

NORTH CAROLINA REPORTS

VOLUME 369

SUPREME COURT OF NORTH CAROLINA



19 AUGUST 2016

9 JUNE 2017

RALEIGH
2018

**ORDER WAIVING RULE 2A, 2B, AND 7B OF THE RULES
IMPLEMENTING MEDIATION IN MATTERS BEFORE THE
CLERK OF SUPERIOR COURT DURING PILOT CLERK
MEDIATION PROGRAM**

WHEREAS, on May 23, 2005, the General Assembly enacted G.S. § 7A-38.3B establishing a Clerk Mediation Program (Program) to provide for mediation of matters pending before clerks of superior court, and

WHEREAS, N.C.G.S. § 7A-38.3B(b) provided that this Court adopt program rules and amendments to rules implementing the Program, and

WHEREAS, this Court adopted Rules Implementing Mediation In Matters Before the Clerk of Superior Court (Rules) on January 26, 2006, and

WHEREAS, the Program was implemented without benefit of a pilot phase, and

WHEREAS, this Court is aware that the Program has been underutilized since its inception, and

WHEREAS, in an effort to reinvigorate the Program, the NC Dispute Resolution Commission (NCDRC) has established an Ad Hoc Clerk Mediation Program Committee (Committee) and charged it with establishing a pilot program to evaluate the viability and potential of the Program, and

WHEREAS, Rules 2.A and 2.B of the Rules provide that mediators conducting mediations referred to the Program are to be certified by the NCDRC, and

WHEREAS, Rule 7.B of the Rules provides that clerk appointed mediators conducting mediations referred to the Program shall be compensated at the rate of \$150.00 per hour for mediation services, and

WHEREAS, Clerks who have agreed to participate in the pilot program have expressed concern that Rules 2.A, 2.B, and 7.B limit their ability to recruit mediators in whom they have the utmost confidence, who are willing to travel to their counties, and who are willing and able to volunteer their services, and

WHEREAS, the NCDRC has recommended that the requirements of Rules 2.A and 2.B and 7.B be waived during the duration of the pilot in order to permit parties and clerks in counties participating in the pilot maximum flexibility to select and appoint mediators in whom they have confidence, whether certified or not, and to permit those mediators to waive their fees for the first two hours of mediation.

NOW, THEREFORE, pursuant to G.S. § 7A-38.3B and the Rules Implementing Mediation In Matters Before the Clerk of Superior Court, this Court waives the requirements of Rules 2A, 2B, and 7.B of the Rules Implementing Mediation In Matters Before the Clerk of Superior Court, in pilot site counties for the duration of the pilot in order to permit both certified and non-certified mediators, in the discretion of pilot site clerks and the Commission, to serve pilot sites and to permit mediators to waive their fees for the first two (2) hours of pilot program mediations.

Adopted by the Court in conference the 16th day of March, 2017.

s/Michael R. Morgan
For the Court

Witness my hand and the seal of the Supreme Court of North Carolina, this the 16th day of March, 2017.

s/J. Bryan Boyd
J. Bryan Boyd
Clerk of the Supreme Court