

## Judicial District 13 Civil Superior Case Management Plan

Pursuant to Rule 2(a) of the General Rules of Civil Practice for Superior Courts, the Undersigned Senior Resident Superior Court Judge for Judicial District 13 (*the Court*) adopts this amended Case Management Plan (*CMP*) for Johnston County Civil Superior Court.

This CMP shall be effective on 1 July 2024 and shall apply to pending cases. All attorneys practicing in and all parties appearing *pro se* in Judicial District 13 shall comply with this CMP.

### Communications with the Court

***“Communications with the Court”*** under this CMP is an informal procedure described below. It does not prevent matters from being addressed by motion and resolved formally if necessary.

All communications with the Court shall be addressed to the attention of the Court Administrator (*CA*) in one of the following means:

Mail: P.O. Box 2739, Smithfield, NC 27577  
Email: Barbara Johnson (barbara.h.johnson@nccourts.org)  
Telephone: 919.209.5512

1. Written communication may be by email or letter.
2. Written communications must be provided contemporaneously to all other parties by the same means used to communicate with the CA. Evidence of such communications must be included with the communication with the Court.
3. Communications must include sufficient detail to permit opposing parties to respond and the Court to address the matter.
4. In its discretion, the Court will determine if any conference call, meeting, or hearing is necessary, or if the matter can be resolved with informal communications.
5. The CA will notify all parties of the Court's determination.

6. Unless requested by a party, the Court will not file the communications in the court file.

7. The Court will enter a written order only when requested by a party and required by law, or where the Court otherwise deems it necessary or appropriate.

8. Parties are encouraged to use this informal procedure to promptly and efficiently resolve appropriate disputes. However, parties are not required to do so and may file formal motions.

9. The Court retains jurisdiction to assign all motions related to application of these Local Rules to administrative review described below, or to direct that another judge presiding in Johnston County hear such motions.

### Section I. Administrative Review

1 The Court shall review all pending civil cases periodically to determine if there are administrative or scheduling issues the Court should address.

2 Review of civil cases and administrative and scheduling decisions under this CMP is defined comprehensively as "administrative review".

3. The Court designates the CA as the Court's primary judicial assistant in administrative review, subject to the Court's supervision and ultimate authority.

4. Administrative review includes review of the status of the case, execution of a Scheduling Order, scheduling of a mediated settlement conference, or other matters the parties request or the Court deems necessary to promote the prompt and efficient resolution of the case.

5. When outstanding issues justifying administrative review exist, the CA may *ex mero motu* schedule such pending cases as "administrative hearings" during any civil session.

6. Unless excused by the CA, each party or an attorney authorized by each party to participate in administrative review must appear at an administrative hearing.

7. After consultation with the CA, parties may seek administrative review by filing calendar requests. With the CA's permission and subject to the CA's coordination with the Court, an administrative hearing may be set before the Court during a criminal session.

8. No notice is required regarding the hearing of any issue within the scope of this CMP if the matter is set for hearing by the CA. The CA may also give notice by email of any issue within the scope of the CMP. Proper notice of motions is required if a motion is set for hearing by request of a party. If other matters arise that a party contends requires notice, the Court will determine the notice required, if any, and set the matter for hearing.

9. Failure to appear and provide input at administrative review will not justify amendment of deadlines or trial dates set during administrative review.

10. Parties or attorneys requesting to be excused from appearing for administrative review must correspond with the CA to resolve all outstanding administrative review issues.

11. Failure to appear for administrative review without prior excuse from the CA or the Court, whether set by a party or otherwise by the CA, shall be grounds for the imposition of sanctions in the discretion of the Court.

## Section II. Scheduling Orders

1. Scheduling Orders must be entered in all cases, except driver's license revocation hearings and administrative appeals.

2. Scheduling Orders must provide deadlines for mediation and a designated civil session for trial. An example of a Scheduling Order meeting these minimum requirements is attached.

3. As established by the parties or by the Court at the request of a party, Scheduling Orders may provide other deadlines for designation of experts, hearing of dispositive motions, or other deadlines or schedules necessary for the prompt and efficient administration of the cases.

4. Except as specifically provided otherwise in Scheduling Orders, the terms and schedules in this CMP shall apply.

5. Scheduling Orders may be modified only by Amended Scheduling Orders entered by the Court. Parties submitting Scheduling Orders reached by consent shall submit them to the CA by email only. The Court retains the ultimate authority to accept or reject all tendered modifications and Amended Scheduling Orders.

6. Violation of Scheduling Orders shall be grounds for the imposition of sanctions in the discretion of the Court.

7. If the parties do not submit Scheduling Orders by consent, the parties or the CA may set the case for administrative review as provided in Section I.

8. If a Scheduling Order is not entered within ten months of filing of a complaint and the case is not otherwise set for administrative review as provided in Section I, the CA in consultation with the Court shall enter a Scheduling Order.

9. Parties seeking preemptory or favorable trial settings or requesting special sessions must through "Communications with the Court" submit a detailed request to the CA in writing. Within three (3) business days after the request, all objections to or comments about the request must likewise be submitted to the CA and copied to all parties. The Court will through the CA advise all parties of the trial setting. This provision does not prevent the CA or the parties from pursuing administrative review as provided in Section I.

10. Cases provided preemptory or priority settings which are not tried as scheduled are not entitled to any priority setting thereafter. Absent

extraordinary circumstances which prevented trial at the priority setting, the Court in its discretion will set such case for administrative review as provided in Section I or reset the case for trial at a subsequent regular session.

### Section III. Motions

1. The CA will schedule motions for which no hearing is requested at the next available session.

2. Motions not scheduled by parties filing them or the Court may be scheduled by other parties.

3. If notice proper under the North Carolina Rules of Civil Procedure is provided, motions need not appear on a scheduled session.

4. Motions shall contain adequate notice of the basis for the relief sought. For example, motions for dismissal or for summary judgment shall state specific reasons in such motions to provide fair notice to opposing parties to prepare for hearings. Upon request by opposing parties, parties failing to provide sufficient detail must cure such failure immediately after request is made. Parties must make a good faith effort to focus motions on the substantive issues involved to avoid confusion and unnecessary efforts by responding parties. Upon finding a violation of this Local Rule, the presiding judge may continue the motion or as a sanction deny it.

5. Parties with motions justifying immediate hearings that cannot be otherwise scheduled or that for other reasons must be heard by the Court may, by communications with the Court, request in writing permission to set such motions before the Court at criminal sessions or other times as the Court will be in Johnston County. After consultation with the Court, the CA will advise the parties if and when the Court will hear such motions. The parties would then, and only then, file and serve calendar requests for such hearings. Unless special permission is granted for such hearings with the Court, motions must be

scheduled at established sessions.

6. Memoranda must be provided to opposing parties as required by the Rules of Civil Procedure. Copies of all memoranda should be provided to the Court by email, US mail, delivery service, or by hand delivery.

#### Section IV. Discovery

1. This CMP does not regulate the nature, timing, or extent of discovery.
2. Unless otherwise provided in Scheduling Orders or as may be specifically set forth herein, there is no close of discovery. Parties may engage in discovery as permitted by the Rules of Civil Procedure. In cases not tried when scheduled, discovery otherwise appropriate under the Rules of Civil Procedure and this CMP may continue thereafter.
3. As a standing order of the Court, parties may take depositions by telephone, Zoom, WebEx or other similar platforms.
4. Parties may not notice discovery depositions to be taken within ten (10) days of scheduled trials. Violation shall be grounds for the issuance of a protective order and imposition of sanctions.

#### Section V. Pretrial Orders

1. Unless excused by the Court, parties shall prepare pretrial orders in every case.
2. It is the joint responsibility of all parties to participate in good faith to present to the Court after the call of the calendar a consolidated pretrial order. If the parties cannot present a consolidated pretrial order, they must present their own versions of a proposed pretrial order to be discussed in a pretrial conference with the presiding judge.
3. Any party may initiate the pretrial process by providing a proposed

pretrial order with schedules of witnesses and exhibits to opposing parties. No later than three (3) days thereafter, opposing parties shall provide their schedules of witnesses and exhibits and propose corrections or additions to the pretrial order. Parties are all obligated to cooperate in a prompt, complete, and good faith effort to disclose witnesses and exhibits and make exhibits available for inspection and copying if requested.

4. Violation of these obligations may be grounds in the discretion of the presiding judge for the exclusion of witnesses and exhibits not identified or exhibits not produced for inspection and copying upon reasonable request.

5. Motions *in limine* shall be heard prior to selecting a jury, subject to the presiding judge's direction otherwise.

#### Section VI. Trial Sessions

1. Where Scheduling Orders establish trial dates, parties need not file calendar requests.

2. Although the Court will ordinarily set trial dates through Scheduling Orders, the Court retains the right to set cases for trial pursuant to calendar requests filed by parties or as the Court may otherwise determine is appropriate.

3. The Court or the CA shall resolve any dispute as to the requested date or trial setting.

4. All attorneys will be required to provide the CA with a valid email address and shall include this address with the attorney's signature on all pleadings. An attorney entering a notice of appearance in an existing lawsuit shall provide a copy of the notice to the CA.

5. Printed scheduled sessions will not be distributed to attorneys by U.S. mail or by e-mail and will not be placed in attorney mailboxes in the Clerk of Superior Court's office. The CA will mail printed notices to parties appearing *pro se*.

## Section VII. Continuances

1. Parties moving for continuance or objecting to notices of hearing shall by communication with the Court detail the basis of the request or objection.
2. If the basis is an unexpected event or development, parties must communicate the facts and request to the CA immediately.
3. If the Court is not available to consider the motion or objection, or if the motion or objection is based upon events arising after 5:00 p.m. on the last business day before the first day of the trial session, the CA will present the motion or objection to the judge presiding for the session.
4. Except as provided herein, parties may not otherwise request continuances from presiding judges during the session at which cases are scheduled for trial.
5. When a matter is settled, plaintiff's counsel shall immediately advise the CA of the settlement, the party who will prepare and present the judgment or dismissal, and the date by which it will be filed.

## Section VIII. Failure to Prosecute

If 120 days after a complaint is filed there is documented service but no answer, the CA shall schedule the case on "administrative hearings" for review. If default is not entered and the parties fail to appear and address the case status satisfactorily, the Court may dismiss the case without prejudice for failure to prosecute.

## Section IX. Administrative Removal

After proper notice to parties by scheduling cases for administrative review, cases in which scheduling orders are not entered and which are not pending for trial are subject to an order of removal from the active docket, without prejudice to activation by motion. Examples are cases in which: stays are imposed by bankruptcy filings; defendants are making payments toward a



settlement or other obligation; service is not perfected and time has expired; answers are not filed and time has expired; and, removal to the US District Court.

Section X. Addendum for Court Operations

The attached “Addendum for Judicial District 13 Court Operations” is incorporated.

ADDENDUM FOR JUDICIAL DISTRICT 13  
COURT OPERATIONS

CMP Local Mediation Rules

Pursuant to G.S. § 7A-38.1 and Rule 10 of the Rules Implementing Mediated Settlement Conferences in Superior Court Civil Cases adopted by the N.C. Supreme Court (the Supreme Court Rules), the Court adopts these additional Local Rules that apply to all mediated settlement conferences (mediation) in Judicial District 13. Except as expanded by these Rules, N.C. Gen. Stat. § 7A-38.1 and the Supreme Court Rules are incorporated by reference and shall control. All future amendments to the Supreme Court Rules are incorporated by reference as of their effective date.

Section I. Procedures

1. The Court orders that all persons or entities identified under Supreme Court Rule 4, in all cases in Judicial District 13, shall participate in a pretrial mediation.
2. This order replaces AOC-CV-811 (Order for Mediated Settlement Conference and Trial Calendar Notice). When a complaint is filed, AOC-CV-811 shall be deemed entered by the Court. All its terms are incorporated except the following modifications that control mediation procedures in Judicial District 13.
3. Within 120 days after an attorney first enters an appearance on behalf of any defendant, or a defendant appears *pro se*, the plaintiff shall provide an appropriate Order to the CA designating the mediator selected by the parties.
4. Alternatively, the plaintiff shall by written correspondence as provided in Section 3 request that the Court extend the time, appoint a mediator in the absence of consent, or take other action the plaintiff contends is appropriate.
5. Otherwise, the Court will select and designate a mediator without further notice to the parties.

6. Unless extended by Scheduling Order of the Court, the parties shall complete their mediation within one year after the complaint is filed. The plaintiff must obtain an order providing any extension that is necessary as provided in Section 3. The request must be made prior to the expiration of the deadline. Either the parties or the mediator must provide the proposed order.

### Section II. Extensions & Exceptions

A party requesting an extension or exception must make such requests prior to the passing of a deadline or prior to the occurrence of the issue about which an exception is requested. The Court will extend the deadline for completion of mediation only upon a showing of compelling circumstances that the parties by due diligence could not have avoided.

### Section III. Sanctions for Violation of Mediation Rules

1. Supreme Court Rule 5 is incorporated, but is expanded to apply to any violation of these Rules.

2. As a sanction for any violation of these Mediation Rules, including the Court's ruling on any tardy application for an extension or exception, the Court in its discretion may impose any one or more of the following sanctions: payment of attorney's fees and costs of the adverse party(ies) caused by the violation; payment of mediator's fees and expenses caused by the violation; civil contempt with appropriate sanctions; or, any other sanction authorized by Rule 37(b) of the Rules of Civil Procedure.

3. Before entering any sanctions, the Court shall set a hearing at which all parties may present evidence and argument relevant to the violations at issue. The Court shall enter an Order in compliance with Supreme Court Rule 5.

### Judicial District 13 Civil Superior Case Management Plan

*/s/ Thomas H. Lock*  
Senior Resident Superior Court  
Judge Judicial District 13

NORTH CAROLINA  
JOHNSTON COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO: \_\_\_ CV \_\_\_\_\_ -500

*John Doe* )  
Plaintiff )  
 )  
v. )  
 )  
*Mary Doe* )  
Defendant )  
\_\_\_\_\_ )

Scheduling Order

Pursuant to the Judicial District 13 Civil Superior Case Management Plan, the consent of counsel as confirmed with the Court Administrator, and the Court's confirmation of the status and scheduling needs of case, Senior Resident Superior Court Judge Thomas H. Lock orders that:

1. Mediation shall be completed by \_\_\_\_\_.
2. This case is set for jury trial on \_\_\_\_\_.
3. *[other optional deadlines or provisions as set by agreement of counsel]*
4. Unless expressly modified by this Order, all Local Rules will apply.

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

\_\_\_\_\_  
Thomas H. Lock  
Senior Resident Superior Court Judge

NORTH CAROLINA  
JOHNSTON COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO: \_\_\_ CV \_\_\_\_\_ -500

*John Doe* )  
Plaintiff )  
 )  
v. )  
 )  
*Mary Doe* )  
Defendant )  
\_\_\_\_\_ )

Order Closing File

THIS CAUSE comes on for hearing administratively by the undersigned Senior Resident Superior Court Judge for Johnston County. It appears to the Court that defendants are involved in a Federal bankruptcy proceeding and therefore this cause cannot proceed while defendants are involved in such proceedings. Counsel for the parties have advised the Court that they will actively pursue the lifting of the Stay in Bankruptcy. In the meantime, this case will be inactive unless reopened by motion of either party.

IT IS THEREFORE ORDERED that the above-captioned cause be and the same is hereby administratively closed subject to being reopened on motion of either party after such time as the Stay in Bankruptcy has been lifted.

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

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Thomas H. Lock  
Senior Resident Superior Court Judge

NORTH CAROLINA  
JOHNSTON COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO: \_\_\_\_\_ CV \_\_\_\_\_ -500

*John Doe* )  
Plaintiff )  
 )  
v. )  
 )  
*Mary Doe* )  
Defendant )  
\_\_\_\_\_ )

Order Closing File

This cause comes on for hearing administratively by the undersigned Senior Resident Superior Court Judge of Johnston County. It appears from the record that the parties hereto have reached an out of court settlement at mediation as is reflected in a written memorandum of record. The settlement allows for extensive payments over time to allow the defendant to make the required payments. In the meantime, the case will be inactive unless reopened by motion of either party.

It is therefore ordered that this action be and the same is hereby administratively closed subject to being reopened on the motion of either party in the event issues arise as to the execution of the settlement.

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

\_\_\_\_\_  
Thomas H. Lock  
Senior Resident Superior Court Judge