

Cheryl Howell

School of Government

April 2014

## Entry of Civil Judgments

### I. Entry of Judgment

- a. Judgment is not entered until it is reduced to writing, signed by the judge and filed with the clerk of court. Rule 58, Rules of Civil Procedure; *Carland v. Branch*, 164 N.C. App. 403 (2004).
- b. Announcement in court is not entry of judgment. *West v. Marko*, 130 N.C. App. 751 (1998); *Stachlowski v. Stach*, 328 N.C. 276 (1991).
- c. Judgment/order cannot be enforced by contempt or otherwise until entered. *Carter v. Hill*, 186 N.C. App. 464 (2007).
- d. Court can reopen evidence at any time before entry of judgment. *In re B.S.O.*, 740 S.E.2d 483 (2013).
- e. If a memorandum of judgment is signed by the judge and filed with the clerk of court, judgment is entered. Formal judgment can be substituted later. *Buckingham v. Buckingham*, 134 N.C. App. 82 (1999).

- f. Delay between end of trial and entry of judgment can be prejudicial error requiring retrial.
  - i. *Wall v. Wall*, 140 N.C. App. 303 (2000)(19 month delay was prejudicial and parties entitled to new equitable distribution to include evidence of all changes in marital property since end of original trial).
  - ii. *White v. Davis*, 163 N.C. app. 21 (2004)(three month delay was not prejudicial).

## **II. *Nunc pro tunc***

- a. Very limited remedy. *Rockingham County ex. Rel. Walker v. Tate*, 202 N.C. App. 747 (2010)(“*Nunc pro tunc* is to correct the record to reflect a ruling made in fact but defectively recorded. ***Nunc pro tunc* cannot be used to accomplish something which ought to have been done but was not done.**”).
- b. Only authorized when:
  - i. Judgment actually was entered on earlier date (rendered??),  
**and**
  - ii. Formal entry not accomplished due to clerical error, **and**
  - iii. Entry of judgment *nunc pro tunc* will not prejudice either party
  - iv. *Whitworth v. Whitworth*, 731 S.E.2d 707 (2012)

## **III. Time Standards**

- a. North Carolina Supreme Court adopted “Time Guidelines for Trial Court Cases” in 1996 and the Judicial Council endorsed those guidelines in 2003.
  - i. See attached copy of Guidelines
- b. Family Court also has time standard for domestic cases
  - i. See attached copy of Guidelines