

**Family Law Update
Cases Decided and Legislation Enacted
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Child Support

Pataky presumption; sufficiency of findings regarding child's reasonable needs

- Where parties agree upon an amount for the support and maintenance of their minor children in an unincorporated separation agreement, the mutually agreed upon amount is presumed to be just and reasonable. This is the *Pataky* presumption.
- The parties' agreement was entitled to a presumption of reasonableness when it provided for joint custody and, in lieu of child support payments, stated that each party "shall provide direct support for the Minor Children for those periods when the Minor Children are in their physical custody."
- When a trial court determines that the amount necessary to meet the reasonable needs of the child at the time of a child support hearing substantially differs from the amount provided for in the separation agreement, the presumption of reasonableness is rebutted.
- Determining a child's reasonable needs requires the trial court to consider the factors enumerated in G.S. 50-13.4(c). The trial court must hear evidence and make findings of *specific* fact on the child's actual past expenditures and present reasonable expenses. The trial court must make factual findings supported by evidence, not based on speculation.
- The trial court's general findings concerning how the child's needs were met, including findings referencing payment for childcare expenses, the child's health insurance premiums, and the provision of the child's meals, clothing, toiletries, and other necessary items, were not sufficient to meet this requirement for "findings of *specific* fact" as to the child's reasonable needs.

Snipes v. Crisp, __ N.C. App. __ (August 5, 2026) (unpublished). In an unincorporated separation agreement, the parties agreed to share joint custody of their child and that each party would provide direct support for the child when they had physical custody, in lieu of either parent paying child support to the other. Plaintiff later filed a complaint against defendant seeking retroactive and prospective child support.

After the hearing, the trial court found that there was no evidence that the child had any reasonable need left unmet by the parties' agreement. Each party provided all necessary care and support for the child when she was in their custody. Defendant further paid for her childcare and health insurance expenses, supplied all her necessary items, and "show[ed] a willingness to meet every reasonable need" even when she was not in his custody. The trial court applied the *Pataky* presumption that the amount of support that the parties agreed upon was reasonable and determined that the presumption was not rebutted. The trial court therefore denied Plaintiff's requests for retroactive and prospective child support and ordered that the parties' agreement remain in effect.

On appeal, plaintiff first argued that the trial court erred by applying the *Pataky* presumption. The court of appeals disagreed, noting that the agreement clearly provided that the parties would share joint custody and would each provide direct support for the child in lieu of child support payments.

Plaintiff also contended that the trial court's order failed to make "findings of *specific* fact on the child's actual past expenditures and present reasonable expenses." The court of appeals agreed. To evaluate whether the *Pataky* presumption was rebutted, the trial court was required to determine the actual needs of the child at the time of the hearing and to compare that amount to the amount of support provided under the separation agreement. The trial court's statement that it considered the G.S. 50-13.4(c) factors, its 10 findings referencing how the needs of the child were met, and its conclusion that "the current situation and agreement between the parties meets the reasonable needs" of the child were insufficient to establish the child's actual past expenditures and present reasonable expenses. The court of appeals vacated the order and directed the trial court to hear evidence on remand and make specific findings.

Child Custody

Modification; relocation; sufficiency of findings; consideration of Ramirez-Barker factors

- G.S. 50-13.7 does not specify a minimum amount of time which must pass after entry of a custody order before a party may move for modification due to changed circumstances.
- To support custody modification, the trial court must make findings of fact demonstrating the nexus between the substantial change in circumstances and the impact on the welfare of the child.
- A substantial change in circumstances can be supported by allegations that the current custody situation has an adverse effect on the child or by showing a change in circumstances is, or is likely to be, beneficial to the child.
- Given the significance of out-of-state relocation, the court of appeals has provided a non-exhaustive list of factors appropriately considered by a trial court before concluding relocation is in the best interest of a child: (1) the advantages of the relocation in terms of its capacity to improve the life of the child; (2) the motives of the custodial parent in seeking the move; (3) the likelihood that the custodial parent will comply with visitation orders when no longer subject to the jurisdiction of North Carolina courts; (4) the integrity of the noncustodial parent in resisting the relocation; and (5) the likelihood that a realistic visitation schedule can be arranged to preserve the relationship between the child and the noncustodial parent. *Ramirez-Barker v. Barker*, 107 N.C. App. 71 (1992).
- The trial court is not required to make explicit findings regarding every *Ramirez-Barker* factor, but these factors are “highly relevant to the best interests of the child in nearly all [relocation] situations.”
- Where the findings of fact regarding relocation noted mother’s remarriage, her husband’s business opportunity in Wisconsin, and “better educational opportunity” in Wisconsin, but failed to include detailed findings regarding how relocation was in the best interest of the child—and further failed to address several pertinent *Ramirez-Barker* factors—these findings were insufficient to support a conclusion that relocation was in the best interest of the child.

Parente v. Texeira, __ N.C. App. __ (September 15, 2026). In August 2024, a custody order was entered granting mother primary physical custody and father specific visitation times as well as “reasonable visitation upon request.” In October 2024, mother filed a motion to modify custody (and subsequent motions for contempt). Mother alleged that father generated conflict about visitations and custodial exchanges which had become detrimental to the health and wellbeing of the child, that father repeatedly withheld the child outside of his ordered visitation times, and numerous other concerns about father’s behavior towards the child. Mother sought modification, including permission to relocate with the child to Wisconsin where her current husband lived and worked.

The trial court found that father had engaged in aggressive behavior towards mother, had repeatedly violated the custody order with respect to custodial exchanges, and had “caused the turmoil which has impacted the minor child’s life.” Regarding relocation, the trial court found that mother was married and had a child with her current husband, that her husband lived and worked in Wisconsin, that their home in Wisconsin had more space to accommodate family visits, and that schools in Wisconsin would provide the child with “better educational opportunity.” The trial court modified the custody order to permit mother to relocate to Wisconsin with the child and set out a detailed visitation schedule with father.

Father appealed. He first argued that sufficient time had not passed (between entry of the custody order and mother’s motion to modify) to demonstrate a substantial change in circumstances. Noting that G.S.

50-13.7 provides that a custody order can be modified “at any time,” the court of appeals clarified that the relevant question is not the amount of time that has passed but whether there is a showing of a substantial change of circumstances affecting the welfare of the child. This inquiry requires the trial court to set out findings demonstrating the nexus between the change in circumstances and the welfare of the child. Then the trial court must ask whether, as a matter of law, the modification is in the child’s best interest. Here, father argued that neither prong was met.

The court of appeals acknowledged that the findings regarding father’s pattern of conduct may have justified modification of the custody order. However, the trial court’s findings regarding the relocation opportunity were “insufficient to establish a substantial change in circumstances that would justify an out-of-state relocation.” According to the court of appeals, the only nexus the trial court identified between the circumstances of the potential relocation and the child’s welfare was the finding that there was “better educational opportunity in Wisconsin.” The trial court included no details about the superiority of Wisconsin schools, nor did it include any information about the child’s relationship with her stepfather or the details of his business opportunity. The court of appeals further noted that the trial court addressed only one *Ramirez-Barker* factor, even though multiple factors were specifically implicated by the facts of the case.

Because the trial court failed to substantively address the issues raised by the *Ramirez-Barker* factors, failed to address the nexus between the changed circumstances and their effect on the child, and failed to discuss anything else about the relocation that might affect the child’s welfare, the findings were legally insufficient to support the trial court’s conclusion that relocation was in the child’s best interest.

Domestic Violence

Intentionally causing bodily injury; minor plaintiff standing to bring DVPO against parent

- The trial court must grant a domestic violence protective order if it finds that an act of domestic violence occurred.
- G.S. 50B-1(a)(1) includes “intentionally causing bodily injury” in the definition of an act of domestic violence.
- Evidence that a father “intentionally grabbed” his child by his hip and neck to take him around the car and place him in a car seat, “resulting in the child’s breathing being impaired” and “causing his face to turn red,” was competent evidence to support a finding that father “intentionally caused bodily injury” to the child within the meaning of 50B-1(a)(1) and thus committed an act of domestic violence.

[Zubchevich v. Zubchevich](#), __ N.C. App. __ (July 15, 2026). The trial court entered a domestic violence protective order against defendant-father in favor of plaintiff, defendant’s minor son. The complaint was filed by plaintiff’s mother, who was appointed plaintiff’s guardian ad litem. Defendant and mother shared joint custody of plaintiff and plaintiff’s minor sibling pursuant to a consent order. The allegations concerned a particular incident when defendant was bringing plaintiff and plaintiff’s sibling to school and the two children argued about where to sit in defendant’s vehicle. Defendant instructed plaintiff to get into his car seat and when plaintiff did not, defendant grabbed him by the hip and neck, carried him to his car seat, and fastened his seat belt. The trial court concluded that father had committed an act of domestic violence pursuant to G.S. 50B-1(a)(1) by intentionally causing bodily injury.

Defendant appealed, challenging whether there was competent evidence to support the trial court’s findings and conclusions. Defendant cited Black’s Law Dictionary’s definition of “bodily injury” to argue that because plaintiff had not suffered “physical harm” that “impaired his normal function,” no bodily injury had occurred. But the court of appeals rejected this argument as effectively asking the court to amend the text of the statute to require a particular degree or kind of physical harm.

The court of appeals reviewed three precedential cases and the evidence in the record to conclude the trial court did not err by issuing the DVPO. Plaintiff testified that during the encounter he cried, felt weird and dizzy, and couldn’t breathe. Plaintiff’s sibling testified that plaintiff’s face was “red” and that he was “just crying” and “breathing hard” until they arrived at school. A police officer who interviewed both minors about a week after the incident testified that plaintiff told him defendant had “put his hands around his neck because he was angry with him over not being on the right side” of the vehicle. This testimony was competent evidence to support the trial court’s finding that defendant intentionally caused bodily injury.

Defendant raised additional arguments on appeal, including what the court of appeals discussed as challenges to plaintiff’s standing to bring a domestic violence claim against defendant. The court of appeals held that plaintiff met the statutory requirements to seek a DVPO against defendant in that (1) plaintiff was the alleged victim of the act of domestic violence, (2) plaintiff has or had a personal relationship with defendant (parent-child relationship), and (3) the trial court properly appointed mother as plaintiff’s guardian ad litem as required by G.S. 1A-1, Rule 17(b).

The dissenting judge “adamantly” disagreed that “a father picking up a tantruming seven-year-old child and placing him in his car seat to be safely transported to school without leaving a single mark on the child” is competent evidence of intentionally causing bodily injury to support a conclusion that an act of domestic violence occurred. The dissenting judge further raised concerns about the use of DVPOs in this context of parenting and custody disputes.

Equitable Distribution

Necessary parties; joinder of revocable trust

- Necessary parties “are those persons who have rights which must be ascertained and settled before the rights of the parties to the suit can be determined.”
- Failure to join a necessary party pursuant to Rule 19 is not an issue of subject matter jurisdiction and may therefore be waived.
- When all settlors of a revocable trust are named parties to an equitable distribution proceeding, a judgment against the settlors concerning property held in the revocable trust will effectively bind the trust without interfering with anyone else’s rights. Thus, Rule 19 principles do not compel joinder of a revocable trust as a party.

[Face v. Face](#), __ N.C. __ (August 14, 2026). Discretionary review of the court of appeals 2024 decision which held, in relevant part, that a revocable trust was not a necessary party to the equitable distribution action because the parties’ pretrial stipulations effectively revoked the trust.

During their marriage, plaintiff and defendant conveyed three real properties into a revocable trust of which they were both designated as settlors, co-trustees, and sole beneficiaries. After the parties separated, each asserted an equitable distribution claim. In a signed pretrial order the parties stipulated that these three properties were marital property. The trial court entered an order distributing the properties as the parties had stipulated. While defendant’s appeal was pending, he filed a motion to set aside the order pursuant to Rule 60(b), stating that it had been discovered that a revocable trust held title to these three properties and arguing that the trial court did not have subject matter jurisdiction to adjudicate ownership of the properties because the revocable trust was a necessary party under Rule 19 of the N.C. Rules of Civil Procedure.

The trial court denied defendant’s motion in an indicative ruling, determining that the parties had effectively revoked the revocable trust through their stipulations in the pretrial order. The court of appeals agreed and held that the trust was therefore not a necessary party. The N.C. Supreme Court granted discretionary review, identifying this as an issue of first impression: whether Rule 19 compels joinder of a revocable trust to an equitable distribution proceeding when all settlors are already named parties.

The supreme court first explained why failure to join a necessary party is not an issue of subject matter jurisdiction. The supreme court agreed with plaintiff’s argument that necessary joinder relates to a court’s “power to administer complete relief between the parties,” not a court’s “power to hear and resolve a claim” as is the case for subject matter jurisdiction. The General Assembly granted district courts exclusive subject matter jurisdiction over equitable distribution actions and that jurisdiction “is not lost simply because a trial court may later struggle to provide complete relief without joining a third party.” The supreme court identified this distinction as important because subject matter jurisdiction is not waivable, contrary to a necessary party argument. They nevertheless declined to deem the necessary party argument waived in this case, noting that our courts have repeatedly reaffirmed a hesitation to do so.

The supreme court then affirmed the decision of the court of appeals that the revocable trust was not a necessary party but modified the reasoning. Rejecting the court of appeals’ reliance on the parties’ stipulations, the supreme court declared that this case was not about trust revocation but about joinder. The supreme court held that, categorically, when all settlors of a revocable trust are named parties in an equitable distribution proceeding then Rule 19 does not require joinder of the revocable trust. Rule 19, which is rooted in equity and requires practical inquiries, is designed to join interested parties to an action so that a court can provide complete administration of the rights at issue. To apply Rule 19 to this issue,

the supreme court examined the relationship between a settlor and a revocable trust. Because a settlor retains complete, exclusive control over a revocable trusts' property for life, a revocable trust is owned and controlled exclusively by its settlor. Reviewing various North Carolina laws with respect to property, including tax and bankruptcy laws, the supreme court concluded that there is little distinction between property held in a revocable trust and property held by the settlors. When the settlors are parties to a judgment, they are bound by that judgment and their complete, exclusive control over a revocable trust also effectively binds the revocable trust, without interfering with anyone else's rights.

The supreme court distinguished their holding from *Upchurch v. Upchurch*, 122 N.C. App. 172 (1996), because *Upchurch* concerned an irrevocable trust, making that precedent "ill-suited" to these facts. The supreme court also clarified in a footnote that "[t]o the extent the Court of Appeals held otherwise in *Wenninger v. Wenninger*, 293 N.C. App. 791 (2024), it is overruled."

The dissenting judge viewed the issue as one of trust revocation. Disagreeing with the majority's assertion that "there is little distinction between property held in a revocable trust and property held individually by the settlors," the dissent asserted that "a revocable trust still exists as a separate and distinct legal entity" and that the majority incorrectly erased any distinction. Emphasizing the precise and limited statutorily-prescribed mechanisms by which a settlor may revoke a revocable trust, the dissent concluded that the statutory methods were not satisfied here and raised concerns that the majority's holding "effectively authors a statutory amendment."

Classification of goodwill in a professional practice; personal versus enterprise goodwill

- Goodwill is an intangible but valuable component of a professional practice commonly defined as "the expectation of continued public patronage." The law draws a distinction between personal goodwill and enterprise goodwill.
- Because there is no set rule for determining the value of goodwill, the trial court must determine the value of goodwill in light of the particular facts of each case, and should exercise caution in valuing goodwill with great care.
- Personal goodwill represents a practitioner's future earning potential and is tied to the individual practitioner. Personal goodwill lacks the capacity to be distributed.
- The personal goodwill of a professional practice is not marital property and is therefore not subject to equitable distribution.
- The supreme court did not reach the issue of whether enterprise goodwill can be classified as marital property.

Sneed v. Johnston (Sneed), __ N.C. __ (August 14, 2026). During their equitable distribution proceeding, the parties agreed on the division of all assets except a law firm that plaintiff started during their marriage. The trial court adopted the appointed appraiser's valuation of the firm, including the appraiser's division of the firm's goodwill into separate components of personal goodwill and enterprise goodwill. After identifying the separate monetary values of the personal goodwill and the enterprise goodwill, the trial court classified the goodwill of the firm (as a whole) as marital property. The trial court awarded half this total value to defendant and ordered plaintiff to pay a distributive award to defendant in monthly installments over fifteen years.

The court of appeals cited North Carolina's statutory presumption that property acquired after the date of marriage and before the date of separation is marital and affirmed the trial court's classification of the

firm's entire goodwill as marital property. The court of appeals further asserted that "our courts have consistently declined to draw a distinction between personal and enterprise goodwill."

The supreme court initially allowed plaintiff's petition to review the following issue: in an equitable distribution proceeding, how should a court classify personal goodwill and enterprise goodwill in a business owned by a spouse? However, on appeal, plaintiff did not preserve his argument as to the proper classification of *enterprise* goodwill. So, the supreme court left the portion of the trial court's decision regarding enterprise goodwill intact. The only issue left to be resolved was whether the *personal* goodwill of a professional practice could qualify as marital property in an equitable distribution proceeding. The supreme court held that it could not.

Goodwill is an intangible but valuable component of a professional practice is commonly defined as "the expectation of continued public patronage." The supreme court disagreed with the court of appeals' interpretation of precedential cases as *declining* to distinguish between personal versus enterprise goodwill, and instead reviewed relevant cases to demonstrate that our courts have *never directly confronted* this issue. The supreme court then examined appellate decisions from other states. Most state courts that have considered the issue have concluded that enterprise goodwill is marital property but personal goodwill is not. Enterprise goodwill is marketable and stays with the practice. Personal goodwill, on the other hand, represents nothing more than the probable future earning capacity of the practitioner and is therefore not a marketable asset distinct from the individual. In the context of a service business, including a professional practice, the goodwill of the business is largely personal goodwill since the "implied assumption is that if the individual were not there, the clients would go elsewhere."

Turning to our equitable distribution statute, the supreme court agreed with other state courts that personal goodwill cannot qualify as marital property. Personal goodwill lacks an attribute that all marital property enumerated in the equitable distribution statute is assumed to possess: the capacity to be distributed. And "[i]n purporting to distribute a professional practice's personal goodwill between the parties to an equitable distribution proceeding, a trial court is really granting one spouse a right to property – the other spouse's future earnings – that does not yet exist."

The supreme court also explicitly noted that nothing in their holding "prevents a trial court from classifying the income generated by a professional practice, even one with a sole practitioner, as marital property." Because personal goodwill is always prospective and refers to what practitioners are expected to earn in the future, trial courts are not required to trace past business earnings to determine what portion (if any) of those earnings resulted from personal goodwill and are therefore separate property.

Finally, the supreme court emphasized that their holding is limited to equitable distribution proceedings and clarified that it should not be understood to impact the analysis in alimony proceedings.

Adequate notice; Rule 60(b) relief from judgment

- Adequate notice is notice reasonably calculated, under all circumstances, to appraise interested parties of the pendency of the action and afford them an opportunity to present their objections.
- Where defendant alleged no actual notice of the equitable distribution hearing and there was no evidence in the court file that notice was provided, the trial court's denial of defendant's Rule 60(b)(6) motion for relief from the order was manifestly unsupported by reason.
- Before ruling on a motion for relief from judgment, a trial court should inquire of the moving party what steps were taken to provide notice to the opposing party or otherwise verify that service of notice occurred.

[Brincefield v. Brincefield](#), __ N.C. App. __ (August 5, 2026). Plaintiff filed a complaint for absolute divorce and equitable distribution, which was personally served on defendant by the sheriff. Plaintiff's calendar request and notice of hearing was subsequently filed and mailed to defendant by USPS. Defendant did not appear at the hearing, during which the trial court granted the request for divorce and held open the claim for equitable distribution. The divorce judgment entered the next day made no mention of a future hearing date on the issue of equitable distribution, and the record was devoid of any evidence that defendant was ever served with a continuance order or notice of hearing regarding equitable distribution. Plaintiff's claim for equitable distribution came on for hearing approximately one month later and the trial court entered its equitable distribution order that same day. Defendant was again not present. Defendant later filed a motion for relief from judgment pursuant to Rule 60(b)(6), alleging he was unaware of the equitable distribution hearing and had not received actual notice of the hearing.

During the hearing on defendant's Rule 60(b) motion, the trial court stated that notice of the continuance "would have been mailed" from the court, and there was no evidence that it had been returned undeliverable. The trial court then inquired if defendant had any proof that he had not received notice. Defendant's motion for relief from judgment was denied.

On appeal, defendant argued that the trial court abused its discretion by denying his Rule 60(b) motion, because a substantial right was affected and the trial court "denied relief solely on the absence of returned mail." The court of appeals agreed. The trial court presumed notice had been provided without any supporting documentation or further inquiry, appearing to have shifted the burden to defendant to disprove that he was noticed even though the record contained no evidence that notice was given. Notice and an opportunity to be heard prior to depriving a person of property are essential elements of the constitutional guarantee of due process of law. The trial court should have inquired of plaintiff what steps were taken to provide notice or otherwise verified that defendant had been noticed. The record contained no evidence that a copy of the order continuing the equitable distribution hearing was sent to defendant, who sent that information, or that a continuance order had been filed. There was no evidence that defendant had actual notice of the equitable distribution hearing and thus the court of appeals was unable to say defendant's due process rights had not been violated.

[Biddle v. Biddle](#), __ N.C. App. __ (July 1, 2026).

NOTE: this opinion was previously published on April 15, 2026, and a summary was included in Family Law Update materials provided at the June 2026 conference. Amidst several procedural developments, a replacement opinion was published on July 1, 2026. The July opinion predominantly tracked the language of the April opinion but contained a few minimal and fact-specific changes. The case summary provided at the June 2026 conference remains accurate; it is mentioned here merely to acknowledge the later-released decision and its minor additions to the court's analysis.

Legislation

2026 Appropriations Act Creates a New Type of Special Superior Court Judge: The Complex Family Financial Court Judge

North Carolina Criminal Law Blog, August 6, 2026, by Shea Denning

[Jeff wrote last week](#) about several provisions in the [2026 Appropriations Act](#) that might be of interest to readers. This week, I'm back with one more: Section 16.19 of the Act establishes special procedures for the disposition of matters designated as complex family financial cases. Those special procedures include the creation of a new type of special superior court judge, the Complex Family Financial Court Judge – a superior court judge who is appointed to hear and enter orders in complex family financial cases filed in district court.

Wait, am I reading the North Carolina Criminal Law Blog? Yes, you are reading the criminal law blog. And, no, this doesn't relate to criminal law. It does, however, relate to the topic of judicial authority and administration and the court system more generally, topics that we do occasionally cover in this forum. With that disclaimer, I'll carry on.

Three new judgeships authorized. New G.S. 7A-45.1(a14) requires the Chief Justice of the North Carolina Supreme Court to appoint three Complex Family Financial Court Judges by September 1, 2026. The Chief Justice must designate one of the three judges as Chief Complex Family Financial Court Judge. Chief Justice Newby has already made one such appointment, appointing [Marcia \(“Marci”\) Armstrong as the inaugural Chief Complex Family Financial Court Judge](#).

Complex Family Financial Court Judges serve eight-year terms and have the most advanced mandatory retirement age (78 years of age) of any trial or appellate court judge. G.S. 7A-45.1(a14). (The mandatory retirement age for other superior court and district court judges is 72, see G.S. [7A-40.1](#), [-140.1](#), and the mandatory retirement age for appellate judges and supreme court justices is 76, see [G.S. 7A-5\(b\)](#).)

A licensed attorney must satisfy exacting statutory qualifications to be eligible for appointment as a Complex Family Financial Court Judge. G.S. 50-111. Those qualifications require, among other things, that the person have substantial experience handling complex family financial cases during the previous ten years. *Id.*

How does this work? A party who wishes to designate a claim as a complex family financial claim files a designation notice, which must be served on the parties and on the Chief Complex Family Financial Court Judge. G.S. 50-113(a). A family court judge assigned to the case or a chief district court judge also may request such a designation. G.S. 50-113(c). Eligible claims are equitable distribution, alimony, postseparation support, child support, or any combination of such claims. G.S. 50-110(2). A nonmoving party may oppose the request for designation. G.S. 50-113(b).

The Chief Complex Family Financial Court Judge determines whether the action should be designated as a complex family financial claim based upon consideration of enumerated statutory factors. G.S. 50-113(d). Among those factors is whether the claim or claims involve valuation and classification issues related to trusts, businesses, or complex retirement benefits along with the length of time requested for trial on the claim or claims for which designation is sought. G.S. 50-114(13).

Upon designation of a claim as a complex family financial claim, each party must pay equal shares of an additional \$1,100 filing fee. G.S. 50-113(e); 7A-305(a)(2). The claim is then “administered as a complex family financial case” and assigned to a Complex Family Financial Court Judge. G.S. 50-113(f). The applicable statute provides that “[a]ll proceedings related to the [designated] claims” shall be before the assigned judge. G.S. 50-113(f). The meaning of this provision is not entirely clear. It may mean that other aspects of a domestic relations case, such as child custody, continue to be administered by the district court through a district court judge, while the Complex Family Financial Court Judge presides over the designated financial claims.

The legislation grants authority to the Chief Justice to create additional rules or procedures necessary to give effect to the provisions for complex family financial case disposition. S.L. 2026-41 (S 257), Section 16.19(c). We will undoubtedly learn more about how these procedures will work after those rules are adopted.

Where is the case heard? A Complex Family Financial Court Judge is authorized to conduct hearings in district court on complex family financial cases statewide. G.S. 50-112(b). Motion hearings in complex family financial law cases must be held virtually unless the assigned judge determines that good cause exists to hold the hearing in person; other hearings must be held in person. G.S. 50-115(a), (b). In-person hearings must be held at the courthouse in the county in which the action was filed in an available district or superior courtroom staffed by a deputy or assistant clerk and bailiff. G.S. 50-115(b). Complex family financial case hearings must be recorded, and any hearing on final disposition of such a case must be scheduled on consecutive days. G.S. 50-115(c), (d).

Effective date. The provisions of the Act related to complex family financial cases became effective July 1, 2026, and notices of designation may be filed beginning January 1, 2027.

Report to the legislature. The Chief Complex Family Financial Court Judge and the Administrative Office of the Courts must prepare a report to the General Assembly by August 1, 2027, and annually thereafter, informing the legislature about the total number of requests for designation, the number of cases so designated, the number of cases disposed of, the manner of disposition, and the shortest, longest, and average length of time from designation to final disposition. *See* S.L. 2026-41 (S 257), Section 16.19(d).

Constitutional questions. I noted at the outset that these new judgeships and procedures result in superior court judges presiding in district court. Is that constitutionally permissible?

The North Carolina Constitution specifically authorizes the General Assembly to create special superior court judgeships. *See* [N.C. Const. Art. IV](#), § 9 (“The General Assembly may provide by general law for the selection or appointment of special or emergency Superior Court Judges not selected for a particular district.”) There is no corresponding authorization for special district court judgeships. Instead, the state constitution simply provides for the election of district court judges for each district court district. *See* N.C. Const. Art. IV, § 10.

As for jurisdiction, the state constitution provides that the superior court has “original general jurisdiction throughout the State,” “[e]xcept as otherwise provided by the General Assembly.” N.C. Const. Art. IV, § 12(3). The jurisdiction of district court, in contrast, is solely conferred by the legislature rather than the state constitution. *See* N.C. Const. Art. IV, § 12(4) (“The General Assembly shall, by general law uniformly applicable in every local court district of the State, prescribe the jurisdiction and powers of District Courts and Magistrates.”). The General Assembly has designated district court as the proper division “for the trial of civil actions and proceedings for annulment, divorce, equitable distribution of property, alimony, child support, child custody and the enforcement of separation or property settlement agreements between spouses, or recovery for the breach thereof.” [G.S. 7A-244](#). Thus, district court has jurisdiction over domestic relations cases because that jurisdiction has been bestowed by the legislature.

If the General Assembly can bestow jurisdiction on district court and by extension authorize action by the judges who preside over those courts, it also may limit the jurisdiction of district courts and, presumably, the judges who preside over those courts. Arguably, that is what the legislature has done in the case of complex family financial cases. It has left those cases within the jurisdiction of the district court division but has provided that only a special type of superior court judge may preside over designated claims.

Spousal Agreements

Enforcement of a premarital agreement

- Under the Uniform Premarital Agreement Act, there are two circumstances in which a premarital agreement is not enforceable. First, the agreement is not enforceable if the party against whom enforcement is sought did not execute the agreement voluntarily. Second, the agreement is not enforceable if it was unconscionable when it was executed and, before execution, the party (1) was not provided a fair and reasonable disclosure of the property or obligations of the other party, (2) did not voluntarily and expressly waive in writing the right to disclosure, and (3) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.
- The burden to prove a premarital agreement is unenforceable is on the party against whom enforcement is sought.
- The defenses of undue influence, duress, fraud, unconscionability and inadequate disclosure are affirmative in nature and must be set forth in the pleadings. However, if the trial court addressed those issues without objection, then they may be preserved for appellate review.
- The executed premarital agreement, combined with testimony given by both parties and the attorney who prepared it, were competent evidence supporting the trial court's findings regarding plaintiff's disclosure of her assets, defendant's knowledge thereof, and the opportunity for both parties to have representation; these findings supported the trial court's conclusions of law on the agreement's validity and enforceability.

Jordan v. Neptune, __ N.C. App. __ (August 5, 2026). Plaintiff filed a complaint for absolute divorce and in response defendant sought a declaratory judgment on the validity of “an alleged premarital agreement” that was not in his possession but that he remembered executing before the marriage. Plaintiff attached a copy of the executed premarital agreement to her reply. After testimony by plaintiff, defendant, and the attorney who prepared the agreement, the trial court entered an order finding the agreement valid and enforceable.

On appeal, defendant argued that the agreement was unenforceable because plaintiff failed to make a full financial disclosure and defendant did not have adequate knowledge of plaintiff's assets, and also because defendant did not sign the agreement voluntarily. Because these issues were litigated before the trial court without objection from plaintiff, they were properly raised and addressed on appeal. Conversely, the court of appeals declined to review defendant's arguments regarding unconscionability and duress, because defendant had neither pled nor litigated those affirmative defenses before the trial court.

The court of appeals found that competent evidence supported the trial court's findings regarding plaintiff's financial disclosures, defendant's knowledge thereof, and defendant's express written waiver of the need for further disclosures in the agreement itself. Testimony supported the trial court's findings that the parties discussed plaintiff's assets regularly and in detail prior to the execution of the agreement, that they also discussed the agreement prior to marriage, and that they traveled together several hours to an attorney's office to execute it. Furthermore, provisions of the agreement expressly addressed both the adequacy of disclosure and the opportunity for both parties to have representation.

Snipes v. Crisp, __ N.C. App. __ (August 5, 2026) (unpublished). Evaluating an unincorporated separation agreement regarding child support. See summary in child support section on page 3.