

PRACTITIONER'S HANDBOOK FOR CIVIL SUPERIOR COURT



DIVISION III

District 9 Franklin, Granville, Vance, and Warren Counties

District 9A Caswell, Person Counties

District 10 Wake County

District 14 Durham County

District 15A Alamance County

District 15B Chatham, Orange Counties

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FOREWORD

The publishers of the Practitioner's Guide to Civil Superior Court in Division III are pleased to present this handbook to all that find it helpful, to address questions presented to those working in Civil Superior Court, and a how-to guide for Division III. Thanks to all that have contributed.

We hope that you will utilize this handbook to its fullest capacity and allow it to serve you in your daily office procedure as needed. Our intent is that it can be used as a template but not to be reproduced for sale or profit.

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District 9 – Franklin, Granville, Vance, & Warren Counties

I. CALENDAR MOTIONS

- a) Submit a copy of the notice of hearing with an estimated length of time to hear to the TCC by fax or email. All calendars are posted on nccourts.org if statutory notice is given.
- b) Master calendar schedule can be found on nccourts.org website.
- c) Motions, administrative appeals and 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.
- d) 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.

HOW TO SCHEDULE MOTIONS IN CIVIL SUPERIOR COURT IN THE 9TH JUDICIAL DISTRICT

You may view the available sessions of Civil SUPERIOR Court in the 9th Judicial District (Franklin, Granville, Vance and Warren Counties) on the web at:

<http://www.nccourts.org/Courts/CRS/Calendars/SCSessions/Default.asp>

After you determine the session you wish the Motion set you must:

1. Mail the original Notice and Motion to the Clerk of Superior Court in the appropriate County to be filed. (You must comply with statutory notice requirements.)
2. Fax or email as attachment to Ella Wrenn, Trial Court Coordinator, a copy of the Notice ONLY with a notation of the estimated length of time for hearing. The Fax number is **919 497 4303**.
3. Motion (and Trial) Calendars will be published on the web at: <http://www.nccourts.org>. We do not mail calendars except as provided by our local rules. If procedure has been followed and statutory notice has been given, the Motion will appear on the Motion calendar. If the Motion calendar for that session has already been published on the web, (30 days prior to that session), your motion will be placed on the add-on calendar and the updated Motion calendar will be published on the web 5-10 days prior to session.

To schedule Motions in Civil **District** Court in the 9th Judicial District, you must contact the appropriate Clerk's office and ask for the **Civil District** Court Clerk.

Franklin-919 497 4200 or 4271
Granville-919 690 4800

Vance-252 430 5100 or 5146
Warren-252 257 6300

II. SET FOR TRIAL

- a) Trial calendar shall include cases set for trial by the Calendar Committee and the Senior Resident Superior Court Judge.
- b) The Senior Resident Superior Court Judge or designee shall set cases on the trial calendar for three reasons: 1) Due to the age of the case, 2) Pursuant to a Trial Date Agreement form when all parties have agreed to a trial date or Pursuant to a medical malpractice scheduling order, or 3) As indicated on the Mediation Order.
- c) Cases may be placed on the trial calendar at the Administrative calendar sessions by written request directed to the TCC or by oral request at the semi-annual Administrative calendar sessions usually conducted the first week in January and July, or at any interim trial calendar meetings conducted by the Bar. Dates of such meetings are included on the Administrative calendars.

III. CONTINUANCES

- a) Request for continuances must be immediately communicated to opposing counsel and to the TCC.
- b) The TCC will submit all matters to the Senior Resident Superior Court Judge and then advise counsel of the Judge's decision.
- c) All requests for continuance shall be made by written motion on AOC form AOC-CV-221.
- d) After publication of the trial calendar, continuance will be granted only for reasons of compelling necessity; will not be granted because of the unavailability of an expert witness or a witness who is not subject to a subpoena; use of depositions is encouraged.

IV. MEDIATION

- a) The Ninth Judicial District Local Rules for Superior Court Mediated Settlement Conferences control mediation. Requests to dispense with mediation are disfavored and may only be granted by the Senior Resident Superior Court Judge.
- b) The tentative trial date assigned on the Mediation Order will become final unless the TCC is notified and a new trial is agreed upon by the attorneys, non-represented parties, and the TCC.
- c) All civil superior court cases filed in the Ninth Judicial District must have mediated settlement conferences except for 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.

- d) All communications with the court concerning mediated settlement conferences should be addressed to the TCC.
- e) All mediators will be appointed from a list provided by the Dispute Resolution Commission.

V. MINOR SETTLEMENTS

- a) All requests for review shall be submitted to the TCC.
- b) Matters will be given priority and will be set for hearing at next available court session.
- c) Notice of hearing must be sent to the TCC no later than 5:00 p.m. on the Wednesday before the first day of the court session requested.
- d) The minor and his/her Guardian ad Litem must be present at the hearing, unless excused in advance by the Judge presiding.

VI. SECURE LEAVE

See links on Page [34](#). Pursuant to the authority of Article IV of the Constitution of North Carolina and N.C.G.S. §7A-34, the General Rules of Practice for the Superior and District Courts.

VII. EXPECTATIONS FOR ATTORNEYS IN COURTROOM SETTING

- a) Promptness and punctuality in all court appearances and consideration of the court schedule.
- b) This court is designed to make the most effective use of the court's and attorneys' time.
- c) If any attorney expects to be late because of another commitment, he/she shall inform the affected court as soon as practical.

VIII. WILL CAVEAT CASES

- a) Will caveat cases will be placed on the next available calendar for the purpose of aligning parties, determining a trial setting, and hearing all other motions under Rule 16 of the North Carolina Rules of Civil Procedure.
- b) Will caveat cases are entitled by statute to a priority trial calendar setting.

IX. EXCEPTIONAL 2.1 CASES

- a) Requests to designate a case as exceptional or as a complex business case shall be made in accordance with Rules 2.1 and 2.2 of the General Rules of Practice.
- b) When all parties are in agreement, a request for 2.1 designation may be presented to the Senior Resident Superior Court Judge as a consent motion.
- c) When all parties are not in agreement, the request shall be made in the form of a motion and scheduled for hearing pursuant to Rule 8.
- d) In both instances, the motion should include information on the factors set out in Rule 2.1(d) of the General Rules of Practice.

X. OUT OF STATE SUBPOENAS

- a) Procedure
 - 1) A party (usually through the party's attorney) in an out-of-state proceeding may submit to the NC court a subpoena issued by a court in another state.
 - 2) The Act provides that the clerk, upon receipt of that out-of-state subpoena, to open an appropriate court file, collecting filing fees set out in G.S. §7A-305(a)(2) and the clerk issue a subpoena to be served on the person to whom the foreign subpoena is directed.
 - 3) The NC subpoena must incorporate the terms of the out-of-state subpoena and contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record and any party not represented by counsel. G.S. §1F-3
- b) Pro Hac Vice Admission and Fee
 - 1) The Act provides that the mere filing of the out-of-state subpoena and the request for the issuance of the NC subpoena does not constitute an "appearance" in the courts of this state, and, therefore, no pro hac vice fee is to be collected. G.S. §1F-3(a).

- 2) However, pro hac vice fees may be assessed if there is a motion to quash or motions for sanctions.

XI. CONTACT INFORMATION

Franklin County- Ella S. Wrenn

Superior Court Trial Court Coordinator Office: (919)-497-4301
Superior Court Judge's Office Fax: (919)-497-4303
102 S. Main Street Email: Ella.Wrenn@nccourts.org
Franklin County Courthouse
Louisburg, NC 27549

Clerks Offices - For Filings:

Vance County Courthouse Office: (252)-430-5100
156 Church St, Suite 101
Henderson, NC 27536

Granville County Courthouse Office: (919)-690-4800
101 Main St
Oxford, NC 27565

Warren County Courthouse Office: (252)-257-6300
109 S Main St
Warrenton, NC 27589

Franklin County Courthouse Office: (919)-497-4200
102 S. Main Street
Louisburg, NC 27549

District 9A – Person and Caswell Counties

AWAITING APPROVAL

VIII. CONTACT INFORMATION

Sherri L. Desormeaux
Judicial Assistant II
Caswell County Superior Court
139 E. Church Street
P. O. Box 1777
Yanceyville, North Carolina 27379

Phone: 336-459-4016
Fax: 336-459-4017
Email: sherri.l.desormeaux@nccourts.org

FOR FILING:

John I. Satterfield
Clerk of Superior Court
Caswell County Courthouse
P. O. Box 790
Yanceyville, North Carolina 27379
Phone: 336-459-4000

Deborah Barker
Clerk of Superior Court
Person County Courthouse
105 S. Main St.
Roxboro, North Carolina 27573
Phone: 336-503-5200

District 10 – Wake County

I. CALENDAR MOTIONS

- a) Submit a Calendar Request (Local Form 1) to the TCA by email (calendarrequestswake@nccourts.org), fax, or hand-delivery; email is preferred.
- b) Motion hearings are scheduled for a full week each month with morning and afternoon sessions. Motions and other non-jury matters may be set on the trial calendars at the discretion of the TCA or the court.
- c) Refer to the online calendars for motions weeks prior to submitting a Calendar Request.

II. SET FOR TRIAL

- a) The TCA will determine whether a case is appropriate for 1) entry of a Case Management Order setting a trial or hearing date, 2) requesting written information concerning scheduling and mediation from the parties followed by the entry of a Case Management Order, 3) setting the matter for review at a Status Conference, or 4) setting the matter on a non-jury calendar for hearing and disposition.

III. CONTINUANCES

- a) All motions to continue must first be filed with the Clerk of Superior Court then submitted to the TCA, along with a proposed order. The TCA will present the motion to the Senior Resident Superior Court Judge.
- b) Any motion to continue must be in writing and contain the following information: 1) caption and file number of the case, 2) session at which the case is set, 3) basis for the motion, 4) number of times the case has previously been continued, 5) certification that the moving party conferred, or attempted in good faith to confer, with all parties before filing the motion, and a statement of whether the motion is opposed, and 6) a proposed session within 90 days for the rescheduling of the cases. When the parties do not include a proposed reschedule date, the TCA shall reset the case.
- c) A motion to continue must be filed no later than three (3) business days before the first day of the session of court in which the case is set. Motions to continue filed thereafter will not be considered until the calling of the calendar, except where the

motion reflects extreme hardship or extraordinary circumstances. Before the date of the trial, only the Senior Resident Court Judge or his/her designee may rule on a motion to continue a case set for trial.

- d) Objections to motions to continue must be in writing and submitted to the TCA within two (2) days of receipt of the motion to continue. Objections that are not made within two (2) days are considered waived.
- e) If a case is not reached for trial or is mistried, parties may submit an agreed upon date for rescheduling to the TCA's Office no later close of business on the first Friday following the session of court in which the case was originally set. If parties fail to submit such agreed upon date, the case shall be reset by the TCA.

IV. MEDIATION

- f) All civil actions in Superior Court shall be ordered into the mediated settlement conference except for 1) administrative appeals, 2) declaratory judgment actions, and 3) actions in which a party is seeking the issuance of an extraordinary writ. Requests to dispense with mediation are disfavored and may only be granted by the Senior Resident Superior Court Judge.
- g) Deadline for the mediated settlement conference will appear in the Case Management Order and will normally be sixty (60) days prior to the trial date. Parties may use Local Form 4 to submit a proposed stipulated order in lieu of a motion to continue for consideration by the Senior Resident Superior Court Judge to extend the mediation deadline.
- h) The Designation of Mediator form shall be filed with the Clerk of Superior Court and a copy sent to the TCA's Office. If parties are unable to agree upon a mediator, the TCA will designate a mediator from the list of court approved mediators. This designation will appear in the Case Management Order. Once the mediator has been appointed, motions to substitute will only be allowed if the designated mediator has a conflict, is unable to mediate the case, or for good cause shown. Substitutions must be authorized by the Senior Resident Superior Court Judge.

V. MINOR SETTLEMENTS

- a) All requests for review shall be submitted to the TCA.

- b) Matters will be given priority and will be set for hearing at next available court session.
- c) Notice of hearing must be sent to the TCA no later than 5:00 p.m. on the Wednesday before the first day of the court session requested.
- d) The minor and his/her Guardian ad Litem must be present at the hearing, unless excused in advance by the Judge presiding.

VI. EXPECTATIONS FOR ATTORNEYS IN COURTROOM SETTING

- a) When an attorney is notified to appear for a pre-trial conference, motion hearing, trial or any other court appearance, the attorney must, consistent with ethical requirements, appear or have a partner, associate, or another attorney familiar with the case appear. Unless an attorney has been excused in advance by the judge before whom the case is scheduled and has given prior notice to his opponent, an attorney's absent should not be grounds for continuance.
- b) Counsel for each party and presiding judge shall remain in the courtroom throughout the course of a trial, including jury selection, opening statements and closing arguments.

VII. SECURE LEAVE

- a) Pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts, attorneys may designate periods of Secure Leave.
- b) Attorneys appearing in cases pending before the Civil Superior Court of Wake County must submit their Notice of Secure Leave to the TCA at the following address:

Trial Court Administrator's Office
PO Box 1916
Raleigh, NC 27602
ATTN: SECURE LEAVE

- c) Secure Leave designations are not filed in the court files and should not contain a case number. The TCA will enter the information into a database used to track periods of Secure Leave.
- d) The policy and procedures described herein are not exclusive. In extraordinary circumstances the time limitations for notification of designated weeks may be

waived by the court when attorneys have been faced with particular or unusual situations. Furthermore, attorneys shall be able to make other requests to be excused from appearing before the court for personal and professional reasons.

VIII. CONTACT INFORMATION

Kellie Z. Myers
Trial Court Administrator

Office: (919) 792-4780
Fax: (919) 792-4951
Email: Kellie.Z.Myers@nccourts.org

Michelle E. Bailey
Trial Court Coordinator
Office: (919)-792-4779
Fax: (919)-792-4951
Email: Michelle.E.Bailey@nccourts.org

Lisa R. Tucker
Trial Court Coordinator
Office: (919) 792-4781
Fax: (919) 792-4951
Email: Lisa.R.Tucker@nccourts.org

For filings: Clerk of Superior Court
Wake County Courthouse
PO Box 351
Raleigh, NC 27602

Mailing Address:
P.O. Box 1916
Raleigh, NC 27602

Office: (919)-792-4000

District 14 – Durham County

I. CALENDAR MOTIONS

- a) All cases which have a trial date will be posted on <http://www.nccourts.org/County/Durham/Calendars.asp>.
- b) Parties must contact the Trial Court Administration Office by telephone, email to secure a hearing date and set the motion on a calendar for hearing. Requesting party should provide the following 1) the case file number, 2) type of motion to be heard, 3) the estimated length of time needed for the motion to be heard, and 4) the date and time of the motions session requested.
- c) Motion hearings are scheduled for the second full week of each month, with hearings set for morning and afternoons each day.

II. SET FOR TRIAL

- a) Cases will be considered ready to set for trial when the TCA determines at least one of the following has occurred: 1) all parties have been served with pleadings and have answered, or the time period for filing the answer has expired, 2) all parties have informed the TCA Office in writing that the case is ready to be set for trial, 3) a case has been transferred to the Superior Court Division on appeal from the Clerk of the Superior Court, 4) a case had been remanded for trial by the Appellate Division, or 5) a case is entitled to priority hearing by statute.

III. CONTINUANCES

- a) All requests for continuances shall be submitted in writing to the TCA Office.
- b) Requests for continuance off a published calendar will be addressed by the judge assigned or the Senior Resident Superior Court Judge. Requests for continuance off a calendar not yet been published will be addressed by the TCA Office.
- c) The Court shall consider the following when deciding whether to grant or deny a continuance 1) the age of the case, 2) the status of the trial calendar for the week, 3) the order the case appears on the trial calendar, including whether the case is peremptorily scheduled, 4) number of previous continuances, 5) the extent to which counsel had input into scheduling of the trial date, 6) the due diligence of counsel in promptly filing a motion for continuance as soon as practicable, 7) whether the reason for continuance is a short-lived event which could resolve prior to the scheduled trial date, 8) the length of the continuance requested, if applicable, 9) the position of opposing counsel, 10) whether the parties themselves consent, 11) present or future inconvenience or unavailability of witnesses or parties, and 12) any other matter that promotes the ends of justice. Reasons that

shall not be considered valid are 1) first time scheduling of the case for trial and 2) whether counsel of record has received payment; ex parte requests will not be considered by the Court.

- d) Cases that are continued will be set for a new trial date at the time of the continuance.
- e) Ex parte requests for continuance will not be considered by the Court.

IV. MEDIATION

- a) All civil cases shall be ordered to participate in mediated settlement conferences unless otherwise exempted by the Supreme Court Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions.
- b) Upon showing good cause the judge may exempt a case from a mediated settlement conference.

V. MINOR/STRUCTURED SETTLEMENTS

- a) All Minor and Structured Settlements should be filed with the Clerk, then scheduled through the TCA Office.
- b) The minor and his/her Guardian ad Litem must be present, unless excused in advance by the Court.
- c) 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) 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 their findings to the Court.
- e) 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 and the tax liability, if any, to the Minor.

VI. WILL CAVEAT CASES

- a) Will caveat cases will be placed on the next available calendar for the purpose of aligning parties, determining a trial setting, and hearing all other motions under Rule 16 of the North Carolina Rules of Civil Procedure.
- b) Will caveat cases are entitled by statute to a priority trial calendar setting.

VII. EXPECTATIONS FOR ATTORNEYS IN COURTROOM SETTING

- a) Pursuant to Rule 2(e), General Rules of Practice for Superior and District Courts, counsel for all parties in an action, when notified to appear at pre-trial conferences, hearings on motions or at trial, must, consistent with ethical requirements, appear or have a partner, associate, or other attorney familiar with the case present. Unless an attorney has been excused in advance by the Judge before whom the matter has been scheduled, and has given prior notice to his opponent, a case will not be continued.

VIII. EXCEPTIONAL 2.1 CASES

- e) Requests to designate a case as exceptional or as a complex business case shall be made in accordance with Rules 2.1 and 2.2 of the General Rules of Practice.
- f) When all parties are in agreement, a request for 2.1 designation may be presented to the Senior Resident Superior Court Judge as a consent motion.
- g) When all parties are not in agreement, the request shall be made in the form of a motion and scheduled for hearing pursuant to Rule 8.
- h) In both instances, the motion should include information on the factors set out in Rule 2.1(d) of the General Rules of Practice.

IX. OUT OF STATE SUBPOENAS

- a) This procedure for the issuance of non-North Carolina action subpoenas is established pursuant to Rule 28(d) (1) and Rule 45 of the Rules of Civil Procedure.
- b) The party seeking the subpoena shall deliver to the Office of the Clerk of Superior Court the following items:
 - 1) A petition or request for issuance of a subpoena to be used outside the state of North Carolina, signed by the requesting attorney.
 - 2) A copy of the signed Commission, Order, Notice, Consent, or other authority under which the deposition is to be taken or documents produced.
 - 3) Order appointing Commissioner to collect before the deposition, a sufficient sum of money to cover all costs and charges incident to the

taking of the deposition, including witness fees as are allowed to witnesses in the State for attendance in court. The Order shall be signed by a Resident Superior Court Judge.

- 4) A completed North Carolina subpoena form AOC-G-100, leaving blank the file number, date and signature lines for the Clerk and Resident Judge to Complete. Form located at <http://www.nccourts.org/Forms/Documents/556.pdf>.
 - 5) If documents or testimony covered under HIPPA are being subpoenaed, prepare a separate Order addressing the HIPPA regulations and include it for the Resident Judge's signature.
 - 6) If the out-of-state attorney intends to make an appearance in North Carolina in connection with this case and is not licensed in North Carolina, a Motion and Order to Admit Counsel Pro Hac Vice must be filed.
- c) The following will be needed to complete the process:
- 1) A check payable to Durham County Clerk of Superior Court in the amount of \$110.00. If requesting attorney is not licensed in North Carolina, the above check must include an additional \$225.00.
 - 2) If requesting Durham County Sheriff's Office to serve the subpoena, a check made payable to the Sheriff in the amount of \$50.00 for each subpoena issued. If other type service is requested, indicate how.
 - 3) Include a large, self-addressed, postage-paid envelope for return of all filings.
- d) The original set remains in the Clerk's Office and is placed in the court file. One set will be returned in the self-addressed stamped envelope, and one set will be served on each person for whom a subpoena is issued. If service is to be completed by the Sheriff, an additional copy of the subpoena should be given to the Clerk.

X. CONTACT INFORMATION

E. Deneen Barrier - Superior Court Coordinator Office: (919)-808-3250
Durham County Courthouse Email: E.Deneen.Barrier@nccourts.org
510 Dillard Street, Suite 9400
Durham, NC 27701

District 15A – Alamance County

I. CALENDAR MOTIONS

- a) The Calendar Clerk shall maintain a ready calendar upon which cases shall be placed within five (5) months after a Complaint is filed.
- b) All cases in which a certificate of readiness has been filed will be placed on the ready calendar.
- c) All cases on the ready calendar shall be subject to be placed on the trial calendar.

II. SET FOR TRIAL

- a) Any attorney may request the setting be calendared for trial at any scheduled session of court, however, request for the setting of cases on the trial calendar shall be in writing no later than six (6) weeks prior to beginning of the session of court.
- b) Requests for calendaring of motions may be made at any time prior to the publication of the calendar.
- c) No request for trial may be added to the trial calendar after it has been published, except by a written Consent Order signed by the Senior Resident Superior Court Judge.
- d) All requests for calendaring shall be made to the TCC.
- e) The Presiding Judge or the Senior Resident Superior Court Judge may enter an Order setting the case for trial at a subsequent term of court for any reason a case is not reached for trial during the session of court for which it is set.

III. CONTINUANCES

- a) Objections to calendaring, motions for continuances after calendaring, and objections to continuance shall be immediately communicated to opposing counsel and to the TCC. The Trial Court Coordinator will submit the matters to the Senior Resident Superior Court Judge and then advise counsel of the Judge's decision.
- b) After publication of the trial calendar, continuance will be granted only for reasons of compelling necessity and will not be granted due to the unavailability of an expert witness or a witness not subject to a subpoena.
- c) All applications for continuance shall be made to the Senior Resident Superior Court Judge and shall be by written motion made on state form AOC-CV-221 Motion and Order for Continuance. Motion may be by US mail, facsimile

transmission, hand delivery, or distribution by attorney distribution boxes. Parties shall have a period of three (3) working days following completion of distribution to communicate, by any means, objections to the motion for continuance to the moving party and the office of the Senior Resident Superior Court Judge.

- d) The Court shall consider the following when deciding whether to grant or deny a continuance: 1) the age of the case, 2) the status of the trial calendar for the week, 3) the order the case appears on the trial calendar, including whether the case is peremptorily scheduled, 4) number of previous continuances, 5) the extent to which counsel had input into scheduling of the trial date, 6) the due diligence of counsel in promptly filing a motion for continuance as soon as practicable, 7) whether the reason for continuance is a short-lived event which could resolve prior to the scheduled trial date, 8) the length of the continuance requested, if applicable, 9) the position of opposing counsel, 10) whether the parties themselves consent, 11) present or future inconvenience or unavailability of witnesses or parties, and 12) any other matter that promotes the ends of justice. Reasons that shall not be considered valid are 1) first time scheduling of the case for trial and 2) whether counsel of record has received payment.
- e) Prior to granting a motion for continuance, the appropriate judicial official in consultation with the office of the Senior Resident Superior Court Judge, should reschedule the trial after receiving scheduling input from all counsel.

IV. MEDIATION

- a) All civil cases shall be ordered to participate in mediated settlement conferences unless otherwise exempted by the Supreme Court Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions.
- b) Upon showing good cause the judge may exempt a case from a mediated settlement conference.

V. WILL CAVEAT CASES

- a) Will caveat cases will be placed on the next available calendar for the purpose of aligning parties, determining a trial setting, and hearing all other motions under Rule 16 of the North Carolina Rules of Civil Procedure.
- b) Will caveat cases are entitled by statute to a priority trial calendar setting.

VI. OUT OF STATE SUBPOENAS

- a) This procedure for the issuance of non-North Carolina action subpoenas is established pursuant to Rule 28(d) (1) and Rule 45 of the Rules of Civil Procedure.

- b) The party seeking the subpoena shall deliver to the Office of the Clerk of Superior Court the following items:
- 1) A petition or request for issuance of a subpoena to be used outside the state of North Carolina, signed by the requesting attorney.
 - 2) A copy of the signed Commission, Order, Notice, Consent, or other authority under which the deposition is to be taken or documents produced.
 - 3) Order appointing Commissioner to collect before the deposition, a sufficient sum of money to cover all costs and charges incident to the taking of the deposition, including witness fees as are allowed to witnesses in the State for attendance in court. The Order shall be signed by a Resident Superior Court Judge.
 - 4) A completed North Carolina subpoena form AOC-G-100, leaving blank the file number, date and signature lines for the Clerk and Resident Judge to Complete. Form located at <http://www.nccouts.org/Forms/Documents/556.pdf>.
 - 5) If documents or testimony covered under HIPPA are being subpoenaed, prepare a separate Order addressing the HIPPA regulations and include it for the Resident Judge's signature.
 - 6) If the out-of-state attorney intends to make an appearance in North Carolina in connection with this case and is not licensed in North Carolina, a Motion and Order to Admit Counsel Pro Hac Vice must be filed.
- c) The following will be needed to complete the process:
- 4) A check payable to Alamance County Clerk of Superior Court in the amount of \$110.00. If requesting attorney is not licensed in North Carolina, the above check must include an additional \$225.00.
 - 5) If requesting Alamance County Sheriff's Office to serve the subpoena, a check made payable to the Sheriff in the amount of \$50.00 for each subpoena issued. If other type service is requested, indicate how.
 - 6) Include a large, self-addressed, postage-paid envelope for return of all filings.
- d) The original set remains in the Clerk's Office and is placed in the court file. One set will be returned in the self-addressed stamped envelope, and one set will be served on each person for whom a subpoena is issued. If service is to be completed by the Sheriff, an additional copy of the subpoena should be given to the Clerk.

VII. CONTACT INFORMATION

Barbara Dodson
Superior Court Administrator
Criminal Courts Building
212 W. Elm Street
Graham, NC 27253

Office (336) 570-5216
Fax: (336) 570-5217

David J. P. Barber - Clerk of Superior Court

Office: (336)-570-5203
Fax: (336)-570-5362

District 15B – Chatham & Orange Counties

I. CALENDAR MOTIONS

- a) Parties wishing to schedule a motion or other non-jury matter must contact the TCC by telephone or email to determine the date when the matter could be heard.
- b) Posting of the calendar is on nccourts.org.
- c) Motions shall be set for hearing on the first day of Civil Session or scheduled by the TCC or the Court.
- d) Cases for trial shall be set for a designated week and may be called for trial any time during the week.

II. SET FOR TRIAL

- a) Cases shall be set by the Court according to 1) the age of the case, and 2) attorneys may request any pending case be set for trial, such request shall be made no later than sixty (60) days prior to the beginning of the session of court, and shall be set by the following priority: 1) cases in which all parties have agreed upon a trial date, 2) cases requested to be on the trial calendar by only one party, and 3) cases requested for setting by neither party, but due to age and status should be ready for trial.

III. CONTINUANCES

- a) All applications for continuance shall be made to a Resident Superior Court Judge and shall be made by written motion.
- b) A copy of the written continuance must be distributed to all counsel, unrepresented parties, and the TCC prior to presentation of the application to the judicial official. Distribution of the motion may be made by facsimile, email, or hand delivery and filed with the Clerk of Court.
- c) The Court shall consider the following when deciding whether to grant or deny a continuance: 1) the age of the case, 2) the status of the trial calendar for the week, 3) the order the case appears on the trial calendar, including whether the case is

peremptorily scheduled, 4) number of previous continuances, 5) the extent to which counsel had input into scheduling of the trial date, 6) the due diligence of counsel in promptly filing a motion for continuance as soon as practical 7) whether the reason for continuance is a short-lived event which could resolved prior to the scheduled trial date, 8) the length of the continuance requested, 9) the position of opposing counsel, 10)) present or future inconvenience or unavailability of witnesses or parties, and 11) any other matter that promotes the ends of justice.

- d) Any trial, motion, other event continued, or not reached shall be rescheduled by the Court or the TCC. The parties shall advise the TCC if there are any dates when it should not be rescheduled.

IV. MEDIATION

- a) Parties shall have no more than twenty-one (21) days from issuance date of the Order for Mediated Settlement Conference to select a mediator, otherwise the Court will appoint a mediator.
- b) When parties have not selected a mediator of their choice, the Resident Judge will appoint a mediator.
- c) The Mediation Settlement Conference shall be conducted within six (6) months from issuance of the Order, unless approved by a Resident Superior Court Judge.
- d) No extension shall be granted except for good cause.
- e) Upon receiving notice of the appointment the mediator shall contact parties and schedule mediation within fifteen (15) days, a time for mediation.
- f) All cases settled shall be reported by the mediator to the TCC within two (2) business days and the Report of Mediator (AOC-CV-813) filed within ten (10) days.

V. MINOR/INCOMPETENT SETTLEMENTS

- a) All hearings of Minor/Incompetent Settlements shall be held in open court and shall be recorded by a court reporter.
- b) The Minor/Incompetent and his/her Guardian ad Litem must be present, unless excused in advance by the Court.

- c) 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) To the extent a Minor/Incompetent Settlement is to be structured, Plaintiff's counsel shall certify to the Court the present value of the settlement to the Minor/Incompetent.
- e) All documents submitted to the Court for consideration shall be placed in the file and be placed under seal in the discretion of the Court.

VI. EXPECTATIONS FOR ATTORNEYS IN COURTROOM SETTING

- a) When an attorney is notified to appear for a pre-trial conference, motion hearing or trial, he/she must, consistent with ethical requirements, appear or have a partner, associate, or another attorney familiar with the case appear. When circumstances prevent an attorney from appearing or arranging an appearance as described above, an attorney must contact the TCC and opposing counsel as soon as the conflict becomes apparent, and where feasible, shall send that communication to the TCC in writing. The absence of an attorney should not automatically be grounds for a continuance.

VII. SECURE LEAVE

- a) Each attorney is entitled to designate three weeks during each calendar year as secure leave during which time no matter requiring that attorney's appearance shall be calendared for hearing in any court in this District and the attorney shall not otherwise be required to appear before any tribunal of this District. The weeks designated may be consecutive.
- b) A secure leave period shall be designated ninety (90) days or more in advance. Attorneys shall not be entitled to designate a period subsequent to a trial or other matter having already been set by a Court.
- c) Designation shall be made by the attorney by filing a letter in the Offices of the Resident Superior Court Judge in each county in which the attorney has pending matters and the Chief District Court Judge if they practice in the respective division and depending upon "division" pendency of the case(s) referenced in the letter. Any pending civil case should be referenced. Also, any attorney practicing in the criminal courts shall comply with 15B Local Criminal Rule 18. The

attorneys shall retain a copy of the letter which may be provided to the Court and opposing counsel as needed.

- d) This policy is not exclusive. For extraordinary circumstances, the Court may designate other or additional weeks of vacation when an attorney is faced with a particular or unusual situation or for other reasons as has been the custom in this District.

VIII. CONTACT INFORMATION

Orange County – Jamie Richardson
Trial Court Coordinator
Superior Court Judges' Office
Old Orange County Courthouse
104 East King Street
Hillsborough, NC 27278
Office: (919)-644-4747
Fax: (919)-732-4497
Email- Jamie.N.Richardson@nccourts.org

Chatham County – Jamie Richardson
Trial Court Coordinator
Superior Court Judges' Office
Chatham County Justice Center
40 E Chatham Street
PO Box 609,
Pittsboro, NC 27312
Office: (919)-545-3580
Fax: (919)-545-3517
Email- Jamie.N.Richardson@nccourts.org

Out-of-State Cases

Chapter 1F of the North Carolina General Statutes

A. The Procedure – Open a File/ Collect Filing Fees/ Clerk Issues Subpoena

A party (usually through the party's attorney) in an out-of-state proceeding may submit to the NC court a subpoena issued by a court in another state. The Act provides that the clerk, upon receipt of that out-of-state subpoena, to open an appropriate court file, collect filing fees set out in G.S. §7A-305(a)(2) (superior court filing fees) and the clerk issue a subpoena (no longer requires a judge to issue the subpoena) to be served on the person to whom the foreign subpoena is directed. The NC subpoena must incorporate the terms of the out-of-state subpoena and contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record and any party not represented by counsel. G.S. §1F-3

Tip: Have the attorney provide the Clerk with a NC subpoena with all the appropriate information listed above included in the subpoena for the Clerk to sign.

Discovery/Out-of-State Cases

Out-of-Country Cases

Foreign Country Proceeding

A person seeking to take a deposition in NC to be used in a proceeding in a foreign country must present a commission, order, consent or other authority from a court in that country authorizing the taking of a deposition. That commission, order, or other authority is to be taken to a NC judge, whereupon the judge would order the issuance of the necessary subpoenas. G.S. §1A-1, Rule 28(b)
If the attorney seeking the subpoena is not licensed in North Carolina that attorney must apply for pro hac vice admission as set out above under Objection to Subpoena/ Motion for Sanctions – WITNESSES.

Bankruptcy Stay

Please notify TCA or TCC immediately upon discovery of a bankruptcy filing in any pending civil action. We are not automatically notified. 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

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 may also be attached.

LINKS

AOC FAQ:

<http://www.nccourts.org/Support/FAQs/FAQs.asp>

Bankruptcy Stay - Sample Form:

<http://www.nccourts.org/Courts/CRS/Policies/LocalRules/Documents/925.pdf>

Court costs:

<http://www.nccourts.org/courts/trial/costs/>

Interpreter/Language Access:

<http://nccourts.org/LanguageAccess/Default.asp>

Local Rules:

<http://www.nccourts.org/Courts/CRS/Policies/LocalRules/Default.asp>

Master calendars:

<http://www.nccourts.org/Courts/CRS/Calendars/Documents/spring2015-div-iii.pdf>

Mediation Rules:

<http://nccourts.org/Courts/CRS/Councils/DRC/MSC/Rules.asp>

Paralegal duties brochure:

<http://www.ncbar.org/media/2556898/paralegalsbrochure.pdf>

Pro Hac Vice:

http://www.ncbar.gov/faq/f_faq.asp#14

Scheduling Conflicts- Guidelines for Resolving:

<http://www.aoc.state.nc.us/www/public/aoc/rule3.htm>

Secure leave:

<http://www.aoc.state.nc.us/www/public/aoc/rule26.htm>

Secure leave form:

<http://www.nccourts.org/Courts/CRS/Policies/LocalRules/Documents/554.pdf>

Service members Civil Relief Act:

http://www.americanbar.org/content/dam/aba/events/legal_assistance_military_personnel/lamp_cle_mar12_family_law_and_the_sera_handout2.authcheckdam.pdf