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IN RE: LOCAL RULES AND PROCEDURES FOR
 THE CALENDARING OF CIVIL CASES IN
 THE TWENTY SIXTH JUDICIAL DISTRICT
 SUPERIOR COURT DIVISION

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 MECKLENBURG COUNTY, C.S.C.

BY _____

ORDER

Pursuant to Rule 40(a), North Carolina Rules of Civil Procedure and Rule 2 of the General Rules of Practice for the Superior and District Courts, the attached rules for the calendaring of civil cases in the Twenty-Sixth Judicial District, Superior Court Division, are hereby adopted effective for all civil cases pending on or filed after February 1, 2017.

These rules supersede all previous calendar rules of the Superior Court Division of the Twenty-Sixth Judicial District.

IT IS SO ORDERED, this the 20 day of January, 2017.



 W. Robert Bell
 Senior Resident Superior Court Judge

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

(Revised March 1, 2015)

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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 General Rules of Practice for the Superior and District Courts.

1.2 **Effective Date:** These revised rules are effective March 1, 2015 (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 in Scheduling Orders 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 and all amendments hereafter are filed with the Clerk of Superior Court for Mecklenburg County, and published on www.meckbar.org and on the 26th Judicial District section of www.nccourts.org.

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 prior administrative Orders applicable to civil Superior Court that were entered by the Senior Resident Superior Court Judge concerning matters covered by these revised rules are superseded by these revised rules. Any administrative orders applicable to civil Superior Court that are entered later than these revised rules by the Senior Resident Superior Court Judge 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) **Other Local Rules:** 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 or Other Good Cause, and the 26th Judicial District Local Rules Governing Photography, Filming and Audio Recording Within the Mecklenburg County Courthouse, both of which are published on www.meckbar.org and on the 26th Judicial District section of www.nccourts.org.

(d) **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, Administrative Orders signed by the Senior Resident Superior Court Judge or other Court Order, do not cover a specific matter, the Trial Court Administrator or designee is authorized to act in his or her 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 Trial Court Administrator'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 at: <http://www.nccourts.org/County/Mecklenburg/Civil/Staff/Default.asp>.

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

2.1 **Filing Pleadings:** All pleadings filed with the Court shall indicate the name, Bar number, firm, mailing address, telephone number, facsimile number, and email address of the attorney filing the pleading. If the party is self-represented, the name, mailing address, telephone number, facsimile number, and email address must be provided.

2.2 **Contact Information:** It shall be the responsibility of attorneys and self-represented parties to provide the Caseflow Management Division and Clerk of Superior Court with any changes to their contact information, including mailing address, telephone number, facsimile number, and email address, using Local Form CCF-83.

2.3 **Appearances Before the Court:** When an attorney or self-represented party 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, and 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 **Ex Parte Extensions of Time from the Clerk:** Attorneys and self-represented parties shall not seek more than one ex parte extension of time from the clerk of court, and shall not request an ex parte extension of time more than 30 days in length. (Refer to 6.7 within these rules.)

Rule 3: Mediation and Other Alternative Dispute Resolution Rules

3.1 **Mediation Rules:** Pursuant to the N.C.G.S. 7A-38.1, and the Supreme Court's "Revised Rules Implementing Statewide Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions" (the "Revised Statewide Rules"), the 26th Judicial District has adopted Local Rules Governing Mediated Settlement Conferences in Superior Court (the "Local Mediation Rules"). The Local Mediation Rules are published on www.meckbar.org and on the 26th Judicial District section of www.nccourts.org. The requirements of the Local

Mediation Rules run concurrently with these rules and are an integral part of the case-management plan for the District. Counsel shall be familiar with the Local Mediation Rules and shall follow all requirements set forth therein. All forms, motions and orders or other issues or matters involving mediated settlement shall be directed to the attention of the ADR Coordinator in the Caseflow Management Division. Any requests or Motions to Extend the ADR Deadline should be sent directly to the ADR Coordinator and should not be included in Motions to Continue or Case Management Orders.

3.2 **Other ADR Rules:** ADR Rules for ADR procedures other than mediation are addressed in the Revised Statewide Rules, which can be found at <http://www.nccourts.org/Courts/CRS/Councils/DRC/MSR/Rules.asp>

Rule 4: Case Tracking, Readiness and Time Standards

4.1 **Case Tracking System:** The Trial Court Administrator shall establish and maintain a case-tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts, and in accordance with these Rules. This system shall be used to monitor the number, age, type, and procedural status of all pending cases and to provide for the calendaring of same.

4.2 **Readiness of Case to Set for Trial:** The Caseflow Manager shall place those cases determined to be ready for trial on trial calendars consistent with the issued Case Management Order. A case shall be considered ready to set for trial when the Caseflow Management Division of the Trial Court Administrator'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 parties;
- (b) As to condemnation actions, the case is ready for trial as set forth in Local Rule 4.4 below;
- (c) The case or proceeding has been transferred by the Clerk of Superior 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.

4.3 **Time Standards:** Absent exigent circumstances, cases are to be tried or disposed of within the following deadlines: 90% within 12 months, 98% within 18 months, and 100% within 24 months from the initial filing.

4.4 **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 100 days after Answer has been filed unless sooner noticed for trial or unless commissioners are appointed pursuant to N.C.G.S. §136-109 prior to that time. Counsel for property owners in such actions shall submit a Notice of Request for Appointment of Commissioners on Form CCF-12 to the Clerk of Superior Court no later than 30 calendar days from the receipt of the Scheduling Order, and shall promptly provide a copy of Form CCF-12 to the Caseflow Management Division. The parties are to notify the Caseflow Manager if the appointment of commissioners has not taken place within 30 calendar days after the request has been made to the Clerk of Superior Court. If a hearing is requested pursuant to N.C.G.S. §136-108, the motion shall be scheduled to be heard at least 60 days prior to the trial date.

(b) **Chapter 40 Cases:** Condemnation actions brought under Chapter 40 of the General Statutes shall be presumed to be ready for trial upon transfer by the Clerk of Superior Court or upon Entry of Appeal from the Commissioner's report. Parties are required to notify the Caseflow Manager that a case is brought under Chapter 40 upon transfer. The Clerk shall notify the Caseflow Manager of any such transfer and forward to him/her a copy of the Appeal from the Commissioner's report.

4.5 **Priority Cases:** Counsel shall bring to the attention of the Caseflow Manager 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.

4.6 **Remanded Cases:** When a case is remanded for trial from the Appellate Division, appellant's counsel shall immediately notify the Caseflow Manager, who shall assign the case for trial pursuant to Local Rule 4. Counsel may request a specific session or expedite the hearing date by filing Request to Set (Local Form CCF-2).

Rule 5: Medical Malpractice Case Scheduling

5.1 **Deadline to Submit Consent Case Management Order:** Once the Caseflow Manager determines that a case is ready to be scheduled for trial under the guidelines set forth in Local Rule 4, the parties in medical malpractice cases will be assigned a deadline for providing to the Caseflow Manager any consent Case Management Order that can be developed. The parties are to verify the availability of peremptory settings with the Caseflow Manager prior to submission of any consent Case Management Order.

5.2 **Action of Caseflow Manager on Submitted Consent Order:** Upon the receipt of a consent Case Management Order, the Caseflow Manager shall review

the terms and either return it for adjustment to comply with established timelines set forth in these rules or forward it to the Senior Resident Superior Court Judge for signature.

5.3 Discovery Conference if No Consent Order Submitted: If the parties are unable to develop a consent Case Management Order by the deadline provided, the Caseflow Manager will schedule a discovery conference before the Senior Resident superior Court Judge or his/her designee in accordance with N.C.G.S. § 1A-1, Rule 26(f).

If the trial date is agreed upon, but the parties are unable to agree on other matters, the parties shall contact the Caseflow Manager prior to the expiration of the above deadline in order to schedule the appropriate motion(s) to be heard during the regular motions session of court.

5.4 Submission of Signed or Modified Orders: If the Case Management Order was signed and filed during a Court session, the signed and filed copy of the Order shall be delivered to the Caseflow Management Division within five days of being entered. Modifications of such Orders prepared pursuant to Rule 26(f) shall also be submitted to the Caseflow Manager for subsequent delivery to the Senior Resident Superior Court Judge for determination. If the Modified Order was signed and filed during a Court session, a copy of the Order shall also be delivered to the Caseflow Management Division within five business days.

5.5 Extensions of Trial Dates: 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 to the case. The trial date must be received from the Caseflow Manager and approved by the Senior Resident Superior Court Judge.

Rule 6: Case Management Orders

6.1 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 Rule 4.4; Medical Malpractice Cases, which are covered by Local Rule 5 ; and Exceptional Civil and Complex Business Cases, which are covered by Local Rule 7.

6.2 Issuance of the Case Management Order: Once the Caseflow Manager determines that a case is ready to be scheduled for trial under the guidelines set forth in Local Rule 4, a Case Management Order ("CMO") will be issued and forwarded to all parties or their counsel of record on Form CCF-23 (also included in the Appendix to these rules). The CMO shall include deadlines for the trial of the case, the filing of dispositive motions, the designation of experts, the completion of discovery, and pre-trial disclosures.

6.3 Opportunity and Deadline For the Parties to Modify the CMO: The CMO shall govern discovery and trial of the case, unless the Parties, within 30 days

from the date of the Order, do the following: **(1)** confer and then jointly submit a proposed Consent Scheduling Order, with alternative dates and/or requirements, to the Caseflow Manager using Local Form CCF-23A (also included in the Appendix to these rules) or similar document prepared by the parties; **(2)** if the parties disagree on the schedule in the Order, then provided they have conferred and attempted to reach a resolution on the schedule, either or both may request a conference with the Caseflow Manager for the purpose of resolving their scheduling issues; or **(3)** the parties notify the Caseflow Manager 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 15 days after the denial of such motion or request to comply with (1) or (2) above.

6.4 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 Caseflow Manager within the required time, the Caseflow Manager shall rule on the issuance of the Consent Management Order or other Order, which ruling is subject to appeal to the Senior Resident Superior Court judge.

(a) **Right to Appeal:** Any appeal must be submitted to the Caseflow Manager for subsequent delivery to the Senior Resident Superior Court Judge. The appeal must be of the exact request which was submitted to the Caseflow Manager 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.

6.5 Limitations on Consent CMOs or Requests to Modify: Any proposed Consent CMO submitted shall not request, without good cause: (1) a deadline for filing dispositive motions later than 60 days before the trial date; or (2) a trial date more than 60 days later than the currently assigned trial date.

(a) **Requests for later trial date in CMO:** When requesting a later trial date than the one in the originally issued CMO, the Parties shall confer with the Caseflow Manager. Factors to be considered by the Caseflow Manager for extending the trial date include, but are not limited to, the number of plaintiffs; the number of defendants represented by different attorneys; the complexity and number of issues involved; the number and location of depositions to be taken; and whether expert witnesses will be utilized and where they are located.

6.6 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 issued under Rule 6.2 above, and either party believes such filing may impact the

ability to comply with the CMO, either party shall, within three business days after filing or receipt: (i) request the motion be placed on a calendar for hearing at the earliest opportunity; (ii) notify the Caseflow Manager of the filing; and (iii) request that the CMO be withdrawn. If the Caseflow Manager agrees that the pending motion may impact the ability of any party to comply with the CMO, the Caseflow Manager may withdraw the Case Management Order. Upon the Court's ruling on the dispositive motion, counsel shall promptly notify the Caseflow Manager of the ruling, and the Caseflow Manager shall then issue a new CMO under Rule 6.2 above.

(b) **Other Circumstances:** The Court's CMO is subject to amendment, upon motion under North Carolina Rules of Civil Procedure 16 or 26, provided the motion is first made with the Caseflow Manager. As the designee of the Trial Court Administrator, the Caseflow Manager shall rule upon all Motions to Modify the CMO and shall make modifications as he/she deems appropriate. Appeals of the decision rendered by the Caseflow Manager shall be directed to the Senior Resident Superior Court Judge.

6.7 Alterations of Deadlines in the CMO by the Parties: After the CMO or Consent CMO becomes final, the parties may by consent 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 and Trial Date.** Under no circumstances shall any agreed extensions or any consent order extensions of the discovery deadline by the Clerk of Superior Court's Office alter the dispositive motion filing deadline or assigned 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 Superior Court's Office to respond to timely served discovery beyond the discovery deadline.

6.8 Expediting CMO Process: Counsel may expedite the generation of the CMO and request a specific session of Court by filing a Request to Set (Form CCF-2) with the Caseflow Management Division. All requests must be received, however, prior to the issuance of the CMO.

6.9 Where CMO Not Necessary: In the discretion of the Caseflow Manager, a determination may be made that a CMO is not necessary for Local Rule 4.2(c), (d) and (e) cases and that the action may proceed directly to the next available trial calendar. Requests to this effect shall be in writing and directed to the Caseflow Manager's attention.

6.10 **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 7: Exceptional and Complex Business Cases

7.1 Requests and Notices to Designate:

(a) **Exceptional Cases.** Requests to designate any case as Exceptional under Rule 2.1 of the General Rules of Practice shall be made no later than 30 days after the issuance of the initial Case Management Order by the Caseflow Management Division. Requests for Rule 2.1 designation are generally presented as a consent motion to the Senior Resident Superior Court Judge, the attorneys having previously agreed upon and consulted with a Superior Court Judge who is willing to take the case.

(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 General Rules of Practice, the party shall comply with N.C.G.S. § 7A-45.4 and Rule 3 of the General Rules of Practice of the North Carolina Business Court. Additional information concerning the NC Business Court may be obtained via the website: www.ncbusinesscourt.net.

7.2 **When the Request or Notice to Designate Is Denied – Deadline for Seeking Amendment of CMO:** If a request or notice to designate a case as Exceptional or Complex Business is denied, the Parties shall have 15 days from the denial to submit a Consent Case Management Order (Local Form CCF-23A) or request for conference to the Caseflow Manager. Other than this extension, the process under Local Rule 6 above shall apply.

7.3 **Notices When the Request or Notice to Designate is Granted:** If the request or notice to designate as an Exceptional or Complex Business Case is granted and assignment made by the Chief Justice, the following notices should be provided by counsel to the Caseflow Manager:

(a) **Initial Notice:** A copy of the signed order by the Chief Justice shall be delivered to the Caseflow Manager within five business days of the receipt of the order allowing the designation.

(b) **Final Notice:** Once a case designated as Exceptional or Complex Business has been resolved or concluded, notice should be provided to the Caseflow Manager within 5 business days of the final resolution.

7.4 **Caseflow Management Order Process Following Designation:** Once a case has been ordered as an Exceptional or Complex Business Case, the Judge

assigned to the case will be responsible for issuing a Case Management Order for the case, which shall replace the CMO issued by the Caseflow Management Division. The parties must provide the Caseflow Management Administrator with a copy of the Case Management Order issued by the assigned Judge and any amendment thereafter.

7.5 Business Court Hard Copy Filings: In cases which have been assigned to the Business Court, parties must file all pleadings, orders and any other case related documents with the Clerk of Superior Court in addition to the electronic filing of said documents with the Business Court.

Rule 8: Requests for Peremptory Settings or Technology Courtroom

8.1 Deadline for Requests for Peremptory Settings: Requests for peremptory settings shall be delivered to the Caseflow Management Division within 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.

8.2 Form and Content of Peremptory Requests: Requests shall be submitted in writing (Local Form CCF-3) to the Caseflow Manager, specifically stating the reason for the request, with copies to all counsel of record. 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. Other factors, as referenced below, should be addressed in the request.

8.3 Grounds for Peremptory Settings: Peremptory settings will be granted in the discretion of the Caseflow Manager, but only for good and 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 ;
- (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.

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

8.5 **Preemptory Settings Following Continuances:** If a preemptory case is continued, a written request for a new preemptory setting shall be made to the Caseflow Manager.

8.6 **Requests for Technology Courtroom:** Counsel requesting use of the technology courtroom (Courtroom 6130) shall contact the Superior Court Judicial Assistant in the Judge's Office at (704) 686-0140 in order to determine availability and obtain a reservation. Once the reservation has been made, the requesting party shall notify the Caseflow Manager of the approved request. The parties shall notify the Superior Court Judicial Assistant and the Caseflow Manager 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.

Rule 9: Trial Calendars

9.1 **Publication of Trial Calendars:** The Caseflow Manager shall publish a trial calendar for each term of Court for which cases are scheduled. Trial calendars shall be published approximately 40 days in advance of the first day of each scheduled session. Mecklenburg County utilizes an on-line calendaring system to keep attorneys informed about calendars and status of cases appearing on calendars. Attorneys should keep their cases updated with accurate information pertaining to the case including settlement, length of trial, and all other relevant information. The on-line calendars will be available at: <http://justiceinitiatives.org/courtcal/users/login>.

9.2 **Publication of Updated Calendar:** Not later than 2:00 p.m. on the last business day preceding the session at which cases are calendared for trial, the Caseflow Manager shall make available on the Court's website a calendar with the current status of all cases appearing on the final trial calendar. The website address is: <http://www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=MECKLENBURG>.

9.3 **Publication of Judge Assignments:** Judge assignments for the next week's session will be made available on the afternoon of the last business day prior to the start of the session. The assignments are available by calling the Judicial Information Line at 704-686-0365 or by visiting the Court's website at <http://www.nccourts.org/County/Mecklenburg/Calendars.asp>.

9.4 **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. Paper notices are issued to parties/attorneys only as a courtesy. Failure to receive paper notices shall not be cause for a continuance of the trial date.

9.5 **Order of Cases on Calendar:** Cases defined as peremptory in accordance with Local Rule 6 above or cases having statutory priority shall appear at the top of each trial calendar. To the extent possible, the Caseflow Manager 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.

9.6 **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 10.1 below.

9.7 **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.

9.8 **Re-calendaring of Cases Not Reached or Continued:** To achieve a balanced docket, the Caseflow Manager shall re-calendar cases not reached or continued by the Court to future trial sessions based upon calendar availability. It is the responsibility of counsel to contact the Caseflow Manager to advise of any future conflicts no later than the Friday afternoon of the close of the trial session.

9.9 **Earlier Trial Setting:** When both sides consent, counsel may have their case heard prior to the scheduled date by submitting a consent motion and proposed order approved by the Caseflow Manager. The proposed order shall include the date of the agreed-upon and approved trial session.

9.10 **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 Case Management Order.

Rule 10: Calendar Call; Pretrial Disclosures, Conferences and Exhibits

10.1 **Calendar Call and the Order of Cases:** A call of the Superior Court trial calendar will be held in the designated court at 10:00 a.m. 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.

10.2 **Pretrial Disclosures:** Unless otherwise agreed by the parties, witness lists, exhibit lists, proposed jury issues, and any exhibits not previously exchanged shall be exchanged no later than 10 days before the Monday of the scheduled week of trial.

10.3 **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 Caseflow Manager of any requests for Pretrial

Conferences, which include Pretrial Motions that counsel anticipates will exceed 30 minutes in length, so that time can be added to the trial calendar for hearing by the presiding judge.

10.4 Exhibit List for Clerk: Counsel shall provide the Courtroom Clerk a list of all exhibits with sequential numbers as listed by him/her at the beginning of the trial.

10.5 Exhibits for Jury Publication: Counsel desiring that non-photographic exhibits be published to the jury shall provide the same number of copies as jurors unless excused from doing so by the presiding judge, or the parties will be using technology or the technology courtroom to publish the exhibits.

Rule 11: Trial Continuances

11.1 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 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.

11.2 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 11.2(c) below, requests for continuance shall be submitted to the Caseflow Manager no later than 10 business days preceding the first day of the session in which the case is set for trial.

(c) **Requests After the Deadline:** Requests for continuance may be submitted to the Caseflow Manager after the 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 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 to the Caseflow Manager on Form CCF-6, or in written form stating the grounds for which objection is based, within two business days of service of the Motion to Continue. If a written objection is not submitted to the Caseflow Manager 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 Caseflow Manager:** The Caseflow Manager 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 10 business day deadline, the Caseflow Manager will attempt to make contact with opposing counsel and/or the self-represented party if his or her 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 Caseflow Manager will rule on the motion and notify moving counsel, who is then responsible for notifying opposing counsel.

11.3 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:** Requests 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. 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 Superior Court, with a certificate of service, and a filed copy of the same must be sent to the Caseflow Manager in the Caseflow Management Division of the Trial Court Administrator's Office. Unserved, unfiled and/or undelivered Motions for Continuance will not be considered.

(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 Caseflow Manager
- 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.

(c) **Proposed Order:** The Motion for Continuance shall be accompanied with two copies of the proposed Order on Local Form CCF-5B, together with a self-addressed, postage-paid envelope. If the Motion is granted and the submitting party does not include a self-addressed, postage-paid envelope, the documents will be placed in a basket for pick-up in the Caseflow Management Division's Office, Suite 3420. It is the responsibility of the submitting party to obtain the signed Order, and provide copies to the opposing parties.

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

- Age of the case;
- The diligence of counsel in moving the case towards disposition and resolving conflicts and/or issues causing delay of such disposition;
- Number of previous continuances;
- The due diligence of counsel in promptly filing the motion for continuance as soon as practicable;
- 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;
- Witness unavailability, incomplete medical treatment, personal emergencies, family conflicts and outstanding discovery issues will be handled on a case-by-case basis;
- 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
- 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.

11.5 **Appeals of Rulings by Caseflow Manager:** Appeals of the decision rendered by the Caseflow Manager shall be filed with the Clerk of Court on Local Form CCF-5C, and a filed copy submitted to the Caseflow Manager, for subsequent delivery to the Senior Resident Superior Court Judge, or if unavailable, his or her designee. Opposing counsel or self-represented parties shall be notified in writing of the appeal prior to its delivery to the Caseflow Manager.

(a) **Basis Must be the Same As Original Request:** The appeal on Form CCF-5C must include a copy of the exact motion which was submitted to the Caseflow Manager, 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.

(b) **Decision is Final.** The decision of the Senior Resident Superior Court Judge, or his or her designee, is final. The motion to continue may not be renewed at the calendar call.

11.6 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.

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

Rule 12: Motions and Motion Practice

12.1 Scheduling for Hearing after Filing: Within three days of filing a motion, the filing party shall make sure that it is placed on a calendar for hearing. The requesting party shall make a good faith effort to obtain the availability of represented parties involved prior to obtaining a hearing date and should refrain from scheduling hearings without first attempting a good faith consultation.

12.2 On-Line Calendaring: Mecklenburg County offers an on-line calendaring system for the purpose of scheduling motions, hearings and updating calendar events. Counsel desiring to calendar a Motion through the on-line calendaring system must create a user account for the on-line calendaring system and submit requests for all motions or hearings via the on-line calendaring system at: <http://justiceinitiatives.org/courtcal/users/login>. Counsel shall file the motion, notice of hearing and any necessary monies with the Clerk of Superior Court. The requesting party shall have the following information available prior to submitting any request to schedule the motion:

- (a) the type of motion to be heard;
- (b) the estimated length of time needed for the motion to be heard;
- (c) the name of the requesting attorney or party; and
- (d) dates and times the requesting party is available and, if at all possible, the availability of the other parties involved.

12.3 Notice of Hearing: The electronic notice of hearing issued through the on-line calendaring system does not serve as official notice. The electronic notice is only a courtesy notification to all parties with an email address provided in the

system. The date, time and location confirmed from the Caseflow Management Division shall be cited in a written notice of hearing, which will be served on counsel for the opposing party or parties by hand-delivery, email, facsimile, express delivery or mail no later than two business days after the date has been received. The original notice of hearing shall be filed with the Clerk of Superior Court.

12.4 Dispositive Motions: Absent exigent circumstances, all summary judgment and other dispositive motions shall be filed no later than 60 days before the trial date and heard not less than 30 days prior to the trial date.

12.5 No Delay of Trial Date for Untimely Scheduling: Failure of counsel 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.

12.6 Withdrawal and Rescheduling of Motions: Once a motion has been noticed or the Final Calendar has been published, any party requesting removal of a motion from the calendar shall submit a withdrawal of the motion to the Clerk of Superior Court and update the on-line calendaring system for the benefit of others on the calendar. If the motion needs to be rescheduled rather than withdrawn, the submitting party should submit a new request for the desired date and time for the motion to be heard through the on-line calendaring system or by contacting the Caseflow Management Division of the Trial Court Administrator's Office. An amended notice of hearing shall then be filed with the Clerk of Superior Court and a copy served on the other counsel of record and self-represented parties.

12.7 Final Motions Calendar: Not later than 2:00 p.m. on the last business day preceding the session at which cases are calendared for a motion hearing, the Superior Caseflow Coordinator shall make available on the Court's website a calendar with the current cases appearing on the final motions calendar. The website address is: <http://www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=MECKLENBURG>.

12.8 Motions to Withdraw as Counsel: Moving counsel is responsible for providing his or her client with appropriate notice of the hearing on a motion to withdraw as counsel. Motions shall include the scheduled trial date or a statement that no date has been set. The proposed order allowing the withdrawal shall include the current mailing address for the client. If a consent order signed by a client is submitted, it should acknowledge an understanding by the client that allowance of the motion to withdraw will not necessarily result in any delay or continuance of trial or other settings. A copy of the signed and filed withdrawal order shall be delivered to the Caseflow Management Division within five business days after entry.

12.9 Motions to Substitute Counsel: A motion to substitute counsel shall be presented as a joint motion with certificate of service on all parties. A copy of the signed and filed substitution Order shall be delivered to the Caseflow Management Division within five business days after entry.

12.10 Motions for Temporary Restraining Order or Preliminary Injunction:

(a) **Heard in Motion Court:** Motions for temporary restraining order or preliminary injunction shall be brought on for hearing, if possible, before the Motions Court Judge. The requesting party shall contact the Courtroom Clerk in 6310 to identify available time settings during the current session.

(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.

12.11 Submission of Briefs to the Presiding Judge and the Opposing Party Prior to the Hearing: All briefs in support of or opposition to motions are to be delivered to the Superior Court Judges' Office, Suite 9600, to the attention of "Superior Court Judge Presiding, Courtroom 6310, [date of hearing], [time of hearing]" no later than two business days prior to the hearing on the motion. The following additional rules apply to this process"

(a) **Forms of Delivery:** Acceptable forms of delivery to the Superior Court Judges' Office include hand-delivery, express delivery, or mail. Facsimile or email may not be used without the permission of the presiding judge.

(b) **Logging in When Hand-Delivered:** The delivering party shall ring the buzzer to have the briefs logged in with the Judicial Assistant for Superior Court Judges.

(c) **Delivery to the Presiding Judge:** Once the judge has been assigned to Courtroom 6310, the briefs will be given to the judge by the Superior Court Judges' office.

(d) **No Filing of Briefs with the Clerk:** Pursuant to N.C.G.S. § 1A-1, Rule 5(d), briefs provided to the Court may not be filed with the Clerk unless ordered by the Court.

(e) **Service and Delivery to the Opposing Party:** All briefs delivered to the Court in accordance with this Rule shall be served on any self-represented opposing parties, or on counsel for the opposing parties, by hand-delivery, email, facsimile, express delivery or mail, such that the opposing side receives the materials no later than two business days

before the hearing date and no later than 48 hours prior to the hearing time. For example, if the Motion is scheduled to be heard at 10:00 a.m. on Monday morning, the briefs shall be delivered for receipt by the opposing side no later than 10:00 a.m. on the previous Thursday. In no event shall briefs be delivered to the Judge prior to delivery to the opposing side.

(f) **Purpose of Advance Delivery of Briefs:** The purpose of this rule is to allow the judge to review briefs in advance of the hearing to ensure that oral advocacy is meaningful and to allow counsel the same time to review the opposing party's brief in advance of the hearing.

(g) **When Briefs Not Timely Served on the Opposing Side:** If any briefs to which this rule applies are not timely served on the opposing side in the manner specified in this Rule, the Court may continue the hearing for a reasonable period of time, proceed with the hearing without considering the untimely served briefs, or take such other action as justice requires.

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

(a) **Word limit:** Unless the following word limits are modified by the Court for good cause shown, briefs in support of motions and responsive briefs shall be double-spaced and limited in length to a maximum of seven thousand, five hundred (7,500) words. Headings, footnotes, quotations and citations count toward the word count limit. The case caption, any table of contents, any table of authorities, and any required certificate of service do not count toward the word count limit.

(b) **Reply briefs:** Unless otherwise ordered by the Court, reply briefs are not permitted.

(c) **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.

(d) **Exceptions:** Any requests for exceptions to these limitations on briefs shall be directed to the Senior Resident Superior Court Judge, or if unavailable, to his or her designee.

12.13 Certification on Briefs: Each brief shall include a certificate by the attorney or party that the brief complies with Local Rule 12.12.

12.14 Submission of Authorities:

(a) **Not Permitted with Briefs:** Authorities shall not be attached to or submitted with briefs.

(b) **At Hearings:** In addition to or in lieu of briefs, parties are permitted to present at the hearing, with the Court's permission, copies of authorities for consideration by the Court. Parties should use good judgment regarding the number of authorities submitted at the hearing. Pertinent portions of the authorities submitted shall be highlighted, and highlighted copies shall be presented to the opposing side.

12.15 Affidavits, Deposition Transcripts, and Exhibits Supporting or Opposing Motions:

(a) **Filing and Service:** Except as provided in Rule 56 of the North Carolina Rules of Civil Procedure, affidavits, relevant portions of deposition transcripts, and relevant exhibits upon which a party relies which are not in the court record shall be filed with the Clerk of Court and copies delivered to the courtroom clerk in Courtroom 6310 and served on the opposing party as required by the Rules of Civil Procedure, but, in any event, no later than two business days before the hearing date and no later than 48 hours prior to the hearing time of the hearing. It shall not be necessary to file the entire transcript of a deposition.

(b) **Submission to the Judge:** Copies of affidavits, relevant portions of deposition transcripts, and relevant exhibits need not be submitted to the Judge prior to the hearing, because the presiding judge will have access to the court file during the hearing on the motion. However, parties may choose to submit some but not all of these materials with their briefs, provided they are necessary to an understanding of the issues in the briefs and do not overly burden the court prior to the hearing. Parties also are welcome to bring to the Court's attention at the hearing any of the materials timely filed as part of the record.

12.16 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.

12.17 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 moving party must confer or attempt to confer with the person or party failing to make discovery in an effort to resolve the dispute.

(b) **Certification to the Court:** The motion filed 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 showing 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.

12.18 **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.

12.19 **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, counsel shall bring this to the attention of the Caseflow Manager, who shall make inquiry of the presiding Judge as to the status and any further needed action.

12.20 **Motions to Reconsider:** Motions to reconsider shall be calendared only after obtaining approval from the Judge making the original ruling.

12.21 *Pro Hac Vice* Motions

(a) **Scheduling, if necessary:** Opposing counsel shall have ten days from the date on the certificate of service to contest the admission by notifying the local attorney and scheduling a hearing in the civil motions courtroom through the normal scheduling procedures of the TCA Caseflow Management Division. The Court may also schedule a hearing if deemed necessary upon its own motion.

(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 the 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 are available for download at www.ncbar.com. The required fee shall accompany the motion and order.

(c) **Checklist:** A checklist outlining specific items to be addressed in a *Pro Hac Vice* motion is included in the Appendix to these rules and should be appended to the application showing compliance. Questions

may be addressed by contacting the Superior Court Judicial Assistant at (704) 686-0140.

(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 member of the North Carolina Bar. The motion, proposed order, affidavit, filing fee of \$225.00 (or prevailing fee as set by the Clerk), signed client statement, certification by the local counsel that all requirements for admission *Pro Hac Vice* have been met, and certificate of service shall be filed with the Clerk of Court.

Opposing counsel shall have ten days from the date on the certificate of service to contest the admission by notifying the local attorney and scheduling a hearing in the civil motions courtroom through the normal scheduling procedures of the Caseflow Management Division.

After ten days and there being no objection, local counsel shall submit a proposed order for admission to the Superior Court Judges' Office. It shall be accompanied by a certification that opposing counsel has been notified, that ten days have passed per certificate of service and that opposing counsel did not object to the admission *Pro Hac Vice*.

If the judge declines to sign the order, the local attorney who submitted the package will be notified.

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

(a) **Time and Location:** The Firecracker Calendar is held every Tuesday at 2 p.m. in Courtroom 6310.

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

(c) **Consent:** All parties shall consent to the case being heard on the Firecracker Calendar. 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 calendar.

(d) **Calendaring:** In order to be heard, moving counsel shall deliver a completed and filed Five-Minute Motion Calendar Notice (Local Form CCF-10) to the Firecracker Calendar box located in the Caseflow Management Division (Suite 3420) by noon on the business day before the scheduled hearing. Counsel shall not use the on-line scheduling system to request motions on the Firecracker Calendar. The notices received will be used by the Court Clerk as the calendar. Any party

requesting relief shall furnish the Court with a suggested order using Local Form CCF-11, together with sufficient copies, so that the order may be entered and copies distributed at the time of the hearing. Parties shall deliver the filed copy of the motion and notice (Form CCF-10) to the Firecracker Calendar box referenced above and shall bring three copies of the proposed order (CCF-11) to the hearing.

(e) **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.

(f) **Not Permitted:** Minor settlement hearings and transfer of structured settlements may not be heard on the Firecracker Calendar.

(g) **Motions to Withdraw:** If a motion to withdraw as counsel is heard on the Firecracker Calendar, the parties shall adhere to Local Rule 12.8.

12.23 Telephonic Hearings: When all parties consent, and with approval of the presiding judge, motions may be heard by telephone conference in lieu of a physical appearance under any of the following circumstances:

- (a) "Firecracker Motions" in which the length of argument will not exceed five minutes for each side;
- (b) Discovery conferences referred by the Caseflow Manager; or
- (c) With the permission of the Court, any other matter that the parties consent to be heard by telephone.

In order to be heard, moving counsel shall present a completed Consent Notice of Telephonic Proceeding (Local Form CCF-43) to the 6310 Courtroom Clerk by noon on the Wednesday preceding the beginning of the session in which the motion is scheduled to be heard. The notices received will be provided to the presiding Judge for approval. Counsel for either side will be contacted by the Courtroom Clerk and instructed when to initiate the call shortly prior to the date of the hearing. Counsel shall immediately notify the Courtroom Clerk once a conflict becomes known or if the matter is resolved prior to the scheduled time.

12.24 No Motions to Continue Trials Permitted in Motions Courtroom: Parties/attorneys shall not make motions to continue trial dates to the presiding judge in the Motions Courtroom and shall not include language to continue trial dates in proposed orders for rulings entered in the Motions Courtroom. All motions to continue trial dates must be submitted in accordance with Local Rule 11.

12.25 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 the Court by filing a Motion to Compel Arbitration or submitting a Consent Order. The motion shall be scheduled for hearing or the Consent Order shall be submitted for approval within 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. 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. Consistent with Local Rule 4.3, a copy of the signed and filed Order shall be delivered to the Caseflow Management Division within five business days of being entered, along with completed Local Form CCF-84. The case then will be rescheduled for an administrative calendar based upon the expected completion date of the arbitration as provided in Local Form CCF-84.

Rule 13: Depositions and Deposition Practice. Depositions shall be conducted in accordance with the following rules:

13.1 **Notice:** Unless otherwise agreed, all deponents will 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 business days after the refusal to answer is given.

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: Clean-Up/Administrative Calendars

14.1 Appearance Not Required for Clean/Up Administrative Calendars: Parties are not required to appear for Clean-Up/Administrative Calendars. The calendars serve 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.

14.2 Notice of Order Directing Action: The parties/attorneys will receive an Order Directing Action in order to remedy any outstanding matters in the case. Cases will not be removed from the calendar unless file-stamped copies of the appropriate documents are provided to the Caseflow Coordinator.

14.3 Response to Notice of Order Directing Action: The appropriate documentation shall be submitted to the Caseflow Management Division 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 submitted to the Superior Caseflow Coordinator 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 submitted no later than ten calendar days prior to the date indicated in the Order Directing Action. Continuances will not be given unless a crucial cause that could not have been reasonably foreseen exists. Not later than 2:00 p.m. on the last business day preceding the session at which cases are calendared for review, the Superior Caseflow Coordinator will make available on the Court's website a calendar with the current status of all cases appearing on the final Clean-up/Administrative calendar. Any case remaining on the Final Calendar will not be removed. The website address is: <http://www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=MECKLENBURG>.

14.4 Consequence for Failure to Act: Failure of Counsel to take the appropriate action, file defaults, delinquent orders, or judgments as notified in the Order Directing Action may result in the dismissal of the action or other sanction by the Court. Case files may be reviewed in the Clerk of Superior Court's Office (Suite 3725) via either the file or the public terminals if the parties/attorneys have questions about which issues remain pending and require further disposition.

14.5 Process Regarding Potential Defaults: Cases will be reviewed for default and shall be placed on the calendars for a date at least 90 days from the service date. Absent exigent circumstances, this date shall not be extended. Once the answer has been filed, the case will be removed from the calendar. If the answer

is not filed in the allowed time, the party/attorney shall move for default as required by these Local Rules.

14.6 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 was already entered but not properly recorded by the Court, a filed copy of the disposition shall be mailed or faxed to the Caseflow Management Division. 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.

14.7 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 advise the Caseflow Manager of the requested status, in writing delivered by mail or hand-delivery. 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 15: Perfection of Service and Service by Publication

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

15.2 Five-Month Deadline to Perfect Service Other Than Service By Publication: Once a Complaint is filed with the Clerk of Superior Court's Office, the parties/attorneys shall be allowed a period of five months to perfect service via means other than service by publication. If service has not been perfected after the initial five-month period has expired, the parties/attorneys shall be required to serve the Complaint via publication.

15.3 Requirement to Initiate Service by Publication: The service-by-publication process shall be initiated within 15 calendar days from the expiration of the initial five-month period for service.

15.4 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 16: Default Judgment Process

16.1 Entry of Default: Before a motion for default judgment is entertained, an entry of default first shall have been obtained from the Clerk pursuant to N.C.G.S. §1A-1, Rule 55(a). The motion for entry of default shall be submitted to the Clerk of Superior Court's Office (Suite 3725) as soon as possible after the expiration of the

period of time to respond. If the motion is not filed within 45 calendar days after the expiration of the time to answer, the case will be identified as delinquent and processed under Local Rule 14.

16.2 Default Judgments: All default judgments requested pursuant to N.C.G.S. § 1A-1, Rule 55(b)(2)(b) shall be delivered by the moving party to the Clerk's Civil Department (Suite 3725) with a self-addressed, postage-paid envelope (SASE). All default judgments requested pursuant to N.C.G.S. § 1A-1, Rule 55 shall be submitted no later than 30 calendar days after the entry of default has been approved. If a hearing is required, the Caseflow Management Division must be contacted to obtain a date for hearing no later than two business days after the motion for default judgment has been submitted. Any violation of this rule will cause the case to be identified as delinquent and processed under Local Rule 14.

16.3 Ruling on Motions for Default Judgment by Judge: Each week, the designated Superior Court Judge in Courtroom 6310 shall review the motions for default judgment forwarded by the Clerks and rule on each as he/she deems appropriate. The designated Superior Court Judge in Courtroom 6310 shall cause all motions for default judgment and judgments presented to be returned to the Clerk in Courtroom 6310 on the day on which the judgments were signed. The Clerk in Courtroom 6310 shall immediately file the judgment, if entered, and return the file to the Civil Department for further handling. If a default judgment is entered, copies with the Book and Page of docketing will be sent to the moving party in the SASE. If the default judgment is not entered, the proposed judgment, along with a cover sheet giving a reason as to why the Judge did not enter the default judgment, will be returned to the moving party in the SASE.

16.4 Ruling on Motions for Default Judgment by Clerk: All motions for default judgment and proposed default judgments that can be decided by the Clerk shall also be delivered to the Civil Department (Suite 3725) with a SASE. The same process as above will be followed regarding the return of copies of proposed judgments to the moving party.

16.5 Pick Up if Not Mailed: In all cases, if a SASE is not provided, copies of the documents can be picked up from the appropriate basket in the vestibule of Courtroom 6310 or the Civil Department (Suite 3725).

16.6 Notice to Party Represented By Attorney: No attorney who knows that the opposing party in litigation 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 opposing party so represented until 10 calendar days after written notice has been given to the attorney representing the opposing party against whom default is proposed.

Rule 17: Presentation of Out-of-State Subpoenas

17.1 **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.*

17.2 **Subpoenas That May Be Issued By the Clerk:** The clerk 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 (available on www.nccourts.org), 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 NC 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; and (4) a self-addressed, postage-paid envelope for return of the documents (alternatively, if may be presented personally to the Clerk to be processed immediately).

(e) Deliver to Civil Filing, 832 East Fourth Street, Suite 3725, Charlotte, NC 28202 for processing. 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.

17.3 **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 under Local Rule 17.2(a) through 17.2(c).

(b) The party seeking the subpoena of HIPPA protected documents must submit a letter or memorandum to the Resident Superior Court Judge, c/o the Superior Court Judicial Assistant by mail (Superior Court Judges' Office, 832 East Fourth Street, Suite 9600, Charlotte, NC 28202) or by hand delivery for submission to the Senior Resident Superior Court Judge, or his or her designee, explaining the basis for the subpoena, along with (1) the foreign subpoena and any attachments or exhibits; (2) an unsigned North Carolina subpoena for the Judge's signature; (3) a check in the amount of the prevailing fee; and (4) a self-addressed, postage-paid envelope for return of the documents (alternatively, it may be presented personally to be processed immediately).

(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.

17.4 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 18: Presentation of Orders and Judgments

18.1 When Orders or Judgments Are Delinquent: Trials or motions scheduled to occur which are removed due to settlement shall be considered delinquent if the order, judgment or disposition is not presented to the Court for signature or filing within 30 calendar days after the case was announced as settled. Trials or motions scheduled to be heard by a judge or jury shall be considered delinquent if the order, judgment or disposition is not presented to the Court for signature or filing within 30 calendar days after the trial or hearing, unless otherwise directed by the presiding Judge.

18.2 Action on Delinquent Orders or Judgments: The Caseflow Manager will identify those cases deemed to be delinquent pursuant to Local Rule 14 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 14 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.

18.3 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," Local Form CCF-7, or similar representation, shall accompany the order/judgment.

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

18.5 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.

18.6 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 delivered to the mail center outside the Superior and District Court Judges' Office (Suite 9600). The proposed order shall be accompanied by the presenting attorney's complete contact information. No order will be signed unless these procedures are followed.

18.7 Signed Orders: Orders that have been signed will be logged out accordingly and the attorney will be notified by phone or by email. Signed orders for pickup will be found in the wire basket marked "Signed Superior Court Orders" on the desk outside the judges' suite. No orders will be placed in that box until the attorney has been notified. If the order remains after 48 hours, it will be sent to the Civil Division of the Clerk's Office for filing. Filed copies will be mailed only if a self-addressed, postage-paid envelope is provided. If an order is left with the Courtroom 6310 Clerk, the Clerk may leave signed copies for pickup in the box outside Courtroom 6310.

Rule 19: Bankruptcy Cases

19.1 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.

19.2 Submission of Paperwork: Any request to discontinue a case as to one or more parties shall be submitted on 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.

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

Rule 20: Settlements

20.1 Action Required Following Settlement: When a case is settled prior to or after placement on a published trial calendar, plaintiff's counsel shall notify the Caseflow Management Division within 24 hours of settlement and update the on-line calendaring system with the changed case status. Attorneys shall specify to the Caseflow Manager 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 attorneys shall also notify all counsel in the next case calendared.

20.2 Minor/Structured Settlements: Minor/Structured settlements are scheduled through the Caseflow Management Division of the Trial Court Administrator'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:** Defense counsel 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, Plaintiff's counsel 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, Plaintiff's counsel shall certify to the Court the present value of the settlement, to the minor.

Rule 21: Submission of Secure Leave

21.1 **Submission of Form to Court:** When submitting a Secure Leave for General Civil Court cases, the Secure Leave may be submitted on Local Form CCF-27, or similar form. The form shall be sent to the following address:

Attention: Secure Leave
Caseflow Management Division
Trial Court Administrator's Office
832 East Fourth Street, Suite 3420
Charlotte NC 28202

If the Secure Leave form is hand-delivered, the form shall be taken to the above address and placed in the box marked "Secure Leave." Only one form is required—it need not be submitted to each case coordinator in the Caseflow Management Division or to the Trial Court Administrator or the Judges' Office. The submitting party shall include the original secure leave form and one copy with a self-addressed, postage-paid envelope if a return copy is desired.

21.2 **Other Requirements:** All other elements to Rule 26 of the General Rules of Practice shall be followed by the submitting party.

21.3 **Rule Not Applicable in Certain Courts:** This rule does not apply to cases in the Criminal Court, before the Clerk of Superior Court, or involving Family Law.

21.4 **Receipt and Entry in the Database:** The leave form will be stamped as "Received" by the Caseflow Management Division. The leave will be entered for each case in the database that contains the name of the listed attorney.

Rule 22: Sanctions

22.1 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.

«Plaintiff_1_Name»
«Plaintiff_2_Name»

VERSUS

CASE MANAGEMENT ORDER

«Defendant_1_Name»
«Defendant_2_Name»

Pursuant to N. C. Gen. Stat. 1A-1, Rules 16 and 26, this Case Management Order shall govern discovery and trial of this case, unless, the Parties, within thirty (30) days from the date of this Order, do the following: (1) confer and then jointly submit a proposed Consent Case Management Order, with alternative dates and/or requirements, to the Caseflow Manager, using Form CCF-23A, or similar document prepared by the parties; (2) if the parties disagree on the schedule in this Order, then provided they have conferred and attempted to reach a resolution on the schedule, either or both may request a conference with the Caseflow Manager for the purpose of resolving their scheduling issues; or (3) the parties notify the Caseflow Manager that a motion to dismiss the entire complaint, or motion to compel arbitration, or request for designation of Exceptional or Complex Business Case, has been filed or submitted, in which event, the parties shall have 15 days after the denial of such motion or request to comply with (1) or (2) above. If a Consent Case Management Order or request for conference is submitted within the required time, the Caseflow Manager shall rule on the issuance of the Consent Case Management Order, or other Order, which ruling is subject to appeal to the Senior Resident Superior Court judge. For circumstances arising after the deadlines above, this Order is subject to amendment, under procedures applicable to Exceptional or Complex Business Cases, or upon motion first made with the Caseflow Manager under Local Civil Rule 6.6 or N.C. Rules of Civil Procedure 16 or 26.

Any proposed Consent Case Management Order submitted shall not request, without good cause: (1) a deadline for filing dispositive motions later than 60 days before the trial date; or (2) a trial date more than 60 days later than the trial date set forth below. When requesting a later trial date, the Parties shall confer with the Caseflow Manager. Factors to be considered by the Caseflow Manager for extending the trial date include, but are not limited to, the number of plaintiffs, the number of defendants represented by different attorneys; the complexity and number of issues involved; the number and location of depositions to be taken; and whether expert witnesses will be utilized and where they are located. Rulings of the Caseflow Manager and any appeals from those decisions shall be made in accordance with Local Civil Rule 6.

Except where modified by this Order, the 26th Judicial District Superior Court Division Civil Rules (the "Local Civil Rules") are incorporated into this Order. The Parties shall know and follow the Local Civil Rules which are available for viewing at www.nccourts.org or www.meckbar.org. This order is entered under Local Civil Rule 6 and the jurisdiction of the Court without notice or hearing, as neither is required.

The Parties shall have thirty (30) days from the date of this Order to request a preemptory trial setting (under Local Civil Rule 8, to the Caseflow Manager, using Form CCF-3).

1. This case is hereby set for trial on _____ (the "trial date").
2. **Dispositive Motions** shall be filed no later than 60 days prior to the trial date, (the "dispositive motions filing deadline") and shall be scheduled for hearing not less than 30 days prior to the trial date. Such motions must be scheduled through the scheduling process under the Local Civil Rules within 3 days of the filing of the Motion with the Court.
3. **Discovery Deadline:** Unless otherwise agreed by the parties: (1) **discovery** must be completed no later than seventy-five (75) days prior to the trial date (the "discovery deadline"); and (2) all discovery must be noticed or served in sufficient time under the N.C. Rules of Civil Procedure for the receiving party to be able to appear or respond by the discovery deadline. Unless otherwise agreed by the parties or ordered by the Court, an extension of the trial date after

the end of the discovery deadline, does not extend the discovery deadline. The discovery deadline is intended to give the Parties time to prepare dispositive motions and/or prepare for trial following the completion of discovery. Under no circumstances shall any agreed extensions or any consent order extensions of the discovery deadline by the clerk impact the dispositive motion filing deadline or assigned trial date, nor shall any party seek any ex parte extensions of time from the clerk to respond to timely served discovery beyond the discovery deadline.

4. **Mediation** shall be conducted unless, upon motion, the Court orders otherwise under the 26th Judicial District Local Rules Governing Mediated Settlement Conferences in Superior Court Civil Actions. All forms of ADR must be completed no later than 8 weeks before the trial date. (The actual ADR deadline will be assigned at the time the Order for ADR (CCF-14) is issued.) If a change in the trial date occurs, a separate Motion and Order to Extend the ADR Deadline (CCF-44) must be submitted to the ADR Coordinator in the Caseflow Management Division in order to change the assigned ADR deadline.

5. **Expert discovery:** (1) In lieu of expert interrogatories, and unless otherwise agreed by the parties, **expert witnesses** shall be designated by providing the information required by N.C. Rule of Civil Procedure 26(b)(4)a, on the following schedule: (a) **Plaintiffs' experts** no later than 180 days prior to trial; (b) **Defendants' experts** no later than 120 days prior to trial; (c) **Plaintiffs' rebuttal experts or rebuttal opinions** no later than 105 days prior to trial; and (d) **Defendants' rebuttal experts or rebuttal opinions** no later than 90 days prior to trial.

(2) Unless otherwise agreed by the parties, **depositions of experts** are permitted, provided they are noticed to occur prior to the discovery deadline, and provided the party desiring to depose the expert witness pays the expert a reasonable hourly rate for the expert's actual time testifying at the deposition. In the event of a dispute regarding the reasonable hourly fee, upon motion, the court shall determine the fee.

6. **Depositions:** (1) Objections and attorney statements: During depositions: (a) attorneys shall not make objections or statements designed to suggest an answer to the witness; and (b) attorney's statements when making objections shall be succinct, stating the basis for the objection and nothing more.

(2) Instructions Not to Answer: During depositions, attorneys shall not direct or request that a witness not answer a question, unless: (a) the attorney has objected on the ground that the answer is protected by privilege; (b) the answer is protected by some limitation on evidence ordered by the Court; or (c) 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 business days after the refusal to answer is given.

7. **Trial Disclosures:** Unless otherwise agreed by the parties, witness lists, exhibit lists, proposed jury issues and any exhibits not previously exchanged, shall be exchanged no later than 10 days before the Monday of the scheduled week of trial. Other requirements of Rule 7 of the General Rules of Practice need not be met, although the parties may agree upon the usage of a Pre-Trial Order.

8. Failure to comply with the deadlines set forth in this Case Management Order may result in the exclusion of evidence or witnesses not timely disclosed, absent a showing of excusable neglect for noncompliance.

Date

Senior Resident Superior Court Judge

«Plaintiff_1_Name»
«Plaintiff_2_Name»

VERSUS

«Defendant_1_Name»
«Defendant_2_Name»

**CONSENT
CASE MANAGEMENT ORDER**

Pursuant to N. C. Gen. Stat. 1A-1, Rules 16 and 26, and by and with the consent of the parties, this Consent Case Management Order shall govern discovery and trial of this case. This Order supersedes any previous Case Management Orders entered in this case and is subject to further amendment upon motion for good cause shown, or by the Court, first made with the Caseflow Manager under Local Civil Rule 6.

Except where modified by this Order, the 26th Judicial District Superior Court Division Civil Rules (the "Local Civil Rules") are incorporated into this Order. The Parties shall know and follow the Local Civil Rules which are available for viewing at www.nccourts.org or www.meckbar.org.

1. This case is hereby set for trial on _____ (the "trial date").
2. **Dispositive Motions** shall be filed by _____ (the "dispositive motions filing deadline") The dispositive motions filing deadline shall be no later than 60 days prior to the trial date, and the motion shall be scheduled for hearing not less than 30 days prior to the trial date. Such motions must be scheduled through the scheduling process under the Local Civil Rules within 3 days of the filing of the Motion.
3. **Discovery Deadline:** Unless otherwise agreed by the parties: (1) **discovery** must be completed no later than _____ days prior to the trial date (the "discovery deadline"); and (2) all discovery must be noticed or served in sufficient time under the N.C. Rules of Civil Procedure for the receiving party to be able to appear or respond by the discovery deadline. Unless otherwise agreed by the parties, an extension of the trial date after the end of the discovery deadline, does not extend the discovery deadline. The discovery deadline is intended to give the Parties time to prepare dispositive motions and/or prepare for trial following the completion of discovery. Under no circumstances shall any agreed extensions or any consent order extensions of the discovery deadline by the clerk impact the dispositive motion filing deadline or assigned trial date, nor shall any party seek any ex parte extensions of time from the clerk to respond to timely served discovery beyond the discovery deadline.

Additional requirements, if any, regarding written discovery, depositions, or other discovery issues not set forth herein or below, are set forth in Exhibit A attached.

4. **Mediation** shall be conducted unless, upon motion, the Court orders otherwise under the 26th Judicial District Local Rules Governing Mediated Settlement Conferences in Superior Court Civil Actions. All forms of ADR must be completed no later than 8 weeks before the trial date. (The actual ADR deadline will be assigned at the time the Order for ADR (CCF-14) is issued.) If a change in the trial date occurs, a separate Motion and Order to Extend the ADR Deadline (CCF-44) must be submitted to the ADR Coordinator in the Caseflow Management Division in order to change the assigned ADR deadline.
5. **Expert discovery:** The expert discovery requirements herein are modified by the terms in Exhibit A attached hereto, if any, and if no modifications are included in Exhibit A, then the terms below govern expert discovery.

(1) In lieu of expert interrogatories, and unless otherwise agreed by the parties, **expert witnesses** shall be designated by providing the information required by N.C. Rule of Civil Procedure 26(b)(4)a, on the following schedule:
(a) **Plaintiffs' experts** no later than _____ days prior to trial; (b) **Defendants' experts** no later than _____ days prior to

trial;(c) **Plaintiffs' rebuttal experts or rebuttal opinions** no later than _____ days prior to trial; and (d) **Defendants' rebuttal experts or rebuttal opinions** no later than _____ days prior to trial.

(2) Unless otherwise agreed by the parties, **depositions of experts** are permitted, provided they are noticed to occur prior to the discovery deadline, and provided the party desiring to depose the expert witness pays the expert a reasonable hourly rate for the expert's actual time testifying at the deposition. In the event of a dispute regarding the reasonable hourly fee, upon motion, the court shall determine the fee.

6. Depositions: (1) Objections and attorney statements: During depositions: (a) attorneys shall not make objections or statements designed to suggest an answer to the witness; and (b) attorney's statements when making objections shall be succinct, stating the basis for the objection and nothing more.

(2) Instructions Not to Answer: During depositions, attorneys shall not direct or request that a witness not answer a question, unless: (a) the attorney has objected on the ground that the answer is protected by privilege; (b) the answer is protected by some limitation on evidence ordered by the Court; or (c) 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 business days after the refusal to answer is given.

These additional requirements regarding depositions are modified by the terms in Exhibit A attached hereto, if any, and if no modifications are included in Exhibit A, then these terms shall be part of this Order.

7. Trial Disclosures: Trial disclosures shall be governed by the terms in Exhibit A attached hereto, if any, and if none are included in Exhibit A, then as set forth herein, as follows: Unless otherwise agreed by the parties, witness lists, exhibit lists, proposed jury issues and any exhibits not previously exchanged, shall be exchanged no later than 10 days before the Monday of the scheduled week of trial. Other requirements of Rule 7 of the General Rules of Practice need not be met, although the parties may agree upon the usage of a Pre-Trial Order.

8. Exhibit A additional terms: The terms, if any, attached hereto in Exhibit A prepared by the parties, are incorporated herein by reference in this Consent Case Management Order, and are binding on the parties. Should there be any inconsistency between the terms of Exhibit A and the above-referenced terms of this Consent Case Management Order, the terms in Exhibit A shall control. [Note: If the parties desire to add additional terms, they should attach a document marked Exhibit A, which also is signed by the parties, or their attorneys.]

9. Failure to comply with the deadlines set forth in this Consent Case Management Order may result in the exclusion of evidence or witnesses not timely disclosed, absent a showing of excusable neglect for noncompliance.

Date Senior Resident Superior Court Judge

Signatures of Parties or their Attorneys:

Date

Date

Date

Date

PRO HAC VICE CHECKLIST

(Refer to Local Rule 12.21)

Out-of-State Attorney

- ___ Full name, post-office address, bar #, status as practicing attorney in another 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 public discipline by any court or lawyer regulatory organization and 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 10 days to ____/____/____
- ___ Order for Judge
- ___ Self-addressed, postage-paid envelope (if law firm is not picking it up)