

25TH JUDICIAL DISTRICT – RULES OF COURT

ARTICLE 1. GENERAL RULES APPLICABLE TO ALL COURTS

Gen Rule 1: Purpose and scope. General Rules.

- 1.1 Purpose. The purpose of these rules is to institute and maintain a case management plan for District Court of the 25th Judicial District which will provide for the orderly, just and prompt disposition of domestic, criminal, infraction, juvenile and civil jury and non-jury cases.
- 1.2 Use of Discretion. In the event these rules fail to address a specific matter, case managers and Clerks are authorized to act with discretion subject to consultation with a judge. When the enforcement of any rule herein would lead to an unjust result or bestow an unfair advantage, the Court should exercise discretion to excuse or relieve any party of the burden of these rules.
- 1.3 Rules to be distributed. The Clerks shall print and distribute a copy of these rules to each member of the Bar of the 25th Judicial District. The offices of the District Court Judges and the Clerks of each county will maintain a supply of printed rules, as well as associated forms to be furnished to attorneys and to the public upon request. The Articles applicable for Juvenile Court, Criminal/Traffic Court, Civil Jury and Non-Jury Court and Domestic Court shall be maintained and distributed separately.
- 1.4 When effective. **Articles 1 through 5** of these rules as revised will become fully effective and enforced with respect to applicable cases as designated in separate administrative orders.

Gen Rule 2: Courtroom decorum.

- 2.1 Rules of General Practice enforced. The General Rules of Practice shall be enforced and nothing herein shall be interpreted and enforced in a manner contrary to the intent of the General Rules of Practice promulgated by the North Carolina Supreme Court.
- 2.2 Permission to approach witness not required. Counsel may approach a witness for the purpose of presenting, inquiring about or examining the witness with respect to an exhibit, document or diagram without first obtaining the permission of the Court.

Gen Rule 3: Scheduling of Court Sessions / Judges. Authority of Judges.

- 3.1 Calendar to be published. The Chief District Court Judge shall publish a calendar, which schedules all sessions of Court in the District along with the assignment of judges. Amendments to the schedule and assignments and special sessions may be made by the Chief District Court Judge as needed.
- 3.2 Court begins at 9:00 a.m. Unless otherwise specified herein or on the published calendar, Court sessions in the 25th Judicial District begin at 9:00 a.m..
- 3.3 Specific Sessions. The specific times for sessions shall be as set forth in the above mentioned calendar, in separate administrative order or by these rules.
- 3.4 Earliest disposition of cases. All cases shall be disposed of at the earliest opportunity, including the first trial setting.
- 3.5 Delegation of General Authority. The Chief District Court Judge shall prepare court assignments for each judge designating those matters to which each judge should give primary emphasis. Each District Court Judge is hereby authorized by the Chief District Court Judge, subject to further orders, to hear all matters within the jurisdiction of the District Court Division, in session or out of session, including in-chambers matters, temporary restraining orders, injunctions and any other matter which can be delegated, authorized or assigned. The court assignments are intended to designate those matters to which the assigned judge shall give primary attention. The conduct of the Court, once assigned, is solely within the discretion of the presiding judge. All assignments are subject to change and a judge assigned to any court has full authority to hear matters assigned to other courts upon conferring with the judge having primary authority over the matter and all judges are authorized to preside over any session and may open and operate such courtroom sessions as may be appropriate to dispose of all pending matters in the most expeditious manner. Any judge assigned to any court is free to exchange courts with any other judge; and one judge may substitute for another, either for a session or to preside temporarily until the assigned judge reassumes the bench. No actions of any judge shall be subject to collateral attack or jurisdictional challenge for the reason that authority was not delegated or assigned by the Chief District Court Judge, it being the intent of this Rule to fully confer such jurisdiction as may be allowed by law, unless and until such authority is divested by a specific order subsequently entered.
- 3.6 Judicial Assignments. Judges shall have primary assignments as set out in a quarterly or half-year calendar published by the Chief District Court Judge. The assignments do not limit the jurisdiction of any judge, but the judges shall give primary attention to the matters assigned and shall defer appropriate matters to the judges primarily assigned to them.
- 3.7 Delegation of Authority to Act in Absence of Chief Judge. In the absence of the Chief District Court Judge from the district, the duties of the Chief Judge are delegated to the most senior judge available in the district.

- 3.8 Request for Out of District Judge. All motions or requests for assigning an out-of-district judge to hear any matter shall be made to the Chief District Court Judge.

Gen Rule 4: Motions to Continue.

- 4.1 To whom addressed. Except as hereinafter provided or as otherwise specified by these rules, motions to continue should be addressed to the presiding trial judge of the court where the case is scheduled. Where the presiding trial judge is not available at a motions docket and a decision on the motion needs to be made earlier than the calendar call for the session, such motions may be scheduled and heard on a motions docket before another judge unless the presiding judge or the Chief District Court Judge specify otherwise by special order. Continuances from special sessions should be continued only by the judge presiding over such session. See special rules for Domestic Cases.
- 4.2 Written record to be made. Orders to continue shall be documented in or on the file and shall include the identity of the moving party, any objections to the continuance and the basis for the continuance.
- 4.3 All parties to be heard; next date is trial date. All parties shall have an opportunity to be heard on a motion to continue as to whether or not it should be allowed and as to the continuance date. If a case is continued, it should be set with the anticipation that the next setting shall be the trial date;
- 4.4 Motions to be heard as early as possible; notice to parties, attorneys. Motions to continue shall be made as soon as the reason justifying the motion is identified and opposing counsel and unrepresented parties shall be notified as soon as possible by the moving party.
- 4.5 Factors to be considered. Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:
- a) The opportunity to exercise the right to effective assistance of counsel;
 - b) The age of the case and the seriousness of the charge;
 - c) The incarceration or detention status of a criminal defendant or juvenile;
 - d) The effect on children and spouses if the issue is continued and not resolved;
 - e) The effect on an alleged victim if the issue is continued and not resolved;
 - f) The impact of the continuance on the safety of the parties or any other persons;
 - g) The status of the trial calendar for the session;

- h) The number, moving party and grounds for the previous continuances;
- i) The due diligence of counsel in promptly making a motion for continuance as soon as practicable and notifying opposing parties, counsel and witnesses;
- j) The period of delay caused by the continuance requested;
- k) The presence of witnesses, including the parties or victims;
- l) The availability of witnesses for the present session or for a future session;
- m) Whether the basis of the motion is the existence of a legitimate conflict (In considering this factor the Court should consider whether attempts have or should be made to seek release from the conflict and whether in cases involving attorney conflicts, whether counsel has partners or associates in his/her law firm who are or could become familiar with the case.);
- n) The availability of counsel (but see parenthetical provision of **Gen Rule 4.5 m** above);
- o) The financial and other consequences to the public, the parties, attorneys, witnesses or court personnel if the case is continued;
- p) Specific legal restrictions on continuance of the type of case or specific statutory factors authorizing continuance;
- q) The order in which the case appears on the trial calendar, including whether the case is peremptorily scheduled;
- r) The extent to which the moving party had input on scheduling the trial date;
- s) Whether the parties consent to the continuance (Note: Consent may reduce the burden required for the granting of a continuance but shall not guarantee such. In order to have any effect, such consent must be in writing signed by the parties, alleged victims and their attorneys, if any)
- t) Any other factor that promotes the fair administration of justice;

Gen Rule 5: Conflicts; Duties.

5.1 Courts to cooperate in setting priorities. The various levels and sessions of Court should work together to try to move cases as expeditiously as possible. Judges shall communicate with one another to resolve such conflicts. The age of cases, the subject

matter and the priority of the setting should be given as much priority as the level of court when resolving conflicts;

- 5.2 Attorneys to give notice of conflicts. Attorneys shall notify the Court and opposing counsel of any other Court conflicts as they become known and shall keep the Court advised of the resolution of the conflict as well as any delay in the resolution of the conflict;
- 5.3 Juvenile matters have priority. In resolving conflicts (except for criminal cases where a defendant is in custody), juvenile cases shall take precedence over all other matters wherever possible and cases where children are the subject of the case or are parties or witnesses should be give precedence wherever possible.

Gen Rule 6. Sanctions.

If any party or attorney willfully violates any of the Local Rules adopted herein, the Court may impose appropriate sanction(s) authorized by law. Due Process and fairness shall characterize all procedures imposing sanctions.

Gen Rule 7. Settlements in Civil/Domestic Cases.

- 7.1 Written memorandum of settlement required. If a case scheduled for hearing is settled in whole or in part before or during a session, the attorneys shall, if possible prepare a consent judgment during the term to be presented to the Court. If a typed consent judgment cannot with due diligence be prepared before or during the session wherein the matter is scheduled, the attorneys shall prepare a written memorandum of the judgment. The parties and/or subpoenaed witnesses shall not leave until the memorandum of judgment is prepared and signed by the parties and their attorneys.
- 7.2 Attorneys required to sign. Consent Judgments and Memorandums of Judgment in cases wherein a party or parties are represented by attorney(s) **must be signed by the attorney(s).**
- 7.3 When party's signature not required. If a party knowingly and willingly consents to a settlement and signs a memorandum of judgment and the memorandum states that the party's signature on the consent judgment of the same terms is not necessary, the Court may sign the consent judgment of the same terms without the party's signature.
- 7.4 Consent must be knowing, willing. Before executing a memorandum of judgment or consent judgment, the Court must determine that the agreement was made knowingly and willingly by the parties.

Gen Rule 8. Preferred and Peremptory Settings.

Those cases entitled to preferred settings pursuant to the *North Carolina General Statutes* shall be given priority. Except for Family Court Cases, requests for peremptory settings must be addressed in writing to the Chief District Court Judge with notice to all other parties. See **Dom Rule 2.14** for rules in Family Court Cases.