

No. COA21-439

No. \_\_\_\_\_

NINETEEN-A DISTRICT

NORTH CAROLINA COURT OF APPEALS

\*\*\*\*\*

JOHANNA M. JONES,  
Plaintiff,

vs.

CEDRIC L. JONES,  
Defendant,

From Cabarrus County  
19 CVD 2923

\*\*\*\*\*

PRINTED RECORD ON APPEAL

\*\*\*\*\*

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STATEMENT OF ORGANIZATION OF TRIAL COURT

Defendant-Appellant appeals from the 22 April 2021 Order dismissing Defendant's Motion to set aside the voluntary dismissal and to permit the Defendant to file a counterclaim or other response to memorialize the actions having been taken in this proceeding, from the 31 March 2021 Civil Session of District Court of Cabarrus County, the Honorable Steven A. Grossman, presiding. Defendant filed and served written notice of appeal on 19 May 2021.

The record on appeal was filed in the Court of Appeals on 9 August 2021 and was docketed on \_\_\_\_\_ 2021.

## STATEMENT OF JURISDICTION

This action was commenced by the filing of a complaint and issuance of summons on 30 August 2019. The parties acknowledge that the trial court had personal jurisdiction.

**IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION**

**NORTH CAROLINA  
CABARRUS COUNTY**

2019 AUG 30 P 12:22

**FILE NO.: 19 CVD \_\_\_\_\_  
FILM NO.:**

**JOHANNA M. JONES,  
Plaintiff,**

CABARRUS CO. C.S. J.  
BY \_\_\_\_\_ )

**vs.**

**COMPLAINT  
(CUST, CSUP, AND EQU)**

**CEDRIC LEE JONES,  
Defendant.**

The Plaintiff complaining of the Defendant, alleges and says:

1. That the Plaintiff Wife is a resident of Cabarrus County, North Carolina and has been a resident of the State of North Carolina for more than six (6) months next preceding the institution of this action.

2. The Defendant Husband is a resident of Cabarrus County, North Carolina upon information and belief.

3. Wife and Husband were married on July 15, 2003, in Mecklenburg County, North Carolina.

4. Wife and Husband separated on July 15, 2019.

5. The parties are the biological parents of three (3) children born of the relationship, namely: Gianna Rose Jones, born September 25, 1998, who has reached the age of maturity; Sky Psalm Jones, born March 26, 2002; and Jean Lee Jones, born November 30, 2005.

**FIRST CLAIM FOR RELIEF  
(Child Custody and Support)**

6. Plaintiff Mother incorporates herein by reference the allegations contained hereinabove as if set forth fully herein.

7. That pursuant to North Carolina General Statutes §50A-209, there exist facts justifying this Court to assume jurisdiction to determine custody of the minor children and Mother shows the information required by North Carolina General Statutes §50A-209 as follows:

- a. Mother has not participated as a party, witness, or in any other capacity in any other litigation concerning the custody of the minor children in this or any other state;

- b. Mother has no information of any custody proceeding concerning the minor children pending in any court of this or any other state;
- c. Mother knows of no other person not a party to these proceedings who has physical custody of the minor children or claims to have custody or visitation rights with respect to the children.

8. Facts exist justifying the assumption of jurisdiction by this Court for a custody determination pursuant to Chapter 50A of the North Carolina General Statutes, and the information required by North Carolina General Statute §50A-9 is contained in the "Affidavit As To Status Of Minor Children" which are attached hereto as an Exhibits and incorporated herein by reference.

9. Both parties are fit and proper persons to share joint custody of the minor children, and it would be in the best interest of the said minor children for their custody to be awarded jointly to both parties.

10. Both parties are able-bodied persons capable of being gainfully employed with substantial incomes sufficient to enable each of them to provide a reasonable amount of support for the benefit of the parties' minor children, in accordance with the North Carolina Child Support Guidelines.

**SECOND CLAIM FOR RELIEF**  
**(Equitable Distribution)**

11. Plaintiff wife incorporates herein by reference the allegations contained hereinabove as if set forth fully herein.

12. During the course of the parties' marriage, the Plaintiff and Defendant acquired certain property and debts which are marital and divisible property as defined by North Carolina General Statute §50-20 et. seq.

13. The Plaintiff requests that the Court equitably distribute the parties' marital and divisible assets and debts.

14. The Court enter an Order restraining the parties from transferring, encumbering or wasting marital assets pending and equitable distribution of marital properties and the interests of the parties would be served by the entry of such an order.

**WHEREFORE**, the Plaintiff Wife Mother respectfully prays the Court:

- 1. That both parties be awarded joint custody of the parties' minor children;

2. That the Court may a determination regarding child support for the benefit of the minor children in accordance with the North Carolina Child Support Guidelines;

3. That the Court distribute the separate, marital and divisible property of the parties, and order an equitable distribution of the parties' marital and divisible assets and debts;

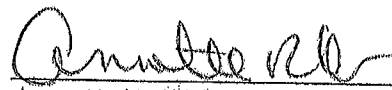
4. That pending the entry of a final order for equitable distribution, the parties be restrained from transferring, encumbering or wasting marital assets;

5. Treat this verified complaint as an affidavit of the Plaintiff in support of the relief sought herein; and

6. For such other and further relief as may be just and appropriate.

This the 30<sup>th</sup> day of Aug 2019.

The Law Offices of Annette R. Heim, PA  
51 Means Avenue  
Post Office Box 1646  
Concord, NC 28026-1646  
Phone: (704) 870-3450  
Facsimile: (704) 973-0879  
Email: aheim@annetteheimlaw.com

  
Annette R. Heim  
Attorney for Plaintiff Wife Mother  
North Carolina Bar #30584

VERIFICATION

NORTH CAROLINA  
CABARRUS COUNTY

JOHANNA M. JONES, BEING FIRST DULY SWORN, DEPOSES AND SAYS:

That she is the Plaintiff Wife Mother in the above-entitled action; that she has read the foregoing Complaint and knows the contents thereof; that the same is true of her own knowledge, except as to those matters and things stated therein on information and belief, and as to those, she believes them to be true.

Johanna M. Jones  
Johanna M. Jones

Sworn to and subscribed before me, this the 29th day of ~~January~~<sup>August</sup> 2019.

Kay R. Johnson  
Notary Public



My Commission Expires: 01/09/2020



07/30/19

-007-

# STATE OF NORTH CAROLINA

File No.

19 CVD

CABARRUS

County

In The General Court Of Justice

☒ District ☐ Superior Court Division

Name Of Plaintiff

JOHANNA M. JONES

Address

8344 Rocky River Road

City, State, Zip

Harrisburg, NC 28075

VERSUS

Name Of Defendant(s)

CEDRIC LEE JONES

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

CEDRIC LEE JONES

Name And Address Of Defendant 2

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (If None, Address Of Plaintiff)

Annette R. Heim, Attorney for Plaintiff

PO Box 1646 - 51 Means Avenue, SE

Concord, NC 28026-1646

Date Issued

8-30-19

Time

12:22

☐ AM

☒ PM

Signature

C. Huffman

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

### ☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM

☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

# RETURN OF SERVICE

NOTICE AND CALENDAR NOTICE

I certify that this Summons and a copy of the complaint were received and served as follows:

## DEFENDANT 1

Date Served

Time Served

☐ AM ☐ PM

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason:

## DEFENDANT 2

Date Served

Time Served

☐ AM ☐ PM

Name Of Defendant

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- ☐ Other manner of service (specify)

- ☐ Defendant WAS NOT served for the following reason.

Service Fee Paid

\$

Signature Of Deputy Sheriff Making Return

Date Received

Name Of Sheriff (Type Or Print)

Date Of Return

County Of Sheriff

COPY

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILED 19-CVD-2923

JOHANNA M. JONES,  
Plaintiff,

vs.

CEDRIC L. JONES,  
Defendant.

2019 DEC 19 P 3:37

CABARRUS COUNTY, C.S.C.

BY 

---

NOTICE OF APPEARANCE

---

TAKE NOTICE that Edwin H. Ferguson, Jr., and the law firm of Ferguson, Hayes, Hawkins & DeMay, PLLC, hereby enters an appearance in this action on behalf of the Defendant, **CEDRIC L. JONES**, and requests service of all pleadings, papers and discovery.

This the 19 day of December, 2019.



Edwin H. Ferguson, Jr.

State Bar No: 6148

Email: [Ferguson@concordlawyers.com](mailto:Ferguson@concordlawyers.com)

Ferguson, Hayes, Hawkins & DeMay, PLLC  
45 Church Street S (28025)  
P.O. Box 444  
Concord, NC 2826-0444  
Ph: (704) 788-3211  
Fax: (704) 784-3211  
*Attorneys for Defendant*

CERTIFICATE OF SERVICE

I, Edwin H. Ferguson, Jr., attorney for the Defendant, *Cedric L. Jones*, hereby certify that I served a copy of the *Notice of Appearance* upon:

Annette R. Heim, Esq.  
51 Means Street  
P.O. Box 1646  
Concord, NC 28026-1646

by depositing a copy of the aforesaid document in an envelope in the exclusive care and custody of the U.S. Postal Service with sufficient postage thereon, addressed to the aforesaid address.

This 19th day of December, 2019.



---

Edwin H. Ferguson, Jr.  
State Bar No: 6148  
Email: [Ferguson@concordlawyers.com](mailto:Ferguson@concordlawyers.com)

Ferguson, Hayes, Hawkins & DeMay, PLLC  
45 Church Street S (28025)  
P.O. Box 444  
Concord, NC 2826-0444  
Ph: (704) 788-3211  
Fax: (704) 784-3211  
*Attorneys for Defendant*

SCANNED

-011-

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

FILED

NORTH CAROLINA  
CABARRUS COUNTY

FILE NO.: 19 CVD 29238  
FILM NO.: 7071 FEB -4 P 1-48

CABARRUS CO., C.S.C.

BY JL

JOHANNA M. JONES,  
Plaintiff,

v.

CEDRIC LEE JONES,  
Defendant.

EQUITABLE DISTRIBUTION  
INVENTORY AFFIDAVIT

NOW COMES, the Plaintiff in the above entitled equitable distribution action and, in accordance with the provision of G.S. 50-21(a) and the 19A Local Rules, itemized for the Court and the opposing party what they allege to be the marital and separate property of the parties hereto, as well as the marital debts of the parties hereto, all as set out on the following schedules which are attached hereto and incorporated herein by reference as if fully set out at this point. Plaintiff certifies that they have made a full and complete disclosure of all marital and separate property known to them.

Plaintiff has filed the original of this affidavit with the Clerk and has served a filed copy of this affidavit on the Defendant, or attorney for defendant, as witnessed by the Certificate of Service attached hereto. Pursuant to the 19A Local Rules, the Defendant is required to complete their portion of the affidavit as indicated thereon within thirty days from its receipt. Defendant must then file the same promptly thereafter with the Clerk and forward a completed copy of the affidavit to the Plaintiff.

This the 4<sup>th</sup> day of Feb., 2020.

The Law Offices of Annette R. Heim, PA  
51 Means Avenue  
Post Office Box 1646  
Concord, NC 28026-1646  
Phone: (704) 870-3450  
Facsimile: (704) 973-0879  
Email: aheim@annetteheimlaw.com

Annette R. Heim  
Annette R. Heim  
Attorney for Plaintiff  
North Carolina Bar #30584

FMV: Fair Market Value  
TBA: To be Appraised

[illegible]

DOS: Date of Separation  
DOM: Date of Marriage

-013-

FMV: Fair Market Value  
TBA: To be Appraised

**SCHEDULE III  
HOUSEHOLD FURNISHINGS**

PLAINTIFF'S CONTENTIONS				DEFENDANT'S CONTENTIONS				
PROPERTY	DOS VALUE	WHO HAS POSSN	"X" IF YOU WANT	"X" IF YOU WANT	"X" IF YOU AGREE	DOS FMV	WHO HAS POSSN	COMMENTS
1. Living Room: Furniture and décor	250	P						
2. Kitchen Dishes and Utility	250	P						
3. Laundry Room – Machines	250	P						
4. Bedrooms – Beds and Dressers, decor	250	P						
5. Kitchen Table and Chairs	150	P						
6. Houseplants	20	P						
7. Several TVs	500	P						
8. Sheets and Towels	50	P						
9. Dining room table and Chairs	500	P						
10. Household Décor	100	P						
11.								
12.								
13.								
14.								
15.								
16.								
17.								
18.								
19.								
20.								
21.								
22.								
23.								
24.								

DOS: Date of Separation  
DOM: Date of Marriage

-014-

FMV: Fair Market Value  
TBA: To be Appraised

**SCHEDULE IV**  
**MISCELLANEOUS PERSONAL PROPERTY**  
**(Tools, Guns, Lawn Equipment, Jewelry)**

PLAINTIFF'S CONTENTIONS				DEFENDANT'S CONTENTIONS			
ITEM	DOS VALUE	WHO HAS POSSN	X IF YOU WANT	X IF YOU WANT	X IF YOU AGREE	DOS FMV	COMMENTS
1. Misc. Yard Tools	150	P					
2. Gun - Handgun	750	D					
3. Gun - Rifle	500	D					
4. Misc Ladies Silver Jewelry	100	P					
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							
13.							
14.							
15.							
16.							



DOS: Date of Separation  
DOM: Date of Marriage

-015-

FMV: Fair Market Value  
TBA: To be Appraised

**SCHEDULE V**  
**ACCOUNTS**  
**(Checking, Savings, CD's, Stocks)**

PLAINTIFF'S CONTENTIONS				DEFENDANT'S CONTENTIONS			
FINANCIAL INSTITUTION	DOS VALUE	WHO HAS POSSN	X IF YOU WANT	X IF YOU WANT	X IF YOU AGREE	DOS VALUE	COMMENTS
1. Navy Federal Credit Union	2,500	P					
2. USAA	29						
3.							
4.							
5.							
6.							
7.							
8.							
9.							
10.							
11.							
12.							
13.							
14.							
15.							

**SCHEDULE VI**  
**DIVISIBLE PROPERTY**  
**50-20(b)(4)**

1. Passive appreciation and/or diminution of marital property after date of separation  
  
Real Property - None that I am aware of  
  
Personal Property - None that I am aware of
  
2. Property and/or property rights received after date of separation but acquired as a result of marital efforts  
  
Commissions - None that I am aware of  
  
Bonuses - None that I am aware of  
  
Contractual Rights - None that I am aware of
  
3. Passive income received from marital property after date of separation  
  
Rent - None that I am aware of  
  
Interest - None that I am aware of  
  
Dividends - None that I am aware of
  
4. Increases and/or decrease in  
  
Finance charges related to marital debt - None that I am aware of  
  
Interest charges related to marital debt - None that I am aware of

NOTE: (The parties reserve the right to introduce evidence at the time of trial as to the Divisible Property Issues.

DOS: Date of Separation  
DOM: Date of Marriage

-017-

FMV: Fair Market Value  
TBA: To be Appraised

**SCHEDULE VII  
RETIREMENT  
(Pension, 401(k), Profit-Sharing, IRA)**

NAME-INSTITUTION	DOS VALUE		MARITAL VALUE (DOS value less DOM value)		PL/DEF	COMMENTS
	Plaintiff's Value	Defendant's Value	Plaintiff's Value	Defendant's Value		
1. TIAA	\$155,065.45		\$155,065.45		P	
2.						
3.						
4.						
5.						
6.						
7.						
8.						
9.						
10.						

DOS: Date of Separation  
DOM: Date of Marriage

-018-

FMV: Fair Market Value  
TBA: To be Appraised

### SCHEDULE VIII DEBTS

CREDITOR	DOS AMOUNT OWED		PARTY PAID		AMOUNT PAID SINCE DOS BY:	
	Plaintiff's Value	Defendant's Value	Plaintiff's Contends	Defendant's Contends	Plaintiff's Amount	Defendant's Amount
1. TIAA Loan - L8195848-001 (unsecured)	12,536		X		1933	
2. Navy Federal Credit Union (unsecured)	27,232		X		2445	
3. American Airlines CC	4,360		X		550	
4. Apple CC	1,055		X		135	
5. Victoria's Secret	494		X		175	
6. Lowes Home Imp. CC	8,655		X		1075	
7. Amazon CC	3,360		X		700	
8. J Crew CC	675		X		175	
9. Macys CC	647		X		140	
10. Belk CC	270		X		140	
11. Nordstrom CC	7,850		X		1105	
12. Ikea CC	148		X		135	
13. Ann Taylor CC	1,466		X		300	
14. Home Depot CC	2,384		X		350	
15. Target CC	2,865		X		375	
16. Amex CC	3,813		X		500	
17. Amex CC	9,811		X		1290	
18. TJ Maxx CC	2,768		X		425	

DOS: Date of Separation  
DOM: Date of Marriage

-019-

FMV: Fair Market Value  
TBA: To be Appraised

## SCHEDULE IX

### BUSINESS

[illegible]

DOS: Date of Separation  
DOM: Date of Marriage

-020-

FMV: Fair Market Value  
TBA: To be Appraised

**SCHEDULE X  
SEPARATE PROPERTY**

PLAINTIFF'S PROPERTY	DEFENDANT'S PROPERTY
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.
6.	6.
7.	7.
8.	8.
9.	9.
10.	10.

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

021  
IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO: 19 CVD 2023

JOHANNA M. JONES,  
Plaintiff,

v.

CEDRIC LEE JONES,  
Defendant.

FILED

FINANCIAL AFFIDAVIT

2020 FEB -4 P 1:50

[ X ] PLAINTIFF [ ] DEFENDANT

CABARRUS CO., C.S.C.

BY JL

INCOME INFORMATION

Employer: TIAA Employer Telephone: 704-988-4236

Employer Address: 8625 Andrew Carnegie Blvd, Charlotte, NC 28262 SS No: xxx-xx-xxxx

Last Taxable Year Adjusted Gross Income (2018): \$ 120,756 (do not have 2019 yet)

Monthly Gross Before Deductions: \$ 8,522.00

Monthly Take Home Pay After Deductions: \$ 6,000.00

(ATTACH TO THIS AFFIDAVIT COPIES OF THE PAST TWO (2) MONTHS WAGE AND EARNINGS STATEMENTS)

Other Incomes:	Commissions:	n/a	Investments:	n/a
	Social Security:	n/a	Alimony:	n/a
	Child Support:	n/a	Other:	n/a
	TOTALS			

MONTHLY HEALTH INSURANCE AND OTHER CHILD PAYMENTS

Total Health Insurance Premium Costs: \$ 250.00 Pre-Existing Child Support Payments: \$ \_\_\_\_\_ Responsibility for Other Children: \$ \_\_\_\_\_

MONTHLY WORK RELATED CHILD CARE COSTS

Child's Name	Amount	Child's Name	Amount
n/a	n/a	n/a	n/a

NON-PRORATED MONTHLY EXPENSES

Item	Amount	Item	Amount
House Payment/Rent	1996.00	Household Food Supplies	1,000.00
Heat	150.00	Electricity	150.00
Water/Sewer	150.00	Telephone	450.00
Cable/Internet/Satellite	150.00	Car Payment(s)	506.00
House Maintenance	200.00	Car Insurance:	400.00
Life Insurance	4.44	Other:	
TOTALS	4,650.44		

022  
**INDIVIDUAL MONTHLY EXPENSES**

**SELF      CHILD      CHILD      CHILD      TOTALS**

Name: Sky Psalm    Name: Jean Lee    Name: \_\_\_\_\_  
Age: 17                      Age: 13                      Age: \_\_\_\_\_

School & Work Lunch	40.00	0	60.00		
Uninsured Medical/Dental	0	111.00	0		
Medical Ins (not w/h from payok) (High deductible health insurance)	583.00	0	0		
Drugs	0	0	0		
Clothing	100.00	0	100.00		
Grooming	100.00	0	50.00		
Laundry/Cleaning	50.00	0	0		
Entertainment	0	0	50.00		
Recreation (lessons)	0	0	400.00		
School Fees (field trip 2019-20)	0	0	50.00		
Donations	250.00	0	0		
Gifts, Christmas, etc.	0	50.00	50.00		
Education Expenses	877.00	0	0		
Allowances	0	0	40.00		
Vacation	50.00	0	50.00		
Gasoline	150.00	0	0		
Car Repair	50.00	0	0		
Eating Out	100.00	0	100.00		
Other: Home Security	90.00	0			
Other: Braces			175.00		
Other: hearing aid	428.00				
<b>TOTALS</b>	<b>2440.00</b>	<b>111.00</b>	<b>1125.00</b>		

**ASSETS AND DEBTS**

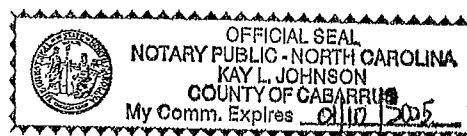
Asset	Value	Debt	Balance Due	Monthly Payment
Real Estate	269,500	Real Estate/Mortgage	279,000	1996
Vehicles	0	Vehicle	26,000	506
Stocks & Bonds	0	Loans (student and house down payment)	60,566	1199
Accounts & Cash	3,276	Credit Cards	90,389	2400
<b>TOTALS</b>	<b>272,776</b>	<b>TOTALS</b>	<b>455,955</b>	<b>6101</b>

I certify that the aforementioned is true, complete and accurate to the best of my ability.

Sworn to and subscribed to before me  
this 31 day of January, 2020.

Kay R. Johnson  
Notary Public  
My Commission Expires: 01/10/2025

Johanna M. Jones  
Affiant



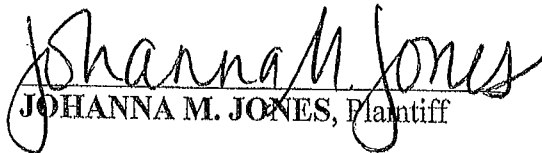


VERIFICATION

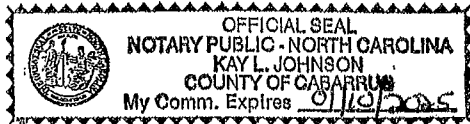
NORTH CAROLINA  
CABARRUS COUNTY

JOHANNA M. JONES, BEING FIRST DULY SWORN, DEPOSES AND SAYS:

That she is the Plaintiff in the above-entitled action; that she has read the foregoing Equitable Distribution Inventory Affidavit and knows the contents thereof; that the same is true of her own knowledge, except as to those matters and things stated therein on information and belief, and as to those, she believes them to be true.

  
JOHANNA M. JONES, Plaintiff

Sworn to and subscribed before me, this the 31st day of January, 2020.



  
Notary Public

My Commission Expires: 01/10/2025


CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this **EQUITABLE DISTRIBUTION INVENTORY AFFIDAVIT** in the above-entitled action upon each party to this action pursuant to North Carolina Rules of Civil Procedure Rule 5 by facsimile, hand-delivery, courthouse box, or by the deposit of a copy thereof enclosed in a postpaid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service for mailing to the Defendant's Attorney at his last known address.

Edwin H. Ferguson, Jr.  
Ferguson, Hayes, Hawkins & DeMay, PA  
45 Church Street, South  
PO Box 444  
Concord, NC 28026-0444  
(Defendant's Attorney)

This the 4th day of Feb, 2020.

The Law Offices of Annette R. Heim, PA  
51 Means Avenue  
Post Office Box 1646  
Concord, NC 28026-1646  
Phone: (704) 870-3450  
Facsimile: (704) 973-0879  
Email: [aheim@annetteheimlaw.com](mailto:aheim@annetteheimlaw.com)

  
Annette R. Heim  
Attorney for Plaintiff  
North Carolina Bar #30584

## STATE OF NORTH CAROLINA

-024-

File No.

19002923

CABARRUS County

In The General Court Of Justice  
District Court Division

Name Of Plaintiff

JODANNA M JONES

Name And Address Of Plaintiff's Attorney (or Pro Se Plaintiff)

ANNOTE HEIM

FILED IN COURTROOM  
CABARRUS COUNTY

DATE

3-4-20

Telephone No.

Fax No. (if applicable)

BY

Asst/Deputy Clerk

DESIGNATION OF MEDIATOR  
IN FAMILY FINANCIAL CASE

Plaintiff's Attorney's Email Address (or Pro Se Plaintiff's Email Address)

NOTICE: Check and complete only one of the three Sections  
below, sign on the reverse, file with the Court, and  
distribute copies as noted below.

VERSUS

Name Of Defendant

CEALIC JONES

Name And Address Of Defendant's Attorney (or Pro Se Defendant)

ED FERGUSON

Telephone No.

Fax No. (if applicable)

G.S. 7A-38.4A; Rule 2 of the Rules for Settlement Procedures  
In District Court Family Financial Cases  
Deadline For Completion Of Settlement Procedure

Defendant's Attorney's Email Address (or Pro Se Defendant's Email Address)

Tentative Trial Date

☒ SECTION 1 - NOTICE OF DESIGNATION OF CERTIFIED MEDIATOR BY AGREEMENT

The parties have selected the mediator named below who has agreed to serve in this case and is certified pursuant to the Rules for Settlement Procedures in District Court Family Financial Cases.

Name And Address Of Certified Mediator

WILLIAM F ROGERS, JR  
99 CARRINGTON  
DANFORTH, NC 28025

Telephone No.

7047883262

Fax No.

Mediator's Email Address

BROGERS@WILLIAMROGERSLAWFIRM.COM

The parties and the mediator have agreed upon the mediator's rate of compensation as follows: (Specify all terms of the compensation agreement.)

NOTE: As an aid to mediator selection, the NC Dispute Resolution Commission maintains a list of certified family financial mediators at [www.NCDRC.gov](http://www.NCDRC.gov). Click on "Find a Mediator" from the left-hand menu then click on "Family Financial Settlement Mediators (District Court)." You may search for mediators by name or by judicial district. Once a mediator's name appears on your screen, click on it for a complete contact and availability listing.☐ SECTION 2 - NOMINATION OF NON-CERTIFIED MEDIATOR

The parties nominate the non-certified mediator named below to conduct the mediated settlement conference. The mediator named below has agreed to serve.

Name And Address Of Non-Certified Mediator

Telephone No.

Fax No.

Mediator's Email Address

The parties petition the Court to approve the nomination and represent that the mediator is qualified to mediate this case by virtue of the following training, experience or other qualifications:

Original-File Copy-Plaintiff Copy-Defendant Copy-Mediator Copy-Judge or Designee  
(Over)

The parties and the mediator have agreed upon the mediator's rate of compensation as follows: (Specify all terms of the compensation agreement.)

☐ **SECTION 3 - MOTION FOR COURT APPOINTMENT OF MEDIATOR**

After a full and frank discussion, the parties have been unable to agree upon the selection of a mediator. Pursuant to Rule 2(b) of the Rules for Settlement Procedures in District Court Family Financial Cases, the parties move the Court to appoint a certified mediator to conduct the mediated settlement conference.

SIGNATURE	
Date: 3-4-20	Name Of Plaintiff's Attorney (or Pro Se Plaintiff): [Signature] Signature Of Plaintiff's Attorney (or Pro Se Plaintiff): [Signature]
Date: 3-1-20	Name Of Defendant's Attorney (or Pro Se Defendant): [Signature] Signature Of Defendant's Attorney (or Pro Se Defendant): [Signature]

**ORDER OF APPOINTMENT**

- ☐ 1. The nomination of the non-certified mediator named in Section 2 above is ☐ approved and the mediator is authorized to conduct the mediated settlement conference. ☐ disapproved.  
(NOTE: Upon disapproval, the parties may select another mediator and report the selection to the court on a Designation of Mediator form.)
- ☐ 2. The parties having reported their failure to agree upon the designation of a mediator, or the parties having failed to notify the court of their designation or nomination of a mediator, the court appoints the following certified mediator to conduct the mediated settlement conference.

Name And Address Of Certified Mediator	Telephone No.
	Fax No.
Mediator's Email Address	

Date	Name Of Judge (type or print)	Signature Of Judge
------	-------------------------------	--------------------

**TENTATIVE CALENDARING NOTICE**

[This section is optional, to be used at the discretion of the judge; however, mediated settlement shall not delay other proceedings, including trial (Rule 3(e)).]

Parties are notified of the following tentative calendaring schedule adopted by the Court. Final calendar notices will be provided through a published calendar, should settlement not be reached.

Tentative Date For Hearing Of Motions

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date a copy of the foregoing Designation of Mediator in the matter before the district court was served on the above-selected mediator and the parties at the addresses below by placing a copy of the same in the United States Mail, postage prepaid: (Please provide names and addresses for the mediator and parties served in the spaces below. Attach additional sheets if necessary.)

Mediator	Party Or Attorney
Party Or Attorney	Party Or Attorney
Party Or Attorney	Party Or Attorney
Party Or Attorney	Party Or Attorney

Date	Name Of Party (type or print)	Signature Of Party Or Party's Attorney
------	-------------------------------	--

**NOTE TO MEDIATOR:** The mediator shall be responsible for reserving a place and making arrangements for the conference and giving timely notice to all attorneys and unrepresented parties of the time and location of the conference. The mediated settlement conference shall be completed by the completion deadline set forth on Side One, and the mediator shall report the results of the conference to the court within ten (10) days after the conference is completed or within ten (10) days of being advised by a party that the case settled or was otherwise disposed of prior to the mediation.

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

FILED

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

19 CVD 2923

2020 APR -7 P 12:03

CABARRUS CO., C.S.C.

JOHANNA JONES,

BY CH

Plaintiff,

vs

CEDRIC JONES,

Defendant,

EQUITABLE DISTRIBUTION  
INVENTORY AFFIDAVIT

NOW COMES the Defendant in the above captioned proceeding and in accordance with the provisions of North Carolina General Statute N.C.G.S 50-22(a) and the 19a local rules, itemized for the court and the opposing party what she alleges to be the marital and separate property of the parties hereto as well as the marital debt of the parties hereto all as set out on the following schedules which are attached hereto and incorporated herein by reference as if fully set out at this point. Defendant certifies that he has made a full and complete disclosure of all marital and separate property known to him.

Defendant has filed the original of the Affidavit with the Clerk of Superior Court and a certified copy of this Affidavit on the Plaintiff or the Attorney for the Plaintiff as witness of service attached hereto.

This the 7<sup>th</sup> day of April, 2020.

FERGUSON, HAYES, HAWKINS & DEMAY, PLLC



Edwin H Ferguson, Jr.  
NC State Bar No. 6148  
45 Church St. South  
P.O. Box 444  
Concord, NC 28026-444  
Phone: (704) 788-3211  
Fax: (704) 784-3211  
*Attorney for Defendant*

SCHEDULE I: REAL ESTATE										
Within the description section for each item listed, if known you must provide the street address, city and state and in what name the property is titled										
Plaintiff's Contentions						Defendant's Contentions				
	Description	DOS FMV	DOS MTG	POSS (h/w)	You Want? X	You Want? X	"X" If Agree with P	DOS FMV	DOS MTG	Comments
1	8344 Rocky River Rd Harrisburg, NC	\$297,000.00	\$270,000.00	W	X		X			
2										
3										
4										
5										
6										
7										
8										
9										
10										
TOTALS		\$297,000.00	\$270,000.00					\$ -	\$ -	

SCHEDULE II: MOTOR VEHICLES										
Specific Instructions for Schedule B: Within the description section for each asset listed, please give a complete description of the vehicle, including make, model, year, how titled and a description of any liens on said vehicle.										
Plaintiff's Contentions						Defendant's Contentions				
	Description	DOS FMV	DOS MTG	POSS (h/w)	You Want? "X"	You Want? X	"X" If Agree with P	DOS FMV	DOS MTG	Comments
1	Chevrolet Avalanche	\$ 7,168.00	\$ -	H			X			
2	Honda Civic (Daughter Drves) Titled to Defendant	\$ 25,000.00	TBD	H			X			
3										
4										
5										
6										
7										
	<b>TOTALS</b>	<b>\$ 32,168.00</b>	<b>\$ -</b>							

**SCHEDULE III: HOUSEHOLD FURNISHINGS**

Specific Instructions for Schedule G: Within the description section, you must identify the asset with sufficient particularity for it to be identified by the opposing party. Within the description section, for the purposes of this Affidavit, you may describe property in groups (e.g. master bedroom furniture). If either party requests, additional identification will be required. It is not a sufficient description for this Affidavit to merely state: "household furnishings."

Plaintiff's Contentions						Defendant's Contentions				
No.	Description	DOS FMV	DOS MTG	POSS (h/w)	You Want? "X"	You Want? "X"	"X" If Agree with P	DOS FMV	DOS MTG	Comments
1	Living Room: Furniture and décor	\$ 250.00		W			X			
2	Kitchen Dishes and Utility	\$ 250.00		W			X			
3	Laundry Room - Machines	\$ 250.00		W			X			
4	Bedrooms - Beds and Dressors, and Décor	\$ 250.00		W			X			
5	Kitchen Table and Chairs	\$ 150.00		W			X			
6	Houseplants	\$ 20.00		W			X			
7	Several TVs	\$ 500.00		W			X			
8	Sheets and Towels	\$ 50.00		W			X			
9	Dining Room table and chairs			W						
10	Household Décor	\$ 100.00		W			X			
11										
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35										
<b>TOTALS</b>		<b>\$ 1,820.00</b>						<b>0</b>	<b>0</b>	






SCHEDULE V: ACCOUNTS										
(Checking, Savings, CD's, Stocks)										
No.	Description	DOS FMV	DOS NET	POSS (h/w)	You Want ? X	You Want ? X	"X" If Agree with P	DOS FMV	DOS MTG	Comments
1	Navy Fed Credit Union	\$2,500.00		W						
2	USAA	\$29.00		W						
3										
4	Navy Fed Credit Union	\$24,000.00		H						H wants W to pay
5	USAA	\$ 2,500.00		H						H wants W to pay
6	Capital One	\$ 5,000.00		H						H wants W to pay
7	American Express	\$ 3,000.00		H						H wants W to pay
8	Lowes	\$ 4,800.00		H						H wants W to pay
9	Best Buy	\$ 1,500.00		H						H wants W to pay
10										
	<b>TOTALS</b>	<b>\$43,329.00</b>	<b>\$</b>							

VERIFICATION

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

CEDRIC JONES, being duly sworn, deposes and says:

That the content of the foregoing **Equitable Distribution Inventory Affidavit** is true to his own knowledge except as to those matters stated on information and belief, and as to those matters, they are believed to be true.

  
\_\_\_\_\_  
CEDRIC JONES, Defendant

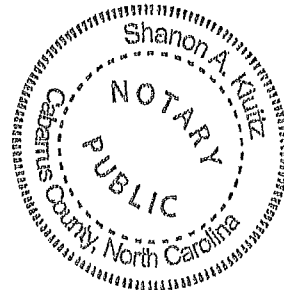
COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

I, Shanon A. Kluttz, a Notary Public of the County and State aforesaid certify that CEDRIC JONES, personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal, this, the 6 day of April, 2020.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 08/12/2023



CERTIFICATE OF SERVICE

I, Edwin H. Ferguson, Jr., certify that the **Equitable Distribution Inventory Affidavit** was served upon the parties for this action by mailing a copy thereof by \_\_\_ facsimile or by ✓ first-class mail, postage pre-paid, to the following parties and/or counsel of record:

Annette R. Heim  
PO Box 1646  
Concord, NC 28026  
*Attorney for Plaintiff*

This the 7<sup>th</sup> day of April, 2020.

FERGUSON, HAYES, HAWKINS & DEMAY, PLLC



Edwin H Ferguson, Jr.  
NC State Bar No. 6148  
45 Church St. South  
P.O. Box 444  
Concord, NC 28026-444  
Phone: (704) 788-3211  
Fax: (704) 784-3211  
*Attorney for Defendant*

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. 19 CVD 2923

2020 MAY 11 A 9:29

CABARRUS COUNTY, C.S.C.

JONES,  
Plaintiff,  
vs.

JONES,  
Defendant.

ORDER FOR PEREMPTORY SETTING

THIS MATTER coming on to be heard on the parties request for a peremptory setting and the parties or their representative counsel hereby represent to the Court that **all discovery has been completed, witnesses are available for the requested date, and the case is in all respects ready for trial on the following issues: CUST; CSUP; EQU**

Estimated time for trial of these issues is 4 hours/day(s)

The matter is set for hearing on **August 5, 2020 at 9:30 a.m. in courtroom #4 (Case #1)**

The parties hereby agree that should the case settle or be dismissed the Court will be notified immediately.

n/a was appointed as mediator and the mediation process has been completed.  
(Please mark N/A if not eligible for mediation.)

A Pre-Trial Conference was held/ waived & all parties are ready for trial.

By requesting this peremptory setting the parties understand that the case will be tried on the date requested and **no future peremptory settings will be allowed** absent extraordinary circumstances. Further, failure to comply with this order may result in a fine of up to \$200 for any party not prepared on that date.

This the 8th day of May 2020.

Christy E. White  
Chief District Court Judge

set by court  
Plaintiff's Counsel (M White)

A. Heim

set by court  
Defendant (Pro Se)

C. Ferguson

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
FILED DISTRICT COURT DIVISION

FILE NO. 19 CVD 2923

2020 JUL 31 P 4:10

JONES,

Plaintiff,

CABARRUS CO., C.S.C.

BY

vs

ORDER CONTINUING  
CASE OFF CALENDAR

JONES,

Defendant.

This matter was on for the following issue(s): Trial scheduled for August 5th

Issues Pending: CUST; CSUP

Reason(s) for Removal from Calendar: Medical excuse from participating party/attorney.

It is ordered that the above-captioned case be continued off calendar. The parties may request any additional hearings as necessary by filing the appropriate motion(s) and calendar notice.

This the 31st day of July 2020.

  
Chief District Court Judge

\*\*\*Clerk Use\*\*\*\*

VCAP Entry

FILN

OTHR: Continued Off Calendar

RE

CC: Heim

Ferguson

CASE NUMBER 19 CVD 2923  
ASSIGNED JUDGE: SAG

BY mk

**JONES,**  
**Defendant.**

Christy E. Wilhoit  
Chief District Court Judge

A Heim  
E Ferguson  
Courthouse Mailbox

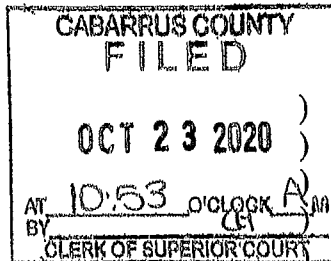
IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

NORTH CAROLINA  
CABARRUS COUNTY

JOHANNA M. JONES,  
Plaintiff,

vs.

CEDRIC LEE JONES,  
Defendant.



FILE NO.: 20 CVD 2349  
FILM NO.:

JUDGMENT

THIS CAUSE, coming on to be heard before the undersigned District Court Judge presiding at the October 23, 2020, civil non-jury session of the District Court for Cabarrus County, North Carolina, and it appearing that this matter is before the Court for trial of the Plaintiff's claim for an absolute divorce, and the Court having reviewed the Plaintiff's verified complaint, and other documents of record; and it appearing that the Defendant has filed no answer in this cause; and it further appearing that the Plaintiff is entitled to a judgment of divorce based upon her verified pleading, and that no genuine issue of material fact remains for trial by jury. Accordingly, the Court finds the following facts as alleged in the Plaintiff's complaint:

1. That the Plaintiff, Johanna M. Jones, filed her verified complaint on August 18, 2020. The Defendant, Cedric Lee Jones, was served with such amended complaint and copy of the summons on September 15, 2020, by Acceptance of Service. To date, the Defendant has not filed an answer or other response as required by the North Carolina Rules of Civil Procedure.

2. The Plaintiff and the Defendant were lawfully married on July 15, 2003, in Mecklenburg County, North Carolina.

3. The Plaintiff and Defendant separated from each other on July 15, 2019, and since that time have lived continuously separate and apart without resuming the marital relationship. On the date of separation, the Plaintiff intended that the parties live separate and apart without subsequently resuming the marital relationship.

4. 5. The parties are the biological parents of three (3) children born of the relationship, namely: Gianna Rose Jones, born September 25, 1998, who has reached the age of maturity; Sky Psalm Jones, born March 26, 2002, who has reached the age of maturity; and Jean Lee Jones, born November 30, 2005.

5. There are currently pending claims in *Jones v. Jones*, Cabarrus County File No. 19 CVD 2923.

On the basis of the foregoing **Findings of Fact**, the Court concludes that it has jurisdiction over the subject matter of this action and the parties, that the Plaintiff is entitled to absolute divorce from the Defendant on the grounds of a continuous separation for one year, that there remains no genuine issue of material fact to be resolved by a jury or judge sitting without a jury.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

1. That pursuant to North Carolina General Statute §50-6, the marriage heretofore existing between the Plaintiff, Johanna M. Jones, and the Defendant, Cedric Lee Jones, be and the same hereby is dissolved, and that Johanna M. Jones and Cedric Lee Jones are divorced from the bonds of matrimony;

2. That the Plaintiff's claims contained in *Jones v. Jones* 19 CVD 2923, for equitable distribution, child support and child custody shall survive the entry of this Order; and

3. The costs of this action are taxed to the Plaintiff.

This the 23<sup>rd</sup> day of October, 2020.

Juanita Boger-Allen  
District Court Judge

A TRUE COPY  
CLERK OF SUPERIOR COURT  
CABARRUS COUNTY

BY C. Huffman  
Assistant, Deputy Clerk Superior Court



STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

FILED IN COURTROOM  
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. 19 CVD 2923

DATE 10.28.2020

BY [Signature]  
Asst Deputy Clerk

Johanna M. Jones  
Plaintiff

VS

Cedric Lee Jones  
Defendant

ORDER CONTINUING  
CASE OFF CALENDAR

This matter was on for the following issue(s): Custody and Child Support

Issues Pending: CSUP, CUST, EQU.D., INJU.

Reason(s) for Removal from Calendar: Pending Dhs involvement

It is ordered that the above-captioned case be continued off calendar. The parties may request any additional hearings as necessary by filing the appropriate motion(s) and calendar notice.

This the 28th day of October 2020.

[Signature]  
District Court Judge Presiding

\*\*\*Clerk Use\*\*\*

VCAP Entry

FILN

OTHR: Continued Off Calendar

RE

CC: [Signature] Heim  
    E. Ferguson

STATE OF NORTH CAROLINA

-040-

File No.

19 CVD 2923

Cabarrus

County

In The General Court Of Justice  
District Court Division

Name Of Plaintiff

JOHANNA M. JONES

VERSUS

Name Of Defendant

CEDRIC JONES

Name And Address Of Mediator

William F. Rogers, Jr.  
99 Church Street, North  
Post Office Box 743

Concord

NC 28026

Telephone No. Of Mediator

704. 788. 3262

Fax No. Of Mediator (if applicable)

704. 788. 3263

REPORT OF MEDIATOR  
IN FAMILY FINANCIAL CASEG.S. 7A-38.4A; Rule 6.B(4) of the Rules  
Implementing Settlement Procedures In Equitable  
Distribution and Other Family Financial Cases

1. The undersigned mediator reports the following results of a mediated settlement conference either ☐ ordered or ☒ voluntarily conducted in this case:
  - a. A mediation ☒ was held. ☐ was not held.
  - b. If the conference was held, give the date completed: 10/06/2020
  - c. If not held, the reasons were: \_\_\_\_\_
2. If the case was reported settled prior to or during a recess of the conference, provide the name of the person(s) who reported the case settled: \_\_\_\_\_
3. Names of parties, attorneys, or others who attended the conference: \_\_\_\_\_  
 Johanna Jones, with her attorney, Annette Heim  
 Cedric Jones, with his attorney, Ed Ferguson
4. At the conference the parties reached: ☐ an agreement on all issues. ☐ an agreement on some issues. ☒ an impasse.
5. If the parties reached an impasse or a partial agreement, state what issues remain for trial:
 

☐ alimony. ☐ child support. ☒ equitable distribution. ☐ post-separation support.

☐ claims arising out of contracts between the parties pursuant to G.S. 50-20(d), 52-10, 52-10.1 or Chapter 52B.

☐ other (please specify) \_\_\_\_\_
6. ☐ a. If the case was settled, then, as required by FFS Rule 6.B(4)(b), the mediator has advised the parties that FFS Rule 4.B requires that closing documents be filed with the court within 30 days of settlement or before expiration of the mediation deadline, whichever is longer. The following closing document is to be filed:
 

☐ consent judgment. ☐ voluntary dismissal with prejudice. ☐ voluntary dismissal without prejudice.

b. Name, address, email address, and telephone number of party or attorney who will file consent judgment or dismissal:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Email Address: \_\_\_\_\_

Original-File Copy-District Court Judge or his/her designee Copy-Plaintiff Copy-Defendant  
(Over)

# MEDIATOR'S FEE

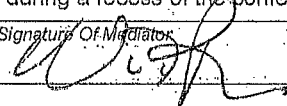
	Court-Appointed Mediator	Party-Selected Mediator
Administrative Fee (Pursuant to Rule 7.B for court-appointed mediator or privately agreed upon.)	\$	\$ 125.00
Mediation Fee (\$150.00 per hour for time spent in conference for court-appointed mediator, billed in quarter hour segments, or privately-set fee for party-selected mediator.)	\$	\$ 687.50
Total Time Spent in Mediated Settlement Conference(s): 2 Hours 45 Minutes		
Postponement Fee (Pursuant to Rule 7.F for court-appointed mediator or privately agreed upon.)	\$	\$
<b>TOTAL FEE</b>	\$	\$ 812.50

All fees of the mediator have been paid, except as follows:

Name Of Party Owning Balance	Address Of Party	Amount Of Balance
		\$
		\$
		\$

Name of any party filing Petition For Relief From Obligation To Pay Mediator's Fee: (Attach Petition.)

I have filed this report with the Court as required within ten (10) days after conclusion of the conference or within ten (10) days of being advised by a party that this case settled before the date scheduled for mediation or during a recess of the conference.

Date 11/2/2020	Name Of Mediator (type or print) William F. Rogers, Jr.	Signature Of Mediator 
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IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

NORTH CAROLINA  
CABARRUS COUNTY

FILE NO.: 19 CVD 2923

2020 Nov-5 P 2:15

JOHANNA M. JONES,  
Plaintiff,

vs.

CEDRIC LEE JONES,  
Defendant.

**MOTION AND ORDER**  
**FOR EXTENSION OF TIME**  
**TO RESPOND TO DISCOVERY**

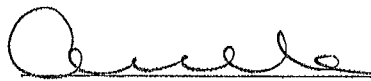
The Plaintiff, Johanna M. Jones, through counsel petitions the Court for an extension of time in which to respond to the **DEFENDANT'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**, served upon Plaintiff on October 7, 2020, on the following grounds:

Plaintiff has not had sufficient time to compile all of the necessary documents in order to fully respond to Defendant's request. The time for the Plaintiff to respond has not yet expired.

**WHEREFORE**, the applicant prays the Court that it grant an extension of thirty (30) days in addition to the time allowed by law in which to respond to **DEFENDANT'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**.

This the 5<sup>th</sup> day of Nov., 2020.

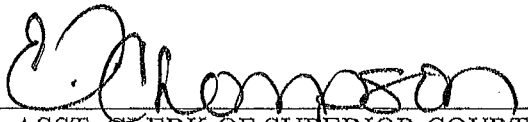
The Law Offices of Annette R. Heim, PA  
51 Means Avenue  
Post Office Box 1646  
Concord, NC 28026-1646  
Phone: (704) 870-3450  
Facsimile: (704) 973-0879  
Email: aheim@annetteheimlaw.com

  
Annette R. Heim  
Attorney for Plaintiff  
North Carolina Bar #30584

**ORDER ALLOWING EXTENSION OF TIME**

**THIS CAUSE** being heard by the undersigned Assistant Clerk of Court of Cabarrus County on Motion of the Plaintiff, Johanna M. Jones, for an Order extending time in which to file a response to **DEFENDANT'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS**; and it appearing to the Court that the time allowed has not expired and that the Motion should be allowed;

**IT IS THEREFORE ORDERED** that the time for responding to **DEFENDANT'S FIRST SET OF INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS** in this action be extended to and including the 6th day of December 2020.

  
ASST. CLERK OF SUPERIOR COURT

**CERTIFICATE OF SERVICE**

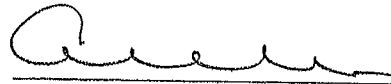
I hereby certify that the **MOTION AND ORDER FOR EXTENSION OF TIME TO RESPOND TO DISCOVERY** to which this Certificate is attached was served upon each party to this action pursuant to North Carolina Rules of Civil Procedure Rule 5 by facsimile, hand-delivery, courthouse box, or by the deposit of a copy thereof enclosed in a postpaid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service for mailing to Defendant's Attorney at his last known address.

Edwin H. Ferguson, Jr.  
Ferguson, Hayes, Hawkins & DeMay, PA  
45 Church Street, South  
PO Box 444  
Concord, NC 28026-0444  
(Defendant's Attorney)

This the 5<sup>th</sup> day of Nov., 2020.

The Law Offices of Annette R. Heim, PA

51 Means Avenue  
Post Office Box 1646  
Concord, NC 28026-1646  
Phone: (704) 870-3450  
Facsimile: (704) 973-0879  
Email: [aheim@annetteheimlaw.com](mailto:aheim@annetteheimlaw.com)

  
**Annette R. Heim**  
Attorney for Plaintiff  
North Carolina Bar #30584

# STATE OF NORTH CAROLINA

-045-

File No.

19CVD 2923

CABARRUS

County

In The General Court Of Justice

☐ Small Claims ☒ District ☐ Superior Court Division

Name Of Plaintiff

JOHANNA M. JONES

VERSUS 2020 NOV 12 A 9 20

Name Of Defendant

CEDRIC LEE JONES

CABARRUS CO., C.S.C.

## NOTICE OF VOLUNTARY DISMISSAL

☒ COMPLAINT  
☐ COUNTERCLAIM  
☐ OTHER

G.S. 1A-1, Rule 4

Complete the following information if known:

Court Date	Time	<input type="checkbox"/> AM <input type="checkbox"/> PM	Location
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☒ The plaintiff gives notice of voluntary dismissal ☐ with prejudice ☒ without prejudice  
In this case as to all of the defendants.

☐ The plaintiff gives notice of voluntary dismissal ☐ with prejudice ☐ without prejudice  
In this case as to only the defendants named below and this case remains open as to defendants not listed.  
(Name of defendants for whom dismissal taken.)

☐ The defendant gives notice of voluntary dismissal ☐ with prejudice ☐ without prejudice  
of the counterclaim in this case as to all of the plaintiffs.

☐ The defendant gives notice of voluntary dismissal ☐ with prejudice ☐ without prejudice  
In this case as to only the plaintiffs named below and the counterclaim remains open as to plaintiffs not listed.  
(Name of plaintiffs for whom dismissal taken.)

☐ Other:

Date

11-11-2020

Plaintiff Or Attorney

Defendant Or Attorney

**NOTE TO CITY OR COUNTY PLAINTIFF:** If, pursuant to G.S. 7A-317, you were not required to pay all costs when filing the complaint to which you are taking a voluntary dismissal, you must pay the costs to the Clerk of Superior Court upon taking a voluntary dismissal. See G.S. 1A-1, Rule 41(d).

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

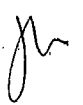
19-CVD-2923

2020 NOV 23 P 3:29

JOHANNA M. JONES,  
Plaintiff,

vs.

CEDRIC L. JONES,  
Defendant.

) CABARRUS CO., C.S.C.  
)  
) BY   
)  
)  
)  
)  
)

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**Motion To Set Aside Dismissal Without Prejudice  
(Rule 41, NCRCP)**

**&**

**Motion to Allow Filing Answer and Counterclaim**

---

The defendant, Cedric L. Jones, moves the court under and pursuant to Rule 41 of the N. C. Rules of Civil Procedure to set aside the Notice of Dismissal filed on October 11, 2020, and received on the 19<sup>th</sup> day of November, 2020 and in support of said motion alleges and says:

1. The plaintiff filed the above captioned proceeding in August 2019.
2. The defendant was served on September 16, 2019.
3. Edwin H. Ferguson Jr and the law firm of Ferguson, Hayes, Hawkins & DeMay PLLC appeared in the above proceeding by filing a Notice of Appearance dated the 19<sup>th</sup> day of December 2019.
4. The time had expired for responsive pleadings or counterclaims when Ferguson and the law firm appeared; however, there were no objections and the case continued with vigorous pursuit of equitable distribution by the plaintiff.



5. Notwithstanding, the plaintiff continued with the equitable distribution claim in this case and proceeded with filing the following documents:

Date	Description
2/4/2020	Equitable Distribution Inventory Affidavit by Plaintiff
4/7/2020	Receipt by Plaintiff of Defendant's EDIA
8/18/2020	Filing of Divorce Complaint Prayer for Relief: That the currently pending claims in Jones v Jones Cabarrus County File No. 19 CVD 2923, shall survive the entry of this order. This representation was made and relied upon by the defendant and his counsel
9/15/2020	Defendant's Acceptance of Service of Divorce Complaint
9/30/2020	Plaintiff's Request for Production of Documents to the Defendant
10/6/2020	Participation in Financial Mediation with Bill Rogers as agreed upon mediator
10/7/2020	Defendant's Interrogatories and RFP to Plaintiff
10/14/2020	Plaintiff's subpoena to the d Defendant for financial information
10/23/2020	Judgment of Divorce: Para 2 in the decretal part of the Order " That the Plaintiff's claims contained in Jones v Jones 19 CVD 2923, for equitable distribution, child support, and child custody shall survive the entry of this Order
10/28/2020	Subpoena Financial Info after the divorce was entered
11/11/2020	Notice of Voluntary Dismissal of Complaint without prejudice

6. The time to appeal the divorce judgment has not expired in 20 CVD 2349.
7. There were no communications to the defendant or his attorney as to the scheduling of the divorce proceeding, in light of the assistance in the acceptance of service.

8. Rule 41 of the N.C. Rules of Civil Procedure provides two ways in which the plaintiff can voluntarily dismiss the above proceeding as set out in the Rule the pertinent part is as follows

- (1) **By Plaintiff; by Stipulation.** – Subject to the provisions of Rule 23(c) and of any statute of this State, an action or any claim therein may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before the plaintiff rests his case, or; (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. N.C. Gen. Stat. § 1A-1, Rule 41
- (2) Dismissal pursuant to N.C. Gen. Stat. § 1A-1, N.C. R. Civ. P. 41(a)(1)(ii) (2003), requires the assent of both parties to the dismissal. Keyzer v. Amerlink, Ltd., 164 N.C. App. 761, 761, 596 S.E.2d 878, 878, 2004 N.C. App. LEXIS 1138, \*1
- (3) Oral notice of voluntary dismissal in open court is clearly adequate, and fully satisfies the filing requirements of N.C. R. Civ. P. 41(a)(1)(I). No means other than oral notice in open court may substitute for the filing requirements of N.C. R. Civ. P. 41(a)(1)(i). Contact with a defendant's attorney by telephone or mail concerning voluntary dismissal does not satisfy the filing requirement of N.C. R. Civ. P. 41(a)(1)(i). Johnson v. Hutchens, 103 N.C. App. 384, 385, 405 S.E.2d 597, 597, 1991 N.C. App. LEXIS 764, \*1

9. The dismissal was not filed in open court.

10. The filing with the clerk and delivery to the defendant through her attorney is not adequate and not in accordance with Rule 41. The Rule and cases clearly indicate the method and manner of dismissal by the plaintiff violated the rules. From an equitable viewpoint, the plaintiff's actions and conduct throughout the above proceeding is inconsistent with Plaintiff's dismissal without prejudice, only after the divorce was rendered.

11. Rule 60(b) of the North Carolina Rules of Civil Procedure indicate relief may be granted to a party as follows:

- (b) Mistakes; inadvertence; excusable neglect; newly discovered evidence; fraud, etc.** – On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:
- (1) Mistake, inadvertence, surprise, or excusable neglect;

- (2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
- (4) The judgment is void;
- (5) The judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
- (6) Any other reason justifying relief from the operation of the judgment. N.C. Gen. Stat. § 1A-1, Rule 60

12. The Defendant would submit that the actions and conduct of the Plaintiff as set forth above constitute fraud or other misconduct of an adverse party. The Defendant defended the equitable distribution claim that was being pursued with zeal by the plaintiff. For whatever reason, there were no responsive pleadings filed by the Defendant with regard to the claim for child custody and support; however, when he appeared in the proceeding with counsel, there were no objections. The continued prosecuting and moving forward with the equitable distribution proceeding is clearly a claim for relief being pursued by the Defendant. The actions and conduct of the plaintiff appears to be nothing more than a guise to keep the Defendant from looking any further. Once the divorce was entered, and prior to the expiration of the appeal period, the plaintiff continued with her plan to attempt to shut the defendant out of any claim for equitable distribution.

13. The plaintiff alleged in the complaint and stated emphatically under oath that the claims in this proceeding, to include the equitable distribution claim for relief, were being requested to survive the divorce proceeding. This representation was relied upon by the defendant and his counsel.

14. The Divorce Judgment likewise parroted the claim for relief that was being sought in the complaint.

15. Rule 41 was not designed to be used in such a manner.

WHEREFORE, Defendant prays that the voluntary dismissal without prejudice be set aside; and that the equitable distribution claim be allowed to continue to adjudication; and that the Defendant have such other and further relief as may be appropriate.

\*\*\*\*\*

**MOTION TO ALLOW DEFENDANT TO FILE ANSWER AND  
COUNTERCLAIM**

**(Rule 41)**

Now comes the defendant, Cedric Lee Jones, who moves this Court for an order permitting the Defendant to file a formal Answer and Counterclaim and in support of said motion alleges and says:

1 The allegations in paragraphs 1-15 in the motion to set aside the dismissal are incorporated herein as part of this motion.

2 Both parties filed Equitable Distribution Inventory Affidavits each a form of a claim for relief in that the plaintiff listed property and valued same and defendant responded with agreement or a request in opposition to plaintiff's position and posture. In essence a claim for relief.

3 In the present case, defendant, filed his Equitable Distribution Inventory Affidavit (EDIA) in response to plaintiff's EDIA, and raised the issue of distribution of the parties' marital property and set out his claim for equitable distribution, in effect asserting a counterclaim for equitable distribution. See *McCarley v. McCarley*, 289 N.C. 109, 221 S.E.2d 490 (1976). Pursuant to Rule 8(c), justice requires that the trial court treat the defendant's pleadings as a counterclaim for equitable distribution and permit plaintiff to reply. Accordingly, it was error to strike plaintiff's reply in *McCarley*.

4 In *Gilbert v. Gilbert*, 111 N.C. App. 233, 431 S.E.2d 805 (1993), , the plaintiff husband filed a complaint for divorce, alleging that an equitable distribution would not be necessary because the marital property would be divided by agreement of the parties. The defendant wife, who was not represented, did not assert a claim for equitable distribution and a judgment of absolute divorce was entered. Sometime thereafter, when the plaintiff husband did not convey title to certain marital property, the defendant wife filed a motion in the cause requesting the court to proceed with equitable distribution of the marital [\*\*\*9] property. The husband claimed that the court was without authority to do so because a judgment of absolute divorce had been entered before the wife had asserted her claim for equitable distribution, thus precluding the wife's right thereto by reason of the provisions of G.S. § 50-11(e). This Court held that although the wife had not timely asserted her claim for equitable distribution, the husband's assertion, in his divorce complaint, that equitable distribution was unnecessary because the parties would agree as to the division of their property, equity estopped him from objecting to the wife's claim for equitable distribution. Hunt v. Hunt, 117 N.C. App. 280, 284, 450 S.E.2d 558, 561, 1994 N.C. App. LEXIS 1209, \*8-9 (N.C. Ct. App. December 6, 1994)

5. The defendant's position and posture in the present case reflect the following: The divorce complaint, verified and under oath, stated;

**"3. That the currently pending claims in Jones v Jones, File No. 19 CVD 2923 shall survive the entry of this order".**

6. The divorce judgment was clearer. Paragraph 5 in the Finding of Fact stated:

**"5. There are currently pending claims in Jones v Jones, Cabarrus County File No 19 CVD 2923"**

7. In paragraph 2 of the decretal part of the Judgment, it ordered:

**"2. That the Plaintiff's claims contained in Jones v Jones 19 CVD 2923 for equitable distribution, child support, and child custody shall survive the entry of this order".**

8. Equitable Estoppel: The party requesting estoppel must have had "(1) a lack of knowledge and the *means of knowledge* as to the real facts in question; and

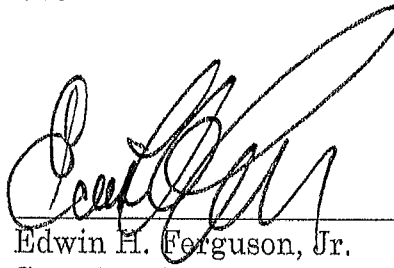
(2) relied upon the conduct of the party sought to be estopped to his prejudice.'" *Hensell*, 106 N.C. App. at [\*83] 290-91, 416 S.E.2d at 430 (emphasis added). *Tarlton v. Stidham*, 122 N.C. App. 77, 82-83, 469 S.E.2d 38, 42, 1996 N.C. App. LEXIS 199, \*10-11.

9. In the present case, the following facts are clear and undisputed:
  - a. The plaintiff filed the above captioned proceeding in August, 2019.
  - b. The defendant was served on September 16, 2019.
  - c. Edwin H. Ferguson Jr and the law firm of Ferguson, Hayes, Hawkins & DeMay PLLC appeared in the above proceeding by filing a Notice of Appearance dated the 19<sup>th</sup> day of December 2019.
  - d. The time had expired for responsive pleadings or counterclaims when Ferguson and the law firm appeared; however, there were no objections and the case continued with vigorous pursuit of equitable distribution by the plaintiff.
  - e. Equitable Distribution Inventory Affidavits were filed by both parties.
  - f. The divorce being filed by the plaintiff reflected the claims would survive the entry of divorce.
  - g. The complaint was signed by plaintiff's attorney and verified as to accuracy by the plaintiff.
  - h. The defendant and his counsel relied on these representations made by opposing counsel and verified by the plaintiff.
  - i. Furthermore, there was continued activity with regard to the equitable distribution proceeding after the entry of divorce.

10. Attached is a draft of an Answer and Counterclaim mirroring the complaint filed by the plaintiff in this proceeding.

WHEREFORE, in this motion the defendant requests that the plaintiff be equitably estopped from dismissing this proceeding including but not limited to the equitable distribution of marital property; that the Defendant be permitted to file an Answer and Counterclaim; and that the Defendant have such other and further relief as may be appropriate.

This the 23rd day of November 2020

A handwritten signature in black ink, appearing to read 'Edwin H. Ferguson, Jr.', is written over a horizontal line.

Edwin H. Ferguson, Jr.

State Bar No: 6148

Email: [Ferguson@concordlawyers.com](mailto:Ferguson@concordlawyers.com)

Ferguson, Hayes, Hawkins & DeMay, PLLC  
(Of Counsel)

45 Church Street S (28025)

P.O. Box 444

Concord, NC 2826-0444

Ph: (704) 788-3211

Fax: (704) 784-3211

*Attorneys for Defendant*

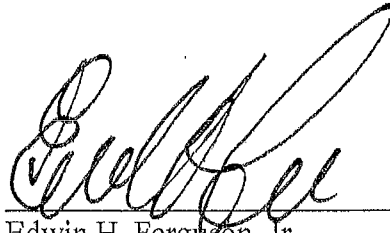
**CERTIFICATE OF SERVICE**

I, Edwin H. Ferguson, Jr., attorney for the Defendant, ***Cedric L. Jones***, hereby certify that I served a copy of this Motion to Set Aside the Dismissal and Motion to Allow Answer and Counterclaim upon:

Annette R. Heim, Esq.  
51 Means Street  
P.O. Box 1646  
Concord, NC 28026-1646

by depositing a copy of the aforesaid document in an envelope in the exclusive care and custody of the U.S. Postal Service with sufficient postage thereon, addressed to the aforesaid address.

This 23rd day of November, 2020..



Edwin H. Ferguson, Jr.  
State Bar No: 6148  
Email: [Ferguson@concordlawyers.com](mailto:Ferguson@concordlawyers.com)

Ferguson, Hayes, Hawkins & DeMay, PLLC  
(Of Counsel)  
45 Church Street S (28025)  
P.O. Box 444  
Concord, NC 2826-0444  
Ph: (704) 788-3211  
Fax: (704) 784-3211  
*Attorneys for Defendant*



STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
19-CVD-2923

JOHANNA M. JONES, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CEDRIC L. JONES, )  
 )  
Defendant. )

**ANSWER AND COUNTERCLAIM**

The defendant, Cedric L. Jones, responding to the allegations in the Complaint alleges and says:

**ANSWER**

1. Admitted
2. The Defendant is a citizen and resident of Mecklenburg County, NC.
3. Admitted
4. Admitted
5. Admitted

**FIRST CLAIM FOR RELIEF**

(Child Custody and Support)

6. The defendant realleges his responses to paragraphs 1-5 in response to this paragraph
7. Admitted
  - a. Admitted
  - b. Admitted
  - c. Admitted
8. With the exception of information on the affidavits of status of minor children, the allegations in paragraph 8 are admitted.
9. Not Denied
10. Admitted

**SECOND CLAIM FOR RELIEF**

(Equitable Distribution)

11. The defendant realleges his responses to the paragraphs above in response to paragraph 11.
12. Admitted
13. The defendant joins in this request.

14. The allegations are argumentative and not in accordance with the Rules of Civil Procedure and defendant objects to the same. In the event a response is required, the defendant denies the allegations.

As a further answer and defense and counterclaim, the defendant alleges and says:

**COUNTERCLAIM**

**FIRST CLAIM FOR RELIEF**

*(Child Custody and Support)*

Defendant, complaining of plaintiff, alleges and says:

1. Plaintiff is a citizen and resident of Cabarrus County, North Carolina; and Defendant is a citizen and resident of Mecklenburg County, North Carolina and each has been a resident of the State of North Carolina for more than six (6) months next preceding the institution of this action.
2. Defendant and Plaintiff are married to one another in Mecklenburg County, North Carolina, on July 15, 2003 and separated on July 15, 2019.
3. Three children were born of the marriage between the parties, namely, Gianna Rose Jones, birthdate September 25, 1998, who has reached the age of maturity; Sky Psalm Jones, born March 26, 2002; and Jean Lee Jones, birthdate November 30, 2005.
4. North Carolina is the home state of the minor children.
5. To avoid controversy and conflict between the parties over the custody of the minor children, it is in the best interest of the parties that this Court make a primary award of custody of said children. Pursuant to G.S. 50A-201(a), facts exist which justify this Court's assumption of jurisdiction to determine the custody of the minor children. Defendant incorporates by reference the allegations in paragraph 7 of the complaint filed herein.
6. Both parties are fit and proper persons to have the care, custody and control of the minor children. It is in the best interest of the minor children that their primary care, custody and control be awarded jointly to the parties.
7. Both parties are able-bodied persons capable of being gainfully employed with incomes sufficient to enable each to provide a reasonable amount of support, for the benefit of the parties minor children, in accordance with North Carolina Child Support guidelines,

SECOND CLAIM FOR RELIEF

(Equitable Distribution)

8. Defendant repeats and realleges the factual allegations as set forth above.
9. During the course of the marriage, the parties acquired certain property and debts which are marital and divisible property as defined by NC.G.S. S50-20 et.seq.
10. The defendant joins in plaintiffs request for an equitable distribution of the parties marital and divisible property.
9. Each of the parties are entitled to an equal distribution of the parties' marital and divisible property and an equal distribution of the marital and divisible debt.

WHEREFORE, defendant prays the Court as follows:

1. That both parties be awarded joint custody of the minor children.
2. That child support be determined for the benefit of the minor children in accordance with North Carolina Child Support guidelines.
3. That the court distribute the separate, marital, and divisible property of the parties, and order an equitable distribution of the parties marital and divisible assets and debts.
4. For such other and further relief as may be just and proper.

This the 23<sup>rd</sup> day of November 2020

---

Edwin H. Ferguson, Jr.  
State Bar No: 6148  
Email: [Ferguson@concordlawyers.com](mailto:Ferguson@concordlawyers.com)

Ferguson, Hayes, Hawkins & DeMay, PLLC  
45 Church Street S (28025)  
P.O. Box 444  
Concord, NC 2826-0444  
Ph: (704) 788-3211  
Fax: (704) 784-3211  
*Attorneys for Defendant*

VERIFICATION

STATE OF NORTH CAROLINA

COUNTY OF CABARRUS

Cedric Lee Jones, Plaintiff being duly sworn, deposes and says:

That the contents of the foregoing Complaint are true to his/her own knowledge except as to those matters stated on information and belief, and as to those matters, he/she believes it to be true.

\_\_\_\_\_  
Cedric Lee Jones

Sworn to and subscribed before me  
this the \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Notary Public

**CERTIFICATE OF SERVICE**

I, Edwin H. Ferguson, Jr., attorney for the Defendant, *Cedric L. Jones*, hereby certify that I served a copy of the *Answer and Counterclaim* upon:

Annette R. Heim, Esq.  
51 Means Street  
P.O. Box 1646  
Concord, NC 28026-1646

by depositing a copy of the aforesaid document in an envelope in the exclusive care and custody of the U.S. Postal Service with sufficient postage thereon, addressed to the aforesaid address.

This \_\_\_\_ day of \_\_\_\_\_, 2020.

---

Edwin H. Ferguson, Jr.  
State Bar No: 6148  
Email: [Ferguson@concordlawyers.com](mailto:Ferguson@concordlawyers.com)

Ferguson, Hayes, Hawkins & DeMay, PLLC  
45 Church Street S (28025)  
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Ph: (704) 788-3211  
Fax: (704) 784-3211  
*Attorneys for Defendant*

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

NORTH CAROLINA  
CABARRUS COUNTY

FILE NO.: 19 CVD 2923

JOHANNA M. JONES,

Plaintiff,

vs.

CEDRIC LEE JONES,

Defendant.

MOTION TO DISMISS,  
MOTION FOR SANCTIONS, and  
REPLY

NOW COMES the Plaintiff and respectfully moves this Court as follows:

MOTION TO DISMISS

1. Plaintiff pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure, moves this Court for an Order dismissing the motions filed by Defendant on November 23<sup>rd</sup>, 2020 and received on December 1, 2020 by Plaintiff.
2. Defendant fails to state a claim in the subject motions for which this court can grant relief.
3. On November 12, 2020, Plaintiff filed a Voluntary dismissal of her pending claims in this action. See Exhibit A.
4. Pursuant to Rule 41(a)(1)(i) of the North Carolina Rules of Civil Procedure, Plaintiff is "free to abandon an alleged or potential claim against another party at any time." See Dunton v. Ayscue, 203 N.C.App.356, 690 S.E.2d 752 (2010).
5. Furthermore, Carter v. Carter, 102 N.C. App. 440, 402 S.E.2d 469 (1991) reflects that Plaintiff can file her dismissal without notice or consent.
6. Defendant's own allegations in his motion only state that the dismissal was not filed in open court, which is not a requirement. See Rule 41(a)(1) set forth below:

Rule 41. Dismissal of actions

(a) Voluntary dismissal; effect thereof. --

(1) By Plaintiff; by Stipulation. -- Subject to the provisions of Rule 23(c) and of any statute of this State, an action or any claim therein may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before the

plaintiff rests his case, or; (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of this or any other state or of the United States, an action based on or including the same claim. If an action commenced within the time prescribed therefor, or any claim therein, is dismissed without prejudice under this subsection, a new action based on the same claim may be commenced within one year after such dismissal unless a stipulation filed under (ii) of this subsection shall specify a shorter time.

7. Defendant quotes Johnson v. Hutchens, 103 N.C.App. 384, 385, 405 S.E.2d 597, 597 (1991) as requiring oral notice, however such case only addresses the issue of when the tolling of the one-year requirement begins to toll as to being able to re-file; being either when the Voluntary Dismissal was actually filed or when counsel called opposing counsel to inform that he would be filing the dismissal; the clerk in such action filed the dismissal three days after the phone call. Defendant fails to properly place his quotation of the case in context, as oral notice in court is merely a substitute for the filing requirement under R.41(a)(1)(i) see below:

This influence prompted our Supreme Court to note "the very strong tradition in this State equating oral notice in open court with written notice filed with the clerk." Danielson v. Cummings, 300 N.C. 175, 179, 265 S.E.2d 161, 163 (1980). Based upon this past practice the Supreme Court found HN2 oral notice of voluntary dismissal in open court "is clearly adequate, and fully satisfies the 'filing' requirements of Rule 41(a)(1)(i)." *Id.*

Despite language in Gillikin v. Pierce, 98 N.C. App. 484, 391 S.E.2d 198, review denied, 327 N.C. 427, 395 S.E.2d 677 (1990), which could be read as suggesting otherwise, no means other than oral notice in open court have been allowed to substitute for the filing requirements of Rule 41(a)(1)(i). [\*\*\*4] Contact with defendant's attorney by telephone or mail concerning voluntary dismissal does not satisfy the filing requirement of Rule 41(a)(1)(i). Voluntary [\*386] dismissal without prejudice of the action below occurred when written notice was received and filed by the clerk of court on 11 May 1987.

8. Plaintiff satisfied the filing requirement by filing her notice on November 12, 2020 and serving such the same day by mail. See attached Exhibit A.

9. As to Defendant's "Motion to Allow Defendant to File Answer and Counterclaim", it is an unavailable claim as the absolute divorce between the parties was entered on October 23, 2020 with consent of Defendant's counsel. See attached email hereby incorporated by reference as Exhibit B.
10. Defendant failed twice to timely file any claim Counterclaims, as he now is requesting to do; even after Defendant's counsel approved the proposed Divorce Judgment that reflected only "Plaintiff's Claims" would survive divorce.
11. Defendant inexcusably failed to file a claim for Equitable Distribution in this action filed on August 30, 2019, and served on September 16, 2019; or after being served with divorce action in Jones v. Jones, Cabarrus County file No. 20 CVD 2349, filed on September 15, 2020 with service attempted thru Sheriff and returned to Clerk on September 19, 2020 and then service effectuated on by "Acceptance of Service" on September 15, 2020.
12. Regardless of Defendant's counsel not filing a "Notice of Appearance" in the divorce action of Jones v. Jones, Cabarrus County file No. 20 CVD 2349, or any answer or counterclaim, and Defendant not filing an Answer or Counterclaim; counsel for Plaintiff sent a proposed judgment to counsel for Defendant for review, as noted above, to which the judgment was approved and Plaintiff's counsel was directed to proceed and that opposing counsel or his client had no intentions on being present.
13. Further, the action appeared on online published calendar. See Exhibit C.
14. Defendant now intends to assert that he was not advised of the hearing date for the divorce, however the email from Defendant's counsel, the lack of any filings in the absolute divorce action by Defendant or his counsel, and the fact that the matter was published online through the North Carolina <https://www.nccourts.gov/> website, reflects such is a false statement.
15. Again, Carter v. Carter, 102 N.C. App. 440, 402 S.E.2d 469 (1991), states that there is no means to assert a claim for Equitable Distribution after a divorce decree has been entered.
16. As to Defendant's attempt to have his Equitable Distribution Inventory Affidavit Response declared his claim for relief, §50-21 reflects those means by which one can assert a claim for relief which are, a Complaint, a Counterclaim, or a Motion, none of which was ever filed by Defendant:

**§50-21. Procedures in actions for equitable distribution of property; sanctions for purposeful and prejudicial delay**

- (a) At any time after a husband and wife begin to live separate and apart from each other, a claim for equitable distribution may be filed and adjudicated, either as a separate civil action, or together with any other



action brought pursuant to Chapter 50 of the General Statutes, or as a motion in the cause as provided by G.S. 50-11(e) or (f).

---

17. No legal precedent or basis exists for what Defendant is requesting.

18. As to Defendant's assertion that Gilbert v. Gilbert, 111 N.C. App. 233, 431 S.E.2d 805 (1993) supports his position, it actually supports Plaintiff's position. Gilbert sets forth why one must file a claim with the court before a divorce decree is entered, and goes on to specify that the case at issue actually addresses after divorce actions by the parties entering into written agreements that would be consistent with §N.C.G.S. 50(d) and the enforcement of such written agreements by the parties. No written agreements, before, during, or after the marriage exist between the parties for the court to enforce. Further to elaborate, Gilbert states that "Defendant argues she did not assert her equitable distribution claim initially because the language in plaintiff's complaint stating that they would reach an agreement regarding the distribution of their property led her to believe it was unnecessary to assert her claim. When they did reach such agreement, defendant relied on the agreement to her detriment by paying all of the subsequent mortgage payments without ever receiving title to the property from defendant. We agree that equitable estoppel applies to preclude plaintiff from now objecting to defendant's assertion [\*\*\*10] of a claim for equitable distribution."

19. There has never been any action taken by Plaintiff to assert that there has ever been an agreement between the parties as to Equitable Distribution and that this matter was not anything other than adversarial.

20. Equitable estoppel is not appropriate to plead with the presence of inexcusable neglect. Defendant's next arguments of equitable estoppel is not applicable, as the requirements cannot be met to prove as (1) Defendant and Defendant's counsel had the clear opportunity to understand the law in North Carolina, the facts of the case, their own failure to perform; and (2) that no representations have ever been made by Plaintiff or Plaintiff's counsel to elicit such failure to act, actions that could in anyway be contrived to get an Attorney to not file a Counterclaim twice on behalf of his client before a divorce judgement was entered; summarily, Defendant's actions nor Defendant's actions are foreseeable as such appears to arise to the level of inexcusable neglect.

21. Defendant has a prior history in law enforcement, private investigator, and process server and would be well aware of the need to file responsive pleadings in the two actions that he was served with as noted herein.

22. As to the chronology of the case, Defendant's motions fail to reflect the emails regarding service, the divorce judgement, subpoenas for information from Defendant (See Exhibit D attached hereto), as well as the request on November 10, 2020 by Plaintiff's counsel as follows:

"Just following up on Mr. Jones pay info. To date Mr. Jones has not provided any income information to the court in the form of a Financial Affidavit, complying with

the subpoena or through counsel. We filed Financial Affidavit in February of 2020. I have attached that to this email."

23. Further, this matter has been pending since 2019 and has appeared on the published court administrative calendar and each time it appears the court clerk has such matter online and in the court room reflecting all the claims pending in VCAP; such reflected as a matter of public notice and notice to the attorney of record; still, Defendant never filed any claim for Equitable Distribution or any claim in any of the actions filed by Plaintiff.

24. As to Defendant's attorney's malicious claims this was a "stab in the back," sandbagging, or some attempt to dupe him or commit fraud (See Defendant's Attorney's email attached as Exhibit E); no one committed fraud, this was not rigged and ultimately both counsels in this matter have an ultimate duty to their client to act within the rules of ethics and professionalism and represent their client vigorously.

25. Defendant has asserted no evidence of fraud in his motions or specifically plead as is required.

26. Plaintiff pleads the affirmative defenses to any claim by Defendant or Defendant's counsel by asserting the defenses of negligence, estoppel, laches, and unclean hands based on all allegations set forth above.

**WHEREFORE**, the Defendant prays that Motions be dismissed pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure and that the Plaintiff have such other and further relief as to the Court may seem just and proper.

**MOTION FOR SANCTIONS & ATTORNEY FEES**  
**PURSUANT TO RULE 11 NCRCP**

1. Plaintiff hereby incorporates all allegations contained herein in support of said motion.
2. As Plaintiff is without any other recourse to address the cost of responding and addressing Defendant's motions, Plaintiff asserts that the motions are not grounded in law or fact as evidenced by the allegations contained herein and specifically the emails of Defendant's counsel and the actions and duty required by Defendant's counsel.
3. No law supports the claims asserted.
4. Facts have been misrepresented in such motions by Defendant.
5. Defendant's counsel has failed to address the issue of inexcusable neglect by his failure to file a Counterclaim for Equitable Distribution twice for Defendant (2019 case and 2020 divorce case), counsel had over a year to remedy the issue in the 2019 case, asserting that counsel relied on Plaintiff to maintain her claim and not asserting his own client's claim while being duly aware of the impact of an absolute divorce is an absurd means of advocacy for his

client, that numerous published court calendars were published in the 2019 case reflecting Defendant had no claims pending over the course of a year and again nothing was remedied, approving a judgement for divorce and still not reviewing the file and asserting a counterclaim, and then to assert that Plaintiff's counsel acted unethically or unprofessionally as opposed to taking any accountability.

6. Defendant's counsel even goes as far to acknowledge that no responsive pleadings were filed by him or his client, and provides no justifiably reason for such failure, but only says "[f]or whatever reason, there were no responsive pleadings filed by the Defendant."

7. Based on the above, Plaintiff asserts that such is also filed for an improper purpose.

**WHEREFORE**, the Plaintiff prays that her motion be granted and an order awarding her attorney's fees and costs associated with the defending, responding and addressing the motions filed by Defendant or on behalf of Defendant or any legal attempts to disrupt the absolute divorce entered by this Court.

As further support for Plaintiff's Motions and requested relief, herein is the response to Defendant's Motions:

**REPLY**

**Motion to Set Aside Dismissal Without Prejudice (Rule 41, NCRCP)**

1. Admitted that the action was filed on August 30, 2019.
2. Admitted.
3. Admitted.
4. Denied to the extent that Defendant's counsel was free to file an Answer and Counterclaims upon his entry in case, and as no Answer or Counterclaim was filed, then no objection could even be raised.
5. Denied as to the extent that the record is the best evidence of the filings in the matter, further Plaintiff cannot speak to why Defendant or Defendant's counsel would rely on Plaintiff maintaining her own claims and fail to file his own claims.
6. Admitted that at the time Defendant's Appeal of the Divorce judgement that such time had not expired, however this admission does not speak to the merits of such action.
7. Denied. See email referenced above and attached hereto and incorporated by reference; further see allegations above regarding failure of Defendant or Defendant's counsel to file any notices or pleadings in such absolute divorce proceeding hereinabove.
8. Denied.
9. Admitted, as such is not necessary.
10. Denied.
11. Denied to the extent that the Rule as set forth speaks best for itself.

12. Denied, except to the extent that "[f]or whatever reason, there were no responsive pleadings filed by the Defendant" is an accurate admission by Defendant.
13. Admitted to the extent that the judgment and Complaint speak to Plaintiff's claims surviving, but again denied as Plaintiff cannot speak to why Defendant or Defendant's counsel would not file his own claims based on North Carolina law and the impact of an absolute divorce decree.
14. Admitted to the extent that the judgement best reflects what is contained therein.

**Motion to Allow Filing Answer and Counterclaim**

1. Paragraph One needs no response, to any extent a response is deemed necessary such is denied.
2. Denied, and specifically, denied in that Defendant failed to properly file his Equitable Distribution Affidavit Response as such did not even respond appropriately to Plaintiff's Equitable Distribution Inventory Affidavit and mischaracterized and mislabeled numerous items.
3. Denied. McCarley v. McCarley, 289 N.C. 109, 221 S.E.2d 490 (1976) is a case that specifically addresses the form of the Answer and labeling issues in an Absolute Divorce action, as the Defendant in that action *did* file an affirmative request for relief in the answer, but failed to specifically state "counterclaim". Defendant has filed absolutely no pleadings in this matter or the absolute divorce action.
4. Denied to the extent that the case is not provided in context of the applicable facts.
5. Denied to the extent the Complaint is best evidence of what is contained therein and that the claims are by the Plaintiff.
6. Denied to the extent the Judgment is best evidence of what is contained therein.
7. Denied to the extent the Judgment is best evidence of what is contained therein, but acknowledge that it only states "Plaintiff's claims" and Defendant/Defendant's counsel should have been put on notice as to the issue Defendant had no claims pending.
8. Denied that equitable estoppel is applicable.
9. Denied.
10. Paragraph Number 10 needs no response, as to any response necessary such is denied and objected to in its entirety.

**WHEREFORE**, the Plaintiff respectfully prays the Court:

1. That Defendant's motions be dismissed;
2. That an order be entered awarding Plaintiff costs and fees related to the filing and defense of Defendant's motions.
3. That this verified motion be treated as an affidavit in support of the relief sought herein; and

4. For such other and further relief as may be just and appropriate.

This the 8<sup>th</sup> day of Dec., 2020.

The Law Offices of Annette R. Heim, PA  
51 Means Avenue  
Post Office Box 1646  
Concord, NC 28026-1646  
Phone: (704) 870-3450  
Facsimile: (704) 973-0879  
Email: aheim@annetteheimlaw.com

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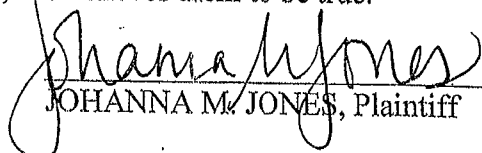
**Annette R. Heim**  
Attorney for Plaintiff  
North Carolina Bar #30584

VERIFICATION

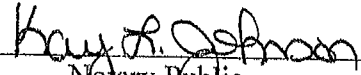
NORTH CAROLINA  
CABARRUS COUNTY

JOHANNA M. JONES, BEING FIRST DULY SWORN, DEPOSES AND SAYS:

That she is the Plaintiff in the above-entitled action; that she has read the foregoing **MOTION TO DISMISS, MOTION FOR SANCTIONS and REPLY** and knows the contents thereof; that the same is true of her own knowledge, except as to those matters and things stated therein on information and belief, and as to those, she believes them to be true.

  
JOHANNA M. JONES, Plaintiff

Sworn to and subscribed before me, this the 7th day of December, 2020.

  
Notary Public



My Commission Expires: 01/10/2025

**CERTIFICATE OF SERVICE**

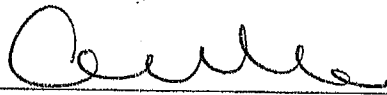
I hereby certify that the **MOTION TO DISMISS, MOTION FOR SANCTIONS and REPLY** to which this Certificate is attached was served upon each party to this action pursuant to North Carolina Rules of Civil Procedure Rule 5 by facsimile, hand-delivery, courthouse box, or by the deposit of a copy thereof enclosed in a postpaid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Postal Service for mailing to Defendant's Attorney at his last known address.

Edwin H. Ferguson, Jr.  
Ferguson, Hayes, Hawkins & DeMay, PA  
45 Church Street, South  
PO Box 444  
Concord, NC 28026-0444  
(Defendant's Attorney)

This the 28<sup>th</sup> day of Dec, 2020.

The Law Offices of Annette R. Heim, PA

51 Means Avenue  
Post Office Box 1646  
Concord, NC 28026-1646  
Phone: (704) 870-3450  
Facsimile: (704) 973-0879  
Email: [aheim@annetteheimlaw.com](mailto:aheim@annetteheimlaw.com)

  
**Annette R. Heim**  
Attorney for Plaintiff  
North Carolina Bar #30584

THE LAW OFFICES OF  
ANNETTE R. HEIM, P.A.

---

P.O. Box 1646  
Concord, NC 28026

51 Means Ave  
Concord, NC 28025

Phone: (704) 870-3450  
Fax: (704) 973-0879  
Email: aheim@annetteheimlaw.com

November 12, 2020

Edwin H. Ferguson, Jr.  
Ferguson, Hayes, Hawkins & DeMay, PA  
45 Church Street, South  
PO Box 444  
Concord, NC 28026-0444

RE: Jones v. Jones  
19 CVD 2923

Dear Ed:

Enclosed is a filed copy of my client's Notice of Voluntary Dismissal in the above matter.  
Any questions please let me know.

Very Truly Yours,

COPY

Annette R. Heim

ARH/klj

Enclosure

cc: Johnna M. Jones



# STATE OF NORTH CAROLINA

Exhibit A  
-071-

No.

19CVD:2923

CABARRUS

County

In The General Court Of Justice

☐ Small Claims ☒ District ☐ Superior Court Division

Name Of Plaintiff

JOHANNA M. JONES

FILED

VERSUS NOV 12 A 9 20

Name Of Defendant

CEDRIC LEE JONES

CABARRUS CO., C.S.C.

## NOTICE OF VOLUNTARY DISMISSAL

- ☒ COMPLAINT  
☐ COUNTERCLAIM  
☐ OTHER

G.S. 1A-1, Rule 4

Complete the following information if known:

Court Date

Time

☐ AM  
☐ PM

Location

☒ The plaintiff gives notice of voluntary dismissal in this case as to all of the defendants. ☐ with prejudice ☒ without prejudice

☐ The plaintiff gives notice of voluntary dismissal in this case as to only the defendants named below and this case remains open as to defendants not listed.  
(Name of defendants for whom dismissal taken.)

☐ The defendant gives notice of voluntary dismissal of the counterclaim in this case as to all of the plaintiffs. ☐ with prejudice ☐ without prejudice

☐ The defendant gives notice of voluntary dismissal in this case as to only the plaintiffs named below and the counterclaim remains open as to plaintiffs not listed.  
(Name of plaintiffs for whom dismissal taken.)

☐ Other:

Date

11-11-2020

Plaintiff's Attorney

Defendant's Attorney

NOTE TO CITY OR COUNTY PLAINTIFF: If, pursuant to G.S. 7A-317, you were not required to pay all costs when filing the complaint to which you are taking a voluntary dismissal, you must pay the costs to the Clerk of Superior Court upon taking a voluntary dismissal. See G.S. 1A-1, Rule 41(d).

**Kay Johnson**

**From:** Ed Ferguson <ferguson@concordlawyers.com>  
**Sent:** Wednesday, October 14, 2020 1:50 PM  
**To:** Kay Johnson  
**Subject:** RE: Jones v. Jones - 20 CVD 2349 - Divorce

Good to go/ Neither I or Mr J will be present/ Can advise Judge reviewed and good to go

**From:** Kay Johnson <paralegal@annetteheimlaw.com>  
**Sent:** Wednesday, October 14, 2020 11:37 AM  
**To:** Ed Ferguson <ferguson@concordlawyers.com>  
**Subject:** Jones v. Jones - 20 CVD 2349 - Divorce

Hey Ed,

I hope you are good.

Annette asked me to forward to you a draft of the divorce judgment in the Jones matter and to let her know if you approve as drafted by tomorrow.

It's on CVD Friday.

Thanks so much! K

Kay L. Johnson, NCCP  
The Law Offices of Annette R. Heim, PA  
51 Means Avenue  
PO Box 1646  
Concord, NC 28026-1646  
PH: 704-870-3450  
Fax: 704-973-0879  
[paralegal@annetteheimlaw.com](mailto:paralegal@annetteheimlaw.com)  
[www.annetteheimlaw.com](http://www.annetteheimlaw.com)

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**IRS CIRCULAR 230 NOTICE:** In order to comply with certain IRS regulations regarding tax advice, we inform you that, unless expressly stated otherwise, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for purposes of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO.: 20 CVD 2349

JOHANNA M. JONES,  
Plaintiff,

vs.

CEDRI LEE JONES,  
Defendant.

ORDER SUBMISSION

1. The attached order:

- ☐ was announced in open court
- ☐ was announced to the attorneys of record
- ☐ is entered pursuant to a Memorandum of Judgment/Order
- ☐ is entered with the consent of both parties
- ☐ was announced via letter opinion attached hereto

Date order announced or Memorandum/consent order signed: \_\_\_\_\_

2. Check the box that applies:

- ☐ The opposing party/counsel has reviewed the order and all corrections/revisions have been resolved. Both parties agree that this order is correct as to form and is ready for entry of order.
- ☐ The draft was delivered to the opposing party/counsel by ☒ facsimile and ☒ Email October 14, 2020, with instructions to contact the undersigned by October 16, 2020 if any corrections/revisions were requested. The opposing party/counsel has not responded to the undersigned as to the order as drafted.
- ☐ The opposing party/counsel has reviewed the order and does not believe that it is correct as to form. ☐ The written objections of (Def/Pla) are attached, or ☐ an electronic version of the form has been/is being submitted.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

☐ Plaintiff ☐ Defendant  
☒ Plaintiff's Attorney ☐ Defendant's Attorney

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

NORTH CAROLINA  
CABARRUS COUNTY

FILE NO.: 20 CVD 2349  
FILM NO.:

JOHANNA M. JONES,  
Plaintiff,

vs.

CEDRIC LEE JONES,  
Defendant.

JUDGMENT

THIS CAUSE, coming on to be heard before the undersigned District Court Judge presiding at the October 16, 2020, civil non-jury session of the District Court for Cabarrus County, North Carolina, and it appearing that this matter is before the Court for trial of the Plaintiff's claim for an absolute divorce, and the Court having reviewed the Plaintiff's verified complaint, and other documents of record; and it appearing that the Defendant has filed no answer in this cause; and it further appearing that the Plaintiff is entitled to a judgment of divorce based upon her verified pleading, and that no genuine issue of material fact remains for trial by jury. Accordingly, the Court finds the following facts as alleged in the Plaintiff's complaint:

1. That the Plaintiff, Johanna M. Jones, filed her verified complaint on August 18, 2020. The Defendant, Cedric Lee Jones, was served with such amended complaint and copy of the summons on September 15, 2020, by Acceptance of Service. To date, the Defendant has not filed an answer or other response as required by the North Carolina Rules of Civil Procedure.
2. The Plaintiff and the Defendant were lawfully married on July 15, 2003, in Mecklenburg County, North Carolina.
3. The Plaintiff and Defendant separated from each other on July 15, 2019, and since that time have lived continuously separate and apart without resuming the marital relationship. On the date of separation, the Plaintiff intended that the parties live separate and apart without subsequently resuming the marital relationship.
4. 5. The parties are the biological parents of three (3) children born of the relationship, namely: Gianna Rose Jones, born September 25, 1998, who has reached the age of maturity; Sky Psalm Jones, born March 26, 2002, who has reached the age of maturity; and Jean Lee Jones, born November 30, 2005.
5. There are currently pending claims in *Jones v. Jones*, Cabarrus County File No. 19 CVD 2923.

On the basis of the foregoing **Findings of Fact**, the Court concludes that it has jurisdiction over the subject matter of this action and the parties, that the Plaintiff is entitled to absolute divorce from the Defendant on the grounds of a continuous separation for one year, that there remains no genuine issue of material fact to be resolved by a jury or judge sitting without a jury.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:**

1. That pursuant to North Carolina General Statute §50-6, the marriage heretofore existing between the Plaintiff, Johanna M. Jones, and the Defendant, Cedric Lee Jones, be and the same hereby is dissolved, and that Johanna M. Jones and Cedric Lee Jones are divorced from the bonds of matrimony;

2. That the Plaintiff's claims contained in *Jones v. Jones* 19 CVD 2923, for equitable distribution, child support and child custody shall survive the entry of this Order; and

3. The costs of this action are taxed to the Plaintiff.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
District Court Judge

POSTED DATE: 10/14/2020 03:54:01 PM

CABARRUS COUNTY DISTRICT COURT CIVIL CALENDAR  
SESSION BEGINNING 10/23/2020  
COURTROOM NUMBER 6 ATTORNEY DIVORCES  
THE HONORABLE JUANITA BOGERALLEN, PRESIDING JUDGE  
MOTIONS BEGINNING FRIDAY, OCTOBER 23, 2020 AT 10:00 AM

FILE NUMBER	CASE CAPTION	
TIME	ATTY TO PLAINTIFF	ATTY TO DEFENDANT
PLDG TYPE CLK DT BY PARTY		AGAINST PARTY

ATTORNEY DIVORCES		(DIV2)
001 20CVD555	MUBARAK, SAMIA VS BIANOUNI, OSSAMA	
10:00 AM	KATIE B MILLER (ATY)	
COMP DIVR 021720	SAMIA MUBARAK	OSSAMA BIANOUNI
OTHR 021720	SAMIA MUBARAK	OSSAMA BIANOUNI
MOTN SUMJ 101220	SAMIA MUBARAK	OSSAMA BIANOUNI
<hr/>		
002 20CVD2220	GUTIERREZ, ARMANDO VS MILAM, BRISTOL	
10:00 AM	AMBER S BILLICK (ATY)	
COMP CUST 080420	ARMANDO GUTIERREZ	BRISTOL MILAM
DIVR 080420	ARMANDO GUTIERREZ	BRISTOL MILAM
PATR 080420	ARMANDO GUTIERREZ	BRISTOL MILAM
<hr/>		
003 20CVD2226	ARIZMENDI, MA DE JESUS, AGUIRRE VS CLEMENTE, JESUS, PERE	
10:00 AM	ERIK RAND ASHMAN (ATY)	
COMP DIVR 080520	MA DE JESUS AGUIRRE	JESUS PEREZ CLEMENTE MORENO
<hr/>		
004 20CVD2230	LEE, MICAH, CAMERON VS LEE, KATRINA, ALISHA	
10:00 AM	CECIL R JENKINS JR (ATY)	REGINA M TAYLOR (ATY)
COMP DIVR 080520	MICAH CAMERON LEE	KATRINA ALISHA LEE
<hr/>		
005 20CVD2252	CALVEY, PATRICK, J VS CALVEY, OLGA	
10:00 AM	JENNIFER R ROBERTSON (ATY)	
COMP DIVR 080720	PATRICK J CALVEY	OLGA CALVEY
ISAG 080720	PATRICK J CALVEY	OLGA CALVEY
WDCN 080720	PATRICK J CALVEY	OLGA CALVEY
<hr/>		
006 20CVD2254	MALCOLM, STEVEN, PAUL VS MALCOLM, JEANNE	
10:00 AM	JENNIFER R ROBERTSON (ATY)	
AMND DIVR 081920	STEVEN PAUL MALCOLM	JEANNE MALCOLM
WDCN 081920	STEVEN PAUL MALCOLM	JEANNE MALCOLM
<hr/>		
007 20CVD2278	SMITH, KIMBERLY, JO VS SMITH, JAMES, RANDAL	
10:00 AM	ANNETTE R HEIM (ATY)	
COMP DIVR 081020	KIMBERLY JO SMITH	JAMES RANDAL SMITH
MOTN SUMJ 091520	KIMBERLY JO SMITH	JAMES RANDAL SMITH
<hr/>		
008 20CVD2286	DUKE, ELLEN, ELIZABETH VS DUKE, ADAM, BOESHORE	

10:00 AM MEGAN ELIZABETH BAUMGARDNER (AT  
COMP DIVR 081020 ELLEN ELIZABETH DUKE ADAM BOESHORE DUKE

009	20CVD1467	PRAKHYA, KARTHIK VS. KALAGA, AMRUTHA, VALLI
	10:30 AM	CHRISTOPHER WILLIAM LACHEY (ATY)
		COMP DIVR 051520 KARTHIK PRAKHYA AMRUTHA VALLI KALAGA
		MOTN SUMJ 082120 KARTHIK PRAKHYA AMRUTHA VALLI KALAGA
010	20CVD2161	AVERETT, WILLIAM, F VS AVERETT, BRANDI, B
	10:30 AM	WILLIAM F ROGERS JR (ATY) J MERRITT WHITE III (ATY)
		AMND DIVR 093020 WILLIAM F AVERETT BRANDI B AVERETT
		EQUO 093020 WILLIAM F AVERETT BRANDI B AVERETT
011	20CVD2448	MURPHY, ERIN, MICHELLE VS MURPHY, CHRISTOPHER, JOHN
	10:30 AM	WILLIAM F ROGERS JR (ATY)
		COMP DIVR 082120 ERIN MICHELLE MURPHY CHRISTOPHER JOHN MURPHY
		QDRO 082120 ERIN MICHELLE MURPHY CHRISTOPHER JOHN MURPHY
		RESU 082120 ERIN MICHELLE MURPHY CHRISTOPHER JOHN MURPHY
012	20CVD2450	RIZO, JAZMIN, PEREZ VS GASCON, JUAN, JOSE, SAABEDRA
	10:30 AM	CYNTHIA E EVERSON (ATY)
		COMP DIVR 082120 JAZMIN PEREZ RIZO JUAN JOSE GASCON SAABEDRA
		WDCN 082120 JAZMIN PEREZ RIZO JUAN JOSE GASCON SAABEDRA
013	20CVD2463	SMITH, JASON, WAYNE VS SMITH, BRIDGETTE, TIFFANY
	10:30 AM	J MERRITT WHITE III (ATY) AIMEE ELIZABETH CAIN (ATY)
		COMP DIVR 082420 JASON WAYNE SMITH BRIDGETTE TIFFANY SMITH
014	20CVD2468	MAUNEY, DAVID, BECHTEL VS MAUNEY, TISHA, JAMES
	10:30 AM	AMY F ZACHARIAS (ATY) J MERRITT WHITE III (ATY)
		COMP DIVR 082420 DAVID BECHTEL MAUNE TISHA JAMES MAUNEY
		CTCL EQUO 091720 DAVID BECHTEL MAUNE TISHA JAMES MAUNEY
015	20CVD2506	TAYLOR, JAMES, THACKER VS TAYLOR, DENISSA, DE
	10:30 AM	WILLIAM F ROGERS JR (ATY)
		COMP DIVR 082720 JAMES THACKER TAYLOR DENISSA DE TAYLOR
016	20CVD2507	CHRISTENBURY, TRENT, AARON VS CHRISTENBURY, KRISTI, MARI
	10:30 AM	WILLIAM F ROGERS JR (ATY)
		COMP DIVR 082720 TRENT AARON CHRISTEN KRISTI MARIE CHRISTENBURY
		AMND OTHR 092120 TRENT AARON CHRISTEN KRISTI LEONARD CHRISTENBURY
		RESU 100620 ROBIN QUINN ROBINSON KRISTI MARIE CHRISTENBURY
		RESU 100620 ROBIN QUINN ROBINSON KRISTI LEONARD CHRISTENBURY
017	20CVD2967	ROBINSON, ROBIN, QUINN VS ROBINSON, JESSE, J, JR
	10:30 AM	AMBER S BILICK (ATY)
		COMP DIVR 100620 ROBIN QUINN ROBINSON JESSE J ROBINSON JR
		ISAG 100620 ROBIN QUINN ROBINSON JESSE J ROBINSON JR
		RESU 100620 ROBIN QUINN ROBINSON JESSE J ROBINSON JR

018	20CVD2289	STOUDT, JASON, E VS STOUDT, REBECCA, A
	11:00 AM	HILARY ARTHUR ST LOUIS (ATY)      AMBER S BILLICK (ATY)
		COMP DIVR 081020 JASON E STOUDT      REBECCA A STOUDT
<hr/>		
019	20CVD2290	ELLER, JEFFREY, S VS ELLER, LEIGH, A
	11:00 AM	HILARY ARTHUR ST LOUIS (ATY)
		COMP DIVR 081020 JEFFREY S ELLER      LEIGH A ELLER
<hr/>		
020	20CVD2345	CLARK, PENNIE, LYNN VS CLARK, CHAD, EDWARD
	11:00 AM	WILLIAM F ROGERS JR (ATY)
		COMP DIVR 081320 PENNIE LYNN CLARK      CHAD EDWARD CLARK
		RESU 081320 PENNIE LYNN CLARK      CHAD EDWARD CLARK
<hr/>		
021	20CVD2349	JONES, JOHANNA, M VS JONES, CEDRIC, LEE
	11:00 AM	ANNETTE R HEIM (ATY)
		AMND DIVR 081820 JOHANNA M JONES      CEDRIC LEE JONES
<hr/>		
022	20CVD2364	WALLACE, ANGELA, NICOLE VS WALLACE, MICHAEL, DAVID
	11:00 AM	AMBER S BILLICK (ATY)
		COMP DIVR 081420 ANGELA NICOLE WALLAC      MICHAEL DAVID WALLACE
<hr/>		
023	20CVD2372	CHURCHYARD, PAUL VS HANNON, KATHLEEN
	11:00 AM	ERIK RAND ASHMAN (ATY)      WILLIAM F ROGERS JR (ATY)
		COMP DIVR 081720 PAUL CHURCHYARD      KATHLEEN HANNON
<hr/>		
024	20CVD2382	BEAL, JESSE, JAMES VS MEDINA, ISABEL, VICTORIA, BERNAL
	11:00 AM	BRIAN P HAYES (ATY)      ANN-ROSE MARIE JOHNSON-LEWIS (A
		COMP ANUL 081720 JESSE JAMES BEAL      ISABEL VICTORIA MEDINA BERN
		DIVR 081720 JESSE JAMES BEAL      ISABEL VICTORIA MEDINA BERN
		CTCL DIVR 100520 ISABEL VICTORIA MEDI      JESSE JAMES BEAL
		MOTN ATFE 100520 ISABEL VICTORIA MEDI      JESSE JAMES BEAL
		COST 100520 ISABEL VICTORIA MEDI      JESSE JAMES BEAL
		DISM 100520 ISABEL VICTORIA MEDI      JESSE JAMES BEAL
<hr/>		
025	20CVD2391	LOVE, MARK, ALAN VS LOVE, ELIZABETH, STAR
	11:00 AM	CECIL R JENKINS JR (ATY)
		COMP DIVR 081720 MARK ALAN LOVE      ELIZABETH STAR LOVE
<hr/>		
026	20CVD2393	BELLARD, KEITRA VS BELLARD, RONALD
	11:00 AM	EDNA N JONES (ATY)      BRIONE BERNECHE PATTISON (ATY)
		COMP ALIM 081820 KEITRA BELLARD      RONALD BELLARD
		ATFE 081820 KEITRA BELLARD      RONALD BELLARD
		CSUP 081820 KEITRA BELLARD      RONALD BELLARD
		DIVR 081820 KEITRA BELLARD      RONALD BELLARD
		EQUO 081820 KEITRA BELLARD      RONALD BELLARD
		PSSU 081820 KEITRA BELLARD      RONALD BELLARD
		FILN OTHR 082520 KEITRA BELLARD      RONALD BELLARD
<hr/>		
027	20CVD2401	DOBY, DEBORAH, JEAN VS DOBY, RONALD, DAVID, II
	11:00 AM	JENNIFER R ROBERTSON (ATY)



COMP DIVR 081820 DEBORAH JEAN DOBY RONALD DAVID DOBY II  
RESU 081820 DEBORAH JEAN DOBY RONALD DAVID DOBY II  
WDCN 081820 DEBORAH JEAN DOBY RONALD DAVID DOBY II

---

028 20CVD420 WOOD, ROBERT, S VS WOOD, LINDSAY  
11:30 AM AMBER S BILLICK (ATY)  
COMP DIVR 020520 ROBERT S WOOD LINDSAY WOOD  
WDCN 020520 ROBERT S WOOD LINDSAY WOOD

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029 20CVD972 GARCIA, ADRIANA, LARA VS MEZA, JOSE, TERESO, LOPEZ  
11:30 AM BENJAMIN W BAUCOM (ATY)  
COMP DIVR 031620 ADRIANA LARA GARCIA JOSE TERESO MEZA LOPEZ  
NOTE: DIVORCE AND SERVICE UPDATE

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030 20CVD1295 CRISCO, HANNAH, LEIGH VS ANTUNEZ-DAZA, JORGE  
11:30 AM ERIK RAND ASHMAN (ATY) DOUGLAS K SIMMONS (ATY)  
COMP ATFE 042320 HANNAH LEIGH CRISCO JORGE ANTUNEZ-DAZA  
CSUP 042320 HANNAH LEIGH CRISCO JORGE ANTUNEZ-DAZA  
DIVR 042320 HANNAH LEIGH CRISCO JORGE ANTUNEZ-DAZA  
TEMP CSUP 042320 HANNAH LEIGH CRISCO JORGE ANTUNEZ-DAZA  
NOTE: ALSO ENTO ON CSUP BY E ASHMAN

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031 20CVD2047 WADDELL, STEPHANIE, MCCRAE VS WADDELL, PAUL, JUNIOR  
11:30 AM AMY F ZACHARIAS (ATY)  
COMP DIVR 072020 STEPHANIE MCCRAE WAD PAUL JUNIOR WADDELL  
EQUO 072020 STEPHANIE MCCRAE WAD PAUL JUNIOR WADDELL

---

032 20CVD2510 HERNANDEZ, MARIA, ANGELLA VS HERNANDEZ, OMAR, HERMINIO  
11:30 AM JENNIFER R ROBERTSON (ATY)  
COMP DIVR 082720 MARIA ANGELLA HERNAN OMAR HERMINIO HERNANDEZ  
RESU 082720 MARIA ANGELLA HERNAN OMAR HERMINIO HERNANDEZ  
WDCN 082720 MARIA ANGELLA HERNAN OMAR HERMINIO HERNANDEZ

---

033 20CVD2511 KIWACKA, JOHN, EDWARD VS KIWACKA, KATHY, BIGGERS  
11:30 AM JENNIFER R ROBERTSON (ATY)  
COMP DIVR 082720 JOHN EDWARD KIWACKA KATHY BIGGERS KIWACKA  
WDCN 082720 JOHN EDWARD KIWACKA KATHY BIGGERS KIWACKA

---

034 20CVD2512 JOHNSON, PATRICIA, ANN VS JOHNSON, DAVID, WAYNE  
11:30 AM JENNIFER R ROBERTSON (ATY)  
COMP DIVR 082720 PATRICIA ANN JOHNSON DAVID WAYNE JOHNSON  
RESU 082720 PATRICIA ANN JOHNSON DAVID WAYNE JOHNSON  
WDCN 082720 PATRICIA ANN JOHNSON DAVID WAYNE JOHNSON

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035 20CVD2515 CASEY, KEVEN, LAVERDAD VS CASEY, WANDA, CRISCO  
11:30 AM ERIK RAND ASHMAN (ATY) WILLIAM F ROGERS JR (ATY)  
COMP DIVR 082720 KEVEN LAVERDAD CASEY WANDA CRISCO CASEY

---

036 20CVD2519 DEESE, STEVE, LEE VS DEESE, LACETA, LONG  
11:30 AM BENJAMIN W BAUCOM (ATY)

COMP DIVR 082820 STEVE LEE DEESE

LACETA LONG DEESE

037 20CVD146 SPENCER, TABBATHA, BURNELLE VS SPENCER, ALTRON, DAURELL  
 12:00 PM ANN-CHARLOTTE DOWLESS (ATY)  
 COMP DIVR 011420 TABBATHA BURNELLE SP ALTRON DAURELL SPENCER

038 20CVD2402 THOMAS, STEPHANIE, PAMELA VS THOMAS, JULIAN, LAMAR  
 12:00 PM JENNIFER R ROBERTSON (ATY)  
 COMP ALIM 081820 STEPHANIE PAMELA THO JULIAN LAMAR THOMAS  
 ATFE 081820 STEPHANIE PAMELA THO JULIAN LAMAR THOMAS  
 DIVR 081820 STEPHANIE PAMELA THO JULIAN LAMAR THOMAS  
 EQUJ 081820 STEPHANIE PAMELA THO JULIAN LAMAR THOMAS  
 PSSU 081820 STEPHANIE PAMELA THO JULIAN LAMAR THOMAS  
 RESU 081820 STEPHANIE PAMELA THO JULIAN LAMAR THOMAS

039 20CVD2403 VENABLE, HAROLD, DEAN VS VENABLE, MELANIE, GRIFFIN, BULLO  
 12:00 PM ERIK RAND ASHMAN (ATY)  
 COMP DIVR 081820 HAROLD DEAN VENABLE MELANIE GRIFFIN VENABLE BUL

040 20CVD2406 STARR, SANDRA, K VS IRBY, ROBERT, J, JR  
 12:00 PM AMY F ZACHARIAS (ATY)  
 COMP DIVR 081920 SANDRA K STARR ROBERT J IRBY JR

041 20CVD2408 ALVAREZ, MARY VS ALVAREZ, EMMANUEL  
 12:00 PM LAURA LEANN LANCASTER (ATY)  
 COMP DIVR 081920 MARY ALVAREZ EMMANUEL ALVAREZ  
 RESU 081920 MARY ALVAREZ EMMANUEL ALVAREZ  
 MOTN CSUP 100520 MARY ALVAREZ EMMANUEL ALVAREZ

042 20CVD2413 THORN, MIRANDA, RENEE VS ELATHRM, AHMED, YOUSEF, MUFTAH  
 12:00 PM ANN-CHARLOTTE DOWLESS (ATY)  
 COMP DIVR 081920 MIRANDA RENEE THORN AHMED YOUSEF ELATHRM MUFTAH

043 20CVD2427 LOPEZ, NORMA, HILDA, UGARTE VS MACEDO, RAFAEL, GRANADOS  
 12:00 PM AMBER S BILLYCK (ATY) TIMOTHY D SMITH (ATY)  
 COMP CSUP 082020 NORMA HILDA LOPEZ UG RAFAEL GRANADOS MACEDO  
 DIVR 082020 NORMA HILDA LOPEZ UG RAFAEL GRANADOS MACEDO  
 EQUJ 082020 NORMA HILDA LOPEZ UG RAFAEL GRANADOS MACEDO

044 20CVD2438 HINOJOSA, JUAN, CARLOS VS ACOSTA, JANETH, GUTIERREZ  
 12:00 PM JAMES MERRITT WHITE IV (ATY) BENJAMIN W BAUCOM (ATY)  
 COMP ATFE 082020 JUAN CARLOS HINOJOSA JANETH GUTIERREZ ACOSTA  
 CUST 082020 JUAN CARLOS HINOJOSA JANETH GUTIERREZ ACOSTA  
 DIVR 082020 JUAN CARLOS HINOJOSA JANETH GUTIERREZ ACOSTA  
 TEMP CUST 082020 JUAN CARLOS HINOJOSA JANETH GUTIERREZ ACOSTA  
 CTCL ATFE 092120 JANETH GUTIERREZ ACO JUAN CARLOS HINOJOSA  
 CSUP 092120 JANETH GUTIERREZ ACO JUAN CARLOS HINOJOSA  
 CUST 092120 JANETH GUTIERREZ ACO JUAN CARLOS HINOJOSA  
 TEMP CSUP 092120 JANETH GUTIERREZ ACO JUAN CARLOS HINOJOSA  
 CUST 092120 JANETH GUTIERREZ ACO JUAN CARLOS HINOJOSA

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045 20CVD2443 MCMANUS, SARAH, MILLER VS MCMANUS, DONALD, RAY, JR  
12:00 PM J MERRITT WHITE III (ATY)  
COMP DIVR 082120 SARAH MILLER MCMANUS DONALD RAY MCMANUS JR  
ISAG 082120 SARAH MILLER MCMANUS DONALD RAY MCMANUS JR

---

\*\*\*END\*\*\*

**Annette Heim**

**From:** Ed Ferguson <ferguson@concordlawyers.com>  
**Sent:** Tuesday, September 15, 2020 4:17 PM  
**To:** Annette Heim  
**Subject:** RE: Jones

Do what you got to do. I will attempt again o get his attn

---

**From:** Annette Heim <aheim@annetteheimlaw.com>  
**Sent:** Tuesday, September 15, 2020 10:29 AM  
**To:** Ed Ferguson <ferguson@concordlawyers.com>  
**Cc:** Kay Johnson <paralegal@annetteheimlaw.com>  
**Subject:** RE: Jones

At this point, with no response or AOS, we will be sending to sheriff to service.

Very Truly Yours,

Annette R. Heim

**The Law Offices of Annette R. Heim, PA**  
51 Means Ave  
P.O. Box 1646  
Concord, NC 28026

Phone: 704-870-3450

Fax: (704) 973-0879

Email: aheim@annetteheimlaw.com

[www.annetteheimlaw.com](http://www.annetteheimlaw.com)

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---

**From:** Annette Heim  
**Sent:** Thursday, September 10, 2020 4:28 PM  
**To:** Ed Ferguson <ferguson@concordlawyers.com>  
**Cc:** Kay Johnson <paralegal@annetteheimlaw.com>  
**Subject:** RE: Jones

I wanted to follow-up on this; has Mr. Jones accepted service yet? If he has not and intends to please give me a deadline to expect documentation. Thanks.

Very Truly Yours,

Annette R. Heim

**The Law Offices of Annette R. Heim, PA**  
51 Means Ave  
P.O. Box 1646  
Concord, NC 28026

Phone: 704-870-3450

Fax: (704) 973-0879

Email: [aheim@annetteheimlaw.com](mailto:aheim@annetteheimlaw.com)

[www.annetteheimlaw.com](http://www.annetteheimlaw.com)

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---

**From:** Ed Ferguson <[ferguson@concordlawyers.com](mailto:ferguson@concordlawyers.com)>

**Sent:** Tuesday, August 25, 2020 4:28 PM

**To:** Annette Heim <[aheim@annetteheimlaw.com](mailto:aheim@annetteheimlaw.com)>

**Subject:** RE: Jones

Annette Heim

I am on secured leave. We will accept service. Will be back Aug 31.

Sent from Mail for Windows 10

---

**From:** Annette Heim

**Sent:** Tuesday, August 25, 2020 3:40 PM

**To:** Ed Ferguson

**Cc:** Kay Johnson

**Subject:** RE: Jones

Please advise regarding status of accepting service.

Very Truly Yours,

Exhibit D.  
-084-

Annette R. Heim

**The Law Offices of Annette R. Heim, PA**  
51 Means Ave  
P.O. Box 1646  
Concord, NC 28026

Phone: 704-870-3450

Fax: (704) 973-0879

Email: [aheim@annetteheimlaw.com](mailto:aheim@annetteheimlaw.com)

[www.annetteheimlaw.com](http://www.annetteheimlaw.com)

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---

**From:** Ed Ferguson <[ferguson@concordlawyers.com](mailto:ferguson@concordlawyers.com)>

**Sent:** Monday, August 17, 2020 10:45 AM

**To:** Annette Heim <[aheim@annetteheimlaw.com](mailto:aheim@annetteheimlaw.com)>

**Subject:** RE: Jones

yes

---

**From:** Annette Heim <[aheim@annetteheimlaw.com](mailto:aheim@annetteheimlaw.com)>

**Sent:** Monday, August 17, 2020 10:27 AM

**To:** Ed Ferguson <[ferguson@concordlawyers.com](mailto:ferguson@concordlawyers.com)>

**Cc:** Kay Johnson <[paralegal@annetteheimlaw.com](mailto:paralegal@annetteheimlaw.com)>

**Subject:** Jones

We filed for absolute divorce for Ms. Johanna Jones. Will your client accept service?

Very Truly Yours,

Annette R. Heim

**The Law Offices of Annette R. Heim, PA**  
51 Means Ave  
P.O. Box 1646  
Concord, NC 28026

Phone: 704-870-3450

Fax: (704) 973-0879

Email: [aheim@annetteheimlaw.com](mailto:aheim@annetteheimlaw.com)

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Exhibit D

-085-

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**Annette Heim**

---

**From:** Annette Heim  
**Sent:** Tuesday, September 22, 2020 2:36 PM  
**To:** Ed Ferguson  
**Cc:** Kay Johnson  
**Subject:** Jones

Would you please provide your client's current pay information for Thursday's Financial Mediation? We filed a Financial Affidavit, but Defendant has not.

Very Truly Yours,

Annette R. Heim

**The Law Offices of Annette R. Heim, PA**  
51 Means Ave  
P.O. Box 1646  
Concord, NC 28026

Phone: 704-870-3450  
Fax: (704) 973-0879  
Email: aheim@annetteheimlaw.com  
www.annetteheimlaw.com

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**Kay Johnson**

---

**From:** Kay Johnson  
**Sent:** Thursday, October 15, 2020 11:28 AM  
**To:** Ed Ferguson  
**Subject:** Jones v. Jones 19 CVD 2923  
**Attachments:** Jones v. Jones - Ltr to Atty Ferguson and subpoena issued to Cedric Lee Jones.pdf

Hey Ed,

I hope you are good. Almost Friday!

Annette asked me to forward you the attached cover letter and Subpoena for Mr. Jones in the above matter.

Take care! K

Kay L. Johnson, NCCP  
The Law Offices of Annette R. Heim, PA  
51 Means Avenue  
PO Box 1646  
Concord, NC 28026-1646  
PH: 704-870-3450  
Fax: 704-973-0879  
[paralegal@annetteheimlaw.com](mailto:paralegal@annetteheimlaw.com)  
[www.annetteheimlaw.com](http://www.annetteheimlaw.com)

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THE LAW OFFICES OF  
ANNETTE R. HEIM, P.A.

---

P.O. Box 1646  
Concord, NC 28026

51 Means Ave  
Concord, NC 28025

Phone: (704) 870-3450  
Fax: (704) 973-0879  
Email: aheim@annetteheimlaw.com

October 15, 2020

VIA EMAIL [ferguson@concordlawyers.com](mailto:ferguson@concordlawyers.com), FAX (704) 784-3211 AND US MAIL

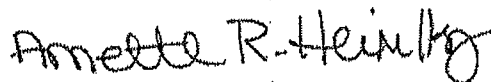
Edwin H. Ferguson, Jr.  
Ferguson, Hayes, Hawkins & DeMay, PA  
43 Church Street, South  
PO Box 444  
Concord, NC 28026-0444

RE: Jones v. Jones  
19 CVD 2923

Dear Ed:

Enclosed is a Subpoena to your client in the above matter. Any questions please let me know.

Very Truly Yours,

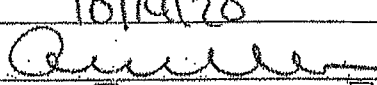


Annette R. Heim

ARH/klj

Enclosure

cc: Johnna M. Jones

<b>STATE OF NORTH CAROLINA</b>		File No. <b>19 CVD 2923</b>
CABARRUS County		In The General Court Of Justice <input checked="" type="checkbox"/> District <input type="checkbox"/> Superior Court Division
JOHANNA M. JONES		Additional File Numbers
<b>VERSUS</b>		<b>SUBPOENA</b>
CEDRIC LEE JONES		
G.S. 1A-1, Rule 46; G.S. 8-69		
Party Requesting Subpoena <input checked="" type="checkbox"/> State/Plaintiff <input type="checkbox"/> Defendant		
<b>NOTE TO PARTIES NOT REPRESENTED BY COUNSEL:</b> Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.		
Name And Address Of Person Subpoenaed <b>TO</b> CEDRIC LEE JONES c/o Edwin H. Ferguson, Jr., Attorney for Defendant 45 Church Street, South - PO Box 444 Concord, NC 28026-0444 Telephone No. (704) 788-3211		Alternate Address      Telephone No.
<b>YOU ARE COMMANDED TO:</b> (check all that apply): <input checked="" type="checkbox"/> appear and testify, in the above entitled action, before the court at the place, date and time indicated below. <input type="checkbox"/> appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below. <input checked="" type="checkbox"/> produce and permit inspection and copying of the following items, at the place, date and time indicated below. <input type="checkbox"/> See attached list. (List here if space sufficient) 1. Copies of your individual Federal and State income tax returns for 2019 and 2020, including but not limited to, W-2, 1099s, etc. 2. Copies of your paystubs for the past three (3) months. 3. Copies of statements regarding any monthly health care premiums and/or daycare expenses you pay on behalf of the minor children.		
Name And Location Of Court/Place Of Deposition/Place To Produce Cabarrus County District Court, Courtroom #4 CVI 77 Union Street, North Concord, NC 28025		Date To Appear/Produce 10/28/2020 Time To Appear/Produce 9:30 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM
Name And Address Of Applicant Or Applicant's Attorney Annette R. Heim, Attorney for Plaintiff PO Box 1646 - 51 Means Avenue, SE Concord, NC 28026-1646 Telephone No. Of Applicant Or Applicant's Attorney 704-870-3450		Date 10/14/20 Signature 
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court <input type="checkbox"/> Superior Court Judge <input type="checkbox"/> Magistrate <input checked="" type="checkbox"/> Attorney/DA <input type="checkbox"/> District Court Judge		

**RETURN OF SERVICE**

I certify this subpoena was received and served on the person subpoenaed as follows:

By: ☐ personal delivery. ☐ registered or certified mail, receipt requested and attached.  
☐ telephone communication by Sheriff, (use only for a witness subpoenaed to appear and testify).  
☐ telephone communication by local law enforcement agency (use only for a witness subpoenaed to appear and testify in a criminal case).

**NOTE TO COURT:** If the witness was served by telephone communication from a local law enforcement agency in a criminal case, the court may not issue a show cause order or order for arrest against the witness until the witness has been served personally with the written subpoena.

☐ I was unable to serve this subpoena. Reason unable to serve: \_\_\_\_\_

Service Fee \$ <input type="checkbox"/> Paid <input type="checkbox"/> Due	Date Served	Name Of Authorized Server (Type Or Print)	Signature Of Authorized Server	Title
--	-------------	---	--------------------------------	-------

**NOTE TO PERSON REQUESTING SUBPOENA:** A copy of this subpoena must be delivered, mailed or faxed to the attorney for each party in this case. If a party is not represented by an attorney, the copy must be mailed or delivered to the party. This does not apply in criminal cases.

**NOTE: Rule 45, North Carolina Rules of Civil Procedure, Subsections (c) and (d).****(c) Protection Of Persons Subject To Subpoena**

(1) **Avoid undue burden or expense.** - A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.

(2) **For production of public records or hospital medical records.** - Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.

(3) **Written objection to subpoena.** - Subject to subsection (4) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:

- The subpoena fails to allow reasonable time for compliance.
- The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
- The subpoena subjects a person to an undue burden or expense.
- The subpoena is otherwise unreasonable or oppressive.
- The subpoena is procedurally defective.

(4) **Order of court required to overrule objection.** - If objection is made under subsection (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.

(5) **Motion to quash or modify subpoena.** - A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in subsection (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

(6) **Order to compel responses to comply with subpoena.** - When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

(7) **Trade secrets; confidential information.** - When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena; or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

(8) **Order to quash expenses.** - When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

**(d) Duties In Responding To Subpoena**

(1) **Form of response.** - A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

(2) **Form of producing electronically stored information not specified.** - If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

(3) **Electronically stored information in only one form.** - The person responding need not produce the same electronically stored information in more than one form.

(4) **Inaccessibility of electronically stored information.** - The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

(5) **Specificity of objection.** - When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

**INFORMATION FOR WITNESS**

**NOTE:** If you have any questions about being subpoenaed as a witness, you should contact the person named on Page One of this Subpoena in the box labeled "Name And Address Of Applicant Or Applicant's Attorney."

**DUTIES OF A WITNESS**

- Unless otherwise directed by the presiding judge, you must answer all questions asked when you are on the stand giving testimony.
- In answering questions, speak clearly and loudly enough to be heard.
- Your answers to questions must be truthful.
- If you are commanded to produce any items, you must bring them with you to court or to the deposition.
- You must continue to attend court until released by the court. You must continue to attend a deposition until the deposition is completed.

**BRIBING OR THREATENING A WITNESS**

It is a violation of State law for anyone to attempt to bribe, threaten, harass, or intimidate a witness. If anyone attempts to do any of these things concerning your involvement as a witness in a case, you should promptly report that to the district attorney or the presiding judge.

**WITNESS FEE**

A witness under subpoena and that appears in court to testify, is entitled to a small daily fee, and to travel expense reimbursement, if it is necessary to travel outside the county in order to testify. (The fee for an "expert witness" will be set by the presiding judge.) After you have been discharged as a witness, if you desire to collect the statutory fee, you should immediately contact the Clerk's office and certify your attendance as a witness so that you will be paid any amount due you.

Annette Heim

**From:** Ed Ferguson <ferguson@concordlawyers.com>  
**Sent:** Thursday, November 19, 2020 2:31 PM  
**To:** Annette Heim  
**Subject:** FW: F19-4048 - JONES V. JONES  
**Attachments:** S - Notice of Vol Dismissal 11.12.20.pdf

Annette

I do not understand! We came in late and had no problems with the divorce and judgment which kept all actions alive. The divorce is granted and you dismiss the claims you indicated survived the divorce judgment. We are not without remedy—under the facts—but a clear “stab in the back” during a period of time that I am dealing with medical issues. That action does not happen without careful planning. You did a good job on an effort to sand bag. I will let the court decide if it cuts us off. Ed

---

**From:** Brianna Earnhardt <Brianna@concordlawyers.com>  
**Sent:** Thursday, November 19, 2020 10:08 AM  
**To:** Ed Ferguson <ferguson@concordlawyers.com>  
**Subject:** F19-4048 - JONES V. JONES

Ed,

Please see the attached Notice of Vol Dismissal.

***Brianna Earnhardt***

Legal Assistant for  
Edwin H. Ferguson, Jr.  
Ferguson, Hayes, Hawkins & DeMay, PLLC  
45 Church St. S  
PO Box 444  
Concord, NC 28025

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
FILE NO. 19 CVD 2923

Filed

2021 APR 23 P. 2:40

JOHANNA M. JONES,  
Plaintiff

vs.

CEDRIC LEE JONES,  
Defendant.

ORDER

THIS MATTER coming on to be heard and being heard on the 31<sup>st</sup> day of March, 2021 and being a motion to set aside a voluntary dismissal and to be permitted to file an answer and/or counterclaim and a counter-motion by Plaintiff for sanctions including attorneys' fees and Plaintiff being represented by Annette R. Heim and Defendant being represented by Edwin H. Ferguson, Jr., the Court **FINDS THE FOLLOWING FACTS BY THE GREATER WEIGHT THEREOF:**

1. That both parties are citizens and residents of Cabarrus County, North Carolina and have been so for at least the six (6) months next preceding this action.
2. That Plaintiff filed this action originally on August 30, 2019 requesting custody, child support, and equitable distribution.
3. That Defendant did not file a response.
4. That Edwin H. Ferguson, Jr. filed a notice of appearance in this matter on December 19, 2019; that, at the time, the time allowed for filing a response or any counterclaim had expired.
5. That the parties were referred to custody mediation, took part in financial mediation, filed and served extensive discovery, and negotiated the matter, including specifically but not limited to, the equitable distribution matter.
6. That Plaintiff filed a second complaint which was for divorce on

August 18, 2020 when the divorce became ripe as a cause of action in Cabarrus County case 20 CVD 2349.

7. That no answer or other responsive pleading was file in Cabarrus County case 20 CVD 2349.

8. That the parties, through counsel, continued to communicate regarding the matters and continued to negotiate the subject matter.

9. That the divorce in Cabarrus County case 20 CVD 2349 was granted on October 23, 2020; that, as part of the divorce judgment, the Court found that "(t)he Plaintiff's claims contained in Jones v. Jones 19 CVD 2923, for equitable distribution, child support, and child custody shall survive the entry of this Order."

10. That Plaintiff's counsel had sent Defendant's counsel a copy of the judgment pretrial for approval as a courtesy and Defendant's counsel approved the copy of the judgment.

11. That the parties engaged in limited discovery in the case at bar after the entry of the divorce judgment in 20 CVD 2349.

12. That Plaintiff herself (counsel's signature does not appear) voluntarily dismissed this matter (19 CVD 2923) including the claims for child support, child custody, and equitable distribution on November 11 (filed November 12 noting November 11 was a State holiday), 2020.

13. That Defendant and his counsel had relied on Plaintiff's claim for equitable distribution, et.al. and had negotiated in good faith with Plaintiff and her counsel.

14. That, however, once Plaintiff filed a voluntary dismissal in this matter, there was no further proceeding to litigate.

15. That time had expired to file a response in this matter when Mr. Ferguson

was retained and entered the case.

16. That no equitable distribution counterclaim was filed in this matter in that the time for responsive pleadings had expired when Defendant was retained and entered and Defendant apparently believed based on the extensive negotiations that the matter would be resolved upon Plaintiff's claim; that Defendant filed no responsive pleading to the divorce matter again, apparently believing that, based on the extensive negotiations, that the matter would be resolved upon Plaintiff's claim.

17. That the filing of the divorce judgment extinguished Defendant's equitable distribution claim which was not filed in any case prior to the divorce judgment being entered. *See, Gilbert v. Gilbert*, 111 N.C App. 233; 431 S.E. 2d 805 (1993).

18. That, although there were negotiations, discovery, and financial mediation, there was no claim filed on behalf of Defendant.

19. That Plaintiff's dismissal was filed pursuant Rule 41 of the North Carolina Rules of Civil Procedure and was filed without prejudice.

20. That Rule 41 allows for filing of a voluntary dismissal so long as the dismissal is filed before Plaintiff rests his case. N.C.R.P. 41; that this can occur at "...*any time* prior to Plaintiff resting his or her case." (italics in original). *Dunton v. Ayscue*, 203 N.C. App. 356; 690 S.E. 2d 752 (2010).

21. That a voluntary dismissal without prejudice occurs when written notice is received and filed by the clerk. *Johnson v. Hutchens*, 103 N. C. App. 384; 403 S. E. 2d 597 (1991); that there is no requirement that the Court can find that a voluntary dismissal must be taken in open court as Defendant alleges.

22. That the voluntary dismissal by Plaintiff in this matter was appropriately taken



pursuant to Rule 41 of the North Carolina Rules of Civil Procedure.

23. That Plaintiff alleges an equitable estoppel applies to this case due to the negotiations and discovery that had occurred.

24. That equitable estoppel applies where a party voluntarily does something where he is totally precluded at law and equity from asserting rights which might have otherwise existed as against another person who relied on that conduct in good faith and changed his position for the worse. *See, Gilbert citing Haroff v. Haroff*, 100 N.C. App., 686; 398 S. E. 2d 340 (1990), *disc. rev. denied*, 328 N. C. 330; 420 S.E. 2d 833 (1991).

25. That, in this case, Plaintiff did nothing other than file for equitable distribution (and other actions) and then dismiss them which she had the absolute right to do.

26. That Defendant having relied on Plaintiff's negotiations and active prosecution of her own case is not a misrepresentation or breach of fiduciary duty nor did Plaintiff make any allegation in her pleadings as to the status of her equitable distribution claim as in Gilbert; that Plaintiff alleged a cause of action for equitable distribution (among other actions), negotiated, properly engaged in discovery, then, for whatever reason, chose to dismiss her case; that equitable estoppel does not apply in this matter and under these circumstances.

27. That the Court finding the dismissal was legally appropriate, there is no action in which an answer or Counterclaim can now be filed.

28. That Plaintiff has filed for sanctions in this matter including attorneys' fees on the basis that no law supports Defendant's motions; that the Court, in reading the law, understands how the reading of some of the cases can lead to a basis for Defendant's motions although not correct; that the Court also is cognizant of Defendant's reliance of what may be unwritten law how these matters are often handled although, again, Defendant is not legally correct; that the

Court, in its discretion and in light of the findings herein, does not believe Defendant's actions justify sanctions.

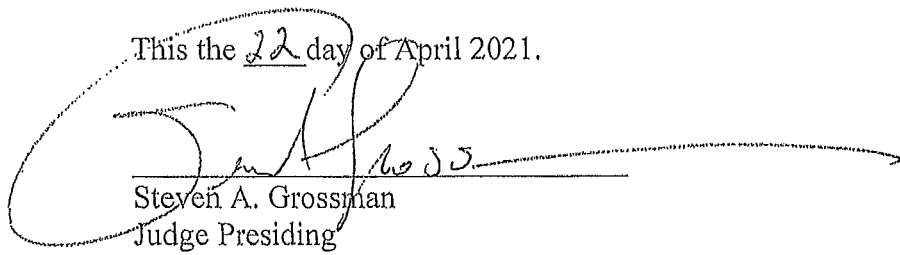
**BASED UPON THE FOREGOING FINDINGS OF FACT, THE COURT  
CONCLUDES AS MATTERS OF LAW:**

1. That the parties are properly before the Court and that the Court has both personal and subject matter jurisdiction.
2. That the voluntary dismissal pursuant to Rule 41 of the North Carolina Rules of Civil Procedure was properly and legally filed.
3. That there is no claim for equitable distribution, and it is not legally appropriate to now allow said claim in that a divorce has been granted between the parties.
4. That equitable estoppel does not apply to this matter.
5. That sanctions are not appropriate in this matter.

**BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS  
OF LAW, IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:**

1. That Defendant's motion to set aside the voluntary dismissal in this action and for leave to file a counterclaim or other responsive pleading is denied.
2. That Plaintiff's motion for sanctions including, but not limited to, attorneys' fees is denied.

This the 22 day of April 2021.

  
Steven A. Grossman  
Judge Presiding

**CERTIFICATE OF SERVICE**

**Jones v. Jones**

**19 CVD 2923**

I hereby certify that I have this day served a copy of the foregoing **ORDER** in the above-entitled action in the following manner:

(X) by hand delivery of a copy of the same to the courthouse mailbox of the following attorneys:

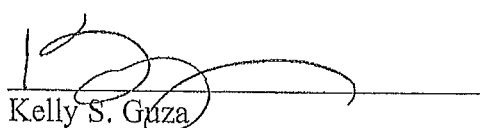
Annette Heim  
Attorney for the Plaintiff

Ed Ferguson  
Attorney for Defendant

( ) by depositing the same, enclosed in postpaid, properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department, addressed to:

Service being in accordance with Rule 5, Chapter 1A1-1 of the General Statutes of North Carolina.

This the 23<sup>rd</sup> of April 2021.

  
Kelly S. Guza  
Judicial Assistant  
District 19A

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

IN THE GENERAL COURT OF JUSTICE  
FILED DISTRICT COURT DIVISION  
19-CVD-2928

2021 MAY 19 P 1:45

JOHANNA M. JONES,  
Plaintiff,

) CABARRUS COUNTY, C.S.C.,

) BY JK

vs.

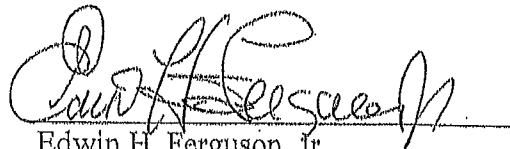
CEDRIC L. JONES,  
Defendant.

)  
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)  
)

TO THE HONORABLE COURT OF APPEALS OF NORTH CAROLINA

NOW COMES, the defendant, Cedric L. Jones, by and through counsel, hereby gives notice of appeal from the Order Denying the Plaintiff's motion to set aside the voluntary dismissal and to permit the defendant to file a counterclaim or other response to memorialize the actions having been taken in this proceeding, by the Honorable Stephen A. Grossman, District Court Judge entered the 22<sup>nd</sup> day of April, 2021.

This the 19<sup>th</sup> day of May 2021.



Edwin H. Ferguson, Jr.

State Bar No: 6148

Email: [Ferguson@concordlawyers.com](mailto:Ferguson@concordlawyers.com)

Ferguson, Hayes, Hawkins & DeMay, PLLC  
45 Church Street S (28025)  
P.O. Box 444  
Concord, NC 2826-0444  
Ph: (704) 788-3211  
Fax: (704) 784-3211  
*Attorneys for Defendant*

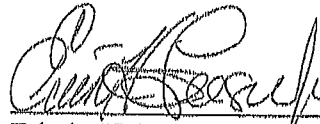
CERTIFICATE OF SERVICE

I, Edwin H. Ferguson, Jr., attorney for the Defendant, *Cedric L. Jones*, hereby certify that I served a copy of the *NOTICE OF APPEAL* upon:

Annette R. Helm, Esq.  
51 Means Street  
P.O. Box 1646  
Concord, NC 28026-1646

by depositing a copy of the aforesaid document in an envelope in the exclusive care and custody of the U.S. Postal Service with sufficient postage thereon, addressed to the aforesaid address.

This 19th day of May, 2021



Edwin H. Ferguson, Jr.  
State Bar No: 6148  
Email: [Ferguson@concordlawyers.com](mailto:Ferguson@concordlawyers.com)

Ferguson, Hayes, Hawkins & DeMay, PLLC  
45 Church Street S (28025)  
P.O. Box 444  
Concord, NC 2826-0444  
Ph: (704) 788-3211  
Fax: (704) 784-3211  
*Attorneys for Defendant*

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION

COUNTY OF CABARRUS: *June 23 A.P. 21*

19-CVD-2923

JOHANNA M. JONES;

Plaintiff,

v.

CEDRIC L. JONES,

Defendant.

**NOTICE OF LIMITED APPEARANCE**

Undersigned counsel hereby gives notice that she is making a limited appearance in this action on behalf of Plaintiff Johanna M. Jones and that her appearance is limited to proceedings and orders related to and stated in the Notice of Appeal to the North Carolina Court of Appeals filed on May 19, 2021 by Defendant.

Respectfully submitted this the 21<sup>st</sup> day of June, 2021.

FOX ROTHSCHILD LLP



---

Michelle D. Connell  
N.C. State Bar No. 17383  
[mconnell@foxrothschild.com](mailto:mconnell@foxrothschild.com)  
434 Fayetteville Street  
Suite 2800  
Raleigh, North Carolina 27601  
Telephone: (919) 755-8700  
Facsimile: (919) 755-8800

*Attorneys for Plaintiff*

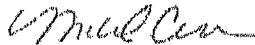
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the forgoing **NOTICE OF LIMITED APPEARANCE** has this day been served on all counsel named below via email and U.S. Mail, postage prepaid, as follows:

Edwin H. Ferguson, Jr.  
Ferguson, Hayes, Hawkins & DeMay, PLLC  
P.O. Box 444  
Concord, NC 28025  
[ferguson@concordlawyers.com](mailto:ferguson@concordlawyers.com)

This the 21<sup>st</sup> day of June, 2021.

FOX ROTHSCHILD LLP



---

Michelle D. Connell

No. \_\_\_\_\_

JUDICIAL DISTRICT 19A

NORTH CAROLINA COURT OF APPEALS

\*\*\*\*\*

JOHANNA M. JONES,

Plaintiff-Appellee,

v.

CEDRIC L. JONES,

Defendant-Appellant.

From Cabarrus County  
19-CVD-2923

\*\*\*\*\*

**PLAINTIFF-APPELLEE'S OBJECTIONS AND AMENDMENTS TO**  
**PROPOSED RECORD ON APPEAL**

\*\*\*\*\*

Pursuant to Rule 11(c) of the North Carolina Rules of Appellate Procedure, Exhibit A contains Plaintiff-Appellee Johanna Jones's objections and amendments to Defendant-Appellant Cedric L. Jones's proposed record on appeal which was served on Plaintiff's counsel by U.S. Mail on 17 June 2021.

Respectfully submitted this the 8th day of July 2021.



Michelle D. Connell  
N.C. State Bar No. 17383  
mconnell@foxrothschild.com  
FOX ROTHSCHILD LLP  
434 Fayetteville Street, Suite 2800 (27601)  
PO Box 27525



Raleigh, NC 27611

Telephone: (919) 719-1246

Facsimile: (919) 755-8800

*Attorneys for Plaintiff-Appellee*

*Johanna M. Jones*

6. **Identification of Counsel for the Appeal.** Please update the appellate record's identification of counsel page to add the following counsel information for Plaintiff-Appellee Johanna M. Jones.

For the Appellee:

Michelle D. Connell  
N.C. State Bar No. 17383  
mconnell@foxrothschild.com  
FOX ROTHSCHILD LLP  
434 Fayetteville Street, Suite 2800 (27601)  
P.O. Box 27525  
Raleigh, North Carolina 27611  
Telephone: (919) 719-1246  
Facsimile: (919) 755-8800

7. **Stipulation Settling Record on Appeal.** Change signature line for Plaintiff-Appellee on page 113 to Michelle D. Connell.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the date indicated below a copy of **Plaintiff-Appellee's Objections and Amendments to Proposed Record on Appeal** was served by depositing a copy of the same via email and with the United States Postal Service, first class mail, postage prepaid, and addressed as follows:

Edwin H. Ferguson, Jr.  
Ferguson, Hayes, Hawkins & DeMay PLLC  
P.O. Box 444  
Concord, NC 28026  
[ferguson@concordlawyers.com](mailto:ferguson@concordlawyers.com)

This the 8th day of July 2021.



---

Michelle D. Connell

No. \_\_\_\_\_

NINETEEN-A DISTRICT

NORTH CAROLINA COURT OF APPEALS

\*\*\*\*\*

JOHANNA M. JONES,	)	
Plaintiff,	)	
	)	
vs.	)	<u>From Cabarrus County</u>
	)	19 CVD 2923
CEDRIC L. JONES,	)	
Defendant,	)	
	)	

\*\*\*\*\*

RESPONSE TO PLAINTIFF-APPELLEE'S  
OBJECTIONS AND AMENDMENTS TO  
PROPOSED RECORD ON APPEAL

\*\*\*\*\*

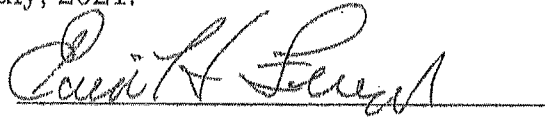
Defendant-Appellant responding to Plaintiff-Appellee's Objections and  
Amendments to proposed Record on Appeal alleges and says:

1. Statement of Jurisdiction: Acknowledged and will modify accordingly.
2. Documents: Acknowledged and will modify accordingly.
3. Amend Index: Acknowledged and will modify accordingly.
4. Documents to be omitted from the record:
  - a. Pages 24-31. Acknowledged and will consent to pages 24-31 being placed under seal.
  - b. Removal of First Set of Request for Production of Documents: Page 50 of the proposed record on appeal is the only

portion of the document other than the title page and certificate of service of that document which is anticipated to be needed for the appeal. Otherwise Defendant-Appellant will submit documents as "Rule 11(c) Supplement to Printed Record on Appeal.

5. Acknowledged and will include Plaintiff-Appellee's Objections and Amendments to proposed Record on Appeal in the Record on Appeal.

This the 19<sup>th</sup> day of July, 2021.

A handwritten signature in cursive script, appearing to read "Edwin H. Ferguson Jr.", written over a horizontal line.

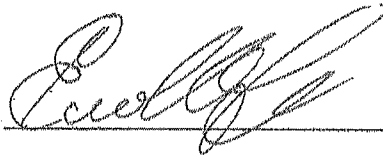
Edwin H. Ferguson Jr. [of Counsel]  
Ferguson, Hayes, Hawkins & DeMay PLLC  
P.O. Box 444  
Concord, NC 28026-444  
Tel: 704-788-3211  
State Bar No. 6148  
Attorney for Defendant-Appellant

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of The Response to Plaintiff-Appellee's Objections and Amendments to proposed Record on Appeal upon the following attorneys for the Plaintiff-Appellee by depositing a copy of same this day in the United States Mail, first class mail, in an envelope with sufficient postage thereon addressed to them at the following addresses:

Michelle D. Connell  
NC State Br No. 17383  
[mconnell@foxrothschild.com](mailto:mconnell@foxrothschild.com)  
434 Fayetteville Street, Suite 2800  
PO Box 27525  
Raleigh, North Carolina 27601

This the 19<sup>th</sup> day of July 2021.



---

Edwin H. Ferguson Jr. [of Counsel]  
Ferguson, Hayes, Hawkins & DeMay PLLC  
P.O. Box 444  
Concord, NC 28026-444  
Tel: 704-788-3211  
State Bar No. 6148  
Attorney for Defendant-Appellant

## STATEMENT OF RULE 11(c) SUPPLEMENT

In accordance with Rules 9(a) and 11 (c) of the North Rules of Appellate Procedure a "Rule 11(c) Supplement to the Printed Record on Appeal," consisting of 8 pages numbered \_\_\_\_ to \_\_\_\_ is being filed contemporaneously herewith.

The Rule 11 (c) Supplement will be referenced as "(R S p\_\_\_\_)."

## STIPULATION SETTLING RECORD ON APPEAL

Counsel for the Defendant-Appellant and Plaintiff-Appellee stipulate as follows:

1. The proposed record on appeal was timely served on 17 June 2021. The certificate showing service of the proposed record may be omitted from the settled record.

2. Plaintiff's Objections and Amendments to Proposed Record on Appeal were served on 8 July 2021. Plaintiff Objected to the omission of certain documents from the Record on Appeal and the inclusion of certain documents in the Record on Appeal.

3. Defendant served a Response to the Plaintiff's Objections and proposed Amendments and acknowledgment of some items. After discussion the parties came to an agreement as to which documents would be included in the printed record. The parties determined that judicial settlement of the supplemental record document was inappropriate under the criteria listed in Rule 11(c). Accordingly, such documents are included in the Rule 11(c) Supplement to the Printed Record on Appeal. The parties shall cite to this document as "(R S P\_\_)"



The grounds for excluding these documents from the printed Record on appeal are as follows:

- a. Plaintiff contends that Plaintiff's First Set of Request for Production of Documents at ( R S \_\_\_\_ document is not relevant to the proposed issues on appeal. Defendant contends that such a document or documents are relevant and are therefore a proper part of the record, See R S P )
- b. Plaintiff contends that Plaintiff's First Set of Request for Production of Documents at ( R S \_\_\_\_ are not part of the court file nor an exhibit entered at trial or hearing. Defendant contends that the document is necessary for an understanding of the issues on appeal and is therefore a proper part of the record (See R S ).

4. By stipulation the parties agreed that the Record on Appeal was deemed settled on 26 June 2021.

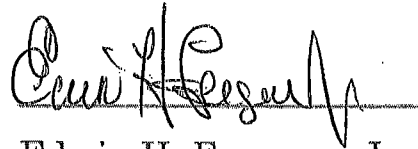
5. All captions, signatures, headings of papers, certificates of service and documents filed with the trial court that are not necessary for an understanding of the appeal may be omitted from the record,

except, as required by Rule 9 of the North Carolina Rules of Appellate Procedure.

- a. The parties stipulate that the following documents  
constitute the agreed-upon Record on Appeal to be filed  
with the Clerk of the Court of Appeals: The printed  
Record on Appeal consisting of pages 1 to \_\_\_\_

This 26<sup>th</sup> day July 2021.

For the Defendant-Appellant:

  
Edwin H. Ferguson Jr.

For the Plaintiff-Appellee:

  
Michelle D. Connell

PROPOSED ISSUES ON APPEAL

Pursuant to Rules 10 and 9(a)(1) of the North Carolina Rules of Appellate Procedure, Defendant-Appellant intends to present the following proposed issues on appeal:

1. Did the trial court err in denying Defendant's Motion to set aside the voluntary dismissal?
2. Did the trial court err in denying Defendant's motion to file a counterclaim or other response to memorialize the actions having been taken in this proceeding?
3. Did the trial court err in its Finding of Fact number 18.
4. Did the trial court err in its Finding of Fact number 22.
5. Did the trial court err in its Finding of Fact number 26.
6. Did the trial court err in its Finding of Fact number 27.
7. Did the trial court err in its Conclusion of Law number 2.
8. Did the trial court err in its Conclusion of Law number 3.
9. Did the trial court err in its Conclusion of Law number 4.

**IDENTIFICATION OF COUNSEL FOR THE APPEAL**

For the Appellant: Ferguson, Hayes, Hawkins & DeMay PLLC

Edwin H. Ferguson Jr. [ Of Counsel]  
State Bar No. 6148  
Ferguson@concordlawyers.com  
P.O. Box 444  
Concord, NC 28026-0444  
Telephone No. 704-788-3211

For the Appellee:

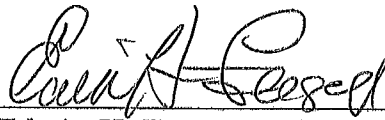
Michelle D. Connell  
N.C. State Bar no. 17383  
mconnell@foxrothschild.com  
FOX ROTHSCHILD LLP  
434 Fayetteville Street, Suite 2800 (27601)  
P.O. Box 27525  
Raleigh, North Carolina 27611  
Telephone: (919) 719-1246  
Facsimile: (919) 755-8800

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the proposed record on appeal upon the following attorneys for the Plaintiff by depositing a copy of same this day in the United States Mail, first class mail, in an envelope with sufficient postage thereon addressed to them at the following addresses:

Annette R. Heim  
51 Means Ave.  
P.O. Box 1646  
Concord, NC 28026-1646

This the 17th day of June 2021.



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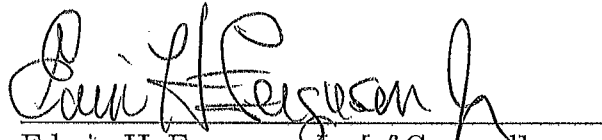
Edwin H. Ferguson Jr. [of Counsel]  
Ferguson, Hayes, Hawkins & DeMay PLLC  
P.O. Box 444  
Concord, NC 28026-444  
Tel: 704-788-3211  
State Bar No. 6148  
Attorney for Defendant-Appellant

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the record on appeal upon the following attornes for the Plaintiff by depositing a copy of same this day in the United States Mail, first class mail, in an envelope with sufficient postage thereon addressed to them at the following addresses:

Michelle D. Connell  
FOX ROTHSCHILD LLP  
434 Fayetteville Street, Suite 2800 (27601)  
P.O. Box 27525  
Raleigh, North Carolina 27611

This the 9th day of August 2021.

A handwritten signature in cursive script, appearing to read "Edwin H. Ferguson Jr.", written over a horizontal line.

Edwin H. Ferguson Jr. [of Counsel]  
Ferguson, Hayes, Hawkins & DeMay PLLC  
P.O. Box 444  
Concord, NC 28026-444  
Tel: 704-788-3211  
State Bar No. 6148  
Attorney for Defendant-Appellant