests the attorney in that matter, as a courtesy, to

notify the counsel in the next case to be heard of the settlement so that they can prepare their case and witnesses.

- 3.6 If a case on a calendar for scheduled civil session is settled in whole or in part on the day it is scheduled to be heard or during that term, the attorneys or parties shall prepare a memorandum of judgment on Form 30B. This form may be handwritten and may be continued on additional sheets if sufficient space is not provided on the first page. The parties must, after the memorandum is prepared, appear before the Presiding Judge so he can inquire of them in open court as to whether or not they agree with the memorandum of settlement. No attorney is authorized to release his or her client or witness until the above procedure is followed. All remaining issues in the case should be clearly defined. In these cases the attorney preparing the judgment or order must also comply with Rule 3.1.
- 3.7 In the event that the attorney responsible for the preparation of the judgment or order fails to submit the same within thirty (30) days as required or fails to request an extension or otherwise comply, the designated civil clerk shall calendar the case at the next appropriate calendar with the designation "Delinquent Judgment."
- 3.8 When an attorney for a litigant fails to comply with Rule 3.1 as stated above, he or she is subject to the contempt powers of the Court and/or any other sanctions as provided by the Rules of Civil Procedure.

(4). CALENDARING OF CIVIL ACTIONS

4.1 Ready Calendar:

- (A). The designated civil clerk shall maintain a Ready Calendar upon which cases shall be placed one hundred eighty (180) days after the complaint or action is filed, unless time is extended by order of the Chief District Court Judge upon request that states with particularity the reasons for the need of extensions.
- (B). All cases in which a certificate of readiness by all parties or all counsel of record) has been filed with the civil clerk will be placed on the Ready Calendar.
- (C). All cases appealed from Magistrates Court will be placed on the Ready Calendar.
- (D). All cases remanded from the Court of Appeals will be placed on the Ready Calendar.
- (E). Cases ordered to be calendared by the Court.

4.2 Cases appealed from Magistrates Court and remanded from the Court of Appeals will be placed on the first appropriate trial calendar possible. No magistrates' appeals, other than summary ejectment shall be placed on a Domestic Session calendar.

All cases on the Ready Calendar will be subject to be placed on a Trial Calendar.

4.3 Peremptory Settings: A peremptory setting shall be granted only for good cause and compelling reason. Requests for a peremptory setting for cases involving persons who must travel long distances, have numerous expert witnesses, or for other extraordinary reasons, must be made to the presiding District Court Judge for that session.

CALENDAR COMPOSITION - ORDER OF LISTING FOR TRIAL

4.4 The Trial Calendar shall be composed of matters peremptorily set, cases continued from prior calendars, cases that have certificate of readiness filed by all the parties or counsel, cases requested to be calendared by counselor unrepresented parties, cases appealed from Magistrates Court, cases remanded from the Court of Appeals, and cases ordered calendared by the Court.

4.5 Peremptorily set cases shall be calendared first on the Trial Calendar and marked accordingly. Thereafter, cases shall be set by date of filing in chronological order, unless otherwise ordered by Court.

4.6 All calendars prepared by the clerk shall list the cases in groups as follows: Jury, Domestic, Non-Jury, and Motions. The cases should be numbered within their groups in order as they appear on the calendar from one (1) through whatever the last number may be.

4.7 Any cases that are scheduled on a Trial Calendar for pre-trial conference should be designated as such on the calendar. There will be no more magistrate appeal cases set on the Pre-Trial Conference Calendar.

PUBLICATION OF TRIAL CALENDAR

4.8 Not less than four (4) weeks prior to the first day of each District Court Civil Session, the designated civil clerk, under the supervision of the Chief District Court Judge, will prepare, publish and distribute the calendar of cases for motion and trial at that session. A copy of that calendar shall be mailed by the clerk to each

attorney who appears as counsel of record in one or more cases, to the Presiding Judge, to the Chief District Court Judge, to the Court Reporter and a notice to each unrepresented party whose address appears in the record. Each attorney and each unrepresented party shall be responsible for seeing that their correct mailing address appears in the record.

WITHDRAWAL OF APPEARANCE AND NOTICE OF APPEARANCE

- 4.9 Any attorney who withdraws from a case must file the appropriate motion and notice for hearing. If the motion to withdraw is allowed, the attorney whose motion is granted shall immediately submit an order to the presiding judge allowing the motion. Failure to submit such an order may result in the motion being denied.
- 4.10 Any attorney making an appearance in a case shall file a notice of appearance with his or her correct address unless a previous pleading has been filed noting the attorney's appearance. Failure to file a notice of appearance may result in a denial of a continuance on the ground that the attorney did not receive a calendar or notice of hearing.

REQUEST FOR CALENDARING

- 4.11 Any attorney or unrepresented party may request that a case or motion be calendared at any scheduled session of court. Request for calendaring of any case or motion made prior to the publication of the Trial Calendar shall be made in writing to the designated civil clerk in the county where the case is pending.
- 4.12 No cases, other than Temporary Restraining Orders (TRO's), returns of Ex Parte Emergency Custody Orders, returns on Ex Parte Domestic Violence Orders, and Ex Parte Civil No Contact Orders; or other emergency orders, may be added to the calendar once published. Other cases may be added by the presiding judge in his or her discretion and the civil clerks in the respective counties should be contacted by the attorney or party whose request is granted concerning these additions.
- 4.13 Anyone whose request for calendaring is allowed pursuant to Rule 4.9 or 4.10 shall be responsible for notifying opposing counsel or an unrepresented party within 48 hours of such request being allowed.
- 4.14 In order to calendar a case outside the county of origin, a written order granting the setting of a case must be obtained from the presiding judge for that particular term of court and must also be in compliance with all applicable rules of civil procedure.

- 4.15 Any notice required by the Rules of Civil Procedure must also be complied with.

CARRY OVER CASES NOT HEARD DURING A SCHEDULED TERM

- 4.16 All cases or motions not reached during a term or in which a continuance was granted will be continued to a date certain and shall require no further notice except that the clerk will include them on the calendar and mail a copy of the same to all those parties as provided in the local calendaring rules. No case will be continued to the next term of court if that term is less than four (4) weeks from the date of continuance unless the Presiding Judge, in his or her discretion, deems it necessary.

JUVENILE AND SUPPORT COURT SESSIONS

- 4.17 The rules for calendaring civil cases do not apply to the calendaring for Juvenile or Support Court Sessions; however, all Department of Social Services Summaries, Guardian ad Litem summaries or other reports to be offered at trial should be provided and exchanged to all parties at least five (5) days prior to the session or day of hearing.

(5). SCHEDULING HEARINGS ON TEMPORARY RESTRAINING ORDERS AND DOMESTIC TEMPORARY ORDERS

- 5.1 The priority of scheduling return hearings on Temporary Restraining Orders or Temporary Orders in domestic matters shall be as follows:
- (A). Any civil term in the county of origin.
 - (B). Any civil term of court in the county seat closest in miles to county seat of origin.
 - (C). Any term in county seat closest in miles to county seat of origin.
 - (D). Any term of court in county of origin with lowest priority to be given to:

1. support sessions
2. criminal sessions
3. juvenile sessions

5.2 All return hearings on a Temporary Restraining Order or a Domestic Temporary Order must be scheduled for 9:30 A. M. on the day of court and the Presiding Judge will hear the matter at his convenience that day based upon his obligations to the court he is holding. If the term is a court term of more than one day duration, the hearing must be set for the first day of the term at 9:30 A.M.

5.3 The attorney granted a Restraining Order or Domestic Temporary Order as set forth in Rule 5.1 shall be responsible for notifying the appropriate clerk of court of the name of the case, type of hearing, date and time the hearing is scheduled, and if known, the attorney who represents the opposing parties. The clerk of court will place the above information on the Presiding Judge's calendar. The attorney who was granted the Restraining Order or Domestic Temporary Order shall notify the presiding judge scheduled to hear the return on said order, within twenty-four (24) hours of the signing of the same. In the alternative, the attorney may notify the presiding judge through the Judicial Legal Assistant within the same time restrictions. (Amended 10/31/95)

5.4 An attorney who applies to the Court for an Ex Parte Custody Order shall prepare both an order allowing and denying such relief, one of which is to be signed by the presiding judge.

(6). SCHEDULING HEARINGS ON DOMESTIC VIOLENCE PROTECTIVE ORDERS AND CIVIL NO CONTEST ORDERS

6.1 Returns on Ex Parte Domestic Violence Orders and Civil No Contact Orders may be scheduled at any session of court; however, the priority shall be as follows:

- (A). Any criminal, traffic or other session in the county of origin.
- (B). Any civil term in the county of origin provided the case be set the first day of the session.
- (C). Any criminal session in the county seat closest in miles to the county seat of origin.
- (D). Any civil term of court in the county seat closest in miles to the county seat of origin provided the case be set on the first day of the session.
- (E). Juvenile sessions, DSS sessions, JRSS session, Support sessions and MTV sessions are to be avoided unless no other court is available and the order will expire unless the hearing is scheduled for one of these sessions.

- 6.2 The civil clerk is to make sure the file is presented to the presiding judge at the beginning of the session on all returns of Ex Parte Orders and should include in the file a blank Ex Parte Order, Permanent Order, and Order of Continuance for the presiding judge.

(7). FIRST DAY OF SCHEDULED TERM: ATTORNEY DUTIES, CALENDAR CALL,
ORGANIZATION OF TRIAL CALENDAR FOR TERM

- 7.1 All cases and motions must be scheduled for the first day of the term. Only hearings on temporary orders and cases set peremptorily may be scheduled by a District Court Judge for other than the first day of the term.
- 7.2 ATTORNEY DUTIES-Consistent with ethical requirements, when an attorney is notified to appear for setting of a calendar, pre-trial conference, hearing of a motion, or for trial, he or she must appear. Alternatively, such attorney of record may have present, a particular associate or other attorney fully familiar with the particular case involved. You may be excused from calendar call ONLY with permission of the presiding judge.
- 7.3 Attorneys may be required to have a firm member or associate counsel appear and try a matter on the calendar, if that counsel of record cannot be present and the case is an old case that has been on the docket several times without being heard. This is especially true in domestic matters and matters involving child support.
- 7.4 UNREPRESENTED PARTIES - Parties not represented by counsel, with cases on the Trial Calendar, must be present for the calendar call on the first day of the term and remain until their case is scheduled for hearing, continued, or otherwise instructed by the Court. Unrepresented parties may be excused from calendar call ONLY by the presiding judge.
- 7.5 Attorneys and unrepresented parties who have the oldest cases on the calendar should have all their parties or witnesses in court on the first day of the term. This should include at least the first five (5) cases on the calendar. If parties or witnesses are not actually present, they should be available to the court on at least thirty (30) minute notice. In jury sessions the first three (3) cases on the calendar will have all parties and witnesses available to the court at 9:30 A.M. on the first day that the jury reports.
- 7.6 CALENDAR CALL - At calendar call the Presiding Judge will attempt to set the cases for trial on a certain day and time during that term of court. The court, in setting matters for hearing during the term, will try to accommodate attorneys, parties, and witnesses, but if your case is on the calendar and has not been continued, then all parties need to be available during the whole term for the hearing of their case. Because we are unable to tell how long the trial of a case

may last or when a case will settle, it is absolutely necessary that the attorneys, parties, and witnesses provide the clerk with a telephone number where they can be reached during the term.

7.7 On the first day of court after the calendar call, the court will first hear any uncontested matters, short motions, place on record any settlement of cases, confer with attorneys about settling cases on the calendar, or hear any matter of short duration before the court begins the trial of more lengthy matters.

7.8 When the jury comes in on the second day of a jury term, the first day will be used for pre-trial conference or hearing of motions or other matters on the calendar that can be completed before the jury arrives on the second day.

(8). MANDATORY DISCOVERY IN DOMESTIC CASES

8.1 In all child support, alimony, post separation support, and in all cases involving an alleged change of circumstances necessitating a change in support, the attorney for the party or the party seeking support or a change of support shall attach to the initial pleading at the time it is filed, an affidavit setting forth the financial condition and financial needs of the person(s) for whom support is sought. The affidavit shall be on Form 30C or 32C as appropriate and shall be typewritten and copies shall be attached to and served with the pleading. Counsel or party shall make at least two additional copies of the affidavit for the hearing of the case to be furnished to the Presiding Judge and opposing counsel when the case is tried.

In child support cases in which there is no request that the court deviate from the child support guidelines, only short Form 32C shall be required. In any case in which deviation is sought long Form 30C in its entirety must be completed and filed.

8.2 Non-compliance with Rule 8.1 may result in the imposition of sanctions as set forth in Rule 37 of the Rules of Civil Procedure.

8.3 In all child support, alimony, postseparation support, and in all cases involving an alleged change of circumstances necessitating a change in support, the attorney for the party or the party from whom support is sought shall file and serve on opposing counsel; (1) no later than five (5) days before the scheduled hearing or; (2) with the responsive pleading, whichever is first, an affidavit setting forth the financial condition and the needs of the party from whom support is sought. The affidavit 30C or 32C, depending upon whether or not deviation from the guidelines is requested, shall be typewritten, and copies of it shall be attached to and served with the responsive pleading or served on the opposing counsel five (5) days before the scheduled hearing, if a responsive pleading will not be filed five (5) days before the proposed hearing. Counsel or party shall make at least two

additional copies of the affidavit for the hearing of the case to be furnished to the Judge presiding and opposing counsel or party when the case is tried.

In child support cases in which there is no request that the court deviate from the child support guidelines, only short Form 32C shall be required. In any case from which deviation is sought long Form 30C in its entirety must be completed and filed.

8.4 Non-compliance with Rule 8.3 may result in the imposition of sanctions as set forth in Rule 37 of the Rules of Civil Procedure.

8.5 It is the intent of these Rules that each party file an affidavit of financial condition and needs for introduction into evidence to provide information for formal discussion of settlement; to prepare for trial; and to reduce the time necessary for trial.

8.6 Financial affidavits executed pursuant to this rule shall be admissible in evidence without further authentication, if the party that executed the affidavit is present in court.

8.7 Domestic Violence Protective Cases and Emergency Temporary Custody Orders which also require child support shall be excluded from filing the financial affidavit under Rule 8.1 or 8.3. However, these financial affidavits are required to be filed and exchanged by both parties no later than thirty (30) days from the date of the filing of the complaint or service whichever comes first.

8.8 Financial affidavits shall not be required in U.I.F.S.A. Recipient IV-D or cases.

8.9 Updated or supplemental affidavits may be allowed at the time of the trial in the discretion of the presiding judge.

8.10 The work sheets, pursuant to General Statutes 50-13.4, must be prepared by counsel or parties prior to trial. All consent judgments involving child support or voluntary support agreements shall have the child support work sheet attached at the time the order is presented for signature.

(9). CALENDARING AND MONITORING OF CHILD SUPPORT CASES

The General Assembly, effective October 1, 1986, passed the following statute: G. S. 50-32 - Except where paternity is at issue, in all child support cases the District Court Judge shall dispose of the case from date of filing (defined as date of service) to disposition within sixty (60) days, except that this period may be extended for a maximum of thirty (30) days by order of the court if:

- (1). Either party or his/her attorney cannot be present for the hearing; or
- (2). The parties have consented to an extension.

In order to comply with G. S. 50-32, the Chief District Court Judge for each Judicial District has been asked to set up calendaring and monitoring procedures to insure compliance. Thus, the following:

- 9.1 In addition to the filing and service of affidavit under Rule 8.1, when any party files a Complaint, Petition, Counterclaim, Motion or Answer seeking child support, the party shall complete a cover sheet (Form 30D), which is to be attached to the pleadings at the time of filing. (These cover sheets will be used by the designated clerk in the respective counties for case tracking or monitoring purposes.)
- 9.2 In addition to the filing and service of an affidavit under Rule 8.1, when in any Complaint, Petition, Counterclaim, Answer or Motion where the initiating party or counsel seeking child support, the party or counsel shall, concurrently with the filing of the pleading, obtain a hearing date from the designated clerk of court.
- 9.3 The designated clerk will schedule all child support actions for hearing within sixty (60) days from the date of filing (defined as date of service). These cases should be designated on the court calendar as "Priority Child Support Cases."
- 9.4 The clerk should schedule child support hearings at any civil term, Jury, Non-Jury or Domestic, within the sixty (60) day period (in Haywood County these hearings should be scheduled for Domestic Terms). If it is not possible to schedule for a civil term, the clerk may schedule the hearing at Support, Juvenile, or as a last resort, a Criminal Session of court if the sixty (60) days time limit will run before the next civil term. Any scheduling for a Support, Juvenile or Criminal Session should be only after consulting with the Presiding Judge.
- 9.5 The initiating party is responsible for giving of the hearing date and time to the opposing party in accordance with the Rules of Civil Procedure. The clerk should place the case on the calendar and mail a copy of the same per the local calendaring rules.
- 9.6 For all actions involving child support, (excluding paternity cases) where service has been obtained, a continuance for a maximum of thirty (30) days may be

allowed by the court if either party cannot be present at the hearing for good cause; or the parties have consented to a continuance.

- 9.7 The party moving for a continuance is responsible for insuring that opposing party is notified of the request for continuance prior to the session of court for which the hearing is scheduled or as soon as a conflict becomes known, all per local Rules for Continuances.
- 9.8 The designated clerk will be responsible for manually tracking each child support case beginning with the implementation of these rules.
- 9.9 The tracking of these cases by the designated clerk will be conducted to insure that a disposition of child support cases take place within the time limits of G. S. 50-32.
- 9.10 Compliance of G. S. 50-32 can most easily be met by a temporary order for child support pending trial on the merits.

**(10). IV-D CASES, U.I.F.S.A. CASES, CLERK OF COURT SHOW CAUSE CASES
AND CHILD SUPPORT ENFORCEMENT CASES INVOLVING DSS**

- 10.1 IV-D cases and U.I.F.S.A. cases (except cases where paternity is contested) will be calendared in Support Court Sessions.
- 10.2 Show Cause Orders issued by the Clerk of Court in child support cases will be calendared in Support Court Sessions.
- 10.3 When an action is filed in a IV-D case, U.I.F.S.A. case, or a Show Cause matter by the Clerk of Court, the Clerk of Court is responsible for monitoring child support cases and the respective clerk's office will complete a cover sheet (Form 30D). This rule shall not apply to those clerks offices whereby administrative order DSS Child support Enforcement is monitoring and enforcing these cases.
- 10.4 These cover sheets will be used by the child support clerks to monitor these cases for compliance with G. S. 50-32 in that disposition should be made within sixty (60) days from time of service.
- 10.5 The designated child support clerk should monitor the age of the cases in Support Court so that the Presiding Judge may insure compliance with G. S. 50-32 and avoid expedited process in child support cases.
- 10.6 Financial affidavits shall not be required in Recipient IV-D cases or U.I.F.S.A. cases.
- 10.7 In all U.I.F.S.A. cases and IV-D cases, pursuant to General Statutes 50-32, the work sheets are prepared by the parties or counsel prior to entry of judgment.

(11). EQUITABLE DISTRIBUTION

EQUITABLE DISTRIBUTION AFFIDAVITS and E. D. MEDIATION

- 11.1 Unless a consent judgment is otherwise filed, the parties shall comply with the mandatory discovery provision of North Carolina General Statutes 50-21. All such affidavits shall be filed on Form 30E (copy of which is attached hereto).
- 11.2 Non-compliance with Rule 11.1 may result in the imposition of sanctions as set forth in Rule 37 of the Rules of Civil Procedure, North Carolina General Statutes 50-20 et seq. or as otherwise provided by law.
- 11.3 The parties in an equitable distribution case may exchange affidavits and file a certificate of readiness showing that both sides are ready for trial and showing what matters are left for the Courts' consideration. The certificate of readiness should be filed with the designated clerk and then calendared according to regular calendaring rules.
- 11.4 In any equitable distribution claim, the court may, in its' discretion, and pursuant to Rules 53 and 16(5) of the Rules of Civil Procedure, order a reference before proceeding further, or before entering final judgments. The court may provide for an apportionment of the costs of said reference, a filing deadline, and its scope as it deems to be in furtherance of the disposition of the claim.
- 11.5 Equitable Distribution affidavits executed pursuant to this rule shall be admissible in evidence without further authentication, if the party that executed the affidavit is present in court.

MEDIATED SETTLEMENT PROCEDURES IN

EQUITABLE DISTRIBUTION AND

OTHER FAMILY FINANCIAL CASES

- 11.6 Except as modified herein the rules of the North Carolina Supreme Court Implementing Settlement Procedures in Equitable Distribution and Other Family Financial cases as set forth in the Annotated Rules of North Carolina in the General Statutes shall be followed including the Administrative Office of the Courts Forms AOC-CV-824, AOC-CV-825, AOC-CV-826, AOC-CV-827 and AOC-CV-828.

- 11.7 Judicial Settlement Conference as described in Rule 12 of the Supreme Court rules involving Settlement Procedures will not be utilized in the 30th Judicial District.
- 11.8 Cases involving alimony, post separation support and child support where no claim for equitable distribution has been filed may be sent to mediation pursuant to these rules by motion and order after notice and hearing to all parties, or by consent order signed by the parties, or in the discretion of the presiding District Court Judge at a regularly scheduled session of Domestic Relations Court.
- 11.9 After the initial orders are signed requiring a mediated settlement conference, all communications with the court concerning Mediated Settlement Procedures as set forth above in the 30th Judicial District should be addressed to:

**Judicial Assistant
Haywood County Justice Center
285 N. Main Street, Suite 2300
Waynesville, North Carolina 28786
Phone: 828/454-6511 FAX 828/452-2510**

- 11.10 It shall be the duty of each civil clerk in the respective counties to forward to the above stated office copies of the Scheduling and Discovery Conference Order or any other order requiring mediated settlement within five (5) calendar days of entry. Likewise it shall be the duty of said civil clerk(s) to forward immediately upon receipt and filing, a copy of the Report of the Mediator to the Judicial Assistant.
- 11.11 All mediations are to be concluded within 90 days of the scheduling and discovery conference unless extended by order of the court.
- 11.12 When the parties do not timely select a mediator, the general procedure for judicial appointment shall be to appoint the next certified mediator on the appropriate list who currently resides or maintains an office in this judicial district or a contiguous judicial district or who certifies in writing annually to the (Chief District Court Judge) that he or she wishes to mediate in this judicial district, is familiar with these Local Mediation Rules, and will comply with them and the Supreme Court Rules. The Chief District Court Judge or Presiding District Court Judge shall retain discretion to depart from the general procedure in particular circumstances such as but not limited to the appointment of a newly certified mediator, or to withhold a mediator who has not followed Local or Supreme Court Rules from appointment.

SCHEDULING AND PRE-TRIAL CONFERENCES

- 11.13 At the first civil court date after 120 days from the filing of the initial pleading or motion in the cause for equitable distribution, the designated civil clerk shall schedule a court date for the Equitable Distribution Scheduling and Discovery Conference. At this conference the court shall determine a schedule of discovery as well as consider and rule upon any motions for appointing of a reference or expert witness, or other applications, including applications to determine date of separation, and shall set a date for disclosure of expert witnesses and a date on or before which an Initial Pre-trial Conference shall be held. At this conference the court may, for good cause shown, move the case to the Final Pre-trial Conference and schedule a date for the same or may move the case directly to a trial calendar. Unless specifically ordered by the court, cases will not be calendared more than one time for the Scheduling and Discovery Conference.
- 11.14 At the Initial Pre-trial Conference the court shall make inquiry as to the status of the case and shall enter a date for the completion of discovery, the completion of a mediated settlement conference, if applicable, and the filing and service of motions and shall set a date on or after which a final pre-trial conference shall be held and a date on or after which the case shall proceed to trial. At this initial pre-trial conference the court may, for good cause shown, move the case to a date certain on the trial calendar. Unless specifically ordered by the court, cases will not be calendared more than one time for the Initial Pre-Trial Conference.
- 11.15 The Final Pre-trial Conference will be scheduled on the first court date after one hundred and eighty (180) days from the filing of the last required pleading in a case in which equitable distribution is requested.
- 11.16 At the Final Pre-Trial Conference counsel and their clients or unrepresented parties shall be present. The court will review the affidavits, attempt to settle the case, enter into any stipulations possible between the parties, and set a trial date or take other appropriate action. This Final Pre-Trial Conference will be conducted pursuant to the Rules of Civil Procedure and the General Rules of Practice, adopted pursuant to General Statute 7A-34. The court will, at the conference, rule on any matters reasonably necessary to effect a fair and prompt disposition of the case in the interest of justice.
- 11.17 After one calendaring for Final Pre-Trial Conference all equitable distribution cases shall be moved to the Trial Calendar regardless of whether or not the Final Pre-Trial Conference was held unless otherwise ordered by the court.

- 11.18 Upon the motion of either party or upon the courts own initiative, the court shall impose an appropriate sanction as provided in General Statute 50-21(e) if any party willfully delays or obstructs discovery or attempts to obstruct or unreasonably delay any pending equitable distribution proceeding.

(12). ATTORNEY FEES

- 12.1 In all cases in which an attorney seeks an award of fees, the attorney should introduce an appropriate affidavit at the appropriate time. No award of attorneys' fees will be made unless the affidavit is properly introduced.

(13). UNCONTESTED DIVORCES

- 13.1 Uncontested divorces may be heard at any term of court, with the permission of the presiding judge, at the opening of court or at any other time convenient with the Presiding Judge. The judgments for these cases must be ready for signature when the judgment is entered. Corroborative witnesses will not be necessary.

(14). SANCTIONS

- 14.1 Failure to comply with any of these rules shall be sufficient grounds to deny any request made by said party and furthermore shall subject an action to dismissal or other sanctions allowed by law and deemed appropriate at the discretion of the Presiding Judge.

(15). AMENDMENTS AND MODIFICATIONS

- 15.1 These rules are subject to amendment and modification as experience indicates and requires.

FORMS

All of the forms listed below are available online. These forms can be obtained through Judge Bryant's Website: judgebryant.com Click here to go to the "Forms" page of this web site. There are instructions on that page to assist you in retrieving these forms.

- 30A MOTION AND ORDER FOR CONTINUANCE (4/88)
- 30B MEMORANDUM OF JUDGMENT/ORDER (4/88)
- 30C-1-5 CHILD SUPPORT/ALIMONY/POSTSEPARATION AFFIDAVIT
- 30C-1 CHILD SUPPORT/ALIMONY/POSTSEPARATION AFFIDAVIT
(PAGE 1) (Amended 10/31/95)
- 30D COVER SHEET FOR CHILD SUPPORT CASES
- 30E-A,B EQUITABLE DISTRIBUTION PREPARATION INSTRUCTIONS
(Amended 10/31/95)
- 30E-1-6 EQUITABLE DISTRIBUTION AFFIDAVITS
- 30E-1 EQUITABLE DISTRIBUTION/PART I, MARITAL AFFIDAVIT
(Amended 10/31/95)
- 30E-5 EQUITABLE DISTRIBUTION/PART V, MARITAL DEBTS
(Amended 10/31/95)
- 30E-6 EQUITABLE DISTRIBUTION/PART VI, INCOME AND EXPENSES
AFFIDAVIT
(Amended 10/31/95)
- 32C-1-2 CHILD SUPPORT AFFIDAVIT - NO DEVIATION FROM
GUIDELINES REQUESTED, SHORT FORM
(NEW FORM 10/31/95)

Pursuant to General Statutes 7A-146(2) and Rule 2 of the General Rules of Practice for the District and Superior Courts, **IT IS HEREBY ORDERED** that the foregoing amendments to the 30th Local Rules for the District Court of the Thirtieth Judicial District shall be effective on or after _____,2006.

Amended and adopted this the _____ day of _____, 2006.

Danny E. Davis
Chief District Court Judge
30th Judicial District

Steven J. Bryant
District Court Judge
30th Judicial District

Richlyn D. Holt
District Court Judge
30th Judicial District

Bradley B. Letts
District Court Judge
30th Judicial District

Monica H. Leslie
District Court Judge
30th Judicial District

DED/SJB/RDH/BBL/MHL/lfr
AMEND2006

2007 Amendment incorporated
2-3-09/psm