



JUDICIAL DISTRICT 37
RANDOLPH COUNTY

RULES OF CIVIL DISTRICT COURT
(37 R. CIV. D. C.)

EFFECTIVE JANUARY 1, 2023

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RULE 1 – GENERAL

- 1.1 Purpose. In accordance with and subject to the provisions of N.C. Gen. Stat. § 7A-146 and Rule 2 of the General Rules of Practice for the Superior and District Courts, these administrative and procedural rules shall constitute the Case Management Plan for the calendaring and hearing of civil cases in the District (non-Family) Court of Judicial District 37 of the State of North Carolina. These Rules complement and are in addition to and not in lieu of the North Carolina Rules of Civil Procedure, the North Carolina Rules of Evidence, and the General Rules of Practice for the Superior and District Courts.
- 1.2 Application. These Rules shall be construed to avoid technical or unnecessary delay and to promote the ends of justice.
- 1.3 Compliance. Self-represented parties (*pro se* parties) and attorneys shall comply with these Rules. Failure to comply substantially with these Rules subject the delinquent party or attorney to sanctions as set forth hereinbelow.
- 1.4 Citation. These Rules and all amendments shall be filed with the Clerk of Superior Court in Judicial District 37 and the Administrative Office of the Courts. These Rules may be cited accordingly as Judicial District 37 Rules of Civil District Court (37 R. Civ. D. C.).
- 1.5 Availability. The District Court Judges Staff shall make available a current copy of these Rules and associated forms to each member of the Bar of Judicial District 37 and other attorneys and the public upon request.
- 1.6 Forms. Except where specifically required herein, self-represented parties and attorneys may use either the forms provided or a form of their own which substantially complies with the specified form. Wherever possible, self-represented parties and attorneys strongly are encouraged to use the applicable forms provided by the North Carolina Administrative Office of the Courts (AOC).
- 1.7 Ex Parte Communications. Parties and attorneys shall not communicate *ex parte* with a Judge except:
 - a. in the course of official proceedings;
 - b. in writing, if a copy of the writing is furnished simultaneously to the other party;
 - c. orally, upon adequate notice to opposing party; or
 - d. as otherwise permitted by law.

Before any *ex parte* communication concerning a case between a party or an attorney and a Judge, the party or attorney first shall inform the Judge of any other party or attorney who may be involved in the case, or in a case in another court which may have overlying issues.
- 1.8 Notice of Appearance. An attorney shall file a Notice of Appearance with the Clerk of Superior Court immediately after agreeing to represent a party in a District Court matter and shall serve a copy upon all opposing self-represented parties and counsel

of record. An attorney who files a lawsuit for a Plaintiff or who timely files an Answer or other responsive pleading for a Defendant need not file a separate Notice of Appearance. If the case is on a published calendar, the attorney immediately shall notify the District Court Court Manager who shall ensure the calendar is updated to reflect the counsel of record. If a party adds or changes attorneys, new counsel shall comply as hereinabove set forth.

- 1.9 Change of Contact Information. All parties and attorneys shall keep the Randolph County Clerk of Superior Court informed of any changes in contact information, including current mailing address, during the pendency of any matter involving the party or attorney.
- 1.10 Notice of Other Actions. Self-represented parties and attorneys shall notify the Court of any other action that may affect a pending case including bankruptcy and other civil or criminal matters in this or other districts.

RULE 2 – CASE TRACKING

- 2.1 Case Tracking System. The Chief District Court Judge shall establish and maintain a case tracking system pursuant to Rule 2(c) of the General Rules of Practice for the Superior and District Courts. The District Court Court Manager (CM), under the supervision of the Chief District Court Judge, shall maintain the case tracking system.
- 2.2 Initial Calendaring. After filing and service of a case in Civil District (non-Family) Court, the CM shall ensure the case is calendared for hearing on the first Civil District Court session occurring approximately 180 days after the date of filing. The purpose of this Rule is to ensure the timely administration of justice by having all cases filed in Civil District (non-Family) Court heard timely. This Rule shall not prevent a party or attorney from calendaring the matter for hearing prior to the initial calendaring date.
- 2.3 Sessions of Civil District Court. When practicable, two sessions of Civil District Court shall be scheduled each month. The schedules shall be posted on the NC Courts website.
- 2.4 Managing Cases. The CM shall monitor the pending Civil District Court docket and manage the cases so all issues can be resolved expeditiously. Attorneys shall cooperate in assisting the CM in identifying the issues to be heard in cases in which they are involved.
- 2.5 Attorneys to Subscribe. Attorneys with cases in this judicial district shall subscribe to receive Civil District calendars directly via electronic mail. All attorneys are deemed to have notice of every calendar published on the AOC website and available through eCourts.

RULE 3 – GENERAL CALENDARING

- 3.1 Notice. The moving party or attorney shall give notice to the opposing party or

attorney of the date, time, and place of hearing events. The moving party shall file all notices with the Clerk of Court. If a court time is changed, a revised Notice of Hearing shall be filed and served by the party requesting the change. Copies of all Calendar Requests shall be provided to the CM. Attorneys and parties are encouraged to use the AOC or Local Form provided.

3.2 Notice Not Required on Parties in Default. Pursuant to N.C. Gen. Stat. § 1A-1, Rule 5, no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief shall be served in the manner provided for service of summons in Rule 4.

3.3 Noticing and Calendaring Motions for Hearing. All Motions shall include a Notice of Hearing and Calendar Request setting the matter to be heard. Failure to calendar a Motion subjects the Motion to being dismissed for failure to prosecute. Failure to file and serve a Notice of Hearing and Calendar Request with a Motion subjects the Motion to being dismissed for failure to comply with these Rules. Copies of all Calendar Requests shall be provided to the CM. Parties and attorneys are encouraged to use the AOC or Local Form provided.

3.4 Service by Publication. Unless otherwise required by statute, a Motion and Order to Publish shall not be required pursuant to N.C. Gen. Stat. § 1A-1, Rule 4(j1); however, an affidavit shall be filed showing the publication and mailing in accordance with the requirements of N.C. Gen. Stat. § 1-75.10(a)(2), the circumstances warranting the use of service by publication, and information, if any, regarding the location of the party served.

3.5 Peremptory Hearings. Requests for a peremptory setting shall be submitted in writing to the CM as a Motion for Peremptory Setting with a copy sent to the opposing party or attorney. The Chief District Court Judge shall review and approve or deny the request for a peremptory setting. Parties and attorneys are encouraged to use the Local Form provided.

3.6 Continuances. A request for a continuance shall be submitted as a Motion to Continue directly to the CM with service upon the opposing party. Attorneys and parties are encouraged to use the Local Form provided. Any District Court Judge may review the Motion to Continue out of session or may schedule a hearing thereon. The Judge may review and grant or deny the continuance. No party or attorney is excused from Court until a Judge has signed a Continuance Order. If the Judge grants the continuance, the CM shall notify the parties, ensure the matter is calendared for a new date, file the Order, and send copies to all parties with the new date noted.

Oral requests to continue are allowed if they are made on the record in open Court as soon as practicable after the need for a continuance is known.

3.7 Continuances by Stipulation. If the parties agree a continuance should be granted, the parties shall file a Stipulation of Continuance and submit it and a draft Order directly to the CM. Any District Court Judge may review the Stipulation of Continuance out of session or may schedule a hearing thereon. The Judge may review and grant or deny the continuance. No party or attorney is excused from Court until

a Judge has signed a Continuance Order. If the Judge grants the continuance, the CM shall notify the parties, ensure the matter is calendared for a new date, file the Order, and send copies to all parties with the new date noted.

- 3.8 Good Cause. A continuance may be granted for good cause. Extensions approved by the Clerk are not automatically considered good cause for a continuance.
- 3.9 Continuances to a Date Certain. All continuances shall be to a date certain, and no matters shall be continued “off calendar” or with “no date set.” The CM shall assist parties and attorneys in providing future available Court dates.
- 3.10 Dispositive Motions. Dispositive motions shall be calendared for a session of Court occurring prior to the hearing on the merits of the case. Dispositive motions shall not be calendared for hearing on the same date as the hearing on the merits of the case. If a dispositive motion is calendared for hearing on the same date as the hearing on the merits, the motion shall be deemed waived, and a trial shall proceed on the merits.
- 3.11 Withdrawal of Motions. If a movant wants to withdraw a filed and calendared Motion prior to hearing, the movant shall file a Notice of Withdrawal of Motion and the matter shall be removed from the motions calendar.
- 3.12 Consolidated Cases. When cases have been consolidated for trial, they shall be regarded as one case for calendaring purposes and shall appear under the oldest case number. A copy of the Order consolidating the cases for trial shall be filed in all applicable court files, and all pleadings or documents filed thereafter shall be captioned with the oldest file number only.
- 3.13 Required Court Appearances. All self-represented parties and attorneys shall be present and ready to proceed when a case is called for hearing or trial. Self-represented parties and attorneys promptly shall notify the Court of any known conflicts with a scheduled court event. If the attorneys or 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, including dismissing the motion, hearing, or case for failure to appear and prosecute the matter.
- 3.14 Settlement of Contested Issues. If the parties reach a resolution of the relevant issues prior to the time of hearing, the parties and attorneys may, as follows:
- a. Appear as scheduled and read the terms of the agreement into the record. The presiding District Court Judge shall direct an appropriate Order be prepared, signed, and filed;
 - b. Appear as scheduled and enter into a Memorandum of Judgment/Order in open Court signed by the parties, their attorneys, and the presiding Judge. The presiding District Court Judge shall direct an appropriate final Order be prepared, signed, and filed; or
 - c. Submit an appropriate Order signed by the parties, with appropriate notary

acknowledgements, and signed by the attorneys, to any District Court Judge and filed prior to the time of court.

- 3.15 Inactive Cases. If a case is made inactive, a party may file a Motion to Reinstate to schedule a hearing to determine whether the case should be reopened. If the case is reopened, the presiding Judge shall set the next Court event on a date certain.
- 3.16 Remanded Cases. When a case is remanded by the Appellate Division, Appellant or Appellant's counsel promptly shall notify the CM. The CM shall ensure the case is calendared for a pre-trial conference during the immediate next session of Civil District Court. At said pre-trial conference hearing, the parties or their attorneys shall notify the Court of any matters which need to be calendared for hearing prior to a final hearing on the merits. Such matters shall be set for a date certain for hearing and a trial date for a hearing on the merits of the case shall be set.

RULE 4 – CASES APPEALED FROM SMALL CLAIMS COURT

- 4.1 Calendaring. Cases appealed from Small Claims Court shall be calendared for trial during the next practicable session of Civil District Court.
- 4.2 Failure of Appellant to Appear. If the party appealing the judgment of the Magistrate in Small Claims Court fails to appear, the appeal shall be dismissed, and the judgment of the magistrate shall be affirmed pursuant to N. C. Gen. Stat. § 7A-228(c).
- 4.3 Mandatory Continuances for Certain Filings. Pursuant to N. C. Gen. Stat. § 42-34(a), if the case has not been continued previously in District Court, the Court shall continue the case for an appropriate period of time if any party (i) initiates discovery, (ii) files a motion to allow further pleadings pursuant to N. C. Gen. Stat. §§ 7A-220 or -229, or (iii) files a Motion for Summary Judgment pursuant to Rule 56 of the Rules of Civil Procedure. In the case of a Motion pursuant to Rule 56, the Court shall continue the case to ensure the opposing party has had ten (10) days' notice prior to the hearing on the Motion.

RULE 5 – JURY TRIALS

- 5.1 Requests for Jury Trials. A request for a jury trial shall be made in accordance with N.C. Gen. Stat. § 1A-1, Rule 38. Failure to so request a jury trial shall constitute a waiver. A request for a jury trial shall be filed not later than thirty (30) days prior to the next jury session. A request for a jury trial filed less than thirty (30) days prior to the jury session shall be calendared for the next subsequent jury session.
- 5.2 Withdrawal of Demand. A demand for trial by jury may not be withdrawn without the consent of the parties who have pleaded or otherwise appeared in the action pursuant to N.C. Gen. Stat. § 1A-1, Rules 38 and 39.
- 5.3 Jury Trial Sessions. The Chief District Court Judge shall schedule a week-long jury session of Civil District Court approximately every six (6) months, consisting of a spring jury session and a fall jury session whenever practicable.

- 5.4 Calendar Call for Jury Trial Session. A calendar call for each jury session shall occur at 2:00 p.m. during the non-jury Civil District Court session immediately preceding the jury session.
- 5.5 Pre-Trial Conference and Orders. At least twenty-one days prior to the calendar call date, the Plaintiff's attorney shall arrange a pre-trial conference with the Defendant's attorney. At such conference a Pre-Trial Order shall be prepared and signed by the attorneys. If, after due diligence, Plaintiff's attorney cannot arrange a conference with Defendant's attorney, he may apply to the presiding Judge who shall make an appropriate Order. The Defendant's attorney may initiate a pre-trial conference under the same rules applicable to the Plaintiff's attorney. Self-represented parties shall initiate a pre-trial conference under the same rules applicable to attorneys. The Pre-Trial Order shall be in a form which substantially complies with that in the General Rules of Practice for the Superior and District Courts. A party or attorney who has not requested a pre-trial conference may not move for a continuance on the ground it has not been held.
- 5.6 Pre-Trial Orders and Proposed Jury Instructions. Self-represented parties and attorneys shall present their final Pre-Trial Order and proposed Jury Instructions at the Calendar Call for Jury Trial Session. Failure to present a Pre-Trial Order and proposed Jury Instructions constitutes a material violation of these Rules, the sanction for which is the waiver of the demand for a jury trial and the scheduling of the matter at the next session of non-jury Civil District Court.
- 5.7 Jury Trial Continuances. No continuance shall be granted except upon application to the court. A continuance may be granted only for good cause shown and upon such terms and conditions as justice may require, pursuant to N.C. Gen. Stat. § 1A-1, Rule 40.

RULE 6 –ORDERS AND JUDGMENTS

- 6.1 Timely Orders and Judgments. All proposed Orders or Judgments shall be submitted to the court within 30 days of 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 CM shall ensure the case is calendared for the next Civil District Court Session after 30 days for any case with an Order due.
- 6.2 Self-Represented Plaintiff in Absolute Divorce. A Self-represented Plaintiff in an action for Absolute Divorce shall provide the presiding Judge with at least one fully completed Judgment or Order for Absolute Divorce ready for the Judge to sign. The Plaintiff may use a form provided in the "North Carolina Divorce Packet," AOC form AOC-CV-712, or a form of the Plaintiff's own creation which substantially complies with the requirements of a Judgment or Order for Absolute Divorce.
- 6.3 Delinquent Orders and Judgments. Parties delinquent in submitting proposed Orders and Judgments shall be identified to the Chief District Court Judge or the presiding District Court Judge and sanctions or penalties may be imposed as deemed appropriate and as allowed by law.

- 6.4 Rulings. In any case where a Judge reserves ruling, the Judge shall render a ruling within thirty (30) days from the date of the hearing or trial. The ruling shall be communicated to the parties and/or attorneys in writing with instructions on who is to draft the final Order or Judgment.
- 6.5 Mootness. When a Judgment or Order is entered which renders moot issues not addressed in the Order, the Clerk shall close the moot issues administratively. Orders or Judgments resolving all other issues shall close any request for “such other and further relief” or similar requests for unspecified additional relief.

RULE 7 – SANCTIONS

- 7.1 Failure to Comply. Failure to comply with North Carolina Rules of Civil Procedure, the General Rules of Practice for the Superior and District Courts, or these Rules may subject the parties and/or their attorneys to such sanctions as allowed by law and deemed appropriate by the presiding Judge. The sanctions may include, but are not limited to:
- a. dismissal by the Court of all or any part of any claim for relief or pleading;
 - b. disallowance of evidence and/or testimony;
 - c. payment of a fine;
 - d. payment of the reasonable cost incurred by a party due to the other party’s non-compliance with these Rules;
 - e. payment of the opposing party’s reasonable attorney’s fees;
 - f. any other sanction specified in N.C. Gen. Stat. § 1A-1, Rule 37; or
 - g. any other sanction allowed by law.

RULE 8 – REMOTE HEARINGS

- 8.1 Authority. Pursuant to N.C. Gen. Stat. § 7A-49.6, Judicial Officials may conduct almost all types of proceedings (except jury trials) utilizing remote audio and video transmissions. The proceeding must allow the parties, the presiding Judicial Official, and all other participants to see and hear one another. Judicial Officials “must safeguard the constitutional rights of those persons involved in the proceeding and preserve the integrity of the judicial process.” N.C. Gen. Stat. § 7A-49.6(a). Each party to any proceeding involving audio and video transmission must be able to communicate fully and confidentially with his or her attorney if the party is represented by an attorney. N.C. Gen. Stat. § 7A-49.6(b).
- 8.2 In-Person Hearings Presumed. The default hearing method for all case types, unless otherwise determined by the presiding Judicial Official, shall be In-Person Hearings. At any time prior to or during an In-Person Hearing, the Judicial Official retains the discretionary authority to conduct these hearings by Remote or Hybrid Hearing in accordance with N.C. Gen. Stat. § 7A-49.6.
- 8.3 Suspension of Hybrid and Remote Hearings. At any time prior to or during a hybrid or remote hearing, the presiding Judicial Officer retains the discretion to terminate a hybrid or remote hearing and/or testimony and require in-person testimony and/or an in-person hearing.
- 8.4 Definitions. The following words have the listed meanings:

- a. “Civil Proceeding” means any civil action.
- b. “Confidential Hearing” means any proceeding closed to the public by law or by court order.
- c. “Contact Information” means a participant’s name, physical address from which the participant is participating, e-mail address to be used in the Remote or Hybrid Hearing invitation, and phone number where the participant may be reached at the time of the hearing.
- d. “Contempt Hearing” means any hearing upon the issue of either civil or criminal contempt.
- e. “Host,” when used as a noun, means the Clerk of Superior Court in the county where the Remote or Hybrid Hearing occurs, or his or her designee.
- f. “Hybrid Hearing” means a hearing where at least one participant participates remotely using Webex or other audio-visual application approved by the NCAOC, and two or more participants are co-located. For the purpose of this definition, a party and their counsel who are co-located are deemed a single participant.
- g. “Judicial Official” means a presiding magistrate, Clerk, or Judge of the General Court of Justice.
- h. “In-Person Hearing” means a hearing where the Judicial Official and all participants are co-located in the same physical space.
- i. “Minor Child” means any child under the age of eighteen unless legally emancipated.
- j. “Remote Hearing” means any hearing in which no participant is co-located with any other participant, and the Judicial Official and all participants are participating via Webex or other audio-visual technology approved by the NCAOC. For the purpose of this definition, a party and their counsel who are co-located are deemed a single participant.
- k. “Webex” means the primary application approved by the NCAOC for Remote Hearings and Hybrid Hearings.

8.5 Procedure.

- a. Although In-Person Hearings are presumed in Civil Proceedings, a party or parties may request a Remote or Hybrid Hearing by providing a motion to the CM at least ten (10) days before the hearing and serving the other parties with the motion. The motion shall describe the reason for the request, and the physical location(s) of the individual(s) while participating. Civil jury trials are not permitted to be conducted remotely, except for witness testimony and jury management functions.
- b. The Judicial Official has the discretionary authority to conduct the hearing by Remote or Hybrid Hearing without the need to find good cause. If there is no objection, the presiding Judicial Official may conduct the proceeding remotely unless otherwise directed by the court.
- c. If a party objects to such a Remote or Hybrid Hearing, the following procedures shall apply pursuant to N.C. Gen. Stat. § 7A-49.6(c):
 - i. Each party objecting to a Remote or Hybrid Hearing shall file with the court and serve on the other parties pursuant to N.C. R. Civ. P. 5 within

three days after service of the request an objection or motion setting forth the specific basis of the objection.

- ii. The presiding Judicial Official shall consider the objection, and in his or her discretion, make a written or recorded finding as to whether the party has shown good cause for the objection. There is no statutory authority to make this good cause determination *ex parte*, so procedures under N.C. R. Civ. P. 7(b) shall be followed. The presiding Judicial Official has discretion to hear the objection remotely, if technologically permissible, given the basis of the objection. If the presiding Judicial Official finds that the party has demonstrated good cause for the objection, the proceeding shall not be held remotely.
 - iii. If good cause is not shown as to the objection, the presiding Judicial Official may conduct the proceeding remotely unless otherwise directed by the court.
- d. If an emergency arises and a party objecting to a Remote or Hybrid Hearing is unable to provide a written objection or motion as outlined above, the party may make the objection orally during a hearing or trial or at a session at which a cause is on the calendar for that session in accordance with N.C. R. Civ. P. 5 7(b)(1). Both the oral motion and ruling on the motion should be recorded. If granted, the Judicial Official shall direct the hearing be converted to an In-Person Hearing, as provided above.

8.6 Contempt.

- a. Criminal contempts are crimes; therefore, the procedural and constitutional protections incident to criminal prosecution, including the right to be present and the constitutional right to confront witnesses, attach.¹ In civil contempt, when the alleged contemnor faces potential incarceration (which is always the case), many of the procedural and constitutional protections incident to criminal prosecution also attach, including the right of confrontation.² In order to proceed by Remote or Hybrid Hearing, the court must obtain a knowing, intelligent, and voluntary waiver of the alleged contemnor's rights pursuant to N.C. Gen. Stat. § 7A-49.6(e) unless otherwise permitted by law.
- b. If a contempt hearing proceeds by Remote or Hybrid Hearing, and the Judicial Official finds contempt and orders the contemnor to a term of imprisonment, the contemnor must report to the Randolph County Detention Center as indicated in the order. If a term of imprisonment is ordered, a copy of the contempt order shall be provided to the Randolph County Sheriff's Office. A contempt order requiring a contemnor to report to the Randolph County Detention Center at a specific date and time should include a Sheriff's return section for the Sheriff's Office to indicate whether the person reported as ordered or failed to appear. This provision does not prohibit the Judicial Official from having the contemnor taken into custody immediately pursuant to a commitment order directed to the Sheriff. The Sheriff's Office will notify the Clerk of a contemnor's failure to appear at the detention facility on the date

¹ *O'Briant v. O'Briant*, 313 N.C. 432, 329 S.E.2d 370 (1985).

² *Lowder v. All Star Mills, Inc.*, 301 N.C. 561, 273 S.E.2d 247 (1981).

and time ordered, and the Clerk shall notify a Judicial Official. A Judicial Official may issue an Order for Arrest, if authorized by law, or take such other action as the Judicial Official deems appropriate in his or her discretion.

8.7 Scheduling & Hosting Webex Hearings.

- a. Consistent with N.C. Gen. Stat. §§ 7A-95(c) and 7A-198(c), the Clerk or the Clerk's designee shall schedule and host Webex proceedings in District Court. When scheduling the hearing, the Host shall follow the naming convention for the Webex hearing as stated in Rule 17.2 of the Rules of Recordkeeping promulgated by the Director of NCAOC. The Clerk also may designate one or more Court Manager(s) and Judges as co-Host(s) for each proceeding scheduled, as provided by N.C. Gen. Stat. §§ 7A-95(c) and 7A-198(c). The co-Host is authorized to begin, conduct, and record the hearing if the Host is not available. Any recording made will automatically be saved in the Webex account of the Host.
- b. The Clerk will send the Webex link to attorneys of record and self-represented litigants who have calendared cases. Each attorney or self-represented litigant is responsible for providing the Webex link to his or her client(s), witness(es), and other interested individuals, as applicable. Each Webex link may be published on the court calendar. If a public access link (e.g., a YouTube link for live streaming) is provided that is separate from the Webex link used by parties and witnesses, spectators/media should access the hearing via the public access link.

8.8 Decorum.

- a. The decorum of a Remote or Hybrid Hearing shall be the same decorum as an In-Person Hearing conducted in a courtroom (e.g., eating, drinking, smoking, and profanity are prohibited). An attorney, party, or witness participating remotely in a Remote or Hybrid Hearing should have an appropriate background and a suitably quiet location. Attorneys are bound by the same rules of dress and decorum in Remote and Hybrid Hearings as they are for In-Person Hearings. Usual Courtroom attire shall be appropriate dress for parties and witnesses during a Remote Hearing or Hybrid Hearing.
- b. All attorneys and parties are encouraged to access the Remote Hearings or Hybrid Hearings prior to the scheduled start time of the hearing. The court shall have discretion to deny entry to any party not present at the appointed time.
- c. Attorneys and self-represented litigants shall identify themselves before speaking. During a Remote or Hybrid Hearing, attorneys and parties who are not testifying or speaking should mute their microphones. The Host or co-Host reserves the right to "mute" a party or attorney who fails to mute themselves if it causes feedback, echoing, or is otherwise noisy, disruptive, or distracting. If more than one person in the same location will be participating remotely in the Remote or Hybrid Hearing, they must (i) share a device, (ii) ensure proper muting to avoid audio malfunction, or (iii) participate from separate rooms to ensure audio quality.

8.9 Attorney-Client Confidentiality.

- a. If an attorney and client are participating in a Remote or Hybrid Hearing from separate locations, they may communicate privately, for example via text message or email, during the hearing, provided however, parties may not communicate with counsel while they are testifying via any mechanism or medium other than the audio and video technology seen and heard by all other participants, unless specifically permitted by the court to communicate privately during testimony. If a party wishes to communicate confidentially with his or her attorney and cannot do so by text message or email, the presiding Judicial Official should be informed, and he or she shall permit such confidential communication, by enabling a breakout session through the Webex, taking a break to allow for telephonic communication, or other appropriate means.
- b. The Webex “chat” feature should be used with care for attorney-client communications because it is possible a user may privately chat with the wrong person or may inadvertently chat with "all" when attempting a confidential communication. For this reason, attorneys are encouraged not to use the “private” chat feature of Webex, but rather to request a breakout session or use their own mobile phones, email, or some other method to ensure private communication.

8.10. Evidence and Exhibits. Failure to comply with the provisions set out regarding exhibits and evidence may result in a proposed exhibit not being considered, a continuance of the hearing, or other action in the discretion of the presiding Judicial Official.

- a. Testimony. Pursuant to N.C. Gen. Stat. § 7A-49.6(a), a remote proceeding must allow the parties, the presiding Judicial Official, and all other participants to see and hear one another.
 - i. The Clerk or presiding Judicial Official shall administer oaths to witnesses during a remote proceeding. Affirmation may be used in lieu of swearing a witness. The person administering the oath must be able to see and hear the witness, and the person taking the oath must be able to see and hear the official administering that oath.
 - ii. Witnesses should be in a room alone when testifying in a Remote or Hybrid Hearing, when feasible. Parties may be accompanied by their attorney if the attorney and party so choose. If a person will be in the room with a testifying witness, the attorney or witness shall advise the presiding Judicial Official prior to the witness’ testimony. No person, including an attorney, may communicate with a witness about the witness’ testimony while the witness is testifying via any mechanism or medium other than the audio and video technology seen and heard by all other participants, unless specifically permitted by the court to communicate privately during testimony.
 - iii. If, while testifying, a witness wishes to communicate confidentially with his or her attorney, the presiding Judicial Official should be informed, and he or she may permit such confidential communication, by enabling a breakout session through the Webex, taking a break to allow for telephonic communication, or other appropriate means.

- iv. The presiding Judicial Official shall prescribe the manner in which and the terms upon which a Minor Child’s testimony may be taken remotely and shall prescribe the appropriate location for the testimony and whether any third party may be present with the Minor Child.
- b. Exhibits
- i. Attorneys and self-represented litigants shall list all exhibits to be offered at a hearing on an exhibit log and provide copies of documentary exhibits and photographs of tangible exhibits to the other parties at least one (1) business day prior to the hearing. All exhibits must be pre-marked for identification purposes.
 - ii. Each party must deliver physical copies of all pre-marked, proposed exhibits to the Clerk at least one (1) business day prior to the hearing. This includes both documents provided to the other parties and those submitted only to the Clerk. Documents that have not been marked for identification purposes will not be accepted. Exhibits not delivered prior to the hearing may be accepted or rejected at the discretion of the presiding Judicial Official.
 - iii. Exhibits must be submitted to the Clerk at least one (1) business day before the court session. The pre-marked exhibits must be provided in an envelope (case number on the outside of the envelope) and contain an exhibit log. The entirety of this submission shall not be made a part of the file and shall not be disclosed to anyone except appropriate Judicial Officials, absent consent of the submitting party. This rule is intended to ensure the Clerk has exhibits that may be admitted into evidence during a remote hearing, yet at the same time preserve a party’s ability to prevent disclosure of trial strategy and tactics.
 - iv. Exhibits must be provided in a physical medium the Clerk can accept and retain (e.g., documents shall be printed out and in paper form, photos may be printed or on a disc or flash drive, and videos shall be on a flash drive, DVD, or other medium capable of retention). Any non-documentary exhibit offered into evidence in a remote proceeding (e.g., by displaying it on camera for all participants) shall be delivered to the Clerk as presented and in a container provided by the party and appropriate for long-term preservation of the exhibit. The Clerk has no responsibility to take custody of or retain exhibits that are neither offered nor admitted.
 - v. Attorneys and self-represented litigants may display digital exhibits during a Remote or Hybrid Hearing using the “Share” feature with permission of the presiding Judicial Official. Prior to displaying confidential exhibits (e.g., juvenile case records or other information protected by law), the attorney or self-represented litigant shall inform the presiding Judicial Official, who will then ensure that only those individuals authorized to access the documents are allowed to observe the confidential exhibits. Presentation of confidential exhibits may require either exclusion of non-participants from the Remote or Hybrid Hearing or some other mechanism for exchanging those exhibits among the parties.

- vi. If the proceeding is one that is open to the public, then the presiding Judicial Official must facilitate access to the proceeding by the public and the media as nearly as practicable to the access that would be available were the proceeding conducted in person in accordance with N.C. Gen. Stat. § 7A-49.6(g), while also protecting confidential information, such as juvenile case records, displayed during the Remote or Hybrid Hearing.

8.11 Remote Jury Proceedings.

- a. Civil jury trials are not permitted to be conducted remotely, except for witness testimony and jury management functions, as described hereinbelow.
- b. A witness in a civil jury proceeding may testify remotely if the presiding Judicial Official finds good cause exists for doing so under the circumstances in accordance with N.C. Gen. Stat. § 7A-49.6(c) or as otherwise provided by law. Only if the presiding Judicial Official finds a party has demonstrated good cause for the request, may the witness testify remotely.
- c. Any party seeking to solicit witness testimony remotely shall file with the court and serve on the other parties pursuant to N.C. R. Civ. P. 5 at least ten (10) days prior to the hearing, a motion setting forth the specific basis of the request for remote testimony. The Judicial Official shall consider the request and make a written or recorded determination as to whether the party has shown good cause to permit the witness to testify remotely. There is no statutory authority to make this good cause determination *ex parte*, so procedures under N.C. R. Civ. P. 7(b) shall be followed.
- d. If an emergency arises and the requesting party is unable to provide proper notice as outlined above, the requesting party may make the request orally in accordance with N.C. R. Civ. P. 7(b). Both the oral motion and the ruling on the motion should be recorded.

8.12 Public Access. The public has a right to attend court proceedings unless a proceeding is confidential by law or the presiding Judicial Official has closed the proceeding; however, certain limitations on spectator access are necessary to protect the integrity of the hearing and to ensure the hearing can proceed without unreasonable interruption or delay. Further, the limitations protect the ability of the Court and the parties to remotely conduct hearings without undue delay, interruption, or disruption while still granting the public's ability to attend the hearing. If the proceeding is one that is open to the public, access to a Remote or Hybrid Hearing must be provided as nearly as practicable to the access that would be available were the proceeding conducted in person pursuant to N.C. Gen. Stat. § 7A-49.6(g).

- a. To facilitate public access to a Remote Hearing, each Webex link should be published on the court calendar for the session. Any person who wishes to obtain access to a hearing may also contact the Clerk of Court at least one (1) business day prior to the hearing to obtain a link to the Webex proceeding. All spectators must access the hearing via the appropriate hearing link at the time set for the hearing. If a public access link (e.g., a YouTube link for live

streaming) is provided that is separate from the Webex link used by parties and witnesses, spectators/media should access the hearing via the public access link. For the purpose of this order, a spectator is defined as any person or entity who is not a hearing participant (e.g., party, witness).

- b. Absent approval by the presiding Judicial Official under Rule 15 of the General Rules of Practice, the parties, attorneys, witnesses, spectators, public, and media shall refrain from making any recordings, videos, or photographs of any hearing, including Remote and Hybrid Hearings. The presiding Judicial Official may permit “electronic coverage” and “electronic media coverage” as provided in Rule 15 of the General Rules of Practice. Failure to comply with the prohibition of electronic coverage or electronic media coverage may result in ejection from the hearing and appropriate sanctions to include contempt. Rule 15(i) of the General Rules of Practice provides that recordings by the media or the public permitted by the court, if any, including film, video tape, still photographs or audio reproductions, shall not be admissible as evidence in the proceeding out of which it arose, any proceeding subsequent and collateral thereto, or upon any retrial or appeal of such proceedings.
- c. Spectator cameras shall be disabled, and microphones shall be muted during any Remote Hearing. Spectators shall not speak or otherwise communicate with any party or witness during the hearing. Spectators shall not utilize the chat feature or interfere with the hearing in any way. The presiding Judicial Official will provide instructions to all parties and spectators to protect the integrity of the hearing. Once the presiding Judicial Official begins instructions for the participants, the Webex hearing may be locked, and additional spectators may be prohibited from joining the hearing.
- d. Any spectator, witness, or participant who violates orders given by the presiding Judicial Official pertaining to the use of Webex, who contacts testifying witnesses or parties, who photographs, records or videos the proceeding (without permission of the presiding Judicial Official), or who disrupts the proceeding is subject to being ejected from the hearing and may not be allowed to rejoin the hearing in the presiding Judicial Official’s discretion. They also are subject to appropriate sanctions to include contempt.

RULE 9 – REPORTING OF CIVIL TRIALS

- 9.1 Authority. Pursuant to N.C. Gen. Stat. § 7A-198, the reporting of any trial may be waived by the consent of the parties.
- 9.2 Procedure. A consent waiver shall be in writing, signed by all parties and attorney(s), and submitted to the Court prior to the hearing of the matter without reporting, or, in lieu thereof, the parties, by and through their attorneys, may stipulate on the record for the hearing not to be reported.