NORTH CAROLINA                                                IN THE GENERAL COURT OF JUSTICE

\_\_\_\_\_\_\_COUNTY                                                   DISTRICT COURT DIVISION

                                                                                                \_\_\_\_\_\_ CVD \_\_\_\_\_

\_\_\_\_\_\_\_\_,                             )

                                                                        )

                                    Plaintiff,                     )

                                                                        )

                                    V.                                )          **MOTION FOR CONTINUANCE**

                                                                        )

\_\_\_\_\_\_\_\_\_\_,                    )

                                                                        )

                                    Defendant.                 )

            NOW COMES the Plaintiff, and moves the Court pursuant to Rule 40(b) of the North Carolina Rules of Civil Procedure for a continuance in the Alimony and Permanent Custody hearing of this matter from the \_\_\_\_\_\_\_, 20\_\_\_, Civil District Division, non-jury session of court, for the following reasons:

            1.         The parties have not yet completed the division of their marital assets through Equitable Distribution.

            2.         The Defendant has refused to participate in mediation, in violation of the local rules,  prior to the calendaring of a hearing on the issue of Equitable Distribution.

            3.         The Plaintiff is currently in the process of completing a Chapter 13, liquidation bankruptcy.  The resolution of the bankruptcy could have an impact on any alimony award made in this matter.

            4.         The Defendant approved the Plaintiff's Chapter 13 Bankruptcy plan and was aware the bankruptcy was not completed when Alimony was set on the calendar.

            5.         Pursuant to N.C.G.S. 50-16.3A (a) any amount of alimony awarded prior to a hearing on the merits in regards to an equitable distribution claim, is subject to review after the entry of an equitable distribution order.  This could cause the parties to incur unnecessary legal fees and expenses and cause a waste of court time and judicial resources.

            6.         The Defendant is currently employed as a teacher and has been certified in the past.  The Defendant is capable of obtaining her certification, but is not making reasonable efforts towards obtaining her certification.  On information and belief, once the Defendant obtains her certification she may be eligible for a salary that is approximately double the salary she is currently earning.

            7.         Defendant began a new job in \_\_\_\_\_\_ 20\_\_\_\_.  Defendant has failed to provide her most recent pay stubs, and Plaintiff is unable to ascertain Defendant's true income.  These pay stubs have been repeatedly requested by Defendant's counsel.

            8.         Defendant will not be prejudiced in this matter by continuing the hearing of the issue of alimony in this case.  The Plaintiff has also placed the issue of post separation support on for hearing.  This hearing should address any immediate financial concerns of the Defendant.  Since the date of separation the Plaintiff has paid almost all of the Defendant's living expenses and has continued to provide her with support.  The Defendant is living in the martial residence, and is responsible only for the purchase of food and personal items and the payment of utilities.  The Plaintiff has continued to pay for such items for the Defendant as car insurance and a cellular phone.

            9.         The Defendant has placed on the calendar for hearing the issue of Permanent Custody.

WHEREFORE, the Plaintiff's counsel moves the Court for a continuance of the hearings on the alimony and permanent custody portions of this action to a later Civil District Division, non-jury session of the Court for disposition of the matters herein.

            This the \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_.

                                                                                                \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                                                                                                Attorneys for Plaintiff

                                                                                                Attorney Address