

LOCAL RULES OF PRACTICE

**CASE MANAGEMENT PLAN
FOR SUPERIOR COURT CASES**

19C JUDICIAL DISTRICT – ROWAN COUNTY

Effective January 1, 1990
Revised Effective July 1, 2006

A case management plan for the calendaring of civil cases, motions and other civil matters in the Superior Court is hereby adopted and ordered promulgated pursuant to Rule 2 of the General Rules of Practice for Superior and District Courts, N.C.G.S. Annotated Rules of North Carolina 2006.

RULE 1 – CASE TRACKING SYSTEM

- 1.1 The Superior Court Trial Court Coordinator for Judicial District 19C shall maintain a ready calendar and a case tracking system for civil cases pending in the Superior Court.
- 1.2 The Superior Court tracking system will record the filing dates for pleadings, a list of pending motions, and a list of trial continuances.
- 1.3 All cases on the ready calendar shall be subject to be placed on the Administrative Calendar.

RULE 2 - ADMINISTRATIVE WEEKS

- 2.1 One week in June and one week in December of each year will be designated by the Senior Resident Superior Court Judge and agreed to by the Chief Justice, as Administrative Weeks. The Senior Resident Superior Court Judge shall be in his home district. He shall be responsible for reviewing all cases that appear on the Administrative Calendar. He shall take appropriate action to insure prompt disposition of any pending motions or other matters necessary to move the cases toward a conclusion. At such administrative terms or review, cases will be placed upon the trial calendar.
- 2.2 An attorney of record may request that his case be placed upon the trial calendar by making said request in writing to the Senior Resident Judge of the Superior Court and delivering a copy to opposing counsel or parties of record. The said request must be made no later than six (6) weeks before the scheduled session or the administrative term where the case is set for review or calendaring.

RULE 3 - SUPERIOR COURT TRIAL CALENDARS

3.1 Distribution to attorneys shall be by posting on the web at [WWW.NCCOURTS.ORG](http://www.nccourts.org) (<http://www1.aoc.state.nc.us/www/calendars/Civil.html>). Each published civil superior court calendar will be emailed directly to all subscribers. Each attorney practicing in the 19C Judicial District is advised to “subscribe”. Distribution to each unrepresented party of record shall be by the TCC mailing a printed calendar. Any Attorney who notifies the TCC that he/she does not have Internet access shall receive a printed calendar from the TCC. The presiding judge shall be provided with a printed calendar on Monday, or Tuesday if Monday is a holiday, of the trial week.

3.2 Publication

The trial calendar shall be published by the Trial Court Coordinator (TCC). The trial calendar shall include cases set for trial by the Senior Resident Superior Court Judge. **Trial Calendars shall be posted on the web by the Trial Court Coordinator and printed copies shall be distributed by the TCC to all attorneys certifying to the TCC that they have no Internet access and each party appearing without an attorney not less than four (4) weeks prior to the first day of the court session.** The trial calendar will be prepared setting forth all the pending motions, (but not more than 20) and setting approximately 15 jury cases on each civil week. Non-jury cases are to be set on Monday and tried at such time during the said session as the presiding judge may direct. **A final calendar, reflecting any changes in the original calendar, will be posted on the web and emailed to all subscribers seven (7) days prior to the first day of the trial session.**

Motions may be calendared for any session of trial court upon request or by order of the Court. Motions will be calendared for and heard on the first day of the scheduled session. The Motions Calendar shall be published by the TCC. The responsibility for notifying the Clerk of Court and the Trial Court Coordinator of motions to be set for hearing is upon the attorney of record or any unrepresented moving party. The Motion Calendar may be published as an addendum to the trial calendar. **In all events, the Motions Calendar is to be published no later than seven (7) days prior to the first day of that session of court. Motions will not be added after the final publication of the calendar.**

Nothing in this section shall relieve the moving party or his attorney of giving notice to opposing counsel or unrepresented party pursuant to the North Carolina Rules of Civil Procedure. The original Notice shall be filed with the Clerk and the moving party, or his attorney must send a copy of the Notice to the TCC with a notation of the estimated time necessary for the hearing.

3.3 Continuances

Continuances are governed by Rule 40(b) of the North Carolina Rules of Civil Procedure, and by Rule 3 of the General Rules of Practice in the Superior and District Courts, Annotated Rules of North Carolina. Objections to calendaring, motions for continuances after calendaring, and objections to continuance shall be immediately communicated to opposing counsel and to the Trial Court Coordinator. The Trial Court Coordinator will be in contact with the Senior Resident Superior Court Judge wherever he is assigned to hold court and shall submit all matters to him for his consideration and then advise counsel of the Judge's decision.

If the Senior Resident Superior Court Judge is on vacation or out of the State for some reason, motions to continue will be presented to the Judge assigned to hold the session of court by the Trial Court Coordinator, and that Judge's decision will be related to the parties; otherwise, the Presiding Trial Judge is requested to continue cases based only upon reasons arising after 5:00 p.m. on the Friday before the first day of the session.

After the publication of the trial calendar, continuance will be granted only for reasons of compelling necessity. In general, a continuance will not be granted because of the unavailability of an expert witness or a witness who is not subject to subpoena. The use of depositions is encouraged.

Prior to the opening of court for the session in which the case is calendared, all applications for continuance shall be made to the Senior Resident Superior Court Judge of the 19-C Judicial District. Following the opening of court for the session in which the case is calendared, any application for continuance shall be made to the presiding judge of the court in which the case is calendared.

All applications for continuance shall be by written motion made on state form AOC-CV-221.

3.4 Notice of Settlement. When a case on a published trial calendar is settled, all attorneys of record must notify the Clerk of Court and the Trial Court Coordinator and counsel in the next following case within twenty-four (24) hours of the settlement and advise the Clerk and the Trial Court Coordinator of the name of the attorney who will prepare and present the judgment, and when. Rule 2(g).

3.5 Peremptory Settings. Requests for a peremptory setting for cases involving persons who must travel long distances or numerous expert witnesses or other extraordinary reasons must be made to the Senior Resident Superior Court Judge. A peremptory setting shall be granted only for good and compelling reasons. Requests for a peremptory setting must be made in writing in letter or motion form, and a copy thereof must be served upon the opposing party or his attorney in accordance with the rules set forth in the North Carolina Rules of Civil Procedure. In acting upon requests for peremptory settings, the decision of the Senior Resident

Superior Court Judge on such request shall be final. Requests for a peremptory setting should be made to the Senior Resident Superior Court Judge at least six (6) weeks prior to the commencement of the session of court for which the peremptory setting is sought. The Senior Resident Superior Court Judge may set a case peremptorily on his own motion. Rule 2(f).

3.6 Monitoring of Cases

The Trial Court Coordinator shall continually monitor the tentative trial calendar to determine settlements; conflicts that develop; cases not reached or continued from previous sessions; motions that are filed; additions, deletions or changes in parties or attorneys; or any other factors effecting the readiness of the case for trial.

RULE 4 – DELINQUENT ORDERS OR JUDGMENTS

- 4.1 Cases or motions scheduled on trial calendars and removed due to consent or settlement shall be considered delinquent if the Order or Judgment of Disposition is not filed within (20) working days after the case was last calendared.
- 4.2 Cases or motions scheduled on trial calendars and heard by the Judge or by Jury shall be considered delinquent if the Order or Judgment of disposition is not filed within twenty (20) working days after the hearing, unless otherwise directed by the Presiding Judge.
- 4.3 If the attorney responsible for filing a settlement judgment or dismissal fails to do so within the 20 working days or the time indicated when he/she notified the court of settlement, the case may thereafter be place on a regular trial and motion calendar for a later session of court for possible dismissal of the case for failure to timely file the settlement documents. Any attorney or party in the case may appear and show cause why the case should not be dismissed. If no good cause is shown, the case may, in the discretion of the Presiding Judge, be dismissed for failure to timely file the settlement judgment or dismissal.

RULE 5 – PROCEDURES FOR SESSIONS OF COURT

5.1 Time

Superior Court is to convene at 10 o'clock a.m. on Monday or the opening day of each session and thereafter on each day at 9:30 a.m. unless changed by the Presiding Judge for good cause. It is expected that all attorneys with cases calendared for motion or trial will be present at the convening of court on the day the said matters are calendared and will remain in the courtroom or its general area unless excused by the presiding judge. The Jury shall be summoned to report at 1:30 p.m. on Monday unless otherwise ordered by the Presiding Judge or the Senior Resident Superior Court Judge.

5.2 Calendar Call

There will be a calendar call at 10:00 a.m. on the first day of each civil session. The purpose of this call will be:

- (a) To notify attorneys with cases scheduled of dispositions made since the publication of the final calendar.
- (b) To consider any request for continuance.
- (c) To give attorneys an indication of when their case is expected to be reached.

5.3 Motions and Other Non-Jury Matters

Motions shall be set for hearing as the first order of business on Monday morning. Motions not heard on Monday may be heard at any time during the term in the discretion of the Presiding Judge.

Motions not appearing on the motion Calendar shall be heard at the discretion of the Presiding Judge.

Any motion which is filed which deals with the admission of attorneys from out of state for limited practice may only be added to a Motion calendar by order of the Senior Resident Superior Court Judge. Copies of all motions to admit out of state attorneys for limited practice pursuant to N.C. General Statute 84-4.1 must be filed with the office of the Senior Resident Superior Court Judge. All requests for calendaring such motions must be addressed in writing to the Senior Resident Superior Court Judge, with the original of said request being filed in the Court file, with a copy sent to the office of the Senior Resident Superior Court Judge. All fees are to be paid to the Clerk of Court as required by law.

5.4 Trials

Unless otherwise directed by the Presiding Judge or noted on the final calendar, cases will be called for trial in the order in which they appear on the calendar. Cases not reached on the day on which they are set will be carried over from day to day during the term and will be called when reached any day thereafter unless the final calendar notes a date before which or after which a case shall not be tried, or the Presiding Judge, in his/her discretion at calendar call, notes a date before which or after which a case shall not be tried.

The Presiding Judge may, in his discretion, rearrange the order of cases on the trial calendar in order to obtain maximum utilization of the court's time.

5.5 Cases Not Reached

Cases not reached during the session shall be re-calendared at the discretion of the trial judge or Senior Resident Superior Court Judge.

RULE 6 – REMOVING INACTIVE CASES FROM TRIAL DOCKETS

6.1 By Request of the Parties

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

6.2 Contents of Proposed Order

The proposed order removing a case from the trial docket shall state the reasons why the parties contend justice will be promoted by the order and it shall contain an order that the case be declared inactive and the case file closed without prejudice to any party's right to have the matter re-opened upon a motion in the cause. If the Judge allows the motion, he will sign the order and file it with the Clerk. If he does not allow it, he will return it with annotation that the motion is denied.

6.2.1 Removing Inactive Cases Without Request

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

RULE 7 – BANKRUPTCY

7.1 Civil actions in which one of the parties declare bankruptcy will be dealt with in accordance with the following authority and procedure:

- (a) Rule 401 of the Federal Bankruptcy Act;
- (b) 11 U.S.C. 362;
- (c) 11 U.S.C 1301;
- (d) Whitehurst v. Virginia Dare Transport Company, 19 N.C. App. 352(1973);
- (e) N.C.G.S. 1-23.

7.2 Any requests to continue, hold, or in any other way delay disposition of a case due bankruptcy of one of the parties, must be accompanied by certification of the bankruptcy filing or stay of proceeding from the United States Bankruptcy Court having jurisdiction. Attorney for the bankrupt party shall forward notice of the bankruptcy filing to the Trial Court Coordinator. The Senior Resident Superior Court Judge may then place the case on inactive status.

RULE 8 – JUDICIAL ARBITRATION OF SUPERIOR COURT CASES

- 8.1 With the consent of all parties to a civil action pending in Superior Court, that case may be set for resolution by Judicial Arbitration before the Senior Resident Superior Court Judge or before any Presiding Judge with his consent. Requests for Judicial Arbitration should be made to the Senior Resident Superior Court Judge or Presiding Judge before whom it is to be heard. Judicial Arbitration cases shall be heard at periodic intervals by the Senior Resident Superior Court Judge on designated administrative days and may be heard before the Presiding Judge at regular sessions of court.

RULE 9 – OBLIGATIONS OF ATTORNEYS AND UNREPRESENTED PARTIES

- 9.1 It is expected that all attorneys of record or unrepresented parties with cases calendared for motion or trial will be present at the convening of court for the calendar call and will remain in the courtroom or its immediate proximity unless excused by the Presiding Judge.
- 9.2 The only legitimate excuses for not being in court when a case is calendared are death or serious illness, or conflicts with the appellate courts. The Trial Court Coordinator, when the excuse can be determined in advance, should be notified to avoid calendaring such cases. Nothing else should take priority over an attorney's punctual appearance in Court.
- 9.3 Attorneys residing outside the 19C Judicial District accepting employment to represent clients in the 19C Judicial District must arrange their schedules to be present when their cases are calendared. Conflicts such as seminars, appellate courts, and vacations must be worked out with the Trial Court Coordinator and the Senior Resident Superior Court Judge before the case is calendared for trial and the calendar published. Attorney cooperation is essential to the proper functioning of our court system. The Court wants to work with the attorneys and make their jobs as easy and convenient as possible and the Court expects the attorneys to respond by being punctual and prepared at the scheduled time. Attorneys representing insurance companies should either have a representative of the company with settlement authority available or have prior authority or immediate access to someone possessing settlement authority without undue delay. Plaintiff's attorney should have clients available or prior settlement authority or immediate access to clients regarding settlements.
- 9.4 Attorneys residing outside the 19C Judicial District and who are part of a firm or partnership in which more than one attorney is a part of that firm or partnership **SHALL make available to the Court someone in their office to try any cases that may be scheduled on any particular week of Court.** This district has had many problems with attorneys who reside outside of the 19C Judicial District having conflicts in their home counties and causing the continuance or delay of cases in the

19C Judicial District. Lawyers from outside the 19C Judicial District shall be present for the trial of their cases when called by the Presiding Judge or have a representative from their firm present for the trial of that case. Otherwise the presiding Judge SHALL proceed with the trial of that case in the absence of the attorney who has failed to appear or have some member of his firm to appear. The 19C Judicial District does not have many weeks of Civil Superior Court and for that reason cases cannot be continued except for the most compelling of reasons.

RULE 10 – MEDIATED SETTLEMENT CONFERENCE RULES

10.1 Mediated Settlement Conference

Pursuant to N.C.G.S. 7A-38.1(c), the 19C Judicial District has adopted the North Carolina Supreme Court Rules as our Local Rules for Mediated Settlement Conference Rules in our district.

10.2 Time Standards

A case shall be calendared for mediation as soon as practicable after the following events:

- (a) The filing of the answer or the last required pleading.
- (b) The filing of a consent request for mediation signed by all attorneys of record and all parties not represented by attorneys.
- (c) The filing of a request by one or more of the attorneys or unrepresented parties, with notice to all other attorneys or unrepresented parties, setting forth good cause for an expedited mediation and a finding by the Senior Resident Superior Court Judge of good cause for the expedited mediation.

10.3 Court Appointment of Mediators

If the parties do not timely select a mediator (**21 days after the date of the Order for Mediated Settlement Conference**), the general procedure for judicial appointment shall be to appoint a certified mediator who has demonstrated to the satisfaction of the Senior Resident Superior Court Judge the ability to conduct mediations in a satisfactory and expeditious manner, regardless of the amount of experience, or lack of experience, on the part of the mediator. The appointment of a mediator shall remain within the sole discretion of the Senior Resident Superior Court Judge. As required by Rule 2.C. of the Rules Implementing Statewide Mediated Settlement conferences in Superior Court Civil Actions, only mediators who agree to mediate indigent cases without pay shall be appointed.

RULE 11 – PRE-TRIAL ORDERS

- 11.1 There shall be a written pre-trial order filed in every case on the trial calendar before the trial begins. Pre-trial orders are to be reduced to writing and signed by a Superior Court Judge, all of the attorneys, and any unrepresented parties before the trial begins. The pre-trial conference and**

the pre-trial order shall be done in accordance with the provisions of Rule 7 of the General Rules of Practice for Superior and District Courts as they appear in the North Carolina General Statutes.

This plan may be modified or amended by the Senior Resident Superior Court Judge by subsequent modification orders. Suggested changes or amendments may be addressed to the Senior Resident Superior Court Judge of the 19C Judicial District.

Adopted this the 26th day of April, 2006.

Larry G. Ford
Senior Resident Superior Court Judge
19C Judicial District