

TIMELY ENTRY OF ORDERS

WHY IT'S IMPORTANT

March 2024

PURPOSE OF ORDERS

- Bring finality to the proceedings
- Give guidance to the parties
- Provide basis for enforcement
- Enable modification

THREE STEP PROCESS

- Rendition of Judgment - making and announcing the decision
 - Completed by the judge
- Preparing the order – reducing it to writing
 - May be completed by counsel or by judge
- Finalizing the order - signing and filing
 - Review and signing by judge
 - Filing by court or by counsel

NC CONSTITUTION

- Article 1 Declaration of Rights
- Section 18 All courts shall be open, every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law and **right and justice shall be administered without favor, denial or delay.**

RULE 58

- ‘ A Judgment is entered when it is reduced to writing, signed by the judge, and filed with the clerk of court.’
- Stachlowski v Stach 328 NC 276 (1991)
 ‘A judgment is not final until it is entered. It is the written judgment that controls and not statements made in open court as to the judgment.’

SANTANA V SANTANA

171 NC App 432 (2005)

- Wife filed action for divorce and summary judgment was granted in open court on August 11, 2002
- Wife filed motion for ED on August 18, 2002
- Divorce judgment filed August 19, 2002
- Motion to dismiss ED claim denied. Motion was filed prior to entry of divorce judgment.

CARLAND V BRANCH

164 NC App 403 (2004)

- Custody decision announced in open court on December 3, 2001
- Motion to modify custody filed on May 3, 2002, based on incidents that occurred after December 3, 2001
- Custody order signed and filed May 13, 2002
- Modification hearing held on May 13, 2002
- Holding - no order filed as of date motion was filed and therefore no basis for modification. Change of circumstances must occur between filing of order and hearing on motion.

PLOMARITIS V PLOMARITIS

222 NC App 94 (2012)

- 18-month delay in entry of ED judgment was prejudicial and would require a new trial for presentation of additional evidence as to changes in value of marital and divisible property and distributional factors
- (Case remanded for new trial on other issues as well)
- Court of Appeals 'trusted' that on remand the ED judgment would be entered promptly after trial

ENFORCEMENT

- (a) Failure to comply with an order of a court is a continuing civil contempt as long as:
 - (1) The order remains in force
 - NCGS 5A – 21 Civil Contempt
- “an order rendered in open Court is not enforceable until it is ‘entered,’ i.e., until it is reduced to writing, signed by the judge, and filed with the clerk of court.” West v Marko, 130 NC App 751 (1998)

CANON 3 JUDICIAL CODE

- 3 (A)(1) A judge should be faithful to the law and maintain professional competence in it.
- 3(A)(5) A judge should **dispose promptly** of the business of the court.
- 3(B)(1) A judge should diligently discharge the judge's administrative responsibilities.

IN RE HENDERSON

371 NC 45 (2018)

- Judge completed a hearing on attorney fees and costs on November 5, 2014, and took case under advisement
- Attorney requested court to enter a ruling multiple times. Attorney eventually withdrew because of failure to receive fees
- Complaint filed with Judicial Standards Commission
- Attorney fees order entered March 27, 2017
- Supreme Court entered order of public reprimand against Judge

IN RE CHAPMAN

371 NC 486 (2018)

- Judge completed a permanent child support hearing on November 30, 2012, and took case under advisement
- Judge did not enter a ruling thereafter despite the attorneys requesting one multiple times over next 5 years and the judge indicating he was ready to enter it
- Complaint was filed with the Judicial Standards Commission
- Judge on his own motion entered an order of recusal on November 21, 2017
- No order was ever entered
- Supreme Court entered order of 30-day suspension without pay

FAMILY COURT TIME STANDARDS

- Domestic - 'All orders should be filed within **30 days** following the conclusion of a hearing. A judge may allow additional time to file an order in complex cases.'
- Juvenile – NCGS 7B – 807(b) and others – 'The adjudicatory order shall be in writing and shall contain appropriate findings of fact and conclusions of law. The order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the hearing.'
- 'If the order is not entered within 30 days.....,the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled.....The order shall be entered within 10 days of the subsequent hearing required by this subsection.'

RESPONSIBILITY

- Ultimately, it is the Judge's responsibility to ensure that orders are filed in a timely manner.
- IT IS THE **JUDGE'S** ORDER - NOT THE PARTIES' ORDER AND NOT THE LAWYERS' ORDER