

**LOCAL RULES OF CIVIL SUPERIOR COURT
JUDICIAL DISTRICT 8-A
GREENE & LENOIR COUNTIES**

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CIVIL SUPERIOR COURT LOCAL RULES AND PROCEDURES
JUDICIAL DISTRICT 8-A
Lenoir and Greene Counties
Revised October 15, 2003
Effective January 1, 2004

Pursuant to the provisions of Rule 40 of the North Carolina Rules of Civil Procedure, N.C.G.S. § 1A-1, 7A-38.1, and pursuant to the General Rules of Practice for the Superior and District Courts, these Rules and procedures for case management and related matters are adopted and shall apply to all Civil Superior Court cases pending in the Judicial District Eight-A, effective January 1, 2004.

RULE I - PURPOSE

- 1.1 STATEMENT OF PURPOSE: The purpose of these Local Rules and Procedures is to provide for the orderly, just and prompt disposition of civil matters to be heard in the Superior Court. They shall be at all times construed and enforced in such a manner as to avoid technical delay. The Trial Court Coordinator, under the supervision of the Senior Resident Superior Court Judge, shall be responsible for the administration of these Rules.

RULE II - CASE TRACKING SYSTEM

- 2.1 TRACKING: In an effort to make the process of case tracking as effective as possible, early intervention into cases that are filed in Judicial District 8-A will be practiced. The Trial Court Coordinator shall be notified immediately by the Clerk's Office when a case is filed in Civil Superior Court, by entering the information into the Civil Case Processing System (VCAP). The Trial Court Coordinator shall track all cases, and at the end of one hundred twenty (120) days after the case is filed, or when the last required pleading is filed, or when a motion to dismiss is filed in lieu of an answer, whichever is earlier, the Trial Court Coordinator shall determine the case's readiness for mediation and/or trial. If at the end of one hundred twenty (120) days:
- a. There is no service on the parties, pursuant to N.C.G.S. § Rule 4(e), the case will be discontinued.
 - b. There is service on the parties, but an answer has not been filed and time has expired, the Trial Court Coordinator may place the case on a motion calendar for default, whether or not the attorney has moved for an entry of default. If the attorney does not obtain the default the case will be dismissed for failure to prosecute.
- 2.2 READINESS FOR TRIAL: A case shall be deemed ready for trial when the Trial Court Coordinator has determined that at least one of the following has occurred:
- a. One hundred and twenty (120) days has elapsed since the filing of the last required pleading by the start of a scheduled session.
 - b. A case has been remanded for trial by the Appellate Division.
 - c. A case has been transferred to the Superior Court Division on appeal from a ruling by the Clerk of Superior Court.

- d. A case has been transferred to the Superior Court Division from the District Court Division (and 120 days has elapsed since the date of the last required pleading).
- e. A case is entitled to priority hearing by statute; i.e., caveats, foreclosures.
- f. Counsel has filed with the Trial Court Coordinator a calendar request requesting that the case be placed on a trial calendar prior to the expiration of the one hundred and twenty (120) day period.

2.3 **ADMINISTRATIVE REMOVAL FROM CIVIL ISSUE DOCKET:** Cases deemed to be not pending for trial shall be eligible for removal by order prepared by the Trial Court Coordinator and signed by the Senior Resident Superior Court Judge. Removal in these cases shall be without prejudice and if necessary, the case may be returned to active status by motion. Listed below are the types of cases eligible for administrative disposition.

- a. Cases in bankruptcy (accompanied by a copy of either a stay order or the Notice of Bankruptcy from the Bankruptcy Court).
- b. Defendants making payments.
- c. Service not perfected and time expired. (See 2.1a).
- d. Answers not filed and time expired. (See 2.1b).
- e. Removal to United States District Court.
- f. Removal for any other reason.

RULE III - EXTENSIONS OF TIME

3.1 **ANSWERS AND OTHER PLEADINGS:** No Clerk of Court, or Assistant Clerk of Court, or Deputy Clerk of Court shall extend the time for answering any complaint or filing any pleading beyond the thirty (30) days allowed pursuant to the provisions of N.C.G.S. § 1A-1, Rule 6, by consent or otherwise. No Attorney shall move for an extension of time beyond that contemplated in N.C.G.S. § 1A-1, Rule 6(b) nor shall any consent to such extension.

RULE IV - DISCOVERY

4.1 **TIME LIMITS:** Discovery must be completed within one hundred twenty (120) days of the filing of the last required pleading unless otherwise ordered by the Court. Trial of a case shall not be delayed for failure to complete discovery unless, for good cause shown by motion, a Superior Court Judge extends the discovery period prior to expiration of the one hundred and twenty (120) days allowed, under Local Rule 4.2 or 4.3 below.

4.2 **DISCOVERY CONFERENCE:** In all cases, but especially for cases involving complex issues and/or extensive damages, counsel are encouraged to confer and agree upon a specific discovery schedule tailored to the particular needs of the case, and to submit a proposed discovery order to the Trial Court Coordinator for approval by a Judge. If counsel cannot agree upon a discovery plan, the Trial Court Coordinator will, upon request, schedule a discovery conference pursuant to the provisions of N.C.G.S. § 1A-1, Rule 16 and Rule 26(f), to establish appropriate discovery deadlines by court order.

4.3 **ADDITIONAL DISCOVERY:** A request for an extension of time for additional discovery, following the expiration of a discovery time period established by Local Rule 4.1 above, or set

by prior order of the Court, must be by motion containing a specific schedule showing when the additional discovery will be completed. Extensions of time for discovery, which will delay a scheduled trial, will only be granted for good cause shown and to avoid manifest injustice to a party.

- 4.4 SUPPLEMENTATION OF DISCOVERY RESPONSES: Counsel may request supplementation of prior discovery under N.C.G.S. § 1A-1, Rule 26(e), but no scheduled trial will be continued to permit such a request. Counsel should always be mindful of their duty to voluntarily supplement prior discovery that is no longer complete or accurate.
- 4.5 FORMAT: Each time a particular discovery procedure is used, it shall be sequentially numbered (i.e., "First Set", "Second Set", "First Request", "Second Request", etc.) so that it will be distinguishable from a prior procedure. Attorneys serving Interrogatories or Requests for Admissions shall leave sufficient space after each Interrogatory or Request for the answer to be given. The answering attorney shall either respond in the space provided or retype the Interrogatory or Request immediately above the answer. The purpose of this Rule is to have the Interrogatories or Requests and the answers thereto appear in one document.
- 4.6 MEDICAL MALPRACTICE ACTIONS: Immediately following the filing of the answer(s), or at the expiration of such time, each action designated as a medical malpractice action shall be placed on the next available motion calendar for a discovery scheduling conference. The parties may request a different hearing date, but the conference must take place within 90 days of the filing of the answer(s).

RULE V - CALENDARING

- 5.1 GENERAL PROVISIONS: It is the intent of these Local Rules that calendaring be a continuous process of establishing a trial date for a case whenever the prerequisites of Local Rule 2.2 have been met. No tentative calendars will be published in Judicial District 8-A.
- 5.2 NOTICE OF TRIAL CALENDAR CONFERENCE: Attorneys and/or parties appearing pro se in cases will be notified of the Trial Calendar Conference date at the time the case is ordered into mediation. Notice shall be on the Order for Mediated Settlement Conference and Trial Calendar Notice (AOC-CV-811).
- 5.3 CALENDAR CONFERENCES: A Trial Calendar Conference will be held quarterly at which time the Trial Court Coordinator will place cases listed on the calendar for the Trial Calendar Conference on any of the trial calendars for the succeeding calendar quarter. Attorneys and/or parties appearing pro se are strongly encouraged to attend in person when schedules allow, but may have input by submitting to the Trial Court Coordinator a Case Status Report. Failure to provide input at the Trial Calendar Conference shall not be a proper basis for a continuance request.
- 5.4 FINAL CALENDARS: A final calendar will be prepared and published by the Trial Court Coordinator four (4) weeks prior to a scheduled term of court. Calendar Requests may also be submitted for a particular term in order to accommodate the schedules of counsel, clients or witnesses, but such requests must be filed with the Trial Court Coordinator no later than the 5th Wednesday prior to a term of Civil Superior Court.

- 5.5 PUBLISHING OF CALENDARS: All calendars shall be published by the Trial Court Coordinator electronically, and shall be available for viewing and/or printing at the North Carolina Courts website (www.nccourts.org). Paper copies of the calendars will be mailed to parties appearing pro se. Paper copies of the calendars may be obtained from the office of the Clerk of Superior Court, with proper payment of any copying costs and/or fees.
- 5.6 RESPONSIBILITY: It shall be the responsibility of counsel and pro se parties to be aware of cases appearing on any calendars.
- 5.7 ORDER OF CASES: When a Statute, Rule or Order of the Senior Resident Superior Court Judge specifies a special setting, the final calendar will so indicate. Other cases will be placed on the calendar in a generally chronological order as determined by the Trial Court Coordinator, giving due consideration to the efficient use of time. The management of cases by the Trial Court Coordinator, under the supervision of the Senior Resident Superior Court Judge, will attempt to preclude the necessity for peremptory settings, which, as a rule, will not be granted. However, requests to that effect should be directed to the Trial Court Coordinator. (See Rule 5.9 below.)
- 5.8 RESCHEDULING CASES: Cases not reached during any session of court will be assigned a new trial date in the discretion of the Trial Court Coordinator. Attorneys and/or parties appearing pro se are encouraged to contact the Trial Court Coordinator with regard to the new court date for their case. A new trial date may be assigned by the Trial Court Coordinator as soon as it is apparent the case will not be reached during a particular session of court, if requested by either party. When a case, being deemed ready for trial, has been assigned its first trial date and final disposition has not occurred, the case must have either a Trial Calendar Conference date or trial date pending.
- 5.9 PEREMPTORY SETTINGS: Although presumptively disfavored, consistent with Rule 2(f) of the General Rules of Practice, peremptory setting requests may be made for good cause and shall be made in writing to the Trial Court Coordinator prior to or during the Trial Calendar Conference, pursuant to Rule 5.1(b). Except in extreme circumstances, requests made after the Trial Calendar Conference shall be denied. In determining whether to grant or deny a request for a peremptory setting, the Trial Court Coordinator and the Senior Resident Superior Court Judge will review the particular grounds for the request, which shall include, but not be limited to, the number of times the case has previously appeared on any calendar, the inconvenience to the parties or witnesses, and any other extraordinary or emergency reason. A peremptory setting shall only be granted for good and compelling reasons. The Senior Resident Superior Court Judge may set a case peremptorily on his or her own motion.
- 5.10 PRIORITY SETTINGS: Cases entitled to a priority setting under the General Statutes shall be brought to the attention of the Trial Court Coordinator in writing, with copies to all counsel of record, and shall cite the authority for such setting.
- 5.11 SPECIAL SESSIONS: At the request of and in consultation with counsel for all parties or all unrepresented parties, the Trial Court Coordinator shall determine which cases should be set for trial at a special session. Factors that will be considered include, but are not limited to, anticipated length of trial, scheduling difficulties of attorneys or essential witnesses, emergencies such as the physical condition of witnesses or parties, or complexity of issues. The Trial Court Coordinator shall make all appropriate arrangements for special sessions.

RULE VI – MOTIONS

- 6.1 **NOTICES:** All motions filed in a Civil Superior Court case must be accompanied by a Notice of Hearing and/or Calendar Request. The Trial Court Coordinator will have a list of court dates that are available for the hearing of motions. Motions will be heard on the first Monday morning of a term of court and at other times during the week as designated by the presiding judge.
- a. **Filing and Delivery:** A copy of the Notice of Hearing and/or Calendar Request must be delivered by hand, mail or fax to the Trial Court Coordinator (and a copy sent to opposing counsel and/or parties appearing pro se) or placed in the Senior Resident Superior Court Judge's mailbox in the Clerk's office. Failure to file the Notice of Hearing and/or Calendar Request shall be grounds for the denial of the motion in the discretion of the presiding judge.
 - b. **Failure to File and Calendar:** Failure to timely file motions and/or calendar motions shall not of itself be a proper basis for continuance of a scheduled trial date.
 - c. **Calendars:** Motions will be placed on the Motions Calendar, and published accordingly, if the Trial Court Coordinator receives the Calendar Request/Notice of Hearing prior to 3:00 p.m. on the 5th Wednesday before the session date. Any other motions received after that date shall be placed on an Add On Motions Calendar that shall be published no earlier than 12:00 p.m. on Thursday (or 2 business days) prior to the session. The deadline to have a motion placed on the Add On Motions Calendar is 3:00 p.m. the Wednesday (or 3 business days) prior to the session of court.
- 6.2 **MOTIONS FOR CONTINUANCE:** **Requests for continuance are presumptively disfavored.** However, prior to the opening of court for the session in which the case is calendared, all Motions for Continuance must be in writing and addressed to the Trial Court Coordinator (with a copy to opposing counsel and/or parties appearing pro se) and received by 5:00 p.m. the first Wednesday (or 3 business days) prior to the session of court the following Monday. These requests must state explicitly and in detail the reason for continuance and state when the case may be rescheduled. (See Rule 5.6 below.) Objections to such requests must be received prior to 12:00 p.m. the first Thursday (or 2 business days) prior to the session of court the following Monday. Objections not raised within this time period are deemed waived. Rulings on the motions will be made and parties notified by 3:00 p.m. Thursday (or by 3:00 p.m. 2 business days) prior to the session of court the following Monday. Only requests for continuances in emergency situations will be considered between the Thursday (or 2 business days) and Friday (or 1 business day) prior to the beginning of the session of court. Following the opening of court for the session in which the case is calendared, any motion for continuance shall be made to the presiding judge of the court in which the case is calendared.
- a. **Format:** Motions for Continuance may be on the Motion and Order for Continuance form (AOC-CV-221). However, those motions not on this form must contain all information requested on the Motion and Order for Continuance form.
 - b. **Objections:** Objections by opposing counsel and/or parties appearing pro se to Motions for Continuance filed before the first Monday (or 5 business days) prior to the session of court, must be received by the Trial Court Coordinator and the moving party within 3 business days following distribution of the motion. Objections not raised within this time period are deemed waived.
- 6.3 **MOTIONS TO REMOVE CASE FROM NON-PUBLISHED CALENDAR:** Motions to remove a case from the Final Trial Calendar prior to its publication must be addressed to the Trial Court

Coordinator (with a copy to opposing counsel and/or parties appearing pro se) at any time prior to the publication of the Final Trial Calendar.

- 6.4 NEW TRIAL DATE: In the event that a request for continuance is granted, the case will be placed on the next available trial calendar or Trial Calendar Conference calendar, in the discretion of the Trial Court Coordinator.
- 6.5 EVALUATIONS OF MOTIONS FOR CONTINUANCE: In addition to other factors which may be considered, the appropriate judicial official shall consider the following when deciding whether to grant or deny a Motion for Continuance:
- The age of the case;
 - The status of the trial calendar for the week;
 - The order in which the case appears on the trial calendar, including whether the case is peremptorily scheduled;
 - The previous number of continuances;
 - The extent to which counsel had input into the scheduling of the trial date;
 - The due diligence of counsel in promptly filing a Motion for Continuance as soon as practicable;
 - The length of the continuance requested, if applicable;
 - The position of opposing counsel;
 - Whether the parties themselves consent to the continuance;
 - Present or future inconvenience or unavailability of witnesses and/or parties; and
 - Any other matter that promotes the ends of justice.

Reasons that shall not be considered valid bases for allowing a continuance motion include first time scheduling of the case for trial, potential conflicting scheduling of other trials in other courts, whether counsel of record has received payment, completion of mediation, previous extension of mediation deadline, failure to timely file motions and calendar motions, and failure to complete discovery, including obtaining depositions for trial, in accordance with Rule 4.1.

- 6.6 MINOR SETTLEMENTS: Motions for court approval of minor settlements will only be calendared for hearing after the action has been filed in the office of the Clerk of Superior Court. All matters appearing on calendars must have valid docket numbers.
- 6.7 SUPPORTING AUTHORITY FOR MOTIONS: Neither memoranda of law nor briefs are required to be submitted in support of any motion filed in District 8-A, but may be submitted by the moving party if deemed necessary to the Court's understanding of the issues involved or if requested by the Court.
- a. Memoranda of Law and Briefs of Moving Parties: Ten (10) business days prior to the hearing, case and statutory authority upon which the motion is founded may be either presented to the Court in the form of a memorandum of law or brief, copies of the authorities presented to the Court, or both, if such will facilitate the Court's understanding of the issues involved or if requested by the Court. Additional case and statutory authority not initially cited in the brief or memorandum of law may be relied upon by the moving party at the hearing; however, a list of such additional authorities shall be provided to the opposing party prior to the date of the hearing in order to facilitate an expeditious hearing on the merits of the motion and avoid delay.
 - b. Responses to Motions: No formal response is required to any motion, but may be filed if necessary to the Court's understanding of the issues involved or if requested by the Court. The rules applicable to the moving party for submission of memoranda of law or

briefs, and disclosure of additional authority, are also applicable to any opposing party. Briefs or memoranda of law filed in opposition to a motion shall be filed not less than five (5) business days prior to the hearing.

- c. Motions in Pleadings: The requirements for supporting memoranda set out in Rule 6.1(a) shall also apply to motions that are contained in an answer, reply, or other pleading filed with the Court.
- d. Length of Supporting and Opposing Memoranda: No brief or memorandum of law submitted in support of, or in opposition to, a motion shall exceed 20 pages in length without leave of the Court.
- e. Motions Decided on Memoranda: By written consent of all counsel of record and unrepresented parties, and subject to the approval of the appropriate judge, motions may be decided by the presiding judge or the Senior Resident Superior Court Judge, solely upon written memoranda without personal appearance.
- f. Sanctions for Failure to Comply with Rules: The Court, in its discretion, may impose any appropriate sanction against counsel of record or any unrepresented party for failure to comply with these rules. Any objections for non-compliance with these rules must be made in advance to the Trial Court Coordinator at least three (3) business days in advance of the hearing date or else be deemed as having been waived.

RULE VII - CONFLICTS

- 7.1 RESOLUTION OF CONFLICTS: For purposes of resolving appearance conflicts, the following schedule of court attendance priority shall be followed by attorneys appearing in the Courts of Judicial District 8-A. If a case is started in a Court with lower priority, and counsel is unexpectedly required to appear in a higher priority Court, the already begun trial takes precedence until its termination.

- 1. Appellate Cases
- 2. Federal Court, Criminal Division
- 3. Superior Court, Criminal Division
- 4. Federal Court Civil Division
- 5. Superior Court, Civil Division
- 6. Federal Court, Bankruptcy Division
- 7. Industrial Commission Hearings
- 8. District Court, Criminal Division
- 9. District Court, Civil Division
- 10. Administrative Agency Hearing
- 11. Magistrate's Court

RULE VIII - SETTLEMENT OF CASES

- 8.1 NOTIFICATION OF SETTLEMENT OF CASES: When a settlement is reached before a trial date, whether via mediation or otherwise, counsel for plaintiff must immediately notify the Trial Court Coordinator. The Trial Court Coordinator will attempt to notify other counsel appearing on the trial calendar of settlements, but it is the responsibility of counsel to verify their position on any calendar by maintaining contact with the Trial Court Coordinator. If a settlement is announced for the first time at trial, counsel must immediately file a written agreement of the settlement signed by counsel, or file a voluntary dismissal, or dictate the terms of the settlement to the Court Reporter, pending preparation of a voluntary dismissal or consent order. Attorneys of record and/or parties should forthwith, and without unnecessary delay, take all steps necessary

to close the file, and are under an affirmative order to file all necessary documents within ten (10) working days. If no final disposition of a case announced as settled has been filed within forty-five (45) days, an order will be entered dismissing the case with prejudice for failure to prosecute unless good cause to the contrary is shown.

RULE IX - MEDIATED SETTLEMENT CONFERENCES

- 9.1 **GENERAL:** All persons and entities identified in Rule 4 of the Rules of the North Carolina Supreme Court Implementing Mediated Settlement Conferences in Superior Court Civil Actions shall be required to attend a pre-trial mediated settlement conference in all civil actions except an action in which a party is seeking the issuance of an extraordinary writ, is appealing the revocation of a motor vehicle operator's license, or in declaratory judgment actions.
- 9.2 **TIMELINESS:** The Senior Resident Superior Court Judge shall issue an order requiring a mediated settlement conference not less than four (4) weeks and not more than eight (8) weeks after the filing of an answer in an action, or after the time for the filing of answers has expired, as determined by the Trial Court Coordinator. This Rule shall not apply to medical malpractice actions, which shall be required to enter into mediated settlement conferences in accordance with the time guidelines set forth in the Discovery Scheduling Order prepared and filed in each medical malpractice action.
- a. **Notice:** Attorneys and/or parties appearing pro se shall be notified of the requirement of a mediated settlement conference in an action by receipt of an Order for Mediated Settlement Conference and Trial Calendar Notice (AOC-CV-811). The Order shall (1) require that a mediated settlement conference be held in the case; (2) establish a deadline for the completion of the conference; (3) state clearly that the parties have the right to select their own mediator and the deadline by which that selection should be made; (4) state the rate of compensation of the court appointed mediator in the event that the parties do not exercise their right to select a mediator; (5) state that the parties shall be required to pay the mediator's fee at the conclusion of the settlement conference unless otherwise ordered by the court; and (6) provide notice of the Trial Calendar Conference during which the action will be placed on a trial calendar, should mediation not be successful in allowing the parties to resolve all pending issues.
- b. **Deadline:** The Order for Mediated Settlement Conference and Trial Calendar Notice shall state a deadline for completion of the mediated settlement conference which shall not be less than 120 days nor more than 180 days after issuance of the Court's order.
- 9.2 **SELECTION OF CERTIFIED MEDIATOR:** The parties may select a mediator certified pursuant to the Rules of the North Carolina Supreme Court Implementing Mediated Settlement Conferences in Superior Court Civil Actions by agreement within 21 days of the Court's order. The plaintiff's attorney, or plaintiff appearing pro se, shall file with the Court a Notice of Selection of Certified Mediator by Agreement within 21 days of the Court's order. Such notice shall state the name, address and telephone number of the mediator selected; the rate of compensation of the mediator; that the mediator and opposing counsel have agreed upon the selection and rate of compensation; and that the mediator is certified pursuant to the aforementioned Rules. Notice shall be on the Designation of Mediator form (AOC-CV-812).

- 9.3 SELECTION OF NON-CERTIFIED MEDIATOR: The parties may select a mediator who does not meet the certification requirements of the Rules of the North Carolina Supreme Court Implementing Mediated Settlement Conferences in Superior Court Civil Actions but who, in the opinion of the parties and the Senior Resident Superior Court Judge, is otherwise qualified by training and/or experience to mediate the action and who agrees to mediate indigent cases without pay. If the parties select a non-certified mediator, the plaintiff's attorney, or plaintiff appearing pro se, shall file with the court a Nomination of Non-Certified Mediator within 21 days of the Court's order. Such nomination shall state the name, address and telephone number of the mediator; the training, experience or other qualifications of the mediator; the rate of compensation of the mediator; and that the mediator and opposing counsel have agreed upon the selection and rate of compensation. The Senior Resident Superior Court Judge shall rule on said nomination without a hearing, shall approve or disapprove of the parties' nomination and shall notify the parties of the Court's decision. The nomination and approval or disapproval of the Court shall be on the Designation of Mediator form (AOC-CV-812).
- 9.4 NON-AGREEMENT OF SELECTION OF MEDIATOR: If the parties cannot agree upon the selection of a mediator, the plaintiff or plaintiff's attorney shall so notify the Court in writing and request, by motion, on behalf of the parties, that the Senior Resident Superior Court Judge appoint a mediator. The motion must be filed within 21 days after the Court's order for mediation and shall state that the attorneys for the parties have had a full and frank discussion concerning the selection of a mediator and have been unable to agree. The motion shall be on the Designation of Mediator form (AOC-CV-812). The motion shall state whether any party prefers a certified attorney mediator, and if so, the Senior Resident Superior Court Judge shall appoint a certified attorney mediator. The motion may state that all parties prefer a certified non-attorney mediator, and if so, the Senior Resident Superior Court Judge shall appoint a certified non-attorney mediator if one is on the list of certified mediators desiring to mediate cases in Judicial District 8-A. If no preference is expressed, the Senior Resident Superior Court Judge may appoint a certified attorney mediator or a certified non-attorney mediator.
- 9.6 NON-SELECTION OF MEDIATOR: In the event the plaintiff's attorney, or plaintiff appearing pro se, has not filed a notice of Selection or Nomination of mediator with the Court within 21 days of the Court's order, the Senior Resident Superior Court Judge shall appoint a mediator certified pursuant to the Rules of the North Carolina Supreme Court Implementing Mediated Settlement Conferences in Superior Court Civil Actions, from the list of certified mediators desiring to mediate cases in Judicial District 8-A.
- a. List of Certified Mediators: The Dispute Resolution Commission shall furnish for the consideration of the Senior Resident Superior Court Judge the names, addresses and telephone numbers of those certified mediators who want to be appointed in said district. This list of certified mediators shall be available to any party for viewing at the North Carolina Courts website (www.nccourts.org).
 - b. Appointments: Appointments from the list of certified mediators, whether at the request of the parties or in the event of non-selection of a mediator by the parties, shall be in the discretion of the Trial Court Coordinator and/or Senior Resident Superior Court Judge. The general procedure for judicial appointment shall be to appoint the next certified mediator on the appropriate list who currently resides or maintains an office in this judicial district, or a contiguous judicial district, or who certifies in writing annually to the Senior Resident Superior Court Judge that he or she wishes to mediate in this judicial district, is familiar with these Local Rules, and will comply with them and the Supreme

Court Rules. The Senior Resident Superior Court Judge shall retain discretion to depart from the general procedure in particular circumstances such as the appointment of one mediator to multiple related cases, appointment of a newly certified mediator, or to withhold a mediator who has not followed Local or Supreme Court Rules, from appointment. Should a conflict arise after the appointment, or be present but not known to the Trial Court Coordinator or Senior Resident Superior Court Judge at the time of appointment, written notice should be given to the Trial Court Coordinator as soon as the conflict becomes known. Steps will then be taken to resolve the conflict by the appointment of another certified mediator by the Senior Resident Superior Court Judge.

- c. Certified Non-Attorney Mediators: Any certified non-attorney mediator desiring to be appointed to mediate cases in District 8-A must apply directly to the Senior Resident Superior Court Judge for his or her consideration. The candidate must certify in writing annually that he or she wishes to mediate in this judicial district, is familiar with these Local Rules, and will comply with them and the Supreme Court Rules.

9.7 REQUEST TO DISQUALIFY MEDIATOR: Any party may move the Senior Resident Superior Court Judge of Judicial District 8-A for actions pending in Judicial District 8-A for an order disqualifying the mediator. For good cause, such order shall be entered. If the mediator is disqualified, a replacement mediator shall be selected or appointed pursuant to Local Rules 9.3 through 9.6. Nothing in this provision shall preclude mediators from disqualifying themselves in any action.

9.8 EXTENSION OF DEADLINE: A party, or the mediator, may request the Senior Resident Superior Court Judge to extend the deadline for completion of the mediated settlement conference. Such request shall be addressed to the Trial Court Coordinator, state the reasons the extension is sought and shall be served by the moving party upon the other parties and mediator. If any party does not consent to the request, said party shall immediately communicate its objection to the Trial Court Coordinator. **Requests for extensions after the original deadline has passed will not be granted.**

- a. Notice of Decision: The Senior Resident Superior Court Judge may grant the request by setting a new deadline for completion of the conference, which date may be set at any time prior to or following the trial date assigned at a Trial Calendar Conference. Notice of the Judge's action shall be served immediately on all parties and the mediator by the party who sought the extension and shall be filed with the Court.
- b. Deadline Overlapping Trial Date: If the requested extension will interfere with the trial date assigned at the Trial Calendar Conference, a request for a continuance of the trial must be filed at the same time as the request for extension of the mediated settlement conference deadline. Pursuant to Rule 3.E. of the Rules of the North Carolina Supreme Court Implementing Mediated Settlement Conferences in Superior Court Civil Actions, the mediated settlement conference shall not be the cause for the delay of other proceedings in the case, including the completion of discovery, the filing or hearing of motions, or the trial of the case, except by order of the Senior Resident Superior Court Judge.
- c. Insufficient Grounds for Motion for Continuance: The lack of a timely request for a continuance of a trial date in an action that has had an extension of the mediated settlement conference deadline, in accordance with Local Rule 6.5, shall not be grounds for a continuance after a trial date has been assigned.

- 9.9 RECONVENING CONFERENCE: The mediator may recess the conference at any time and may set times for reconvening. If the time for reconvening is set before the conference is recessed, no further notification is required for persons present at the conference.
- 9.10 AGREEMENTS: If an agreement is reached in the conference, parties to the agreement shall reduce its terms to writing and sign it along with their counsel. By stipulation of the parties, and at their expense, the agreement may be electronically or stenographically recorded. A consent judgment or one or more voluntary dismissals shall be filed with the Court as soon as possible by such persons as the parties shall designate.
- 9.11 REPORT OF MEDIATOR: The Mediator shall forward to the Trial Court Coordinator a Report of Mediator (AOC-CV-813) within 10 days of the conference, indicating whether or not an agreement was reached by the parties. If an agreement was reached, the report shall state whether the action will be concluded by consent judgment or voluntary dismissal and shall identify the persons designated to file such consent judgment or dismissals. The mediator's report shall inform the Trial Court Coordinator of the absence of any party, attorney or insurance representatives known to the mediator to have been absent from the mediated settlement conference without permission.
- 9.12 DUTY OF MEDIATOR REGARDING DEADLINE: It is the duty of the mediator to schedule the conference and conduct it prior to the conference completion deadline set out in the Court's order. Deadlines for completion of the conference shall be strictly observed by the mediator unless said time limit is changed by a written order of the Senior Resident Superior Court Judge.
- 9.13 SUBSTITUTIONS: Pursuant to Rule 2.A. of the Rules of the North Carolina Supreme Court Implementing Mediated Settlement Conferences in Superior Court Civil Actions, the parties have twenty-one (21) days to select a mediator. Parties who fail to select a mediator within that time frame and then desire a substitution after the Court has appointed a mediator, shall obtain court approval for the substitution. **The substitution will only be allowed for good cause shown.** If the Court approves the substitution, the parties shall pay the Court's original appointee the \$125.00 one time, per case administrative fee provided for in Rule 7.B. of the North Carolina Supreme Court Implementing Mediated Settlement Conferences in Superior Court Civil Actions
- 9.14 ENFORCEMENT: All Rules of the North Carolina Supreme Court Implementing Mediated Settlement Conferences in Superior Court Civil Actions shall be strictly enforced in Judicial District 8-A, in addition to the Local Rules contained herein.
- 9.15 VOLUNTARY MEDIATIONS: Cases may be voluntarily submitted to mediation, prior to the entry of the Order for Mediated Settlement Conference and Trial Calendar Notice by the Senior Resident Superior Court Judge. In these cases, the parties must provide proper notice to the court that mediation is being entered into voluntarily. The notice must also include a reasonable deadline for the completion of the mediation, not to exceed 6 months following the filing of the notice, as well as the parties' designation of mediator. A copy of the notice must be provided to the Trial Court Coordinator and selected mediator.

RULE X - ATTORNEYS REQUESTING ADMISSION *PRO HAC VICE*

- 10.1 AFFIDAVIT REQUIRED: Attorneys requesting admission to practice *pro hac vice* in Judicial District 8-A must make a formal motion to the Court for such admission. Such motions must be calendared for hearing in accordance with Local Rule 6.1 above. In addition, an Affidavit indicating the attorney's good standing must be filed at the time the Motion for Admission is filed. Such Affidavit is attached to these Local Rules for use.

RULE XI – ARBITRATION

- 11.1 GENERAL PROVISIONS: All Court-Ordered arbitration proceedings must be conducted pursuant to the Rules for Court-Ordered Arbitration of North Carolina as adopted and amended from time to time by the North Carolina Supreme Court. The Arbitration Coordinator, under the supervision of the Chief District Court Judge, shall be responsible for the processing of all cases submitted to arbitration. Any inquiries pertaining to arbitration and the status of any cases in arbitration shall be addressed to the Arbitration Coordinator.

STATE OF NORTH CAROLINA
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: _____

_____,)
Plaintiff,)
vs.)
_____)
Defendant)

NOTICE OF HEARING

PLEASE TAKE NOTICE that the undersigned will move the Court at the
_____ session of _____ County Civil Superior Court, at 10:00
a.m., or as soon thereafter as counsel can be heard, for _____
_____.

This the _____ day of _____, _____.

Attorney for _____

Telephone Number: _____

(Attach Certificate of Service)

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: _____

_____,)
_____)
_____,)
Plaintiffs,)
_____)
vs.)
_____)
_____)
_____,)
_____)
_____,)
Defendants)

CALENDAR REQUEST

The undersigned has this date filed and served a motion: *(check type)*

- | | |
|--|---|
| <input type="checkbox"/> To withdraw as attorney. | <input type="checkbox"/> For a protective order. |
| <input type="checkbox"/> To dismiss under Rule 12. | <input type="checkbox"/> For sanctions under Rule 11. |
| <input type="checkbox"/> To amend the _____. | <input type="checkbox"/> To limit or exclude evidence. |
| <input type="checkbox"/> To compel discovery. | <input type="checkbox"/> To continue. |
| <input type="checkbox"/> For sanctions under Rule 37. | <input type="checkbox"/> For discovery scheduling conference. |
| <input type="checkbox"/> For summary judgment under Rule 56. | |
| <input type="checkbox"/> Other: _____ | |

The undersigned wishes this case to be set for trial.

I estimate it will take _____ hours and _____ minutes to hear this/these motions/trial.

I request that this motion be set for hearing at the _____ session of Civil Superior Court.

I object to hearing this motion in any county other than the county of venue.

Comments: _____

This the _____ day of _____, 20____.

Attorney for _____

Copy sent to opposing attorneys:

Address: _____

Telephone No.: _____

Civil Case Status Report – Judicial District 8-A

Amy Carter Scott, Superior Court Trial Court Coordinator

P.O. Box 68

Kinston NC 28502-0068

Telephone: 252-527-2629 Fax: 252-523-2084

_____ County _____ File No.: _____

Vs.

1. This action is ready for trial.
 will be ready for trial by _____ .
2. Preferred trial date (see attached schedule): _____ .
3. Discovery is complete. incomplete; please explain:

4. Discovery Conference requested Yes. No.
5. Mediation complete Yes. No. If not, please explain:

6. Comments: _____

Counsel for Plaintiff

Counsel for Defendant

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.: _____

_____,)
Plaintiff,)
)
vs.)
)
_____,)

AFFIDAVIT

I, _____, hereby swear or affirm that I have read the North Carolina Rules of General Practice, the North Carolina Revised Rules of Professional Conduct, the North Carolina Rules of Civil Procedure, and the North Carolina Rules of Evidence. I understand it is my duty and obligation to be familiar with North Carolina Court procedures and practices, North Carolina substantive law, and North Carolina ethical rules, as they may apply in this case.

I, _____, hereby swear or affirm that I have never been admonished, censured, reprimanded, or disbarred, had my law license suspended, had my *pro hac vice* admission revoked or limited, been found to have violated any ethical or professional rule, code of conduct, or other similar requirement, been personally sanctioned for violating Rule 11 or pursuant to Rule 37 of the North Carolina Rules of Civil Procedure, or their counterpart in another jurisdiction, or otherwise been disciplined or sanctioned in any way by a Court or Bar authority except as follows:

I swear or affirm that I will notify this Court of any such action taken against me by a Court or Bar authority within twenty days of such action being taken, regardless of whether any appeal or motion to reconsider is filed.

A certified copy of a Certificate of Good Standing or similar document from the _____ State Bar is attached.

This the ____ day of _____, _____.

Attorney at Law

Notary Public

STATE OF NORTH CAROLINA
GREENE and LENOIR COUNTIES

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

CASE MANAGEMENT PLAN)
CIVIL SUPERIOR COURT)
JUDICIAL DISTRICT EIGHT-A)

ORDER

Under and pursuant to Rule 40, North Carolina Rules of Civil Procedure, and Rule 2, General Rules of Practice for the Superior and District Courts Supplemental to the Rules of Civil Procedure, the attached Rules of case management and for the calendaring of civil actions for trial in the Superior Court of Judicial District Eight-A are hereby adopted effective January 1, 2004.

These Rules supersede all previous Local Rules of the Superior Court Division of Judicial District Eight-A.

This the _____ day of October, 2003.

PAUL L. JONES
Senior Resident Superior Court Judge
Judicial District 8-A