

**AMENDED
CASE MANAGEMENT PLAN FOR CIVIL CASES
IN THE SUPERIOR COURTS
JUDICIAL DISTRICT 17B
STOKES AND SURRY COUNTIES**

Effective July 1, 2004

The following case management plan for the calendaring of civil matters in the Superior Courts of Judicial District 17B has been adopted by the Senior Resident Superior Court Judge as required by the General Rules of Practice for the Superior and District Courts, adopted by the Supreme Court of North Carolina.

RULE 1 - CASE TRACKING SYSTEM

The Clerks of Court shall maintain the VCAP system for civil cases pending in the Superior Courts, keeping a separate index for medical malpractice actions.

The Trial Court Coordinator shall maintain a case tracking system for civil cases pending in the Superior Courts.

RULE 2 - TIME STANDARDS FOR CALENDARING

A case shall be calendared for trial as soon as practical after the following events:

- (A) The session of court following the ordered completion date of a mediated settlement conference;
- (B) The lapse of 120 days after the filing of the answer or last required pleading. The 120 day period shall be reserved exclusively for discovery, unless otherwise ordered by the Court, but the trial of the case shall not thereafter be delayed for failure to complete discovery unless, for good cause shown, the Senior Resident Superior Court Judge extends the discovery period prior to the expiration of the 120 day period. Motions for limitation or extension of the discovery period in the Superior Court should be mailed to the Office the Senior Resident Superior Court Judge;
- (C) The remand of a case on appeal for re-trial;
- (D) The docketing of any case having statutory priority;
- (E) The filing of a consent request for calendaring signed by all attorneys of record in the case and all parties not represented by attorneys.

RULE 3 - REQUESTS FOR CALENDARING

Any attorney or unrepresented party may request that a case be calendared for trial at any scheduled session of court. Requests for calendaring of Superior Court cases should be made to the office of the Senior Resident Superior Court Judge.

Any request for additions to the Superior Court trial calendar after the publication of the tentative calendar for that session, must be with the consent of all opposing attorneys and unrepresented parties as provided in Rule 4 below.

RULE 4 - SUPERIOR COURT TRIAL CALENDAR

(A) Tentative Superior Court Trial Calendars

(1) Publication

Not less than five weeks prior to the first day of each session, the Trial Court Coordinator shall prepare a tentative calendar of cases for trial at that session. The Trial Court Coordinator shall distribute one copy of the tentative calendar to each law firm with one or more cases listed thereon, and one copy to each party not represented by an attorney if such party's address appears of record. Each attorney and each unrepresented party shall be responsible for seeing that his/her correct mailing address appears in the record.

(2) Requests for Continuances from the Tentative Superior Court Trial Calendars

At any time more than three weeks before the first day of a trial session, an attorney or unrepresented party in any case on the tentative Superior Court calendar, after notice to all opposing parties, may request that the case be continued from the tentative calendar. The request shall be made on the AOC Form # AOC-CV-221, Motion and Order for Continuance, to the Trial Court Coordinator. If the motion is based on a need for additional discovery time, it must be accompanied by a written motion to extend discovery which motion shall state the reasons why discovery could not be completed within the time previously reserved for discovery. Except in unusual cases, neither the low listing of a case on the calendar nor the potential trial conflict of counsel shall be considered as a valid reason for a continuance.

(3) Request for Additions to Tentative Superior Court Calendars

At any time after the publication of the tentative calendar and before the publication of the final calendar, attorneys may request that additional cases be added to the calendar for trial. Any such request must have the approval of all opposing attorneys and should be directed to the Office of the Senior Resident Superior Court Judge.

(4) Request for Peremptory Settings

At any time more than three weeks before the first day of a session, an attorney may request a peremptory setting for any case listed on the tentative calendar. The request should state the reasons why the case should be peremptorily set and whether the request is approved by all attorneys in the case. The request should be directed to the Trial Court Coordinator. No more than two peremptory settings per week shall be made. If a peremptorily set case is continued, attorneys in that case shall not be entitled to a second priority setting unless another request is approved. A medical malpractice case shall not be set peremptorily for trial on the last week of a multi-week session of court unless otherwise ordered by the Senior Resident Superior Court Judge.

(B) **Final Superior Court Calendars**

(1) **Publication**

Not less than two weeks prior to the first day of each civil session, the Trial Court Coordinator shall prepare a final calendar of cases for trial at that session. The Trial Court Coordinator shall distribute one copy of the final calendar to each law firm with one or more cases listed thereon, one copy to each unrepresented party whose address appears of record, and one copy to the Presiding Judge.

(2) **Order of Listing for Trial**

The final trial calendar shall be composed of cases not removed from the tentative calendar and matters requested by agreement of counsel or parties. Peremptorily set cases shall be calendared at the top of the final calendar and marked accordingly. Thereafter, cases shall be set by date of filing in chronological order unless otherwise ordered by the Senior Resident Superior Court Judge. Cases may be called when reached in the order they are set unless the final calendar notes a date before which or after which a case shall not be tried.

(3) **Carry-over of Cases Not Tried When Scheduled**

Cases not reached during the first or subsequent week of a multi-week session shall be carried over to any subsequent weeks of the session to be tried after peremptorily set cases unless otherwise ordered by the Senior Resident Superior Court Judge or the Presiding Judge. Cases not disposed of during the session for which they are scheduled may be placed on the final calendar for the next civil session of court, even though the tentative calendar for that session has been previously published without listing that case for trial.

RULE 5 - MOTIONS TO CALENDAR

(A) **Regular Motion Calendar**

The Trial Court Coordinator in Superior Court matters shall publish and distribute a regular motion calendar of motions and non-trial matters to be heard at each court session. This regular motion calendar shall not contain more non-trial matters than can reasonably be expected to be heard in the time designated by the Senior Resident Superior Court Judge for the hearing of such matters. All calendar requests for the regular Superior Court motion calendar must be made to the office of the Senior Resident Superior Court Judge prior to the publication of the final calendar. Only those motions requested with calendar requests to the Trial Court Coordinator will be placed on the regular motion calendar for hearing.

(B) **Supplemental Motion Calendar**

Any motion calendar request filed after the publication of the final calendar for Superior Court should be filed the Clerk of Court who will notify the Trial Court Coordinator of the filing of the request. Parties with motions on the supplemental motion calendar must give notice of hearing to all opposing parties as required by the Rules of Civil Procedure. The hearing of motions listed on the regular motion calendars shall take precedence over the hearing of motions listed on the supplemental motion calendar unless otherwise ordered by the Presiding Judge.

RULE 6 - CONTINUANCES

Any motion for a continuance from the final Superior Court calendar for reasons arising before the close of the business day on the Friday (or last working day) preceding the first day of the session shall be made, in writing if possible, on AOC Form # AOC-CV-221 to the office of the Senior Resident Superior Court Judge. Motions for continuances may be directed to the Presiding Judge only for reasons arising after the close of the business day on the Friday (or last working day) preceding the first day of the session.

The Trial Court Coordinator shall rule upon all continuance requests directed to the Office of the Senior Resident Judge. Either party may appeal such ruling to the Senior Resident Judge. If the continuance request, ruling and appeal are all in writing, the appeal shall be based on such writing and the case tracking card for that case. Otherwise, the appeal shall be heard upon a conference telephone all initiated by the appealing attorney and including all interested attorneys or unrepresented parties, if possible.

Except in unusual cases, neither the low listing of a case on the calendar nor the potential trial conflict of counsel shall be considered as a valid reason for a continuance.

RULE 7 - SETTLEMENT OF CASES

(A) Notification Required

When any case on a calendar is settled, it shall be the responsibility of the attorneys of record in the case to either notify the Clerk of Court of the settlement or appear at the calendar call on the first day of the session to announce the case settled. When such notice of settlement is given, the Clerk must be advised as to who will prepare the judgment or dismissal and when it is to be filed.

(B) Dismissal of Cases When Settlement Documents Not Filed

If the attorney responsible for filing a settlement judgment or dismissal failed to do so within the time indicated when he/she notified the court of the settlement, the case may thereafter be placed on the regular or supplemental motion calendar for a later session of court for possible dismissal of the case for failure to timely file the settlement documents. Any attorney or party in the case may appear and show cause why the case should not be dismissed. If no good cause is shown, the case may, in the discretion of the Presiding Judge, be dismissed for failure to timely file the settlement judgment or dismissal.

RULE 8 - REMOVING INACTIVE CASES FROM TRIAL DOCKETS

(A) By Request of the Parties

If all parties and attorneys in a case agree that the dispute between the parties is no longer active, that a trial of the case will not be necessary, and that the ends of justice will best be served by declaring the case inactive and removing it from the trial docket, they may prepare a joint motion to that effect and submit it with a proposed order for the approval and signature of the Senior Resident Superior Court Judge.

(B) Contents of Proposed Order

The proposed order removing a case from the trial docket shall state the reasons why the parties contend justice will be promoted by the order and it shall contain an order that the case be declared inactive and the case file be closed without prejudice to any party's right to

have the matter reopened upon a motion in the cause. If the Judge allows the motion, he will sign the order and file it with the Clerk. If he does not allow it, he will return it with a notation that the motion is denied.

(C) **Removing Inactive Cases Without Request**

The Senior Resident Superior Court Judge or any Presiding Judge may, of his own motion, declare a case inactive and remove it from the trial docket if it appears to him the controversy between the parties no longer exists or that a trial of the matter will not be required. When a case is declared inactive by the Court's own motion, such ruling shall be made without prejudice to any party's right to have the case reopened for further necessary proceedings.

This plan may be modified or amended by the Senior Resident Superior Court Judge by subsequent modification orders. Suggested changes or amendments may be addressed to the Senior Resident Superior Court Judge.

Adopted this 20th day of April, 2004.

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