

CASE MANAGEMENT PLAN
CALENDARING OF CIVIL SUPERIOR COURT CASES
NINTH JUDICIAL DISTRICT
FRANKLIN, GRANVILLE, VANCE AND WARREN COUNTIES
Effective July 1, 1998
Revised Effective January 1, 2004

A case management plan for the calendaring of civil cases, motions and other civil matters in the Superior Court is hereby adopted and ordered promulgated pursuant to Rule 2 of the General Rules of Practice for Superior and District Courts, N.C.G.S. Annotated Rules of North Carolina 2003.

1. Administrative Weeks. The first full week in January, the first full week in July, and such other weeks as may be designated by the Senior Resident Superior Court Judge which are agreeable to the Chief Justice, shall be Administrative Weeks. The Senior Resident Superior Court Judge shall be in his home district. He shall be responsible for reviewing all cases that have been referred to mediation or have been filed for four months. He shall take appropriate action to insure prompt disposition of any pending motions or other matters necessary to move the cases toward a conclusion. See Rule 2(d). The Senior Resident Superior Court Judge shall issue to the Clerk of Court in each county in the Ninth Judicial District a schedule showing where he will be within the district each day of each Administrative week. Civil motions will be calendared by the Court on the day the Senior Resident Judge is scheduled to be in that county, beginning at 11:00 A.M.
2. Attendance by Attorney. "When an attorney is notified to appear for the setting of a calendar, pre-trial conference, hearing of a motion, or for trial, he/she must, consistent with ethical requirements, appear or have a partner, associate, or another attorney familiar with the case present. Unless an attorney has been excused in advance by the judge before whom the matter is scheduled and has given prior notice to his opponent, a case will not be continued." Rule 2(c) verbatim.
3. Trial Date Agreement Form. When all parties agree to a specific trial date which is within six months of an administrative week and is during a regularly calendared week for civil superior court in that county, the trial date may be set by the attorneys' use of the trial date agreement form [attached as Exhibit A]. If an agreement is reached, only one attorney needs to sign and mail or fax the form to:

Ella S. Wrenn, Trial Court Coordinator
Superior Court Judge's Office
102 S. Main Street
Franklin County Courthouse
Louisburg, NC 27549
Fax (919) 497-1638

However, if the case has appeared on a previous trial calendar and was continued, the new requested trial date on a Trial Date Agreement form shall not be inconsistent with the trial date set by the judge who continued the case. The burden is on the attorneys to request a new trial date when a case is continued. In the absence of a request by the attorneys, the new trial date will be the next regular session of court.

If the trial date agreement form arrives by mail, fax or hand delivery in the Trial Court Coordinator's office by Friday before an administrative week begins, attorneys in that case need not attend the administrative day session of court, unless a motion in the case has been properly noticed for hearing.

4. Peremptory Settings. Requests for a peremptory setting for cases involving persons who must travel long distances or numerous expert witnesses or other extraordinary reasons must be made to the Senior Resident Superior Court Judge. A peremptory setting shall be granted only for good and compelling reasons. Requests for a peremptory setting must be made in writing in letter or motion form, and a copy thereof must be served upon the opposing party or his attorney in accordance with the rules set forth in the North Carolina Rules of Civil Procedure. In acting upon requests for peremptory settings, the decision of the Senior Resident Superior Court Judge on such requests shall be final. Requests for a peremptory setting should be made to the Senior Resident Superior Court Judge at least six (6) weeks prior to the commencement of the session of court for which the peremptory setting is sought. The Senior Resident Superior Court Judge may set a case peremptorily on his own motion. Rule 2(f).
5. Mediation. The Ninth Judicial District Local Rules for Superior Court Mediated Settlement Conferences control mediation. [See Exhibit B and C attached]. Mediation is not grounds for continuance of a trial setting. [See Rule 3E. Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions, Annotated Rules of North Carolina]. The tentative trial date assigned on the Mediation Order will become the final trial date unless the Trial Court Coordinator is notified and a new trial date is agreed upon by the attorneys, non-represented parties and the TCC.
6. Notice of Settlement. When a case on a published trial calendar is settled, all attorneys of record must notify the Clerk of Court and the Trial Court Coordinator and counsel in the next following case within twenty-four (24) hours of the settlement and advise the Clerk and the Trial Court Coordinator of the name of the attorney who will prepare and present the judgment, and when. Rule 2(g).
7. Calendars.
 - a. Publication of the calendar shall be by the Clerk of Superior Court.
 - b. Distribution to attorneys and the Presiding Judge shall be by posting on the web at www.nccourts.org (<http://www1.aoc.state.nc.us/www/calendars/Civil.html>). Each published civil superior court calendar will be emailed directly to all

subscribers. Each attorney practicing in the Ninth Judicial District is advised to “subscribe” to all counties (Franklin, Granville, Vance and Warren) within the Ninth Judicial District. Distribution to each unrepresented party of record shall be by the Clerk mailing a printed calendar. Any attorney who notifies the Clerk that he/she does not have Internet access shall receive a printed calendar from the Clerk. The presiding judge shall be provided with a printed calendar on Monday, or Tuesday if Monday is a holiday, of the trial week.

c. Preparation of calendars is to be under the supervision of the Senior Resident Superior Court Judge (Rule 2(c)), or his designee. He/she will be assisted by a Deputy Clerk of the Superior Court designated for that purpose by the Clerk of Superior Court.

d. Calendar Committee. The Calendar Committee of each county within the Ninth Judicial District shall be composed of the Bar as a whole within each county. Each county Calendar Committee shall be chaired as follows:

- (1) Franklin: Charles M. Davis, John Williamson
- (2) Granville: Jim Cross
- (3) Vance: John Zollicoffer
- (4) Warren: Mitch Styers

For the purpose of assisting the Senior Resident Superior Court Judge, one of the chairs, or a member of the bar designated by the chair, shall preside at all calendar meetings within each county for the purpose of setting the trial calendar for each term of civil superior court within that county. A local bar may delegate to the Clerk or the TCC the responsibility for presiding at the calendar meetings.

e. Trial Calendar. The trial calendar shall include cases set for trial:

- (1) By the Calendar Committee; and
- (2) By the Senior Resident Superior Court Judge.

The Senior Resident Superior Court Judge shall set cases on the trial calendar for three reasons:

- (a) Due to the age of the case; or
- (b) Pursuant to a Trial Date Agreement form [See Exhibit A attached] when all parties have agreed to a trial date; or
- (c) Pursuant to a medical malpractice scheduling order; or
- (d) As indicated on the Mediation Order. Failure of an attorney to address the tentative trial date assigned on the Mediation Order with the Trial Court Coordinator will result in that date becoming the final trial date.

Trial Calendars shall be posted on the web by the TCC and printed copies shall be distributed by the Clerk of Court to all attorneys certifying to the Clerk that they have no Internet access and each party appearing without an attorney not less than thirty (30) days prior to the initial day of the court session. An updated

calendar, reflecting any changes in the original calendar, will be posted on the web and emailed to all subscribers 5-10 days prior to the first day of the trial session.

f. Civil Session Schedule. The Ninth Judicial District Trial Court Coordinator shall prepare a session schedule during June of each year, showing all civil Superior Court sessions for the forthcoming Fall and Spring. A copy of this civil session schedule shall be posted on the web with each administrative calendar and a printed copy shall be made available, without cost, to each attorney practicing in the civil courts within the county who certifies that he/she has no Internet access and a copy of same shall be mailed by the Clerk of Court to each party appearing without an attorney. Delay by the AOC in approving court sessions may impact the TCC's ability to comply with this paragraph.

g. Rules for Setting Cases on the Trial Calendar.

(1) The Clerk of Court of each county shall, after consulting with the chair(s) of the Calendar Committee in that county, notify each attorney and each party appearing without an attorney as shown on the pending calendar of each trial calendar meeting not less than five (5) working days prior to each trial calendar meeting. Franklin and Warren Counties will conduct its calendar meetings on the Wednesday preceding 30 days prior to the regular scheduled court session. *This shall serve as notice.*

(2) A case may be placed on the trial calendar at the trial calendar meeting by written request directed to the Clerk of Court or to the Trial Court Coordinator or by oral request at the meeting. If objection to the calendaring of a case is made at the trial calendar meeting, a vote will be conducted at the trial calendar meeting of all attorneys present, except that an unrepresented party may vote on his or her case only, and the case will be removed from or set on the trial calendar according to the decision of the majority of those present and voting. However, the Calendar Committee, the Clerk of Court's office and persons present and voting at the trial calendar meeting shall not have the authority to remove from the trial calendar any case ordered placed on the trial calendar by the Senior Resident Superior Court Judge pursuant to paragraph e.(2) above.

(3) Continuing Cases.

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

(b) If the Senior Resident Superior Court Judge is on vacation or out of the State for some reason, motions to continue will be presented to the

Judge assigned to hold the session of court by the Trial Court Coordinator, and that Judge's decision will be related to the parties; otherwise, the Presiding Trial Judge is requested to continue cases based only upon reasons arising after 5:00 p.m. on the Friday before the first day of the session.

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

- The use of depositions is encouraged.

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

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

h. Motions and Other Non-Jury Matters. Motions, administrative appeals and any other non-jury matters will be set on Monday or the first day of the civil session if Monday is a holiday, at 10:00 A.M. On the first day of the civil session the trial judge may schedule any motion, non-jury matter, or jury trial for later in the week.

Motions may be calendared for any session of trial court upon request or by order of the Court. Motions will be calendared for and heard on the first day of the scheduled session. The Motion Calendar shall be published by the Clerk of Court. The responsibility for notifying the Clerk of Court and the Trial Court Coordinator of motions to be set for hearing is upon the attorney of record or any unrepresented moving party. The Motion Calendar may be published as an addendum to the trial calendar. In all events, the Motion Calendar is to be published no later than seven (7) days prior to the first day of that session of court.

Nothing in this section shall relieve the moving party or his attorney of giving notice to opposing counsel or unrepresented party pursuant to the North Carolina Rules of Civil Procedure. The original Notice shall be filed with the Clerk and the moving party, or his attorney, must Fax a copy of the Notice to the TCC at (919) 497-1638, with a notation of the estimated time necessary for the hearing.

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

h.1. Any motion which is filed which deals with the admission of attorneys from out of state for limited practice may only be added to a Motion calendar by order of the Senior Resident Superior Court Judge. Copies of all motions to admit out of state attorneys for limited practice pursuant to N.C. General Statute §84-4.1 must be filed with the office of the Senior Resident Superior Court Judge, Franklin County Courthouse, 102 South Main St., Louisburg, NC 27549. All requests for calendaring such motions must be addressed in writing to the Senior Resident Superior Court Judge, with the original of said request being filed in the Court file, with a copy sent to the office of the Senior Resident Superior Court Judge.

i. Case Order

(1) The trial calendar shall be published with cases in numerical order, in the order of trial as recommended by the Calendar Committee, as supplemented by order of the Senior Resident Superior Court Judge as set forth in paragraph e.

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

8. Conflicts of Counsel. Priority of appearance of counsel is controlled by Rule 3, General Rules of Practice in the Superior and District Courts, Annotated Rules of North Carolina. Upon request, the Presiding Judge will assist attorneys in resolving calendar and trial conflicts.

Effective July 1, 1998.

Revised effective January 1, 2004.

ROBERT H. HOBGOOD
Senior Resident Superior Court Judge
Ninth Judicial District

A copy of this Revised Case Management Plan is to remain available at all times within the office of each Clerk of Superior Court within the Ninth Judicial District.

A copy of this Case Management Plan is to be presented to each Presiding Judge in the civil Superior Courts within the Ninth Judicial District by the Clerk of Court upon his or her first holding civil court within any county therein.

A copy of this Case Management Plan is being distributed to each attorney maintaining an office within the Ninth Judicial District as of October 22, 2003, and every Clerk of Court therein, and the Chief Justice of North Carolina. Each Clerk of Court shall reproduce and mail a copy of this Case Management Plan to any attorney of record not

maintaining an office within the Ninth Judicial District or any unrepresented party having a case pending as reflected by the civil Superior Court VCAP system no later than January 1, 2004.

This the 22nd day of October, 2003.

Robert H. Hobgood
Senior Resident Superior Court Judge
Ninth Judicial District

EXHIBIT "A"

TRIAL DATE AGREEMENT

EXHIBIT "B"

NINTH JUDICIAL DISTRICT LOCAL RULES FOR SUPERIOR COURT MEDIATED SETTLEMENT CONFERENCES EFFECTIVE JANUARY 1, 1996

RULE 1. All civil superior court cases filed in the Ninth Judicial District after January 1, 1996, must have mediated settlement conferences in accordance with the Supreme Court Rules, 341 NC746-757 (1995)

EXCEPT:

1. Declaratory judgment actions;
2. Administrative appeals;
3. Actions in which a party is seeking the issuance of an extraordinary writ; and
4. Appeals from the revocation of a motor vehicle operator's license.

RULE 2. All communications with the court concerning mediated settlement conferences in the Ninth Judicial District should be addressed to:

Ella S. Wrenn, Trial Court Coordinator
Franklin County Courthouse
102 South Main St.
Louisburg, NC 27549

Telephone Number (919) 496-2445

Exhibit "C"

**IN THE GENERAL COURT OF JUSTICE
STATE OF NORTH CAROLINA**

**SUPERIOR COURT DIVISION
NINTH JUDICIAL DISTRICT**

POLICY FOR APPOINTMENT OF MEDIATORS

Pursuant to Rule 2/C of the Rules of the North Carolina Supreme Court Implementing Mediated Settlement Conferences in Superior Court Civil Actions, the following procedures will govern the appointment of mediators in those cases ordered to mediation in which the parties do not select a mediator.

1. All mediators will be appointed from a list provided by the Dispute Resolution Commission of certified mediators who have agreed to mediate cases in this Judicial District and who live or work in this Judicial District or a contiguous judicial district, or those mediators who certify in writing annually to the Senior Resident Judge that he or she is familiar with the Local Mediation Rules and will fully comply with them and the Supreme Court Rules.
2. The Court will generally appoint mediators in the order they appear on the DRC list. However, it may be that in certain cases appointment of another mediator will be appropriate or necessary and the Court retains discretion to deviate from the usual order when circumstances so indicate.

This the 22nd day of October, 2003

Robert H. Hobgood
Senior Resident Superior Court Judge

EXHIBIT D

MOTION TO EXTEND COMPLETION DATE FOR MEDIATION AND ORDER