

NORTH CAROLINA
ROBESON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

**LOCAL RULES OF CIVIL PROCEDURE FOR THE SUPERIOR COURTS
OF JUDICIAL DISTRICT 16B**

Rule 1. Name.

These rules shall be officially known as the “Local Rules of Civil Procedure for the Superior Courts of Judicial District 16B.” When clear from the context the rules may be referred to as the “Local Rules of Civil Procedure” or the “Local Rules.”

Rule 2. Authority.

These rules were promulgated pursuant to the authority of Rule 2 of the General Rules of Practice for the Superior and District Courts (hereinafter “Rules of Practice”); Rule 40 of the North Carolina Rules of Civil Procedure (hereinafter “Rules of Civil Procedure”); the Caseflow Management Plan adopted by the Supreme Court of North Carolina on 1 May 1996 (hereinafter “Caseflow Management Plan”); and the specified, implied and inherent powers of the Senior Resident Superior Court Judgeship.

Rule 3. Purpose.

- a) **Case Management Plan.** The purpose of these rules is to adopt, implement or amend a Case Management Plan for the calendaring of civil cases as required by Rule 2(a) of the Rules of Practice.
- b) **Caseflow Management Plan.** A further purpose of these rules is to adopt, implement or amend such a plan consistent with the directives of the Caseflow Management Plan.

Rule 4. Policy.

- a) **General.** These Local Rules are designed to avoid delay and unnecessary appearances and to increase efficiency in the handling of cases in the local civil superior courts. S.L.1995, c.333.
- b) **Specific.** The Local Rules specifically: (1) Place responsibility for managing the flow of cases on specific persons; (2) Adopt case processing standards and goals; (3) Address the problem of delay; (4) Avoid unnecessary appearances in court by parties, witnesses, and

attorneys; (5) Provide mechanisms for keeping continuous control of cases; (6) Establish definite deadlines throughout the process; (7) Include a limited continuance policy; (8) Consider the interests of parties and witnesses; (9) Set out accountability mechanisms; and (10) Provide for training of those persons responsible for managing the case flow. Id.

Rule 5. Construction.

a) **Other Rules.** These rules shall be construed so as to render them consistent with the Rules of Civil Procedure and the Rules of Practice.

b) **General.** These rules shall be construed and enforced in such manner as to avoid technical delay and to permit just and prompt consideration and determination of the cases before the court. Rule 1, Rules of Practice.

Rule 6. Notice of Appearance.

If an attorney is making an appearance in any ongoing civil action--otherwise than by filing a pleading specified in Rule 7(a) of the Rules of Civil Procedure--the attorney shall file a formal notice of appearance with the court and serve copies as required by Rule 5 of the Rules of Civil Procedure. The attorney shall also serve such a copy upon the Superior Court Judicial Assistant or Trial Court Coordinator.

Rule 7. Withdrawal of Appearance.

No attorney who has entered an appearance in any civil shall withdraw their appearance, or have it stricken from the record, except on order of the court. Rule 16, Rules of Practice. Once a client has employed an attorney who has entered a formal appearance, the attorney may not withdraw or abandon the case without (1) justifiable cause, (2) reasonable notice to the client, and (3) the permission of the court. Id.

Rule 8. Medical Malpractice Actions.

a) **Plaintiff.** Immediately after filing with the clerk a medical malpractice action--as defined in G.S. 90-21.11--a plaintiff or counsel shall also file a copy of the complaint with the Judicial Assistant or Trial Court Coordinator.

b) **Defendant.** Immediately after filing with the clerk a responsive pleading to such a complaint or a motion requiring a determination by the court, a defendant or counsel shall also file a copy of the pleading or motion with the Judicial Assistant or Trial Court Coordinator.

c) **Policy.** These filings are necessary so that the Judicial Assistant or Trial Court Coordinator may schedule discovery conferences pursuant to Rule 26(f1) of the Rules of Civil Procedure and final conferences pursuant to Rule 16(b) of those Rules.

Rule 9. Exceptional Cases and Complex Business Cases.

Upon motion of any party or upon the court's own motion, the Senior Resident Judge or presiding judge may recommend to the Chief Justice that a case or cases be designated as exceptional or complex business. Such motions shall be in writing stating the grounds therefor. The motions shall be governed by Rule 2.1 of the Rules of Practice.

Rule 10. Expedited or Fast Track Trial Procedure.

a) **Agreement.** The parties shall execute an Agreement on an approved form, a copy of which is attached hereto, and file it with the Clerk and the Judicial Assistant or Trial Court Coordinator within 30 days from the filing of a responsive pleading (after the issues are joined).

b) **Discovery.** Mandatory Pre-Discovery Disclosure of certain matters must be provided within 60 days from the filing of a responsive pleading.

c) **Mediation.** Within 30 days from the filing of the Agreement with the Clerk, the case shall automatically be submitted to mediation which shall be completed within 120 days thereafter.

- d) **Limitations on Discovery.** Mandatory Discovery Limitations include the following:
- i. Only parties, treating physicians and experts can be deposed for discovery purposes.
 - ii. Interrogatories are limited to 25, including sub-parts.
 - iii. Document requests are limited to 10.
 - iv. Requests for admissions are limited to 25.
 - v. Depositions are limited to four hours each.
 - vi. A case management conference among the attorneys is required within 30 days from the filing of a responsive pleading with a consent order containing discovery plans submitted to a superior court judge for approval and filing. All discovery must be completed within 90 days from the filing of a responsive pleading.
 - vii. Before a motion which is non-dispositive of any issue in the case may be filed, the attorneys must attempt to resolve their differences and, if not, they shall submit said motion to the Mediator in an effort to resolve it.
 - viii. A party must disclose the identity of lay witnesses, as well as the nature and a summary of their expected testimony if requested by an interrogatory.

e) **Priority Trial Setting.** The case will be given a peremptory or priority trial setting that will occur around 180 days from the filing of a responsive pleading.

f) **Additional Agreements.** Additional provisions may be included in the Agreement upon consent of all parties and with the Court's approval.

Rule 11. Mediation.

The Local Rules for Implementing Mediated Settlement Conferences in Superior Court Actions in Judicial District 16B, as amended, are hereby incorporated herein by reference

Rule 12. Discovery.

a) **Promptness.** Parties and counsel are required to begin promptly all desired discovery proceedings. Discovery is authorized to begin even before the pleadings are completed. Rule 8, Rules of Practice.

b) **Completion.** Any order or rule of court setting the time within which discovery must be completed shall be construed to fix the date after which the pendency of discovery will not be allowed to delay trial or any other proceedings, but shall not be construed to prevent any party from utilizing any procedures authorized by the Rules of Civil Procedure so long as the trial or any hearing before the court is not thereby delayed. Rule 26(d), Rules of Civil Procedure.

c) **Procedure.** Discovery shall be conducted in accordance with Article 5, Depositions and Discovery, of the Rules of Civil Procedure.

d) **Discovery Conferences.** Within 30 days after the filing of a responsive pleading or motion, the Judicial Assistant or Trial Court Coordinator shall order and schedule discovery conferences in medical malpractice actions. Rule 26(f1), Rules of Civil Procedure. The Judicial Assistant or Trial Court Coordinator, at any time, may order and schedule discovery conferences in other actions. Rule 26(f), Id. The Judicial Assistant or Trial Court Coordinator may conduct such conferences under the supervision of a resident or presiding judge.

Rule 13. Motions.

a) **Form.** The form of motions shall be as provided in Rule 7(b) of the Rules of Civil Procedure and Rule 6 of the Rules of Practice.

b) **Notice of Hearing.** Anyone filing a motion shall contemporaneously file a separate written request that the motion be calendared for hearing unless such motion is of a type that can only be determined by the trial judge.

c) **Failure to File Notice of Hearing.** The pendency of a motion for which no hearing has been requested pursuant to this rule shall not be grounds for a continuance at an administrative or trial session.

d) **Continuances.** The filing of a motion (other than a motion for a continuance) subsequent to the setting of the case for trial shall not be grounds for a continuance.

Rule 14. In Chambers Jurisdiction.

a) **Jurisdiction.** Whether or not assigned to this judicial district for a six-month term or a session a resident superior court judge of this district possesses in chambers jurisdiction to consider non-jury matters at any time regardless whether the county courthouse is open for conducting ordinary business and regardless of the presence or absence of visiting judges presiding in the district. A presiding judge also has such in chambers jurisdiction. N.C. Const. Art. IV, s.9(1); G.S.7A-47.1.

b) **Procedure.** An attorney may approach a resident or presiding judge, *ex parte*, in person or by telephone, for the limited purpose of scheduling a hearing on any such non-jury matters. The judge, in his or her discretion, may agree to hear any such non-jury matter and schedule a hearing thereon at such time and place deemed most convenient. The judge shall direct the requesting attorney to give such notice and service of such notice deemed adequate and appropriate under the circumstances.

c) **Conference Telephone Hearings.** The judge, in his or her discretion, may conduct such hearings by conference telephone call. Such conference telephone calls shall be arranged by the requesting party.

Rule 15. Bankruptcy.

Any request to continue, hold, or in any other way delay disposition of a case due to bankruptcy of a party shall be in writing and should be accompanied by a certificate of bankruptcy filing or stay of proceeding from the United States Bankruptcy Court having jurisdiction. The request shall be filed with the clerk and copies served upon all parties as well as the Judicial Assistant or Trial Court Coordinator.

Rule 16. Priority Settings.

Cases entitled to priority settings by statute shall be brought to the attention of the Senior Resident Judge at the administrative session calendar call, if appropriate, or to the attention of the Judicial Assistant or Trial Court Coordinator preparing the trial calendars as soon as possible. Rule 40(a), Rules of Civil Procedure. The notice to the Judicial Assistant or Trial Court

Coordinator shall be in writing citing the appropriate statute with copies to all counsel of record and unrepresented parties.

Rule 17. Peremptory Settings.

Requests for peremptory settings of cases shall be made by written motion supported by extraordinary circumstances stated therein. The motions should be made as soon as possible and preferably before the Administrative Session. The motion shall be served upon the opposing party or counsel. The motions and responses shall be directed to the Senior Resident Judge who may grant such requests only for good and compelling reasons. The Senior Resident Judge may set a case peremptorily on his or her own motion. Rule 2(f), Rules of Practice.

Rule 18. Ready Calendar.

Five (5) months after a complaint is filed, the Clerk of Superior court shall place that case on a Ready Calendar, unless the time is extended by written order of the Judicial Assistant or Trial Court Coordinator or Senior Resident Judge. Rule 2(c), Rules of Practice.

Rule 19. Administrative Sessions.

a) **Procedure.** The Senior Resident Judge, with the approval of the Chief Justice, shall designate and calendar a one-week administrative session during the last month of each six-month superior court term. During such administrative sessions, the Senior Resident Judge shall call the calendar and review all cases on the Ready Calendar in order to determine their readiness for trial. The Senior Resident Judge shall take appropriate action to insure prompt disposition of pending motions or any other matters necessary to place the cases in a trial posture. Rule 2(d), Rules of Practice.

b) **Motions.** The moving party or counsel shall notice for hearing during such session all their pending motions, except those that can only be determined by the trial judge. Failure to so notice for hearing such motions shall be deemed to be a waiver of the right to assert such motions, unless such failure is excused by the Senior Resident Judge.

c) **Availability of Trial Participants.** All counsel and parties present at the administrative calendar call shall be familiar with the schedules of all persons whose presence is desired at the trial of each case so that a firm trial date may be set. Continuances should not be granted due to schedule conflicts of such persons, except for a crucial cause that could not have been foreseen.

Rule 20. Tentative Calendars.

All cases listed on the Ready calendar are presumed to be ready in all respects for trial. At the Calendar Call during an Administrative Session all such cases shall be set for trial by listing each such case on a Tentative Calendar for a regular civil session during the next six-month term unless good cause is shown why the case should not be so set for trial. Attorneys or parties may request that a case or motion be set on a particular Tentative Calendar, however, the final decision shall be made by the Senior Resident Judge.

Rule 21. Calendar Requests by Parties.

- a) **Procedure.** Any party desiring to have a civil action set for trial may file a calendar request with the clerk. The calendar request shall be served on all parties to the action as well as the Judicial Assistant or Trial Court Coordinator on or before the date of such filing. Rule 2(a), Rules of Practice.
- b) **Objections.** Objections to such calendar requests from other parties shall be served within 10 days from the filing of the request. Failure to timely serve and file such an objection by a party shall be deemed a consent to such request.
- c) **Contested Requests.** Contested calendar requests shall be referred to the Senior Resident Judge for determination.
- d) **Medical Malpractice Actions.** After the final conference in medical malpractice actions, the Senior Resident Judge shall consider any proposed consent order calendaring the case for trial pursuant to Rule 16(b) of the Rules of Civil Procedure.

Rule 22. Trial Calendars.

Trial Calendars shall be prepared from the Tentative Calendars by the Judicial Assistant or Trial Court Coordinator under the supervision of the Senior Resident Judge. Unless removed pursuant to these rules each case listed on the Tentative Calendars shall be placed on the Trial Calendars in the order in which the cases were filed with the older cases appearing before the later cases; provided, however, any priority or preemptory settings shall be recognized. The Trial Calendars shall be published and distributed by the Clerk of Court to each attorney of record (or party where there is no attorney of record) and tentative presiding session judge no later than four (4) weeks prior to the first day of court of the session. Rule 2(b), Rules of Practice.

Rule 23. Motions for Continuance.

- a) **Appropriate Judicial Official.**
- 1) **Prior to Opening of Court.** Prior to the opening of court for the session in which the case is calendared for trial or motion, all motions for a continuance shall be directed to the Senior Resident Judge. If the Senior Resident Judge is unavailable, such motions may be directed to the Resident Judge. If the Resident Judge is unavailable, such motions may be directed to the Judicial Assistant or Trial Court Coordinator.
 - 2) **After the Opening of Court.** Following the opening of court for such session, such motions shall be directed to the presiding judge calling the calendar on which the case appears.
- b) **Form of Motion.** All motions for a continuance shall be made on state form AOC-CV-1997.
- c) **Notification of Motion.** A copy of the motion must be served on all counsel of record and/or unrepresented parties prior to presentation of the motion to the appropriate judicial official. Service of the motion may be by US mail, facsimile transmission, hand delivery, or placing same in an attorney mail box maintained in the county courthouse.
- d) **Objections.** Any attorney or party objecting to the motion for a continuance shall immediately notify the moving party of the objection and the grounds for such objection. The objecting attorney or party shall then likewise immediately notify the Judicial Assistant or Trial Court Coordinator. Objections not so raised are deemed waived.
- e) **Presentation of Motion to Appropriate Judicial Official.** Prior to presenting the motion to an appropriate judicial official the movant or counsel shall attempt to get the consent of the opposing party or counsel. Upon such presentation, the movant or counsel shall advise such judicial official of any objections to the motion.
- f) **Evaluation of Motions.** Continuance requests are presumptively disfavored. However, when good cause for a continuance is demonstrated which would affect the fundamental fairness of the trial or motion process or when a continuance is clearly in the interest of justice, the motion may be granted in the exercise of judicial discretion and upon such terms and conditions as justice may require. Rule 40(b), Rules of Civil Procedure.
- g) **Factors to Consider.** The appropriate judicial official shall consider the following factors when deciding whether to grant or deny the motion: (1) The age of the case; (2) The status of the trial or motion calendar for the session; (3) The order in which the case appears on the trial calendar; (4) Whether the case is peremptorily scheduled; (5) The number of previous continuances; (6) The extent to which counsel had input into the scheduling of the trial or motion date; (7) The due diligence of counsel in promptly filing the motion as soon as practicable; (8) Whether the reason for the continuance is a short-lived event which could be resolved prior to the scheduled trial date; (9) The length of the requested continuance; (10) The position of opposing

counsel; (11) Whether the parties themselves consent to the continuance; (12) Any present or future inconvenience or unavailability of witnesses and/or parties; (13) Whether a party, witness or counsel has an obligation of service to the State of North Carolina, including service as a member of the General Assembly; (14) Whether the motion has been considered on the same grounds by another judicial official; and (15) Any other factors that promote the interests of justice.

h) **Factors Not to Consider.** The following factors or reasons shall not be considered as valid bases for allowing the motion: (1) The first time that the case has been scheduled for trial; (2) Potential conflicting schedules of other trials in other courts; and (3) Whether counsel has been paid his or her agreed fee.

i) **Re-scheduling for Trial or Motion.** Prior to granting a motion for continuance, the appropriate judicial official, after consultation with the Judicial Assistant or Trial Court Coordinator, if feasible, should re-schedule the trial or hearing on the motion after receiving input from all counsel of record.

Rule 24. Notice of Settlement.

When a case on a tentative or trial calendar is settled, all attorneys of record must notify the Judicial Assistant or Trial Court Coordinator within twenty-four (24) hours of the settlement and advise who will prepare the judgment and when it will be presented. If the case is on a trial calendar then such attorneys shall also notify the attorneys of record in the next case that has not been settled. Rule 2(g), Rules of Practice.

Rule 25. retrial Orders.

a) **Procedure.** The pretrial order shall be prepared by the attorneys in compliance with the provisions of Rule 7 of the Rules of Practice. If necessary, a formal pretrial conference may be conducted by a presiding or resident judge pursuant to Rule 16(a) of the Rules of Civil Procedure.

b) **Deadline.** The pretrial order shall be completed and filed prior to the calendar call on the first day of the trial session.

c) **Medical Malpractice Actions.** In a medical malpractice action, at the close of the discovery period scheduled pursuant to Rule 26(f1) of the Rules of Civil Procedure, a final conference shall be scheduled by the Judicial Assistant or Trial Court Coordinator before a resident or presiding judge. Rule 16(b), Rules of Civil Procedure.

Rule 26. Trial Sessions.

a) **Call of the Calendar.** The trial calendar shall be called on the first day of the trial session. The purpose of calendar call shall be: (1) To advise of any cases settled or otherwise disposed of since the publication of the final trial calendar; (2) To consider any motions for a continuance; and (3) To give attorneys and parties an indication of when their case is expected to be called for trial. Any requests regarding scheduling, notice prior to calling a case for trial or placing parties or witnesses on telephone standby should be made during calendar call. Any matters affecting the readiness of any case for trial should be brought to the attention of the presiding judge calling the calendar.

b) **Attendance.** All parties, witnesses and counsel should be present for the calendar call unless they have been excused by the Senior Resident Judge or Judicial Assistant or Trial Court Coordinator.

c) **Motions.** Ordinarily motions should be set for hearing as the first order of business by the judge calling the calendar. Motions not heard on the first day of the session may be heard at any time during the session in the discretion of such judge.

d) **Trials.** When there is more than one presiding judge during the session, ordinarily the judge not hearing motions should begin with the trial of jury cases.

e) **Order of Trials.** Unless otherwise directed by the judge calling the calendar, cases shall be called for trial in the order in which they appear on the calendar.

f) **Cases Not Reached.** If a case scheduled for trial is not reached, the Judicial Assistant or Trial Court Coordinator may set the case for trial at a subsequent session of court.

Rule 27. Preparation of Orders and Judgments.

a) **Procedure.** The presiding judge may designate an attorney or party to prepare a proposed order or judgment for the judge's consideration after the conclusion of the hearing or trial giving rise to such designation. Prior to submission to the judge the designated attorney or party shall submit the proposed order or judgment to opposing counsel(s) or parties giving them an opportunity to comment upon or object as to form. After a good faith effort if the attorneys or parties are not able to agree, then the objecting attorney or party may submit an alternative proposed order or judgment.

b) **Delinquent Orders.** The proposed order or judgment of the designated attorney or party shall be considered delinquent if not received by the judge within fifteen (15) working days after such designation, unless otherwise directed by such judge. An alternative proposed order or judgment shall likewise be considered delinquent

Rule 28. Attendance by Attorneys.

When an attorney is notified to appear for the setting of a calendar, pretrial conference or pretrial calendar, hearing on a motion, or for trial, the attorney should, consistent with ethical requirements, appear or have a partner, associate or another attorney familiar with the case present. Unless an attorney has been excused in advance by the judge before whom the matter is scheduled or the Senior Resident Judge or Judicial Assistant or Trial Court Coordinator and has given notice to the opposing counsel or party, the case or matter should not be continued. Rule 2(e), Rules of Practice.

Rule 29. Guidelines for Resolving Scheduling Conflicts of Counsel.

The provisions of the current version of the Guidelines for Resolving Scheduling Conflicts as adopted by the State-Federal Judicial Council of North Carolina are hereby incorporated herein by reference. A copy of the Guidelines is attached hereto.

Rule 30. Professional Courtesy.

a) **Policy.** The civil justice system operates more efficiently when counsel and judges conduct themselves with dignity, propriety and courtesy.

b) **Rules.** The Principles of Professional Courtesy, including the Preamble, adopted and published by the North Carolina Bar Association, attached hereto are hereby incorporated herein by reference. See also Resolution of the Board of Governors of the North Carolina Bar Association, dated 19 June 1997(Urging trial judges to zealously require attorneys to comply with Rule 12 “Courtroom decorum” of the Rules of Practice.)

Rule 31. Conduct of Counsel.

a) **Policy.** The civil justice system operates more efficiently when counsel respect and follow all local rules of court and the Revised Rules of Professional Conduct, including but not limited to Rule 1.1 (Diligence), Rule 2.1 (Advisor), Rule 3.1 (Meritorious claims and contentions), Rule 3.2 (Expediting litigation), Rule 3.3 (Candor toward the tribunal), Rule 3.4 (Fairness to opposing party and counsel), Rule 3.5 (Impartiality and decorum of the tribunal), Rule 3.6 (Trial publicity), Rule 4.1 (Truthfulness in statements to others), Rule 4.2 (Communication with a person represented by counsel), Rule 4.3 (Dealing with unrepresented person), Rule 5.1 (Responsibilities of a partner or supervisory lawyer), Rule 5.3 (Responsibilities regarding nonlawyer assistants), Rule 8.2 (Judges and other adjudicatory officers), Rule 8.3 (Reporting professional misconduct), and Rule 8.4 (Misconduct).

b) **Courtroom Decorum.** All counsel shall be familiar with and observe Rule 12 of the Rules of Practice. See also Rule 3.5(a)(4), Rules of Professional Conduct.

c) **Statements to Media.** An attorney should demonstrate respect for the legal system and for those who serve it, including judges, other attorneys, and public officials. When speaking to the media counsel should be ever mindful of the Rules of Professional Conduct, in particular Rules 3.6 and 8.2(a).

d) **Rulings of the Court.** Counsel should yield gracefully to rulings of the court and avoid detrimental remarks both in court and out. Counsel should at all times promote respect for the court. Rule 12, Rules of Practice; Rule 0.1 and Rule 8.2(a), Rules of Professional Conduct.

Rule 32. Secure Leave Periods for Attorneys.

a) **Rules of Practice.** Secure leave periods for attorneys, including vacations, shall be governed by Rule 26 of the Rules of Practice.

b) **Unusual or Extraordinary Circumstances.** The policy and procedures described in the Rules of Practice are not exclusive. In unusual or extraordinary circumstances, the time limitations for notification of designated weeks may be waived by the court. Attorneys shall also be able to make other requests to be excused from appearing before a tribunal for personal and other reasons. If the case has already been calendared for trial or motion, then the attorney, should move for a continuance pursuant to applicable rules or policies.

Rule 33. Medico-Legal Guidelines of North Carolina.

a) **Policy.** The civil justice system operates more efficiently when the relationship between attorneys and physicians is based upon mutual respect, courtesy, and understanding.

b) **Rule.** The current version of the Medico-Legal Guidelines of North Carolina as adopted by the North Carolina Bar Association and the North Carolina Medical Society is hereby incorporated herein by reference.

c) **Conduct.** Attorneys shall be familiar with the Medico-Legal Guidelines and observe the provisions thereof when dealing with physicians.

Rule 34. Discipline of Attorneys.

The court has inherent authority over attorneys to prevent or punish acts prejudicial to the administration of justice. In re Burton, 257 N.C. 534(1962). This authority extends to misconduct which does not occur in the context of litigation pending before the disciplining court. See Id. at p.544. The North Carolina State Bar's disciplinary authority over attorneys was granted by the North Carolina General Assembly. Chapter 84 of the General Statutes. The State Bar has concurrent authority with the court to discipline attorneys for unethical conduct. In re Burton,

supra. Neither can act to usurp or supersede the jurisdiction of the other. N.C. State Bar v. Randolph, 325 N.C. 699(1989). In fact, an attorney can be disciplined separately by the State Bar and the courts for the same conduct. Id. As the State Bar possesses only those powers granted to it by the General Assembly, the State Bar cannot sanction for conduct which does not violate the Rules of Professional Conduct. The court's inherent authority to discipline attorneys, however, appears to be broader than that of the State Bar.

Rule 35. Approved Forms.

a) **General.** The forms identified below and attached hereto are approved for use in this judicial district. The forms, or a substantial equivalent, should be used in the particular circumstances addressed by the form.

b) **Forms.**

1) Agreement for Expedited Trial Procedure.

Rule 36. Enforcement.

a) **Local Judicial Officials.** These rules shall be observed and enforced by all local judicial officials.

b) **Visiting Judges.** In order to insure uniformity, all judges assigned to hold court in the judicial district should observe and enforce these local rules. The Judicial Assistant or Trial Court Coordinator shall provide a copy of these rules to each such judge at or before the commencement of such judge's assignment. Rule 22, Rules of Practice.

Rule 37. Sanctions.

a) **General.** A violation of any of these rules shall subject the offending attorney and/or party to any lawful sanction, including those specified by Rule 37 of the Rules of Civil Procedure.

b) **Attorneys.** A violation of these rules may subject the offending attorney to discipline by the court. A violation of these rules that constitutes a violation of the Rules of Professional Conduct shall subject the offending attorney to discipline by the court or the North Carolina State Bar.

c) **Contempt.** These rules may also be enforced through the contempt power of the court.

Rule 38. Time Standards.

a) **Trials.** Absent exigent circumstances, all civil actions should be tried or disposed of within the following deadlines: (1) Non-jury cases, 12 months; and (2) Jury cases, 18 months.

b) **Motions.** Absent exigent circumstances, all motions should be heard no later than the next scheduled civil superior court session after the filing of the motion.

Rule 39. Civil Superior Court Committee.

a) **Composition.** There shall be a Civil Superior Court Committee comprised as follows: (1) The Senior Resident Judge; (2) Resident Superior Court Judge; (3) Clerk of Superior Court; (4) An attorney appointed by the Senior Resident Judge; (5) An attorney appointed by the Resident Superior Court Judge; (6) An attorney appointed by the Clerk of Superior Court; and (7) An attorney appointed by the President of the Robeson County Bar Association. Such appointees shall serve at the pleasure of the appointing official.

b) **Officers.** The Chairperson of the committee shall be the Senior Resident Judge. The Vice-Chairperson shall be the Resident Superior Court Judge. The Clerk of Superior Court shall be the Secretary.

c) **Purpose.** The purpose of the committee shall be as follows: (1) To monitor the efficiency of the local civil superior court system; (2) To recommend amendments to these rules; (3) To draft forms to be utilized by counsel and parties in civil superior court actions; (4) To conduct training sessions for everyone concerned with the use of these rules; and (5) To promote the improvement of the local civil superior court system.

Rule 40. Effective Date.

These rules shall be effective on 1 July 2001.

COMMENT

The effective date of any civil case management plan and any amendments thereto must be either January 1 or July 1. Rule 2, Rules of Practice. This is to afford adequate time for statewide dissemination by the Administrative Office of the Courts prior to the effective date. Id.

NORTH CAROLINA
ROBESON COUNTY

SUPERIOR COURT DIVISION

REPORT OF GIFTS BY ATTORNEYS TO LAW ENFORCEMENT OFFICERS

Name of Donee _____ Nature of Gift or Transaction

Months for Which Report Filed _____ Typed Name of Attorney

Date of Report _____ Signature of Attorney

Note: List all gifts or transactions whereby anything of value at least \$25.00 in value was transferred to a Law Enforcement Officer by the signatory, a partner or associate, or his/her law firm. This Report is required by Rule 37(c)(3) of the Local Rules of Civil Procedure for the Superior Courts.

REVISED: 27 August 1998

NORTH CAROLINA
ROBESON COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
_____CVS_____

Plaintiff

vs.

**Agreement for Expedited
Trial Procedure**

Defendant

The undersigned attorney for the plaintiff and attorney for the defendant hereby stipulate, agree and consent to have this case placed on a fast track for disposition under an expedited trial procedure, pursuant to Rule 10 of the Local Rules of Civil Procedure for the Superior Courts, with the following conditions.

a) **Mandatory Pre-Discovery Disclosure:** The parties shall provide each other with the following within 60 days from the filing of a responsive pleading (after the issues are joined), with a continuing duty to supplement to the extent required by Rule 26 of the North Carolina Rules of Civil Procedure (herein "Rules of Civil Procedure"):

- 1) The factual basis of each claim or defense.
- 2) The legal theory upon which each claim or defense is based.
- 3) The identity, address and telephone number of all persons who may have knowledge of the basis of the claims and defenses and the nature of that information.
- 4) The furnishing of all non-privileged documents relevant to the claims that are possessed or controlled by a party or obtainable by reasonable inquiry and investigation, including copies of all liability insurance policies showing limits of coverage for the claims asserted, copies of records of medical treatment, diagnoses and expenses from any injury claimed in the pleadings, list of expert witnesses and a summary of their expected testimony providing the information required under Rule 26 of the Rules of Civil Procedure. In lieu of furnishing copies of medical records, a party may furnish the adverse party with a signed release authorizing the attorneys for said adverse party to obtain copies of the claimant's complete medical records from any health care provider treating the injury that is the subject of the claim. The release should also cover health care providers who treated the claimant for any similar condition during the five years preceding the date of the injury claimed. Any records obtained are to be made available to the claimant's attorney for inspection and copying.

b) **Mandatory Mediation:** Within 30 days from the filing of this agreement with Clerk of Superior Court, the case shall automatically be submitted to mediation pursuant to the Local Rules for Implementing Mediated Settlement Conferences in Superior Court Actions.

c) **Mandatory Discovery Limitations:** Parties shall abide by the following discovery rules:

- 1) Only parties, treating physicians and experts can be deposed for discovery purposes.
- 2) Interrogatories are limited to 25, including sub-parts.
- 3) Document requests are limited to 10.
- 4) Requests for admissions are limited to 25.
- 5) Depositions are limited to 4 hours each, unless stipulated to the contrary or by court order.
- 6) A discovery conference among the attorneys is required within 30 days from the filing of a responsive pleading (after the issues are joined), with a consent order containing discovery plans submitted to a Superior Court Judge for approval and filing. Within 90 days from the filing of a responsive pleading (after the issues are joined), all discovery must be completed.
- 7) Before a discovery motion such as a motion to compel or any other motion which is non-dispositive of any issue in the case may be filed, the attorneys shall attempt to resolve their differences and, if not, they shall submit said motion to the Mediator in an effort to resolve it by non-binding mediation conducted generally in accordance with the statutes and rules applicable to mediated settlement conferences in Superior Court. Only counsel for the parties involved in the motion shall be required to attend and participate in the mediation of a discovery motion. The parties involved in the mediation of a discovery dispute shall compensate the Mediator at his/her hourly rate, in equal shares, for time devoted to resolving the dispute, with a minimum fee of one hour for reviewing any documents and/or participating in a conference. The moving party shall be responsible for furnishing any materials to the Mediator for review and scheduling the conference with the Mediator. Any motion within the scope of this Rule shall contain the certification of counsel for the moving party that the requirements of this Rule have been met.
- 8) If requested by an interrogatory, a party must disclose the identity of lay witnesses, as well as the nature and a summary of their expected testimony.

d) **Peremptory or Priority Trial Settings:** All civil cases following these procedures will be given a peremptory or priority setting that will occur around 180 days from the filing of a responsive pleading (after the issues are joined).

e) **Additional Provisions:** The following additional terms and conditions have been agreed upon by counsel for the parties subject to court approval:

This the _____ day of _____, 20__.

Attorney for Plaintiff

Attorney for Defendant

Approved:

Resident Superior Court Judge

Date

REVISED: 04-03-2001