

50C EXPARTE ORDERS

A.ELIZABETH KEEVER
FALL JUDGES' CONFERENCE
OCTOBER 13, 2011

REQUIREMENTS

- NO PERSONAL RELATIONSHIP UNDER CHAPTER 50B
- NONCONSENSUAL SEXUAL CONDUCT
- STALKING
- OFFENSE OCCURRED IN NORTH CAROLINA
- DEFENDANT MUST BE AT LEAST 16

SEXUAL CONDUCT

- NONCONSENSUAL
- TOUCHING, FONDLING OR SEXUAL PENETRATION
- FOR PURPOSE OF SEXUAL GRATIFICATION
- ONE TIME IS SUFFICIENT

STALKING

- ON MORE THAN ONE OCCASION
- FOLLOWING OR
- OTHERWISE HARASSING
- WITH INTENT TO
- 1. CAUSE REASONABLE FEAR FOR PERSONAL SAFETY OR SAFETY OF FAMILY MEMBER OR CLOSE PERSONAL ASSOCIATE

- 2. OR WITH INTENT TO CAUSE SUBSTANTIAL EMOTIONAL DISTRESS BY CAUSING FEAR OF DEATH, BODILY INJURY OR CONTINUED HARASSMENT
- **AND** DOES IN FACT CAUSE SUBSTANTIAL EMOTIONAL DISTRESS

HARASSMENT DEFINED

- SEE NCGS 14 – 277.3(C)
- KNOWING CONDUCT
- DIRECTED AT A SPECIFIC PERSON
- THAT TORMENTS, TERRORIZES, OR TERRIFIES THAT PERSON
- THAT SERVES NO LEGITIMATE PURPOSE

EX PARTE ORDER

- MAY BE GRANTED WITHOUT NOTICE ONLY IF BOTH OF FOLLOWING ARE SHOWN
- 1. CLEARLY APPEARS FROM VERIFIED COMPLAINT THAT
 - IMMEDIATE INJURY, LOSS OR DAMAGE WILL RESULT TO VICTIM BEFORE THE RESPONDENT CAN BE HEARD IN OPPOSITION

2. AND ONE OF THE FOLLOWING

- COMPLAINANT CERTIFIES EFFORTS TO GIVE NOTICE OR REASON WHY NOTICE SHOULD NOT BE REQUIRED
- COMPLAINANT CERTIFIES THAT HARM WOULD LIKELY OCCUR IF RESPONDENT GIVEN PRIOR NOTICE OF EFFORT TO OBTAIN RELIEF

Length of Order

- Ex parte order expires after 10 days
unless all parties consent to extension

50B EX PARTES

- NO NOTICE REQUIRED
- CLEARLY APPEARS FROM SPECIFIC FACTS
- DANGER OF ACTS OF DOMESTIC VIOLENCE AGAINST AGGREIVED PARTY OR MINOR CHILD
- ORDERS NECESSARY TO PROTECT AGGREIVED PARTY OR CHILD