

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
JUDICIAL DISTRICT 28
PROSECUTORIAL DISTRICT 40

2023 MAR -1 P 3:49

IN RE: LOCAL RULE IMPLEMENTATION ~~BUNCOMBE~~ CO., C.S.C.

*Continuance Policy of the Criminal and
Civil Superior Courts of Buncombe County*

ADMINISTRATIVE ORDER

The undersigned Senior Resident Superior Court Judge for Judicial District 28 HEREBY enters the following Administrative Order concerning the *Continuance Policy of the Criminal and Civil Superior Courts of Buncombe County*.

It is the policy of this Court to provide justice for citizens without unnecessary delay, without undue waste of the time and other resources of the Court, the litigants, and other cases. For all case types and dockets in all courtrooms, the Court looks with strong disfavor on motions and/or requests to continue court events. In order to protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

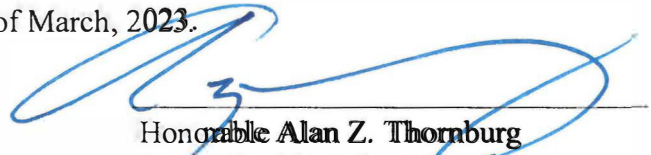
This court further recognizes that, historically, requests for continuances arise when a case is calendared prior to the case being ripe for trial or other hearing (i.e. outstanding discovery, pending ongoing investigation, witness unavailability, etc.). In order to avoid unnecessary continuances, this court will request implementation of local standards by the parties having the responsibility for creating court calendars (the District Attorney in criminal cases and the Trial Court Administrator in civil cases). These local standards will be imposed to screen cases prior to their being placed on any court calendar; this in an effort to avoid the waste of courtroom time and personnel time with the re-calendaring of cases that are not yet ready for actual court involvement toward the progress of the case.

THEREFORE, IT IS HEREBY ORDERED that:

1. Except in unusual circumstances, any continuance motion and/or request for continuance shall be in writing and filed with the Clerk of Superior Court no later than forty-eight (48) hours prior to the court event for which rescheduling has been requested. Whenever possible, continuance motions and/or requests shall be made using the appropriate forms issued by the North Carolina Administrative Office of the Courts, which include:
 - a. **AOC-CV-221: Motion and Order for Continuance (Civil Superior Cases)** for motions to continue in civil Superior Court cases; and
 - b. **AOC-CR-410: Motion and Order for Continuance (Criminal Superior Court Cases)** for motions to continue in criminal Superior Court cases.
2. Any attorney and/or party requesting a continuance shall state the reasons for the request.
3. Continuances on agreement of counsel and/or the parties shall not be automatically granted.

4. The Court shall grant a continuance only for good cause shown unless otherwise provided by law.¹
5. Continuances of cases more than eight (8) months old or that have been previously continued are specifically disfavored and shall be granted only in extraordinary circumstances.
6. Any grant of a continuance motion or request by the Court shall be made on the record, with an indication of the party requesting it and the reasons for granting it. This information shall be noted in the court file and kept by the Clerk.
7. Whenever possible, the Court shall hold the rescheduled court event no later than sixty (60) days after the date from which it the case was continued.
8. To the extent that this order conflicts with any statutory provision applicable to a particular continuance motion and/or request, the statutory provision will control.
9. At least quarterly, the Senior Resident Superior Court Judge shall generate and review a report of pending cases and any data the Administrative Office of the Courts can make available regarding the number of court dates each case has had. To promote the consistent application of this continuance policy, these reports should be reviewed and discussed with all other Judges in the district, bar representatives and other court-related agencies to seek the resolution of any organizational or systemic problems that may cause unnecessary delay in the timely resolution of all cases.
10. By entry of this order, this order shall be adopted as a **Local Rule** and shall be published as a Local rule within the “Local Rules” section of www.nccourts.gov for Buncombe County

Entered and effective as of this 1st day of March, 2023.



Honorable Alan Z. Thornburg
Senior Resident Superior Court Judge
Judicial District 28

¹ State law specifies the factors that judges must consider when ruling on pretrial continuance requests in criminal cases. G.S. 15A-952(g). State law entitles defendants in criminal cases to continuances in certain situations without any showing of good cause. *E.g.*, G.S. 15A-1023(b) (defendant must be granted continuance upon judge’s rejection of plea arrangement); 15A-1024 (defendant is entitled to continuance upon withdrawal of plea following judge’s determination to impose sentence other than as provided for in plea arrangement). There is at least one circumstance in which state law entitles the state to a continuance. G.S. 15A-1415(g) (court must grant state’s request for 30-day continuance made in response to defendant’s amendment to motion for appropriate relief).