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CLERK OF SUPERIOR COURT

STATE OF NORTH CAROLINA  
MECKLENBURG COUNTY

BY: T. Simmons

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 25R003073-590

In Re: Adoption of Superior Court  
Civil Local Rules

**ADMINISTRATIVE ORDER**

WHEREAS, the undersigned Senior Resident Superior Court Judge is responsible for the calendaring of all civil cases and motions for trial or hearing and development of a case management plan in Judicial District 26 pursuant to Rule 2 of the North Carolina General Rules of Practice for Superior and District Courts and Rule 40 of the North Carolina Rules of Civil Procedure.

WHEREAS, local court rules provide clarity and consistency in procedures, while ensuring fairness and preventing delays.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that the attached 26th Judicial District Superior Court Division Civil Local Rules providing for the case management and calendaring of civil cases are hereby adopted, effective August 1, 2025.

These rules supersede all previous Civil Local Rules of the Superior Court Division of Judicial District 26 and applicable administrative orders.



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Honorable Carla N. Archie  
Senior Resident Superior Court Judge  
Judicial District 26

**26th JUDICIAL DISTRICT  
SUPERIOR COURT DIVISION  
CIVIL LOCAL RULES**

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## Rule 1: Administration and Scope of the Local Rules

1.1. **Purpose and Authority:** The purpose of these rules is to institute a case management plan that will provide for the orderly, prompt, and just disposition of civil matters. They are promulgated pursuant to N.C.G.S. § 1A-1, Rule 40, and Rule 2 of the North Carolina General Rules of Practice for the Superior and District Courts.

1.2. **Effective Date:** These revised rules are effective July 1, 2025 (the “Effective Date”) and supersede the previous 26th Judicial District Superior Court Division Civil Rules. These revised rules also shall govern all pending Superior Court Civil cases in the 26th Judicial District as of the Effective Date, except that the deadlines and trial dates entered in cases prior to the Effective Date shall continue to apply in those cases and any requests to modify those dates shall be processed under these revised rules.

1.3. **Publication:** These rules, associated local forms, and all subsequent amendments are filed with the Clerk of Court for Mecklenburg County, and published on the 26th Judicial District Bar and Mecklenburg County Bar Association website and on the Mecklenburg County local rules and forms page on the North Carolina Judicial Branch website (<https://www.nccourts.gov/locations/mecklenburg-county/mecklenburg-county-local-rules-and-forms>).

1.4. **Scope of Rules:** These rules are not intended to be complete in every detail and will not cover every situation that may arise.

- (a) **Administrative Orders:** Any administrative orders that were entered prior to the Effective Date concerning matters covered by these revised rules are superseded by these revised rules. Any administrative orders that are entered after the Effective Date applicable to civil Superior Court shall take precedence over these revised rules.
- (b) **North Carolina Rules of Civil Procedure:** These rules are intended to supplement the North Carolina Rules of Civil Procedure.
- (c) **Local Rules and Forms:** These rules do not supersede other local rules applicable to civil Superior Court not addressed by these rules, including, for example, the 26th Judicial District Policy for Inclement Weather and the 26th Judicial District Local Rules Governing Photography, Filming and Audio Recording Within the Mecklenburg County Courthouse. All local rules and forms can be found on the 26th Judicial District and Mecklenburg County Bar Association website and on the Mecklenburg County local rules and forms page on the North Carolina Judicial Branch website (<https://www.nccourts.gov/locations/mecklenburg-county/mecklenburg-county-local-rules-and-forms>).

- (d) State forms promulgated by the North Carolina Administrative Office of the Courts (NCAOC) can be found at [www.nccourts.gov/documents/forms](http://www.nccourts.gov/documents/forms).
- (e) **Discretion of Trial Court Administrator's Office:** In the event that these rules, other local rules applicable to civil Superior Court, the North Carolina Rules of Civil Procedure, the North Carolina General Rules of Practice, administrative orders signed by the Senior Resident Superior Court Judge, or other court order do not cover a specific matter, the Trial Court Administrator (TCA) or designee is authorized to act in their discretion.

1.5. **Calendaring Authority:** The calendar for the disposition of civil cases in the 26th Judicial District, Superior Court Division, shall be set and maintained by the Caseflow Management Division of the TCA's Office in accordance with these rules and under the supervision of the Senior Resident Superior Court Judge. The contact information for the staff of the Caseflow Management Division is available on the North Carolina Judicial Branch website at: <https://www.nccourts.gov/locations/mecklenburg-county/caseflow-management>.

## **Rule 2: Certain Responsibilities of Attorneys and Self-Represented Parties:**

2.1. **Filing Pleadings:** All pleadings filed with the Clerk of Court by an attorney shall indicate the attorney's name, Bar number, firm, mailing address, telephone number, and email address of the attorney filing the pleading. All pleadings filed with the Clerk of Court by a self-represented party shall include the party's name, mailing address, and telephone number. Self-represented parties are encouraged to include an email address and to stipulate to electronic communication by filing a completed Local Form **CCF-83** with the Clerk of Court's Office.

2.2. **Contact Information:** It shall be the responsibility of attorneys to keep their contact information up to date with the North Carolina State Bar. It shall be the responsibility of self-represented parties to keep their contact information up to date by filing any changes with the Clerk of Court using Local Form **CCF-83**. If self-represented parties wish to be served by electronic notification, the box indicating agreement to electronic service must be checked on the CCF-83 form and filed with the Clerk of Court.

2.3. **Appearances Before the Court:** When an attorney is notified or required to appear before the Court, the attorney shall, consistent with ethical requirements, appear or have a partner, associate, or another attorney familiar with the case present. When a self-represented party is notified or required to appear before the Court, the self-represented party shall appear unless excused by the Court.

2.4. **Preparation of Forms:** Attorneys and self-represented parties shall be responsible for reproduction of forms that are required by these rules. Reproduction may be by any process that results in clearly legible copies of standard letter size.

2.5. **Document Naming Standards for Electronic Filing:** Attorneys and self-represented litigants who submit documents through electronic filing (eFiling) shall follow the document naming standards published by the North Carolina Administrative Office of the Courts (NCAOC). The document naming standards are published on [www.nccourts.gov/ecourts](http://www.nccourts.gov/ecourts). The name of each document shall include the three parts outlined below.

- (a) **Party Title:** The first part of the naming standard is the party title of the party filing the document plaintiff, defendant, petitioner, respondent, State, administrator, executor, guardian, creditor, beneficiary, trustee, juvenile, movant, intervenor, etc.).
- (b) **Party's Last Name or Organization Name:** The second part of the naming standard is the party's last name. If the party is a corporate entity or an organization, the party should enter a shortened easily identifiable name for itself. When a document is filed on behalf of multiple parties, the filer should include the last name of each party. If there are too many parties to name, the filer should list "Joint" after the party title.
- (c) **Title of the Document:** The third part of the naming standard is the title of the document included in the caption, the title of the AOC form, or the title of the local form being filed.
- (d) Examples:
  - Plaintiff Smith Motion to Compel
  - Defendant Joint Motion to Quash
  - Guardian Williams Motion in the Cause
  - Creditor Wells Fargo Claim Against Estate
  - Trustee Johnson Petition to Ascertain Beneficiaries

2.6 **Service:** All pleadings, motions and orders, shall be served on all other parties/ counsel by the moving party/ attorney prior to or simultaneously when filing with the Court in accordance with Rule 5 of the North Carolina Rules of Civil Procedure.

### **Rule 3: Designation of Secure Leave**

3.1 **Form of Designation:** Attorneys must comply with Rule 26 of the North Carolina General Rules of Practice for the Superior and District Courts (NCRGP). When submitting a designation of secure leave period, the secure leave may be submitted on Local Form [CCF-27](#) or a similar form containing the required information set forth in NCRGP Rule 26(d).

3.2 **Submission of Form:** All designations of secure leave periods must be electronically filed with the Clerk of Court as a new case with a “Registration” case type. Questions may be addressed to the Superior Court Judicial Assistant.

#### **Rule 4: Law Enforcement Agency Recordings**

4.1 **Motions for Disclosure or Release of Law Enforcement Agency Recording:** Recordings from body-worn cameras, dashboard cameras, and other devices used by law enforcement officers when carrying out law enforcement duties, are not public records (N.C.G.S. § 132-1.4A(b)). The North Carolina Public Records Act provides that law enforcement agency recordings may be accessed by disclosure or release.

4.2 **Appeal of Disclosure Denial:** If a law enforcement agency denies or delays disclosure, the person seeking disclosure may file a civil action for a review of the denial or delay of disclosure in superior court pursuant to N.C.G.S. § 132-1.4A(e).

- (a) The person shall file the action with the Clerk of Court and notice the head of custodial law enforcement agency, the district attorney, and all law enforcement agency personnel whose image or voice is in the recording and the head of each such person’s employing agency. If the appropriate parties are not given notice, the petition will be summarily denied as procedurally defective.
- (b) The action shall be set for hearing by the Caseflow Management Division in the TCA’s Office in accordance with N.C.G.S. § 132-1.4A(e).
- (c) A superior court judge will review the action and enter an Order After Civil Action Filed to Provide Custodial Law Enforcement Agency Recording for In-Camera Review and Order to Provide Notice of Hearing (AOC-CV-281).
- (d) The Judicial Support Division in the TCA’s Office will notice the person who filed the action, the head of the custodial law enforcement agency, and the district attorney of the hearing date and time and serve the AOC-CV-281 (“Order After Civil Action Filed to Provide Custodial Law Enforcement Agency Recording for In-Camera Review and Order to Provide Notice of Hearing”) on the parties. It is the responsibility of the head of the custodial law enforcement agency to provide notice of the hearing date and time to any law enforcement agency personnel whose image or voice is in the recording and the head of each such person’s employing agency.

- (e) The custodial law enforcement agency shall deliver a copy of the recording to the TCA Judicial Support Staff Division on or before the date specified in the AOC-CV-281, where the recording will be stored in a secured location until the presiding judge conducts an in-camera review.
- (f) A superior court judge will review the recording and conduct the hearing as scheduled and thereafter enter an Order on Review of Denial or Delay of Disclosure of Custodial Law Enforcement Agency Recording (AOC-CV-273).
- (g) Once entered, the Order on Review of Denial or Delay of Disclosure of Custodial Law Enforcement Agency Recording (AOC-CV-273) will be accessible on Portal.

4.3 **Release of Recordings to Authorized Persons:** Persons authorized to receive a copy of a law enforcement agency recording must file a petition to release a law enforcement agency recording pursuant to N.C.G.S. § 132-1.4A(f) on a form AOC-CV-270 (“Petition for Release of Custodial Law Enforcement Agency Recording”). No filing fee applies.

- (a) The petitioner shall file form AOC-CV-270 (“Petition for Release of Custodial Law Enforcement Agency Recording”) with the Clerk of Court and notice the head of the custodial law enforcement agency.
- (b) The petition shall be set for hearing by the Caseflow Management Division in the TCA’s Office in accordance with N.C.G.S. § 132-1.4A(f).
- (c) A superior court judge will review the AOC-CV-270 (“Petition for Release of Custodial Law Enforcement Agency Recording”) and enter an Order to Provide Custodial Law Enforcement Agency Recording for In-Camera Review and Notice of Hearing (AOC-CV-274).
- (d) The Judicial Support Division in the TCA’s Office will notice the petitioner and head of the custodial law enforcement agency of the hearing date and time and serve the AOC-CV-274 (“Order After Petition for Release Filed to Provide Custodial Law Enforcement Agency Recording for In-Camera Review and Notice of Hearing”) on the parties.
- (e) The custodial law enforcement agency shall deliver a copy of the recording to the TCA Judicial Support Staff Division on or before the deadline specified in the AOC-CV-274, where the recording will be

stored in a secured location until the presiding judge conducts an in-camera review.

- (f) A presiding superior court judge will review the recording and conduct the hearing as scheduled and thereafter enter an Order on Petition for Release of Custodial Law Enforcement Agency Recording (AOC-CV-271).
- (g) Once entered, the Order on Petition for Release of Custodial Law Enforcement Agency Recording (AOC-CV-271) will be accessible on Portal.

**4.4 Release of Recordings to Other Persons or Entities:** Other persons or entities who desire a copy of a law enforcement agency recording must file an action in superior court pursuant to N.C.G.S. § 132-1.4A(g).

- (a) The person or entity shall file the civil action with the Clerk of Court and notice the head of custodial law enforcement agency, the district attorney, and all law enforcement agency personnel whose image or voice is in the recording and the head of each such person's employing agency.
- (b) The action shall be set for hearing by the Caseflow Management Division in the TCA's Office in accordance with N.C.G.S. § 132-1.4A(g).
- (c) A superior court judge will review the action and enter an Order After Civil Action Filed to Provide Custodial Law Enforcement Agency Recording for In-Camera Review and Order to Provide Notice of Hearing (AOC-CV-281).
- (d) The Judicial Support Division in the TCA's Office will notice the person or entity who filed the action, the head of the custodial law enforcement agency, and the district attorney of the hearing date and time and serve the AOC-CV-281 ("Order After Civil Action Filed to Provide Custodial Law Enforcement Agency Recording for In-Camera Review and Order to Provide Notice of Hearing") on the parties. It is the responsibility of the head of the custodial law enforcement agency to provide notice of the hearing date and time to any law enforcement agency personnel whose image or voice is in the recording and the head of each such person's employing agency.

- (e) The custodial law enforcement agency shall deliver a copy of the recording to the TCA Judicial Support Staff Division on or before the deadline specified in the AOC-CV-281, where the recording will be stored in a secured location until the presiding judge conducts an in-camera review.
- (f) A superior court judge will review the recording and conduct the hearing as scheduled and thereafter enter an Order Regarding Release of Custodial Law Enforcement Agency Recording (AOC-CV-280).
- (g) Once entered, the Order Regarding Release of Custodial Law Enforcement Agency Recording (AOC-CV-280) will be accessible on Portal.

**4.5 Disclosure of Recording that Depicts Death or Serious Bodily Injury:** Persons authorized to receive disclosure under N.C.G.S. § 132-1.4A(b1) must submit a signed and notarized request for disclosure to the head of the custodial law enforcement agency on form [AOC-CV-275](#) (“Request to Law Enforcement Agency to Disclose Recording of Death of Serious Bodily Injury”).

- (a) Within three (3) business days of receipt of the signed and notarized form AOC-CV-275, the head of the custodial law enforcement agency shall file a Petition for Review of Request to Disclose Recording of Death or Serious Bodily Injury ([AOC-CV-276](#)) with the Clerk of Court and deliver a copy of the recording to the TCA Judicial Support Division, where the recording will be stored in a secured location until the Senior Resident Superior Court Judge or designee conducts an in-camera review. The head of the custodial law enforcement agency must also notice the district attorney, all law enforcement agency personnel whose image or voice is in the recording and the head of each such person’s employing agency, the investigating law enforcement agency, and the party requesting disclosure. No filing fee applies.
- (b) The petition shall be set for hearing by the Caseflow Management Division in the TCA’s Office within seven (7) business days from the filing of the petition in accordance with N.C.G.S. § 132-1.4A(b3).
- (c) The Senior Resident Superior Court Judge or designee will review the petition and enter an Order to Provide Notice of Hearing on Request to Disclose Recording of Death or Serious Bodily Injury ([AOC-CV-279](#)).

- (d) The Judicial Support Division in the TCA's Office will notice the requestor, the head of the custodial law enforcement agency and the district attorney of the hearing date and time and serve the AOC-CV-279 ("Order to Provide Notice of Hearing on Request to Disclose Recording of Death or Serious Bodily Injury") on the parties. It is the responsibility of the head of the custodial law enforcement agency to provide notice of the hearing date and time to any law enforcement agency personnel whose image or voice is in the recording and the head of each such person's employing agency and to the investigating law enforcement agency (if different from the petitioning law enforcement agency).
- (e) The Senior Resident Superior Court Judge or designee will review the recording and conduct the hearing as scheduled and thereafter enter an Order on Petition for Review of Request to Disclose Recording of Death or Serious Bodily Injury (AOC-CV-277) or Order on Hearing to Reconsider Request to Disclose Recording of Death or Serious Bodily Injury (AOC-CV-278).
- (f) Once entered, the Order on Petition for Review of Request to Disclose Recording of Death or Serious Bodily Injury (AOC-CV-277) or Order on Hearing to Reconsider Request to Disclose Recording of Death or Serious Bodily Injury (AOC-CV-278) will be accessible on Portal.

## **Rule 5: Time Standards, Case Tracking, and Trial Readiness**

**5.1 Time Standards:** In accordance with the North Carolina Supreme Court Time Guidelines for Trial Court Cases, absent good cause and with the exception of Condemnation actions, cases are to be tried or disposed of within the following time standards: 90% within 365 days, 98% within 545 days, and 100% within 730 days from the initial filing.

**5.2 Case Tracking System:** The Caseflow Management Division of the TCA's Office shall monitor the number, age, type, and procedural status of all pending cases and provide for calendaring of the same in accordance with Rule 2(c) of the North Carolina General Rules of Practice for Superior and District Courts and in accordance with these Rules.

**5.3 Issuance of the Case Management Order:** To facilitate the timely disposition of cases in accordance with the Supreme Court's Time Guidelines, the Caseflow Management Division of the TCA's Office will issue a Case Management Order (CMO) to all parties or their counsel of record. The CMO shall include deadlines for the case, including the the designation of experts, the completion of discovery, and the filing of dispositive motions.

**5.4 Ex Parte Extensions of Time from the Clerk:** Attorneys and self-represented parties shall not seek from the Clerk of Court more than one ex parte extension of time per original deadline and shall not request an ex parte extension of time more than thirty (30) days in length.

- (a) Each party is responsible for ensuring that it can complete discovery within the time period in the CMO. In particular, interrogatories, requests for production, and requests for admission should be served early enough that answers and responses will be due before the discovery deadline ends.
- (b) No ex parte extension of the time to respond to interrogatories, requests for production, or requests for admission shall be granted from the clerk if the proposed extension will cause the discovery to be due after the discovery deadline.

**5.5 Readiness of Case to Set for Trial:** The Superior Trial Caseflow Coordinator shall place those cases determined to be ready for trial onto trial calendars consistent with the CMO. A case shall be considered ready to set for trial when the Caseflow Management Division of the TCA's Office determines the following:

- (a) In other than condemnation actions, service has been perfected as to all parties, and the time period for filing an answer has expired with regard to all claims, counterclaims, and cross-claims;
- (b) As to condemnation actions, the case is ready for trial as set forth in Local Rule 5.6 below;
- (c) The case or proceeding has been transferred by the Clerk of Court;
- (d) The case is entitled to priority in hearing by statute; or
- (e) The case has been remanded for trial by the Appellate Division.

**5.6 Condemnation Cases:** Condemnation actions shall be presumed to be ready for trial as follows:

- (a) **Chapter 136 Cases:** Cases brought under Article 9 or Chapter 136 of the General Statutes shall be presumed ready for trial 6 months after Answer has been filed unless motions to continue the trial have been filed and orders entered due to incomplete projects or other good cause has been shown to continue the trial. If a hearing is requested pursuant to N.C.G.S. § 136-108, the motion shall be scheduled to be heard at least sixty (60) days prior to the trial date, unless good cause has been shown to shorten such time. If

commissioners are requested to be appointed in a Chapter 136 case, the provisions of Rule 5.6(b) shall control.

- (b) **Chapter 40 Cases:** Condemnation actions brought under Chapter 40 of the North Carolina General Statutes, where the Condemner is required to request that commissioners be appointed, shall be presumed to be ready for trial six (6) months after transfer by the Clerk of Court or upon Entry of Appeal from the Commissioner's report. Parties are required to notify the Caseflow Management Division of the TCA's (TCA) Office that a case is brought under Chapter 40 upon transfer. The Clerk shall notify the TCA Caseflow Management Division of any such transfer and forward to him/ her a copy of the Appeal from the Commissioner's report. In Chapter 136 cases, in which commissioners are requested, counsel for property owners in such actions shall submit a Notice of Request for Appointment of Commissioners on Local Form [CCF-12](#) to the Clerk of Court no later than thirty (30) calendar days from the receipt of the Scheduling Order. The parties are to notify the TCA Caseflow Management Division if the appointment of commissioners has not taken place within thirty (30) calendar days after the request has been made to the Clerk of Court.

5.7 **Priority Cases:** The parties shall bring to the attention of the TCA Caseflow Management Division cases entitled to priority settings by statute. Notice shall be in writing, with copies to all counsel of record, and the statutory authority for such setting shall be cited.

5.8 **Remanded Cases:** When a case is remanded from the Appellate Division, appellant's counsel shall immediately notify the TCA Caseflow Management Division, who shall schedule a Case Management Conference to determine the appropriate setting. Not all remanded cases may require additional discovery, in which event the Caseflow Coordinator may assign the case for trial directly pursuant to Local Rule 5. A party may request a specific session or expedite the hearing date by filing Request to Set (Local Form [CCF-02](#)).

## **Rule 6: Medical Malpractice Case Scheduling**

6.1 Pursuant to the provisions of N.C.G.S. § 7A-47.3(e), the Senior Resident Superior Court Judge will designate a specific judge to preside over all proceedings in a case subject to N.C.G.S. § 90-21.11(2), according to the following procedure:

- (a) For all medical malpractice cases filed in Mecklenburg County on or after October 1, 2021, upon the filing of any responsive pleading or any motion that requires any sort of decision or determination by a superior court judge, whichever occurs first, the parties shall

complete and file a Medical Malpractice Case Notification and Consultation Form (Local Form CCF-89) (“MedMal Form”) with the Mecklenburg County Clerk of Court (using the code and description of NOTINT Notice of Intent for electronic filings).

- (b) A copy of the MedMal Form shall be submitted by email to the TCA’s Office at [Mecklenburg.MedMal@nccourts.org](mailto:Mecklenburg.MedMal@nccourts.org) on the date the form is filed, for review by the Senior Resident Superior Court Judge. If the parties are unable to agree on the content of the MedMal Form, each party may submit a separate MedMal Form.
- (c) In the interest of efficient case management, any party who fails to file and submit the MedMal Form in accordance with these procedures, absent good cause, will be considered by the Court to have waived any objections to the proposed and requested dates and judges.
- (d) In requesting an out-of-county superior court judge to preside over all proceedings in the case, the parties must contact the out-of-county judge and obtain that judge’s agreement to be assigned to hear all proceedings in the case. A copy of the expressed consent from the judge must be emailed to the TCA’s Office at [Mecklenburg.MedMal@nccourts.org](mailto:Mecklenburg.MedMal@nccourts.org) or the judge must be copied on the email indicating their consent to preside over the case.
- (e) In assigning a specific superior court judge to hear all proceedings in the case, the Senior Resident Superior Court Judge will consider, but will not be bound by, the judge(s) requested by the parties.
- (f) The TCA’s Office shall notify the parties of the judicial assignment.
- (g) In medical malpractice cases, when the parties/ attorneys have reached agreement on a proposed case management order or after having a discovery conference with the assigned judge, the proposed case management order should be filed with the Clerk of Court’s Office (using the code and description of SCHOI Scheduling Order when electronically filing) and email a copy to the TCA’s Office at [Mecklenburg.MedMal@nccourts.org](mailto:Mecklenburg.MedMal@nccourts.org).

## **Rule 7: Perfection of Service and Service by Publication**

**7.1 Deadline to Perfect Service Other Than Service By Publication:** Once a Complaint is filed with the Clerk of Court, the parties/ attorneys shall be allowed a period of six (6) months to perfect service via means other than service by publication. If service has not been perfected after the initial six-month period has expired, the parties/ attorneys shall be required to serve the Complaint via publication.

**7.2 Requirement to Initiate Service by Publication:** The service-by-publication process shall be initiated within fifteen (15) calendar days from the expiration of the initial six-month period for service.

**7.3 Filing Proof of Service:** Proof of Service and any required affidavits shall be filed by the serving party within fifteen (15) calendar days after service has been perfected.

**7.4 Violations:** Any violation of this rule will cause the case to be identified as delinquent and may be dismissed at the discretion of the Senior Resident Superior Court Judge or presiding judge.

## **Rule 8: Default Judgment Process**

**8.1 Entry of Default:** Before a motion for default judgment is entertained, an entry of default must first be obtained from the Clerk pursuant to N.C.G.S. § 1A-1, Rule 55(a). The motion for entry of default shall be filed with the Clerk of Court as soon as possible after the responsive deadline. If the motion is not filed within thirty (30) days of the responsive deadline, the case will be identified as delinquent and processed under Local Rule 22.

**8.2 Notice to Party Represented By Attorney:** No party who knows that the opposing party is represented by an attorney, either by special employment in that litigation or generally on retainer, even if that law firm or attorney has not yet entered a formal appearance in the matter, shall move for entry of default against the represented opposing party until ten (10) calendar days after written notice has been given to the attorney representing the opposing party against whom default is proposed.

**8.3 Default Judgments:** Motions for default judgment shall be filed with the Clerk of Court as soon as possible after entry of default is granted. If the motion for default judgment is not filed within thirty (30) days of the Entry of Default, the case will be identified as delinquent and processed under Local Rule 22. If a hearing is required, the moving party must contact the Caseflow Management Division within two (2) business days after the motion for default judgment was filed to obtain a hearing date.

## **Rule 9: Case Management Orders**

**9.1 Types of Cases Covered by this Section:** This Section covers the issuance and amendment of Case Management Orders for all cases except Condemnation Cases, which are covered by Local Rules 5.6; Medical Malpractice Cases, which are covered by Local Rule 6; and Exceptional Civil and Complex Business Cases, which are covered by Local Rule 10.

**9.2 Issuance of the Case Management Order:** Once the Superior Trial Caseflow Coordinator in the Caseflow Management Division of the TCA's Office

determines that a case is ready to be scheduled for trial under the guidelines set forth in Local Rule 5, a Case Management Order (CMO) will be issued and forwarded to all parties or their counsel of record on Local Form CCF-23. The CMO shall include deadlines of the case, including the designation of experts, the completion of discovery, and filing of dispositive motions (see timeline below). The Superior Trial Caseflow Coordinator, as the designee of the Trial Court Administrator, shall rule on all motions to modify a case management order and shall make modifications as he/ she deems appropriate. Decisions made by the Superior Trial Caseflow Coordinator may be appealed to the Senior Resident Superior Court Judge.

Case Management Timeline	
Service Perfected, Responsive Pleading Filed or Time to do so expired	
Case Management Order (CMO) Issued	
Order to ADR (mediation)	30 - 35 Days after the CMO issued
Plaintiff/ Def Identify Experts	120 Days after the CMO issued
Plaintiff/ Def Identify Rebuttal Experts/ opinions	135 Days after the CMO issued
Discovery Deadline	160 Days after the CMO issued
Dispositive Motion Filing Deadline	170 Days after the CMO issued
Mediation Deadline	185 Days after the CMO issued
Dispositive Motion Hearing Deadline	230 Days after the CMO issued
Submission of Trial Date Selection Clock Starts	240 Days after the CMO issued
Trial Date Assigned by Court	255 Days after the CMO issued
Trial to be held	264 – 348 Days after the CMO issued

**9.3 Opportunity and Deadline to Modify the CMO:** The CMO shall govern discovery of the case, unless the parties, within thirty (30) days from the date of the CMO, do the following:

- (a) Confer and jointly electronically file a proposed Consent Case Management Order, with alternative dates and/ or requirements which comply with the North Carolina Supreme Court Time Guidelines for Trial Court Cases outlined in Rule 5.1, using the code and filing description of DSCH Discovery Scheduling Order and attaching the Local Form CCF-23A or similar document prepared by the parties;
- (b) Confer and attempt to reach agreement on a modified schedule; failing which, either or both parties may request a conference with the Superior Trial Caseflow Coordinator in the TCA Caseflow

Management Division for the purpose of resolving their scheduling issues; or

- (c) Notify the Superior Trial Caseflow Coordinator that a motion to dismiss the entire complaint, or motion to compel arbitration, or request for designation as Exceptional or Complex Business Case has been filed or submitted, in which event the parties shall have fifteen (15) days after the denial of such motion to comply with (a) or (b) above.

**9.4 Ruling on Consent CMO or Request for Modification:** If a Consent Case Management Order (Local Form CCF-23A) or request for conference is submitted to the Superior Trial Caseflow Coordinator in the TCA Caseflow Management Division within the required time, the Superior Trial Caseflow Coordinator will decide whether to issue an Amended CMO or other order, which decision is appealable to the Senior Resident Superior Court judge.

**9.5 Right to Appeal:** Any appeal must be electronically filed using the code and filing description of MFC - Motion for Continuance for subsequent delivery to the Senior Resident Superior Court Judge. The appeal must be of the exact request which was submitted to the Superior Trial Caseflow Coordinator and accompanied by a cover letter indicating it is an appeal. The appeal shall not contain any information which was not presented in the original request.

**9.6 Requests Made After the Deadline to Request CMO Modification:** For circumstances arising after the deadline for submitting a Consent Case Management Order or a request for conference, the following shall apply:

- (a) **Rule 12 Motions Filed After Deadline:** If a party files a motion to dismiss under Rule 12 of the North Carolina Rules of Civil Procedure after the deadline for requesting modification of a CMO, and either party believes such filing may impact the parties' ability to comply with the CMO, either party shall, within three (3) business days after the Court's ruling on the motion to dismiss, notify the Superior Trial Caseflow Coordinator in the TCA Caseflow Management Division of the ruling, and the Superior Trial Caseflow Coordinator shall then issue a new CMO under Rule 9.2 above.
- (b) **Other Circumstances:** Any CMO is subject to amendment, upon motion under Rule 16 or 26 of the North Carolina Rules of Civil Procedure, provided the motion is first made with the Superior Trial Caseflow Coordinator.

**9.7 Alterations of Deadlines in the CMO by the Parties:** After the CMO or Consent CMO becomes final, the parties may mutually agree to extend or alter any of the

deadlines set forth in the CMO or Consent CMO, except for the mediation deadline, the deadline for the filing and hearing of dispositive motions, and the trial date.

- (a) **Dispositive Motions Deadline.** Under no circumstances shall any extensions of the discovery deadline by mutual agreement or by the Clerk of Court's Office alter the dispositive motion filing deadline or the trial date in the CMO.
- (b) **Limits on Ex Parte Extensions for Discovery Responses:** No party shall seek or obtain any ex parte extensions of time from the Clerk of Court's Office to respond to timely served discovery beyond the discovery deadline.

**9.8 Where CMO Not Necessary:** In the discretion of the Superior Trial Caseflow Coordinator in the TCA Caseflow Management Division, a determination may be made that a CMO is not necessary for cases described in Local Rule 5.5 and that the action may proceed directly to the next available court session. Requests to this effect shall be electronically filed using the code and filing description of DSCH Discovery Scheduling Order. The parties are encouraged to advise the Caseflow Manager of cases that may fit this subparagraph.

**9.9 Scheduling Around Religious Holidays:** In the discretion of the presiding judge, efforts shall be made to accommodate parties and attorneys in their observance of religious holidays in connection with the scheduling of cases.

## **Rule 10: Exceptional and Complex Business Cases**

### **10.1 Motions and Notices to Designate:**

- (a) **Exceptional Cases.** Motions to designate a case as exceptional under Rule 2.1 of the North Carolina General Rules of Practice for the Superior and District Courts shall be filed no later than thirty (30) days after the issuance of the initial CMO. Consent motions for Rule 2.1 designation should identify a judge to whom the case is requested to be assigned. Prior to filing a consent motion to designate a case as exceptional, the parties should consult with the requested Superior Court Judge to ensure s/he is willing to preside over the case. If a party does not consent to the motion for 2.1 designation, the motion should be scheduled/ noticed for hearing in civil motions court.
- (b) **Complex Business Cases:** If a party files a Notice of Designation for assignment of a case to the North Carolina Business Court as permitted by Rules 2.1 and 2.2 of the North Carolina General Rules of Practice for the Superior and District Courts, the party shall comply with N.C.G.S. § 7A-45.4 and Rule 2 of the North Carolina Business

Court Rules. Additional information concerning the NC Business Court may be obtained via the North Carolina Judicial Branch website: <https://www.nccourts.gov/courts/business-court>.

**10.2 When the Motion or Notice to Designate Is Denied – Deadline for Seeking Amendment of CMO:** If a motion or notice to designate a case as Exceptional or Complex Business is denied, the parties shall have fifteen (15) days from the denial to submit a Consent Case Management Order (Local Form CCF-23A) or request for conference to the Superior Trial Caseflow Coordinator. Other than this extension, the process under Local Rule 9 above shall apply.

**10.3 Caseflow Management Order Process Following Designation:** Once a case has been designated as an Exceptional or Complex Business Case, the judge assigned to the case will be responsible for issuing a CMO for the case, which shall replace the CMO issued by the Caseflow Management Division. All future scheduling and management of the case will be handled by the assigned judge and/ or the Business Court. The Caseflow Management Division will not be involved in any aspect of the case once designated as Exceptional or Complex Business.

## **Rule 11: Bankruptcy Cases**

**11.1 Authority and Procedure:** Civil actions in which one of the parties has filed a petition for relief under the United States Bankruptcy Code will be disposed of in accordance with the following authority and procedure:

- (a) 11 U.S.C. 362;
- (b) 11 U.S.C. 1301;
- (c) *Whitehurst v. Virginia Dare Transportation Co.*, 19 N.C. App. 352 (1973); and
- (d) N.C.G.S. § 1-23.

**11.2 Submission of Paperwork:** A motion to stay a superior court action(s) against one or more parties shall be filed with the Clerk of Court and accompanied by a file-stamped copy of a Certificate of Bankruptcy Filing or Stay of Proceeding from the United States Bankruptcy Court having jurisdiction and shall apply only to the party filing a petition for relief under the United States Bankruptcy Code or to a co-debtor specifically referenced under a Chapter 13 proceeding. A copy of the bankruptcy docket report available through PACER indicating that a party in the pending State action is subject to bankruptcy provisions should also be attached.

**11.3 Closure of Case:** Upon submission of paperwork, as described above, the Clerk of Court shall administratively close the case, but only as to the claims against the party in bankruptcy.

## Rule 12: Presentation of Out-of-State Subpoenas

12.1 **Applicable law:** This procedure for the issuance of subpoenas based on non-North Carolina action subpoenas is made pursuant to the North Carolina Interstate Depositions and Discovery Act, N.C.G.S. § 1F-1, *et. seq.*

12.2 **Subpoenas That May Be Issued by the Clerk:** The Clerk of Court may issue subpoenas on the basis of an out of state subpoena provided the party seeking the subpoena shall do the following:

- (a) Obtain a subpoena from the state in which the action is pending. It must be issued under authority of the court of record of the foreign jurisdiction.
- (b) Prepare a North Carolina subpoena, [Form AOC-G-100](#), designating “Mecklenburg” as the County. Check the block labeled “Superior Court Division.” Leave the space for “File No.” blank. Complete the remainder of the subpoena, leaving the date and signature lines blank to be filled in by the clerk. Be sure to include the back page of the subpoena. The North Carolina subpoena must incorporate the terms used in the foreign subpoena and contain or be accompanied by the names, addresses and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.
- (c) Obtain a check or money order in the amount of \$200 (or the prevailing fee for Superior Court) made payable to “Mecklenburg County Clerk of Court.”
- (d) Submit a letter or memorandum to the Clerk of Court requesting the issuance of the North Carolina subpoena along with (1) the foreign subpoena and any attachments or exhibits; (2) an unsigned North Carolina subpoena for the clerk’s signature; (3) a check in the amount of the prevailing fee.
- (e) Once a Mecklenburg County file is opened, subsequent subpoenas in the same case may be submitted without the filing fee. The file number should be written on each subsequent subpoena issued.

12.3 **Subpoenas That Must Be Issued by the Judge:** All subpoenas seeking the production of documents protected by the federal Health Insurance Portability and Accountability Act of 1996 (“HIPPA”) must be issued by a judge, not the Clerk, under the following process:

- (a) The party seeking the subpoena of HIPPA protected documents must follow the process outlined in Local Rule 12.2.

- (b) The party seeking the subpoena of HIPPA protected documents must file with the Clerk of Court for review by a superior court judge.
- (c) It is up to the party seeking the subpoena to comply with HIPAA and its regulations, in pursuing issuance and enforcement of the subpoena. A party may choose to present to the Judge and serve with the subpoena a signed release of the person whose records are being sought, or an order from a judge in the foreign state regarding the HIPPA protected documents.

**12.4 Service and Enforcement:** It is the responsibility of the party requesting the subpoena to have it served. The Mecklenburg County Sheriff's Office will serve the subpoena for a fee of \$30.00 (or the prevailing fee) per subpoena served. Admission *pro hac vice* or obtaining local counsel is not required unless subsequent actions are needed to enforce the subpoena or to resolve objections to the subpoena.

### **Rule 13: Depositions and Deposition Practice**

**13.1 Notice:** Unless otherwise agreed, all deponents must appear for deposition on such notice as required by the North Carolina Rules of Civil Procedure. Counsel shall attempt in good faith to schedule depositions convenient to the deponent and counsel.

**13.2 Identification of Counsel's Client:** Counsel appearing at the deposition shall identify the party or parties that they represent and shall also disclose whether they represent a non-party deponent.

**13.3 Instructions Not to Answer:** Counsel shall not direct or request that a witness not answer a question, unless: (i) counsel has objected to the question on the ground that the answer is protected by privilege; (ii) the answer is protected by some limitation on evidence ordered by the Court; or (iii) the attorney states on the record that a Protective Order will be sought with respect to the question asked, and then, unless otherwise resolved by the parties, files a motion for Protective Order within five (5) business days after the deposition.

**13.4 Objections and Attorney Statements:** Counsel shall not make objections or statements designed to suggest an answer to a witness. Counsel's statements when making objections shall be succinct, stating the basis of the objection and nothing more.

**13.5 Exhibits:** Deposing counsel shall provide to the witness's counsel a copy of all documents shown to the witness during the deposition. The copies shall be provided either before the deposition begins or contemporaneously with the showing of each document to the witness. The non-deposing attorneys shall not make comments about the substance of the documents on the record, except to assert a privilege objection or when questioning the witness.

13.6 **Attorney Conduct:** Attorneys shall not make long speeches on the record and shall avoid arguments on the record. Attorneys shall avoid demeaning, rude or insulting language. Attorneys shall not ask deposing counsel to clarify a question where the witness has not asked for clarification. Attorneys at the deposition shall not question the deposing attorney about the meaning or intention of a question, except as a courtesy to clarify whether the deposing attorney misspoke as to a date, name or similar matter.

## **Rule 14: Mediation and Other Alternative Dispute Resolution Rules**

### **14.1 Pre-Suit Alternative Dispute Resolution**

- (a) Contemporaneous with the filing of an action, the attorney shall file a certification using Local Form CCF-95 that confirms they have advised their client(s) of available pre-suit alternative dispute resolution (ADR) options. If retained after the filing of an action, the retained attorney is encouraged to advise their client(s) regarding applicable ADR procedures.
- (b) Participation in pre-suit ADR does not toll any applicable statute of limitations, nor does it serve as a substitute for or constitute compliance with any other procedural requirements for pursuing a claim. Pre-suit ADR is purely a voluntary process designed to effect early settlement.
- (c) Unless approved by the Court, parties who participate in pre-suit ADR will not be relieved of the requirement to participate in a post-suit mediated settlement conference or other ADR method approved by the North Carolina Supreme Court's "Revised Rules Implementing Statewide Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions" (the "Statewide Mediation Rules") and these Rules.

### **14.2 Mandatory Mediated Settlement Conferences**

- (a) Pursuant to N.C.G.S. § 7A-38.1 and the Statewide Mediation Rules, all parties to civil actions filed in Superior Court in the 26th Judicial District, and all other persons and entities identified in the Statewide Mediation Rules, are required to attend a pre-trial mediated settlement conference, except in those actions in which a party is seeking the issuance of an extraordinary writ or is appealing the revocation of a motor vehicle operator's license. The Statewide Mediation Rules shall be strictly followed in all respects within the 26th Judicial District and all parties, mediators and other persons and entities involved in civil actions in this District are advised to closely familiarize themselves with the Statewide Mediation Rules.
- (b) As set forth in the Statewide Mediation Rules, any party may move

the Senior Resident Superior Court Judge to dispense with the mandatory mediated settlement conference or to allow the substitution of another settlement procedure approved by the Statewide Mediation Rules. Motions to dispense with the mediated settlement conference are disfavored and will only be granted in cases with exceptional circumstances. Prior to submitting such a motion, the moving party must consult with and seek the position of opposing parties and indicate their position(s) in the motion. Such motion shall be in writing and must be filed with the Clerk of Court.

- (c) ADR proceedings and information relating to or disclosed during the mediated settlement conference shall be governed by Rule 408 of the North Carolina Rules of Evidence.

### 14.3 Local Requirements Related to Mediated Settlement Conferences

- (a) All forms, motions and orders, or other issues or matters involving mediated settlement shall be filed with the Clerk of Court using the following filing/ name designation for each filing:

Type of Filing	Common Form (AOC is State	Filing Code and Name in File
Stipulation to Mediation	CCF-13	VMED MSC-Voluntarily Submitted to MSC
Designation of Mediator	AOC-CV-812	DSMD-S MSC-Designation of Mediator
Motion to Extend ADR Deadline	CCF-44A	MEXCM MSC-Motion to Extend Completion Date For MSC
Motion to Substitute Mediator	AOC-CV-836	SUBMED-S MSC-Substitution of Mediator-Superior
Motion to Exempt from Mediation	No forms, must draft motion	MEXE MSC-Motion to Dispense with Settlement Procedures
Motion for Relief to Pay Mediator's Fee	No forms, must draft motion	MRPMF MSC-Motion for Relief to Pay Mediator's Fee
Withdrawal of/ as Mediator	No forms, must submit letter	WMED-S MSC-Withdrawal of Mediator
Report of Mediator	AOC-CV-813	RMSC MSC-Report of Mediator Filed

- (b) If an opposing party chooses to file a written objection to a motion, it must be filed with the Clerk of Court and served on opposing counsel within three (3) business days of receiving the original motion.

- (c) Motions for substitution of mediator will not be considered by the Court, unless the administrative fee has been paid to the court-appointed mediator and a copy of the payment to the court-appointed mediator is included with the Motion.

#### 14.4 Selection of Mediator

- (a) The Statewide Mediation Rules shall govern the selection of mediator. As set forth in the Statewide Mediation Rules, mediators willing to mediate cases in Mecklenburg County are provided on the State web site [www.nccourts.gov](http://www.nccourts.gov) for convenience in party designation. The mediator list is updated and maintained by the Dispute Resolution Commission in Raleigh, North Carolina. Any certified mediator not living in the judicial district, or a county contiguous to the judicial district, who wants his or her name added to the 26th Judicial District approved mediator list must submit to the ADR Coordinator a letter confirming that he or she will agree to mediate cases to which he or she are assigned and abide by all State and local rules. This required annual letter must be submitted to the ADR Coordinator by January 1 of each year.
- (b) The allowed compensation for a Court appointed mediator is set forth in the Statewide Mediation Rules and is not negotiable.
- (c) The Senior Resident Superior Court Judge shall retain discretion to depart from the general procedure in the event an exceptional circumstance arises, such as the appointment of one mediator to multiple related cases or the appointment of a newly certified mediator. The Senior Resident Superior Court Judge may remove or decline to include a mediator on the Court appointed list or decline to approve the designation of a mediator who has not followed the Statewide Mediation Rules or these Local Rules.

#### 14.5 Scheduling and Reporting

- (a) The initial deadline for completion of the mediated settlement conference shall be no less than eight (8) weeks prior to the original trial date and the mediator shall comply with the Revised Rules with regard to the timely filing of the Mediator's Report. A change in the trial date will permit a corresponding extension of the mediation deadline and is subject to the requirements of Rule 3.5 within these rules. Changes to the initial completion deadline must be obtained by submitting a Motion for Extension of the ADR Deadline and granting of said motion. Reference is made to Rule 6A(3) of the Statewide Mediation Rules and the mediator's authority and obligation to set a time for the mediated settlement conference in the absence of agreement.

- (b) All mediators must comply with the Statewide Mediation Rules and these Local Rules, including the rule to file reports for all cases where a mediated settlement conference was held. For cases that are disposed of by filing a dismissal or changing the venue, attorneys must notify the assigned mediator, who must report such disposition to the Court using the usual report form.
- (c) As set forth in the Statewide Mediation Rules, mediators who fail to schedule or report mediations as required shall be subject to the contempt power of the Court and sanctions including, but not limited, to the sanctions set forth below in Rule 14.6.

**14.6 Sanctions for Failure to Comply with Court Orders, the Revised Rules and these Local Rules (Mediators, Attorneys and Parties)**

- (a) All parties, attorneys, mediators, and other persons or entities subject to the Statewide Mediation Rules and these Local Rules are reminded that they are also subject to the contempt power of the Court and sanctions.
- (b) "Past Due Notices" are issued by the Court as a courtesy only and the parties are expected to comply with the requests indicated on the notice.
- (c) Once a show cause order is issued, a party subject to the order may request removal from the calendar by filing a motion and order to be excused from show cause with the Clerk of Court's Office as a MEXE – MSC-Motion to Dispense with Settlement Procedures. No direct communication with the judge is permitted unless requested by the judge.
- (d) Sanctions will be consistent with N.C. General Statutes 5A-13(b), 5A-21, 5A-22 and 7a-38.a, the Statewide Mediation Rules and the N.C. Rules of Civil Procedure.

**14.7 Other ADR Rules:** ADR Rules for ADR procedures other than mediation are addressed in the Statewide Mediation Rules, which can be found on the North Carolina Judicial Branch website at <https://www.nccourts.gov/courts/supreme-court/court-rules/rules-for-mediated-settlement-conferences-and-other-settlement-procedures-in-superior-court-civil-actions>.

**14.8 Other Settlement Procedures:** Parties and their attorneys should refer to Rules 10-13 of the Statewide Mediation Rules for other settlement procedures approved by the Statewide Mediation Rules and these Local Rules.

## **Rule 15: Motions and Motion Practice**

**15.1 Consent Motions:** Consent motions should not be scheduled for a hearing and a proposed consent motion and order, with all party/ attorney signatures, should be filed with the Clerk of Court.

**15.2 Scheduling for Hearing after Filing:** In order to schedule a motion for hearing, the motion must first be filed with the Clerk of Court. Within three (3) days of filing the motion, the moving party shall request available hearing dates by contacting the Caseflow Management Division in the TCA's Office. The Superior Motions Caseflow Coordinator may be contacted by email at [Mecklenburg.Caseflow.Superior.Motions@nccourts.org](mailto:Mecklenburg.Caseflow.Superior.Motions@nccourts.org) or by phone at 704-686-0190. Then, the moving party shall make a good faith effort to consult with the other attorneys or self-represented parties involved prior to confirming the date for hearing.

- (a) When scheduling a motion for hearing, the moving party/ attorney must provide the Superior Motions Caseflow Coordinator in the TCA Caseflow Management Division with the most realistic estimate of time needed for the hearing, including arguments from all parties. Hearings will be scheduled based on the estimated length provided by the scheduling party/ attorney. Hearing estimates must be as accurate as possible, to avoid over of under scheduling, and the presiding judge will hold parties/ attorneys to the scheduled hearing length. (See Appendix A for an informational sheet regarding the scheduling structure for civil motions hearings in Superior Court.)
- (b) Unless otherwise permitted by the Court, no live testimony will be taken during Superior Court civil motions sessions, except testimony related to damages during a Motion for Default Judgment hearing that requires less than thirty (30) minutes. Other motions requiring live testimony must be scheduled for hearing during the trial calendar session.

**15.3 Notice of Hearing:** The date, time and location confirmed by the TCA Caseflow Management Division shall be cited in a written notice of hearing, which must be filed and served on the opposing attorney(s) or self-represented party or parties in accordance with Rule 5 of the North Carolina Rules of Civil Procedure no later than two (2) business days after the date has been received.

**15.4 No Delay of Trial Date for Untimely Scheduling:** Failure to timely file a motion and receive a hearing date will not delay any trial date assigned and may result in a motion not being heard.

**15.5 Withdrawal, Continuance and Rescheduling of Motions:** Once a motion has been noticed for hearing, the moving party/ attorney may request removal of the motion from the calendar by filing a notice of withdrawal of the motion with the Clerk of

Court and emailing the notice to the Superior Motions Caseflow Coordinator in the TCA Caseflow Management Division to cancel the hearing. If the motion needs to be rescheduled rather than withdrawn, the moving party should submit a new request for the desired hearing date and time by contacting the Superior Motions Caseflow Coordinator. An amended notice of hearing shall then be filed with the Clerk of Court and a copy served on the other counsel of record and self-represented parties. If a party other than the moving party needs to change the hearing date and the moving party objects, the party with the conflict must file a Motion to Continue with the Clerk of Court.

- (a) **Form and Service of Requests for Continuance:** Motions for continuance shall be submitted on Local Form [CCF-5A](#) or a drafted motion, which must include, at a minimum, the same information requested on Form CCF-5A. For counsel of record and self-represented parties utilizing the electronic filing system, a copy of the completed motion must be simultaneously served on all parties through the eCourts application. When electronically filing, the Motion for Continuance must use the code and filing description of MFC – Motion for Continuance. For self-represented parties not using the electronic filing system, the completed motion must be served on all parties prior to submission to the Court. All Motions to Continue a motion hearing must be filed with the Clerk of Court, with a certificate of service. Unserved or unfiled Motions for Continuance will not be considered.
- (b) **Content of the Motion for Continuance:** All continuance motions shall include:
- All known reasons for which the continuance is being sought. Failure of the requesting party to include known pertinent information in the original motion is not grounds for reconsideration or appeal of the ruling made by the Superior Motions Caseflow Coordinator in the TCA Caseflow Management Division;
  - Indication that all other counsel and/ or self-represented parties have been served with the motion, to include the manner and date of service; and
  - If known, the position of the other counsel and/ or self-represented party.
- (c) **Proposed Order:** The Motion for Continuance shall be accompanied with a proposed order on Local Form [CCF-5B](#). It is the responsibility of the moving party to obtain the signed Order and to provide copies to the opposing attorneys/ parties.

- (d) **Appeals of Rulings by Superior Trial Caseflow Coordinator:** Appeals of the decision rendered by the Superior Motion Caseflow Coordinator in the TCA Caseflow Management Division may be made to the presiding judge at the time of the motion hearing.

**15.6 Submission of Briefs and Other Materials to the Presiding Judge and the Opposing Party Prior to the Hearing:** All counsel of record and self-represented parties shall be served in compliance with Rule 5 of the North Carolina Rules of Civil Procedure absent stipulation or agreement otherwise and documents must be filed with the Clerk of Court.

- (a) **Supporting Materials:** Motions, notices of hearings, supporting briefs, including any supporting statutes, cases and/ or other authority, affidavits, deposition transcripts, and any other supporting materials shall be sent to opposing counsel/ parties not less than twenty-one (21) days before the hearing.
- (b) **Opposition Materials:** Briefs in in opposition to motions, including any supporting statutes, cases and other authority, affidavits, deposition transcripts, and any and all other opposition materials shall be sent to opposing counsel/ parties no later than fourteen (14) days before the hearing or after being served by the opposing side, whichever is earlier.
- (c) **Authorities:** Statutes and/ or cases not cited in the brief shall not be considered or presented to the Court at the time of hearing unless exigent circumstances exist.
- (d) In addition to filing all materials with the Clerk of Court, briefs in must be emailed to the Judicial Support Division in the TCA's Office at [D26.Briefs@nccourts.org](mailto:D26.Briefs@nccourts.org) no later than noon on the last business day prior to the first day of the weekly session for which the hearing is scheduled. The subject line of the email must contain the session date, the case number and caption.

**15.7 Limitations on Briefs:** The Court favors concise briefs. The following rules apply to the length and number of briefs:

- (a) **Page Limit:** Unless the following page limits are modified by the Court for good cause shown, briefs shall be drafted in not less than 12-point type and shall not exceed fifteen (15) pages of double-spaced text. Pages in excess of the prescribed limit, will not be considered by the Court. Headings, footnotes, quotations and citations count toward the page limit. The case caption, any table of

contents, any table of authorities, and any required certificate of service do not count toward the page limit.

- (b) **Joint Representation:** Parties who are jointly represented by a law firm shall join together in a single brief. Unless otherwise ordered by the Court, that single brief may not exceed the length limit stated herein.
- (c) **Exceptions:** Any requests for exceptions to these limitations on briefs shall be directed to the Senior Resident Superior Court Judge, or if unavailable, to their designee.

15.8 **Alternative to Briefs:** Instead of briefs, parties are permitted to present at the hearing, with the Court's permission, copies of statutes and cases for consideration by the Court. Parties should use good judgment regarding the number of statutes and cases submitted at the hearing. Pertinent portions of the statutes and cases submitted shall be highlighted, and highlighted copies shall be presented to the opposing side.

15.9 **Post-Hearing Submissions:** Following the hearing, no further submissions are permitted without advance permission of the Court, except as follows. New case law not in existence or published at the time of the hearing may be submitted to the Court, without commentary or argument, as subsequently decided authority. If further submissions are permitted by the Court, the submission should be emailed to the TCA Judicial Support Division and include in the email the name of the judge and a statement the judge requested or allowed the additional submission. If the submission is one that requires filing, the document(s) must be filed with the Clerk of Court and should be electronically filed using the code and filing description of SUPDMT Supplemental Documentation for Judge [insert judge's name].

15.10 ***Pro Hac Vice* Motions:**

- (a) **Scheduling, if Necessary:** If the Court deems a hearing is necessary for a *Pro Hac Vice* motion, the Superior Court Judicial Assistant will refer the party/ attorney to the Superior Motion Caseflow Coordinator to schedule the hearing.
- (b) **Rules:** An attorney who associates with an out-of-state attorney to represent a party in a proceeding in this district and that out-of-state attorney shall adhere to N.C.G.S. § 84-4.1 and North Carolina State Bar Rules 27 N.C.A.C § 1H.0101 and 27 N.C.A.H. § 1D.0903 and .0904. Copies of the North Carolina State Bar Rules and the required registration form are available for download at the North Carolina Bar's website on [www.ncbar.com](http://www.ncbar.com). The required fee shall accompany the motion and order.

- (c) **Checklist:** A checklist outlining the specific items to be addressed in a *Pro Hac Vice* motion is attached as Appendix B to these rules. Questions may be addressed by contacting the Judicial Support Division in the TCA's Office.
- (d) **Process:** A motion for *Pro Hac Vice* admission must be made by an attorney who is a resident of North Carolina and who is a member of the North Carolina Bar. The motion, proposed order, affidavit, filing fee of \$225 (or prevailing fee as set by the Clerk), signed client statement shall be filed as a complete packet with the Clerk of Court. The "packet" of information will be held for ten (10) days by the Superior Court Assistant in the TCA Judicial Support Division to allow for the submission of any objections. In the absence of any objections, the "packet" will be forwarded to a Superior Court judge for review. If the Superior Court judge approves the admission and signs the order, the signed Order will be sent to Civil filing for processing. If the judge declines to sign the order, the local attorney who submitted the packet will be notified by the Superior Court Assistant.

**15.11 Motions to Substitute Counsel:** A motion to substitute counsel shall be presented as a joint motion with certificate of service on all parties.

**15.12 Motions to Withdraw as Counsel:** Motions to withdraw as counsel shall include the scheduled trial date or a statement that no date has been set. Moving counsel is responsible for providing their client with appropriate notice of the hearing on a motion to withdraw as counsel. If a consent motion to withdraw and proposed order is submitted, a hearing is not required. If a consent motion to withdraw is submitted, it should be signed by the client and acknowledge the client's understanding that allowance of the motion will not necessarily result in any delay or continuance of the trial or other settings. The proposed order granting the motion to withdraw shall include the current mailing address for the client. The proposed order should be electronically filed with the Clerk of Court using the code and filing description of PRORD - Proposed Order.

**15.13 Motions for Temporary Restraining Order or Preliminary Injunction:**

- (a) **Heard in Motions Court:** Motions for temporary restraining order or preliminary injunction shall be scheduled for hearing, if possible, during the civil motions session; alternatively, they may be scheduled during a civil trial session. The requesting party shall contact the clerk in the civil motions courtroom to identify available hearing times during the next three (3) business days. Requests to schedule preliminary injunctions should be made to the Superior Motions Caseflow Coordinator in the TCA Caseflow Management Division. If a temporary restraining order is granted, the preliminary injunction will be scheduled within the next ten (10) days. If a motion for

temporary restraining order is not filed and/ or granted, the preliminary injunction shall be scheduled in the ordinary course of business.

- (b) **Notice:** Notice as required by Rule 65 of the North Carolina Rules of Civil Procedure shall be provided.
- (c) **Evidence:** Live testimony will not be permitted on motions for temporary restraining orders. Unless otherwise ordered by the Court, live testimony will not be permitted on motions for preliminary injunction. Evidence in support of or opposition to motions for temporary restraining orders or preliminary injunctions may include such other evidence as the Court may allow, including sworn pleadings, affidavits, depositions and/ or authenticated exhibits.

**15.14 Arbitration Motions, Orders and Further Administration:** If a party believes that a case or a claim asserted in a case is subject to binding arbitration, the party seeking to arbitrate shall promptly notify all other parties and file a Motion to Compel Arbitration. The motion shall be scheduled for hearing, or a Consent Order shall be submitted for approval within ninety (90) days after service of the Complaint has been perfected when there is a known contractual agreement to arbitrate, unless otherwise ordered by the Court or allowed by law. At the time a motion or Consent Order is filed, the filing must also include a fully completed Local Form [CCF-84](#). When the Court grants a Motion to Compel Arbitration, or stays a case pending arbitration, or the parties agree to arbitrate, an Order shall be entered. The Order must provide an end date to the stay based on the expected completion date of the arbitration process. The case then will be rescheduled for an administrative calendar based upon the expected completion date of the arbitration as provided in the Order and on Local Form CCF-84.

**15.15 Motions to Consolidate:** Motions to consolidate pretrial matters may be heard by any presiding Superior Court Judge. However, only the presiding trial judge shall hear motions to consolidate trials. If the motion is granted to consolidate pretrial matters, then the oldest case shall become the lead case. All subsequent pleadings must be filed in the lead case and include the file number for the lead case and all related cases in the caption.

**15.16 Motions to Compel Discovery:** The following rules apply to motions to compel discovery:

- (a) **Duty to Confer:** Prior to filing a motion to compel discovery, the requesting party must confer by telephone, videoconference, or in person or attempt to confer with the person or party failing to make discovery in an effort to resolve the dispute. Written correspondence alone is insufficient to satisfy this obligation.

- (b) **Certification to the Court:** The motion to compel must include the certification required by Rule 37(a)(2) of the North Carolina Rules of Civil Procedure that the movant has in good faith conferred or attempted to confer with the person or party failing to make discovery in an effort to secure the information or material without court action.
- (c) **Details for the Court:** When a motion to compel discovery is filed and the basis of the motion is that discovery responses are incomplete or non-responsive, the movant's attorney must submit to the presiding judge a document or spreadsheet outlining the interrogatories or requests for production, the related answers or responses movant deems to be incomplete or nonresponsive, and the reason movant deems the answer or response to be incomplete or nonresponsive.

**15.17 Motions Seeking Attorney Fees:** Unless otherwise permitted by the Court, counsel seeking attorneys' fees or other costs as part of a motion shall submit to the Court an affidavit in support of same at the time of the hearing.

**15.18 Motions Taken Under Advisement:** In cases where a motion has been heard and taken under advisement without a ruling by the presiding judge and 30 days have passed, parties shall bring this to the attention of the Superior Motion Caseflow Coordinator, who shall make inquiry of the presiding judge as to the status and any further needed action.

**15.19 Motions to Reconsider:** Motions to reconsider shall not be allowed and shall not be calendared. The original ruling of the motion shall stand and shall not be re-calendared for a second hearing or for review of the original decision.

**15.20 Motions in Limine:** Pretrial Motions in Limine may be filed any time after mediation has been conducted in a given case and no later than seven (7) days before trial.

**15.21 Motions to Continue Trials Not Permitted in Civil Motions Session:** Parties/ attorneys shall not make motions to continue trial dates to the presiding judge in the civil motions session and shall not include language to continue trial dates in proposed orders for rulings entered in the civil motions session. All motions to continue trial dates must be submitted in accordance with Local Rule 19.

**15.22 Five-Minute Firecracker Motions:** When all parties consent, motions may be calendared on the Five-Minute "Firecracker" Motions Calendar, as follows:

- (a) **Arguments:** Arguments are limited to no longer than five (5) minutes for each side.

- (b) **Consent:** All parties must consent to the case being heard on the Firecracker Session. The parties do not have to consent to the motion—only to it being heard on this calendar. When entry of default has been established, expressed consent is not required in order for the motion to be heard on this session.
- (c) **Calendaring:** In order to be heard, a moving party shall file a completed Five-Minute Motion Calendar Notice (Local Form CCF-10) with the Clerk of Court by noon on the business day before the scheduled hearing. A moving party shall simultaneously file a proposed order using Local Form CCF-11.
- (d) **No Action When:** The Court and clerk will take no action on a motion when the parties have resolved the matter or otherwise fail to appear.
- (e) **Not Permitted:** Minor settlement hearings and transfer of structured settlements may not be heard on the Firecracker Calendar.
- (f) **Motions to Withdraw:** If a motion to withdraw as counsel is heard on the Firecracker Calendar, the parties shall adhere to Local Rule 15.11.

15.23 **Forum for Motion Hearings:** Motions may be scheduled for in-person or remote (virtual) hearings.

- (a) **Remote Hearings:**
  - (1) All remote hearings will be conducted using a NCAOC-approved videoconferencing platform (currently Webex) and in accordance with N.C.G.S. § 7A-49.6. All remote motion hearings will be recorded in accordance with N.C.G.S. § 7A-49.6(h).
  - (2) For hearings using the Webex platform, parties/ attorneys must type the URL into their web browser and click “Join” to sign into the hearing five (5) minutes before the designated date and time listed above. The URL is <https://nccourts.webex.com/meet/meckcr6310.sh>. If parties/ attorneys are unable to join by web browser, they may join by phone by calling: 1-415-655-0001 and using Access code: 126 653 3213.
  - (3) Each party/ attorney is responsible for providing the Webex link and sign on information to their client(s), witness(es), and other interested individuals, as applicable.

- (4) The moving party is responsible for sending a Notice of Hearing and must include the Webex link and sign on information in the Notice.

(b) **Decorum and Etiquette in Remote Hearings:**

- (1) The decorum of a Remote Hearing shall be the same decorum as an in-person hearing conducted in a courtroom (e.g., eating, drinking, smoking, and profanity are prohibited).
- (2) The attire for attorneys in a Remote Hearing shall be the same as an in-person hearing. Parties and witnesses should appear in business casual attire.
- (3) An attorney, party, or witness in a Remote Hearing should have an appropriate background and a suitably quiet location.
- (4) Attorneys/ parties shall identify themselves before speaking. During a Remote Hearing, attorneys and parties who are not testifying or speaking should mute their microphones. The Host or co-Host reserves the right to "mute" a party or attorney who fails to mute themselves if it causes feedback, echoing, or is otherwise noisy, disruptive, or distracting.
- (5) If more than one person in the same location will be participating remotely in the Remote Hearing, they must (i) share a device, (ii) ensure proper muting to avoid audio malfunction, or (iii) participate from separate rooms to ensure audio quality.

(c) **Request to Change from Remote Hearing to In-Person Hearing:**

- (1) At any time prior to or during a Remote Hearing, the presiding judge retains the discretionary authority to convert the Remote Hearing to an in-person or hybrid hearing by notifying the parties.
- (2) Any party has a right to request an in-person hearing for good cause shown.
- (3) To request an in-person hearing, a party must file a Motion to Change Hearing Forum (Local Form [CCF-85A](#)) and serve the motion on all other parties pursuant to Rule 5 of the North Carolina Rules of Civil Procedure no later than noon

on the Wednesday preceding the start of the session in which the hearing is scheduled.

- (4) If there is an objection to the motion to change hearing forum, the objection must be filed within forty-eight (48) hours of the filing of the motion to change hearing forum. Absent an objection, or if the judicial official or designee finds that the moving party has demonstrated good cause that outweighs the objection, the presiding judge shall conduct an in-person or hybrid hearing.
- (5) Absent a motion for to change hearing forum or showing of good cause, the presiding judge shall conduct the proceeding remotely.

(d) **Request to Change from In-Person Hearing to Remote Hearing:**

- (1) If a motion is scheduled for an in-person hearing and all parties consent to the matter being heard remotely, then the moving party/ attorney must contact the Superior Motions Caseflow Coordinator in the Caseflow Management Division of the TCA's Office to request transition of the hearing type to a remote proceeding. The request to transition to a remote hearing must be made by noon on the Wednesday prior to the start of the session in which the hearing is scheduled.
- (2) If there is not consent of all parties/ attorneys to transition to a remote hearing, a Motion to Change Hearing Forum (Local Form [CCF-85A](#)) must be filed and served on all other parties pursuant to Rule 5 of the North Carolina Rules of Civil Procedure no later than noon on the Wednesday preceding the start of the session in which the hearing is scheduled. If there is an objection to the motion to change hearing forum, the objection must be filed within forty-eight (48) hours of the filing of the motion to change hearing forum. Absent an objection, or if the judicial official or designee finds that the moving party has demonstrated good cause that outweighs the objection, the presiding judge shall conduct a remote hearing.

## **Rule 16: Requests for Peremptory Trial Settings or Technology Courtroom**

**16.1 Deadline to Request Peremptory Trial Settings:** Requests for peremptory settings shall be delivered to the Caseflow Management Division within thirty

(30) days of the date the CMO is issued. Requests received after the 30-day deadline will be considered only for previously unknown or unforeseen reasons.

**16.2 Form and Content of Peremptory Requests:** Requests shall be submitted in writing by filing (Local Form CCF-3) with the Clerk of Court, specifically stating the ground(s) for the request, with copies to all counsel of record.

**16.3 Grounds for Peremptory Settings:** Peremptory settings will be granted in the discretion of the Superior Trial Caseflow Coordinator, but only for compelling reasons. Among the reasons which may warrant a peremptory setting are:

- (a) It is impossible or impractical for a witness or litigant to appear for the trial except by air travel. In cases where litigants or witnesses live reasonably close enough to Charlotte to travel by land to the trial, the Court will not ordinarily grant peremptory settings. It will, however, give counsel sufficient advance notice of the setting of the trial to allow those persons time to arrive, provided counsel makes timely request for such notice. If the request is due to travel distance, the motion shall state the location from which the party/ witness is traveling in order to attend the trial;
- (b) The case involves numerous expert witnesses;
- (c) Severe adverse economic consequences will result from delay of the trial;
- (d) The case has been repeatedly scheduled for trial without being reached;
- (e) The case is more than two years of age; and
- (f) Other extraordinary reasons requiring a prompt resolution of the case.

**16.4 On Court's Own Motion:** The Court may set a case peremptorily on its own motion for any reason.

**16.5 Peremptory Settings Following Continuances:** If a peremptory case is continued, a written request for a new peremptory setting shall be made to the Superior Trial Caseflow Coordinator in the Caseflow Management Division of the TCA's Office.

**16.6 Requests for Technology Courtroom:** Counsel requesting use of a technology courtroom with an evidence presentation system shall contact the Superior Trial Caseflow Coordinator in the Caseflow Management Division of the TCA's Office in order to determine availability and obtain a reservation. The parties shall notify the Superior Trial Caseflow Coordinator immediately upon settlement or continuance of a case once the technology courtroom has been reserved. A reservation of the technology

courtroom does not affect the order of cases as they appear on the trial calendar. Unavailability of a technology courtroom is not cause for continuance of the trial date.

## **Rule 17: Trial Calendars**

**17.1 Publication of Trial Calendars:** Once a trial date has been set by the Superior Trial Caseflow Coordinator in the Caseflow Management Division of the TCA's Office, the trial date will immediately be visible in Portal by searching for the case using the Smart Search feature. A calendar of cases scheduled for trial may be viewed in Portal by using the Search Hearings feature and using the courtroom number as the search type.

**17.2 Order of Cases on Calendar:** In Portal, after searching hearings and selecting the correct information, the full calendar of cases scheduled for trial may be viewed. Once on the calendar, first sort by Date/ Time to bring the Peremptory or Priority cases to the top. Cases defined as peremptory in accordance with Local Rule 16 above or cases having statutory priority shall appear at the top of each trial calendar. To the extent possible, the Superior Trial Caseflow Coordinator in the TCA Caseflow Management Division shall set other cases so that the oldest-numbered cases will appear as the first cases, after those designated as peremptory or given statutory priority. Cases that were previously calendared may also be given priority. The peremptory cases will be set for 9:59 AM and the regular cases will be set for 10:00 AM. Once the number of peremptory settings has been discovered, the calendar will need to be re-sorted by Case Number to determine the actual ranking of cases in consideration with any peremptorily set cases.

**17.3 Publication of Judge Assignments:** Judge assignments for the next week's session will be added to the court session and visible in Portal on the afternoon of the last business day prior to the start of the session. The assignments are available by visiting 26th Judicial District's (Mecklenburg County) Local Administrative Schedules section of the North Carolina Judicial Branch website on [www.nccourts.gov](http://www.nccourts.gov).

**17.4 Official Notice and Attorney and Self-Represented Party Responsibility:** The availability of calendars as published above shall constitute official notice to attorneys and self-represented parties. It shall be the responsibility of counsel and self-represented parties to be aware of cases appearing on trial calendars. Case Management Orders, Trial Date Notices, Orders to Mediation, Appointment of Mediators, Warning Notices, Orders Directing Action, and Past Due Mediation Notices will be issued a Notice by electronic notification to attorneys and by US Mail to self-represented litigants. Failure to receive notices by electronic notification or mail shall not be cause for a continuance of the trial date.

**17.5 Order of Cases Called for Trial:** All cases calendared shall be ready for trial at any time during the session, and called as provided under Local Rule 18.

**17.6 Failure to Prosecute:** Any case listed on a published trial calendar is subject to dismissal for failure to prosecute if, at the time it is called for trial, the attorneys (or the parties themselves, if not represented by counsel) are not present or ready to proceed.

**17.7 Re-calendaring of Cases Not Reached or Continued:** To achieve a balanced docket, the Superior Trial Caseflow Coordinator in the TCA Caseflow Management Division shall re-calendar cases not reached or continued by the Court to future trial sessions based upon calendar availability. Counsel/ parties shall consult with one another and witnesses regarding availability and conflicts for the next trial date. The trial date should not be outside of the sixty (60) days from the current trial session. It is the responsibility of plaintiff's counsel, or self-represented plaintiff, to contact the Superior Trial Caseflow Coordinator to advise of the agreed upon trial date or to advise of the inability to agree upon a session. The Superior Trial Caseflow Coordinator must be contacted by close of business on last business day of the session following the current trial session from which the case was continued or not reached with the required information.

**17.8 Motions Shall Not Delay Trials:** Any motion scheduled or heard during the regular motions session of court, shall in no way be used to alter or extend the trial date assigned under the existing CMO.

## **Rule 18: Calendar Call; Pretrial Disclosures, Conferences and Exhibits**

**18.1 Calendar Call and the Order of Cases:** A call of the Superior Court trial calendar will be held in the designated courtroom at 10:00 AM on the first day of the session. Cases normally will be called for trial or hearing in the order they appear on the final calendar; however, any case can be called by a presiding judge at any time during the trial week.

**18.2 Pretrial Disclosures:** Unless otherwise agreed by the parties, witness lists, exhibit lists, proposed jury issues, and any exhibits not previously exchanged shall be exchanged between the parties/ attorneys and filed with the Clerk of Court no later than ten (10) days before the Monday of the scheduled week of trial. When these are filed electronically, "Other/Miscellaneous" should be selected and the "Filing Description" should be named exactly what is being filed (i.e. Witness List, Exhibit List, Proposed Jury Issues).

**18.3 Pretrial Conferences with Motions:** No later than the Wednesday preceding the first day of the session on which the case is set for trial, counsel shall be responsible for notifying the Superior Trial Caseflow Coordinator in the Caseflow Management Division of the TCA's Office of any requests for Pretrial Conferences, which include Pretrial Motions that counsel anticipates will exceed thirty (30) minutes in length, so that time can be added to the trial calendar for hearing by the presiding judge.

18.4 **Exhibit List for Clerk:** Parties shall provide the courtroom clerk a list of all exhibits with sequential numbers as listed by him/ her at the beginning of the trial. When these are filed electronically, “Other/Miscellaneous” should be selected and the “Filing Description” should be named exactly what is being filed (i.e. Exhibit List for Courtroom Clerk).

18.5 **Exhibits for Jury Publication:** Parties who wish to have non-photographic exhibits published to the jury shall provide the same number of copies as jurors unless excused from doing so by the presiding judge or unless the parties will be using technology to publish the exhibits.

## **Rule 19: Trial Continuances**

19.1 **The CMO Process Addresses Most Conflicts:** The advance notice provided to counsel in the CMO process under Local Rule 6 above, coupled with the opportunity to submit a Consent CMO within thirty (30) days of receipt of the CMO, is deemed a reasonable and sufficient opportunity to accommodate the majority of conflicts. Trial slots are a scarce resource. Counsel have an ethical and professional responsibility to ensure that this resource is wisely managed.

19.2 **Timing of Requests and Objections:** Motions for continuance of trials and objections must be submitted in a timely fashion.

- (a) **Requests Should Not Be Delayed:** Counsel should move for a continuance at the earliest time it is known that a continuance will be needed. Timeliness will be a major determinant in any ruling.
- (b) **Request Deadline:** Except as set forth in Local Rule 19.2(c) below, a motion to continue must be filed with the Clerk of Court no later than ten (10) business days preceding the first day of the session in which the case is set for trial. A party should electronically file the Motion for Continuance (Local Form [CCF-5A](#)) and the Proposed Order (Local Form [CCF-5B](#)) using the code and filing description of MFC – Motion for Continuance.
- (c) **Requests After the Deadline:** Requests for continuance may be filed with the Clerk of Court after the ten (10) business day deadline only when exigent circumstances arise that could not have been reasonably foreseen prior to the deadline. Continuance requests received after the ten (10) business day deadline for reasons known before that time will be summarily denied.
- (d) **Objections:** Any objections to a continuance request, even if noted in the Motion, must be made in writing and filed with the Clerk of Court on Local Form [CCF-6](#), or in written form stating the grounds for which the objection is based, within two (2) business days of the

filing of the Motion to Continue. Counsel should eFile the objection using the same code and filing description as the Motion for Continuance (MFC – Motion for Continuance). If a written objection is not filed within the time required, it will be assumed that the opposing party does not object to the request for continuance.

- (e) **Timing of Rulings by Superior Trial Caseflow Coordinator:** The Superior Trial Caseflow Coordinator in the Caseflow Management Division of the TCA's Office will rule on Motions to Continue trials upon the expiration of the objection period described above, or sooner when possible, if the position of the opposing party is already known. For continuance requests made after the ten (10) business day deadline, the Superior Trial Caseflow Coordinator will attempt to make contact with opposing counsel and/ or the self-represented party if the position is not known and a decision is required prior to the end of the objection period. Once all relevant information has been received and reviewed, the Superior Trial Caseflow Coordinator will rule on the motion and notify moving counsel, who is then responsible for notifying opposing counsel.

**19.3 Form, Service and Content of Continuance Requests and Objections:**  
All Motions for Continuance and Objections shall be submitted in writing and served as follows:

- (a) **Form and Service of Requests for Continuance:** Motions for continuance shall be submitted on Local Form [CCF-5A](#) or a drafted motion, which must include, at a minimum, the same information requested on Local Form CCF-5A. A copy of the completed motion must be served on all counsel of record and/ or self-represented parties prior to submission to the Court. All Motions for Continuance of a Superior Court trial must be filed with the Clerk of Court, with a certificate of service. Unserved, unfiled and/ or undelivered Motions for Continuance will not be considered. The Motion to Continue electronic filing must use the code and filing description of MFC – Motion for Continuance.
- (b) **Content of the Request for Continuance:** All continuance motions shall include:
- All known reasons for which the continuance is being sought. Failure of the requesting party to include known pertinent information in the original motion is not grounds for reconsideration or appeal of the ruling made by the Superior Trial Caseflow Coordinator
  - The number of times the case has previously been scheduled for trial;

- Indication that all other counsel and/ or self-represented parties have been served with the motion, to include the manner and date of service;
- If known, the position of the other counsel and/ or self-represented party; and
- When possible, proposed and mutually agreed upon trial sessions or known dates of conflicts.

- (c) **Proposed Order:** The Motion for Continuance shall be accompanied with a proposed Order on Local Form **CCF-5B**. It is the responsibility of the submitting party to obtain the signed Order, and provide copies to the opposing parties.

**19.4 Factors for Consideration:** Motions for Continuance will only be granted for good cause shown. In addition, consideration may be given to the following factors:

- (a) Age of the case;
- (b) The diligence of counsel in moving the case towards disposition and resolving conflicts and/ or issues causing delay of such disposition;
- (c) Number of previous continuances;
- (d) The due diligence of counsel in promptly filing the motion for continuance as soon as practicable;
- (e) The Guidelines for Resolving Scheduling Conflicts as adopted by the State-Federal Judicial Council of North Carolina and Rule 3.1 of the General Rules of Practice for the Superior and District Courts with regard to professional conflicts;
- (f) Witness unavailability, incomplete medical treatment, personal emergencies, family conflicts and outstanding discovery issues will be handled on a case-by-case basis;
- (g) The lack of an objection by opposing counsel or the fact that the case has not been continued before shall not alone constitute sufficient grounds for the continuance of the trial; and
- (h) Unavailability of a peremptory setting date and/ or the unavailability of the technology courtroom is not necessarily sufficient grounds for a continuance of the trial date.

19.5 **Appeals of Rulings by Superior Trial Caseflow Coordinator:** Appeals of the decision rendered by the Superior Trial Caseflow Coordinator shall be filed with the Clerk of Court on Local Form **CCF-5C**, using the same naming and description as a Motion for Continuance (MFC – Motion for Continuance) for subsequent delivery to the Senior Resident Superior Court Judge, or if unavailable, designee. Opposing counsel or self-represented parties shall be notified in writing of the appeal prior to its filing with the Clerk of Court.

- (a) **Basis Must be the Same As Original Request:** The appeal on Local Form **CCF-5C** must include a copy of the exact motion which was submitted to the Superior Trial Caseflow Coordinator in the TCA Caseflow Management Division, and a copy of any objections previously submitted relating to the Motion to Continue. The appeal shall not contain any information which was not presented in the original motion, as the information would not have been previously ruled upon, this includes adding information or details to a cover letter.
- (b) **Decision is Final:** The decision of the Senior Resident Superior Court Judge, or designee, is final. The motion to continue may not be renewed at the calendar call.

19.6 **Circumstances Where Motions Heard at Calendar Call.** The only instance in which a Motion for Continuance should be made and heard at the call of the calendar is when exigent circumstances arose that could not have been reasonably foreseen until after the close of business on the day preceding the start of the trial session.

19.7 **Importance of the Process:** Failure of parties to follow the established process for continuance requests may result in automatic denial of the motion and/ or the imposition of sanctions.

## **Rule 20: Settlements**

20.1 **Action Required Following Settlement:** When a case is settled prior to or after placement on a trial calendar, plaintiff shall notify the Caseflow Management Division within 24 hours of settlement. Attorneys shall specify to the appropriate Caseflow Coordinator as to which party will prepare and present the judgment or file the dismissal and/ or other appropriate documents for final disposition, and when this is anticipated to occur. If the case is already on a published trial calendar, the parties shall also notify all parties in the next case calendared.

20.2 **Minor/ Structured Settlements:** Minor/ Structured settlements are scheduled through the Caseflow Management Division of the TCA's Office, routinely in Motions Court (6310), and adhere to the following procedures:

- (a) **Recording:** All settlements will be recorded, either by a Court Reporter or by the audio/ video recorder in Courtroom 6310.
- (b) **Persons Present:** The minor and his/ her guardian *ad litem* shall be present at the minor settlement, absent prior excusal by the Court.
- (c) **Statement Regarding Insurance Coverage:** The defense shall state on the record the total and complete amount of insurance coverage afforded to a defendant in the situation in question.
- (d) **Information Where Damages Exceed Insurance Coverage:** To the extent potential damages exceed insurance coverage, the plaintiff shall make independent inquiry of defendant's other assets that are reasonably available, other than insurance, and be prepared to report his or her findings to the Court.
- (e) **Present Value Information:** To the extent a minor or other settlement is to be structured, the plaintiff shall certify to the Court the present value of the settlement, to the minor.

## **Rule 21: Presentation of Orders and Judgments**

21.1 **Signature Lines:** When preparing an order/ judgment, the judge's signature line shall not be on a separate page from some other portion of the order/ judgment.

21.2 **Presentation to Opposing Side First:** No proposed order or judgment shall be presented to a judge until opposing counsel/ self-represented party has had a *reasonable* opportunity (no less than two business days) to review it and has been advised of when the proposed order/ judgment will be presented for signature. "Verification of Consultation with Opposing Counsel" on Local Form CCF-7, or similar representation, shall accompany the order/ judgment.

21.3 **Disagreement on the Form or Content of the Order:** If there is disagreement among the parties on the appropriate form or content of the order, the party submitting the order shall inform the Court that the other side has an objection to the form or content and may briefly explain the basis for the form and content of the order submitted. The other side shall have two business days following submission of the order to state their objection in writing to the Court and submit any alternative order for consideration, preferably in the form of a redline of the original submission.

21.4 **Submission of Orders and Judgments to the Judge:** Unless otherwise directed by the Court, orders and/ or judgments submitted for signature, and any responses thereto, shall be filed with the Clerk of Court. The proposed order shall be accompanied by the presenting attorney's complete contact information. No order will be signed unless these procedures are followed.

**21.5 Delinquent Orders or Judgments:** Scheduled trials or motions which are removed from the calendar due to settlement shall be considered delinquent if the order, judgment or disposition is not presented to the Court for signature or filing within thirty (30) calendar days after the case was announced as settled, unless otherwise directed by the presiding judge.

**21.6 Action on Delinquent Orders or Judgments:** The Superior Trial Caseflow Coordinator in the Caseflow Management Division of the TCA's Office will identify those cases deemed to be delinquent pursuant to Local Rule 22 and bring them to the attention of the Senior Resident Superior Court Judge or presiding judge. Cases identified as being delinquent may be dismissed under Local Rule 22 at the discretion of the Senior Resident Superior Court Judge or presiding judge, or said judge shall order such sanctions or impose penalties allowed by law as he or she deems appropriate.

**21.7 Outstanding Orders Submitted for Consideration:** In cases where a proposed order has been submitted for a ruling by the presiding judge and thirty (30) days have passed without entry of an Order, a party shall bring this to the attention of the Caseflow Management division in the TCA's Office. Depending on the courtroom in which the matter was heard, a party shall contact either the Superior Motions Caseflow Coordinator or the Superior Trial Caseflow Coordinator, who shall make inquiry of the presiding judge as to the status and any further needed action.

## **Rule 22: Clean-Up/Administrative Calendars**

**22.1 Appearance Not Required for Clean/ Up Administrative Calendars:** Parties are not to appear for Clean-Up/ Administrative Calendars. The calendars serve only as a notice to the parties/ attorneys of issues regarding the case. Cases on a Clean-up Calendar are scheduled for discontinuance, default, dismissal, filing of orders, or other appropriate disposition as the Court determines.

**22.2 Notice of Order Directing Action:** The case will have a Review Announcement scheduled and all issues which must be resolved prior to the assigned deadline will be specified in the comments. The Order Directing Action will be attached to the Review Announcement in Portal. Cases will not be removed from the clean-up process unless the appropriate documents are filed with the Clerk of Court to fully resolve all identified issues.

**22.3 Response to Notice of Order Directing Action:** The appropriate documentation shall be filed with the Clerk of Court prior to the date indicated in the Order Directing Action. If the parties/ attorneys are unable to timely provide the required or requested documents, a motion and order for continuance shall be filed with the Clerk of Court's office outlining the reasons the required documents are unable to be filed prior to the date in the Order Directing Action. The motion for continuance shall also be filed no later than ten calendar days prior to the date indicated in the Review Announcement/

Order Directing Action. Continuances will not be given unless a crucial cause that could not have been reasonably foreseen exists.

**22.4 Consequence for Failure to Act:** Failure of counsel to take the appropriate action, file defaults, delinquent orders, or judgments as identified in the Review Announcement/ Order Directing Action may result in the dismissal of the action or other sanction by the Court.

**22.5 Process Regarding Potential Defaults:** Cases will be reviewed for default and shall be placed on the Clean-Up/ Administrative Calendar for a date after the expiration of time to respond to the complaint. If the answer is not filed in the allowed time, the party/ attorney shall move for default as required by these Local Rules.

**22.6 Process Regarding Disposition Cases:** Cases in which a disposition has been reported will be reviewed for filing of dispositive documents and shall be placed on the Clean-Up/ Administrative Calendar when the Clerk of Court's Office does not reflect entry of the disposition. If the appropriate disposition has not yet been entered, necessary steps shall then be taken by the party/ attorney to ensure the disposition is entered as indicated in the Order Directing Action.

**22.7 Process Regarding Service Cases:** Cases shall be reviewed for proof of service and for requested status updates when necessary. If a case appears on the calendar for status, the parties/ attorneys shall respond by filing a Motion to Continue with the details of the requested status included in the Motion to Continue. If service has not been perfected as required by Local Rules 15.1, 15.2 or 15.3, the case shall be considered delinquent and shall be subject to dismissal if the issue is not remedied as indicated in the Order Directing Action.

### **Rule 23: Sanctions**

Failure to comply with any section of these rules may subject a party or counsel to sanctions deemed appropriate at the discretion of the presiding judge.

## APPENDIX A

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### Scheduling Motions in Superior Court

Motions are typically scheduled for hearing Monday through Thursday, with Friday scheduling as needed. A hybrid scheduling approach is utilized in courtroom 6310 for in-person hearings and a dedicated link (<https://nccourts.webex.com/meet/meckcr6310.sh>) for remote hearings.

Requests for hearings on motions must include the following:

- The case number and caption
- The type of motion being requested
- The total amount of time needed for the hearing, including arguments for all parties. (this is extremely important and must be as accurate of an estimation as possible)
- The name of the attorney/ party requesting the hearing
- Which party the attorney represents

Requests (including the above-listed information) may be emailed to the Caseflow Coordinator at [Mecklenburg.Caseflow.Superior.Motions@nccourts.org](mailto:Mecklenburg.Caseflow.Superior.Motions@nccourts.org); or if email is not an available option, parties may call the Caseflow Coordinator at 704-686-0190 to provide the required information, and the Caseflow Coordinator will schedule the hearing.

More complex motions and motions requiring longer hearing times, most typically dispositive motions, will be scheduled during the afternoon sessions of court for an in-person hearing. The hearings will be scheduled for staggered times during the afternoon session. Less complicated motions and motions not requiring significant amounts of time for the hearing will be scheduled for morning sessions of court for a remote hearing using the Webex platform. Parties/ Attorneys may change in-person hearings to remote hearings and vice versa either by consent or by filing an exemption.

Every Tuesday at 9:30 a.m. there will be a session created on the calendar for Firecracker Motions to be heard. This calendar session is most often utilized for extremely quick matters, such as default judgments and motions to withdraw as counsel.

Parties/attorneys may stipulate to have their motions decided solely by the filing of briefs and waive the hearing of the motion. If the parties/ attorneys wish to have the motion decided by briefs, they must submit the request in writing (by email) to the Superior Motions Caseflow Coordinator with specific confirmation that all parties/ attorneys consent to the motion being decided by brief and are waiving the hearing. The Caseflow Coordinator will place the matter on the calendar for a specific date/ time with a note that the matter is to be determined by brief and does not require a hearing. The purpose of placing the matter on the calendar is to set aside time for the judge to be able to review the briefs during the session. The request to have the matter decided by the submission

of briefs, must be made, and the Caseflow Coordinator notified, by the close of business on the Wednesday prior to the start of the session.

	<b>Mon</b>	<b>Tues</b>	<b>Wed</b>	<b>Thurs</b>	<b>Fri</b>
<b>AM Session Short Hearings (virtual)</b>	10:00 – 12:30	9:30 Firecracker  9:30 – 12:30	9:30 – 12:30	9:30 – 12:30	2.1 and Med Mal (As needed)
<b>PM Session Lengthy Hearings (in person)</b>	2:00 2:30 3:00 3:30	2:00 2:30 3:00 3:30	2:00 2:30 3:00 3:30	2:00 2:30 3:00 3:30	2.1 and Med Mal (As needed)

## APPENDIX B

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### Pro Hac Vice Checklist

#### Out-of-State Attorney

- \_\_\_\_\_ Full name, address, bar #, status as practicing attorney in home state
- \_\_\_\_\_ Statement to continue to represent client until final determination
- \_\_\_\_\_ Statement agreeing to be subject to orders and disciplinary action of court and State Bar as if a regularly admitted and licensed member of NC Bar in good standing
- \_\_\_\_\_ Statement that their state regularly admits this privilege to NC attorneys in good standing
- \_\_\_\_\_ Disclosure of all disciplinary history including revocation of any previous *pro hac vice* admissions
- \_\_\_\_\_ Attorney is appearing with an attorney residing in NC (or see below)
- \_\_\_\_\_ Signature

#### Sponsoring Attorney

- \_\_\_\_\_ Statement that attorney is admitted to the NC Bar and is a resident of NC; will personally appear with out-of-state attorney; will be responsible for filing a registration statement with the NC Bar; will accept service on behalf of out-of-state attorney
- \_\_\_\_\_ Signature

#### Other

- \_\_\_\_\_ Check for \$225 each, payable to "Mecklenburg County Clerk of Court" (or similar)
- \_\_\_\_\_ Client's signed statement including client's whole address
- \_\_\_\_\_ Certificate of Service via \_\_\_\_\_ on \_\_\_\_/\_\_\_\_/\_\_\_\_
- \_\_\_\_\_ Written consent or opposition – if not, hold 7-10 days to \_\_\_\_/\_\_\_\_/\_\_\_\_
- \_\_\_\_\_ Order for Judge
- \_\_\_\_\_ Self-addressed, postage-paid envelope (if law firm is not picking it up)