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CABARRUS COUNTY, C.S.C.

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***LOCAL RULES OF PRACTICE  
FOR SUPERIOR CIVIL CASES***

**JUDICIAL DISTRICT 19A – CABARRUS COUNTY**

**EFFECTIVE JANUARY 1, 2023**

**SENIOR RESIDENT SUPERIOR COURT JUDGE MARTIN B. (MARTY) McGEE**

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## 1.0 GENERAL RULES

1.1 The purpose of these rules is to institute a case management plan for the Superior Court Division, Judicial District 19A, in compliance with **Rule 40(a)**, *North Carolina Rules of Civil Procedure* and **Rule 2(a)**, *General Rules of Practice for the Superior and District Courts* and to provide for the orderly, prompt and just disposition of civil matters.

1.2 These rules are also an effort to modernize communication and to make clear that counsel should work together to seek resolutions before involving the Court. Electronic communication is preferred by the Court over mail, fax and other paper communication. When seeking extensions of discovery deadlines, scheduling motions, setting trial dates, and seeking continuances, counsel should always attempt to reach agreement with opposing counsel before unilaterally seeking a decision from the Court.

1.3 The Clerk of Superior Court (“the Clerk”) will maintain a supply of the printed rules and the required associated forms and furnish them to attorneys and unrepresented parties upon request. These rules and appendices are available online at [www.nccourts.gov](http://www.nccourts.gov).

1.4 The administration of the case management plan shall be delegated to, and under the control of, the Superior Court Trial Court Coordinator (TCC) in accordance with these rules and under the supervision of the Senior Resident Superior Court Judge (SRSCJ), 19A Superior Court Judicial District.

1.5 Counsel and unrepresented parties are under a continuing obligation to provide their current email address to the TCC. Email is the preferred method of communication. Email to and from the TCC ([Lindsay.a.Daniels@nccourts.org](mailto:Lindsay.a.Daniels@nccourts.org)) shall constitute good service.

1.6 These rules are not complete in every detail and will not cover all situations. If the rules do not cover a specific situation, the TCC is authorized to act after consultation with the Senior Resident Superior Court Judge or judge presiding during a session in which the particular case is before the Court.

1.7 **ADMINISTRATIVE/NON-JURY WEEKS.** All administrative motion and non-jury matters will be scheduled the first full week of each month beginning on the first Monday at 10:00 a.m. There will be no calendar call and all participants are asked to sign on at your scheduled time only. You should communicate by email to the TCC ([Lindsay.a.daniels@nccourts.org](mailto:Lindsay.a.daniels@nccourts.org)) your scheduling preferences for these matters. Our Court will do its best to accommodate your choice. Those that do not respond will be given an assigned time slot without further input from counsel. The Administrative Final Calendar with Scheduling will be posted one week prior to the start of the two-week session. The Court will not conduct hybrid hearings (some in-person some remote). With good cause, any party may petition in writing for an in-person hearing. Absent extraordinary circumstances, any request for an in-person hearing must be made five business days prior to the scheduled session.

1.8 **JURY TRIAL WEEKS.** All jury trial matters will be scheduled on the second full week of each month and all cases will be called according to the order they appear on the jury trial calendar unless otherwise ordered by the court. As required by our local rules, the parties must submit a pre-trial order by WEDNESDAY prior to their trial date. The proposed order should include the anticipated

duration of the trial. Jury trials will begin on Monday at 10:00 a.m. There will be no calendar call. All pre-trial conferences will be held via WEBEX TWO WEEKS PRIOR TO YOUR TRIAL.

**1.9** The primary principle of our Local Rules is that every case shall have a scheduled court date shortly after 120 days of commencement of the action. After 120 days, our Trial Court Coordinator will begin the scheduling process. If any party has been served, the case moves forward. If no party has been served, then the case will be scheduled to review service and determine if publication is appropriate, if the matter should be dismissed for failure to prosecute, or some other action should be taken.

A Calendar Request shall be simultaneously filed with the Clerk with any motion and a copy of the same should be provided to the Trial Court Coordinator.

Nearly all cases should be resolved in twelve months with condemnation, medical malpractice, and especially complex cases mostly being resolved within eighteen months. If the parties wish to expedite the scheduling of their case, then they should request the same from the Trial Court Coordinator. If a case fails to have a scheduled date at any time after being initially scheduled, then counsel or pro se parties shall so inform the Trial Court Coordinator.

## **2.0 CALENDARING OF CASES FOR TRIAL [Scheduling Notice and Final Trial Calendar (FTC)]**

**2.1** After 120 days from the date of filing, or after 365 days from the date of filing in a condemnation action, the TCC shall send an Order for Mediated Settlement Conference and Order for Scheduling Notice Response Pursuant to Rule 2.0 of the Local Rules of Practice for Superior Civil Cases and a form Scheduling Notice (**APPENDIX A**) to all counsel of record and/or any unrepresented party having been served in the case to seek input regarding scheduling a trial date and selection of a mediator.

- a. All counsel and/or any unrepresented party shall select proposed trial dates prior to the deadline specified in the Scheduling Notice. The date selected for trial must be within 12 months of filing or within 18 months of filing for condemnation, medical malpractice claims or other exceptional cases. If the parties do not believe these deadlines are reasonable given the nature of a particular case, then they should submit an explanation for requesting a date outside of these limits when their Scheduling Notice is submitted to the Court.
- b. All counsel and/or any unrepresented party shall also select a mediator, pursuant to N.C.G.S. § 7A-38.1(h), using the Scheduling Notice (**APPENDIX A**).
- c. Failure to submit a Scheduling Notice within 30 days after receipt of the same will be considered a waiver of schedule conflicts that may affect a trial date and waiver of the opportunity to select a mediator. This form may be submitted by a single party if, after repeatedly requesting to confer regarding these matters, the opposing counsel/party has failed to respond. Attorneys and parties who so fail to submit will be bound by the trial date set and mediator selected by the Court.

- d. A Scheduling Order (**APPENDIX B**) shall be issued by the Court after a trial date has been selected. Deadlines in all cases shall be as follows:
1. Written discovery - 60 days prior to trial
  2. Expert witness disclosure
    - Plaintiff's Expert – 90 days prior to trial
    - Defendant's Expert – 60 days prior to trial
    - Plaintiff's Rebuttal Expert – 30 days prior to trial
  3. Discovery depositions – 60 days prior to trial
  4. Completion of discovery (except *bene esse* depositions) – 60 days prior to trial
  5. Completion of mediation – 45 days prior to trial
  6. Dispositive motions – The civil session prior to trial date.

**2.2** Not less than three weeks prior to each civil session, a Final Trial Calendar (FTC) shall be published by the TCC. The FTC shall contain all trials and motions scheduled for the session. The FTC shall be distributed to counsel by posting on the web at [www.nccourts.org](http://www.nccourts.org). (Click on "Court Calendars" at top right; click on "Court Calendar" at left; click on "Civil Calendars"; select "Cabarrus County;" click "Submit Query;" click on the appropriate session; click on the appropriate trial calendar listed under Superior Court.) Distribution to any served, but unrepresented party, shall be by US mail. The Court may in its discretion enter an updated calendar to be posted on [www.nccourts.gov](http://www.nccourts.gov).

**2.3** Attorneys may search cases on published calendars using the Civil Calendar Attorney Query by Bar Number tool at [www.nccourts.gov](http://www.nccourts.gov). To ensure accuracy of this tool, attorneys must provide the Clerk of Superior Court with information regarding withdrawals, notice of appearance, and substitution of counsel in specific cases. Filings must include the North Carolina State Bar number for each attorney of record. Only attorneys active with the North Carolina State Bar and who have a valid North Carolina State Bar identification number may use this search tool.

**2.4** The North Carolina Court Calendar subscription service is available to anyone for civil Superior Court cases set for hearing on published calendars in Cabarrus County at the following web address: <http://www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=CABARRUS>.

**2.5** Cases shall appear on the FTC, oldest-numbered first, and listed after cases designated peremptory, or given statutory priority. Attorneys should proceed on the assumption that all cases on the Trial Calendar will be tried at the scheduled session unless resolved by consent order or dismissal. When there is more than one ongoing civil session of court, a case may be called for trial by any presiding judge.

**2.6** In the event a case is not reached at the session requested, counsel and/or any unrepresented party shall select another trial date by forwarding the same to the TCC within 5 business days of the end of the session. If counsel and/or any unrepresented party fail to so select, the TCC will calendar the case on the next published FTC.

**2.7** If a case is settled after placement on any FTC, counsel and/or any unrepresented party shall notify the TCC (within 24 hours of settlement) using **APPENDIX F** and advise who will prepare and present judgment and/or dismissal, and shall also notify the parties appearing in the next case on the FTC as soon as possible. *Rule 2(g) of the Superior and District Court Rules.*

### 3.0 CALENDARING OF MOTIONS

3.1 The TCC shall calendar motions for hearing.

3.2 Unless the Court calendars the matter on its own, all motions filed with the Court must be accompanied by a Calendar Request that shall be filed with the Clerk. **(APPENDIX C)**. No case shall be placed on a calendar unless that Calendar Request has been served on all parties. All Calendar Requests should be submitted to the TCC via fax or email. Counsel and/or any unrepresented party shall file a written "Notice of Hearing" (NOH) with the Clerk in compliance with the minimum statutory requirements provided in the North Carolina Rules of Civil Procedure. In order to appear on the published calendar, a Calendar Request for a motions hearing must be received by the TCC's office at least 10 days prior to the requested session. Motion requests received within 10 days of the requested session will be added to the motions calendar at the TCC's discretion if all counsel and/or any unrepresented party waive the minimum statutory notice requirement provided in the North Carolina Rules of Civil Procedure. **Failure to provide the TCC a copy of the Calendar Request may result in the case not being calendared. If a Calendar Request is not filed and submitted to the TCC, then the TCC shall schedule the matter for the next available administrative session.**

3.3 The NOH and Calendar Request shall specify the name and address of all counsel and/or any unrepresented party. A copy of the NOH shall be served upon all opposing counsel and/or any unrepresented party and shall serve as due notice.

3.4 Approximately one week prior to the session, duly noticed motions shall appear on a printed calendar, distributed to counsel by posting on the web at [www.nccourts.org](http://www.nccourts.org). (See directions, RULE 2.2). Distribution to any served, but unrepresented party, shall be by US mail.

3.5 In order to remove a motion before the session begins, the moving party must notify the TCC, in writing via fax, or email, but only after obtaining the consent of all counsel and/or any unrepresented party.

3.6 **Failure to duly calendar a motion under these rules shall not be used as a basis for a continuance from a future trial calendar.**

### 4.0 PRIORITY, PEREMPTORY, REMANDED, EXCEPTIONAL or COMPLEX BUSINESS (RULE 2.1) CASES and SPECIAL SESSIONS

4.1 Counsel shall, in writing, notify the TCC (as soon as practicable) using **APPENDIX D** that priority status and preemptory setting is requested for a case. The authority for such request shall be cited in such notification. Counsel shall copy all opposing counsel and/or any unrepresented party. Such request shall be in accordance with Rule 2(f) of the General Rules of Practice for the Superior and District Courts.

4.2 The Court, on its own motion, may grant priority status and preemptorily calendar a case, for good cause shown.

4.3 If a priority case is continued, a written request for a new preemptory setting shall be made to the TCC using **APPENDIX E**.

4.4 If a case is remanded from the Appellate Division to Superior Court, counsel shall notify the TCC, in writing, to calendar the case for hearing or trial. After such notice, the TCC shall calendar the case as soon as practicable, giving deference to scheduling requests from all counsel and/or any unrepresented party.

4.5 The designation of any case as “Exceptional” or “Complex Business” shall be in accordance with Rule 2.1 of the General Rules of Practice for the Superior and District Courts. A copy of any such request shall be served upon the TCC.

4.6 Special Sessions. Parties wishing to set a case for trial at a special session shall notify the TCC and opposing counsel or unrepresented party in writing. The TCC shall determine which cases are appropriate for trial at special sessions. Factors which shall be considered include, but are not limited to, anticipated length of trial, emergencies such as witness health, complexity of issues and severe scheduling difficulties of attorneys and/or essential witnesses. The TCC shall make all appropriate arrangements for conduct of special sessions.

4.7 Upon refileing a case previously dismissed pursuant to Rule 41, the plaintiff shall provide a copy of the new complaint to the TCC, along with a reference to the first case number.

4.8 Removal to Federal Court. When a party removes a case to Federal Court, counsel for that party shall contemporaneously provide a copy of the pleading to that effect to the Clerk of Superior Court and the TCC. Upon receipt of the notice of removal to Federal Court, the Clerk of Superior Court is to close the file.

4.9 Cases Initiated Other Than By Complaint. Upon initiating any matter in civil Superior Court by the filing of any pleading which is not a Complaint, (i.e., Will Caveat, Administrative Appeal, Certiorari, any Post Judgment Motions or Other Filings), the party so initiating shall immediately provide a copy of this pleading along with a filed calendar request to the TCC (via email).

## 5.0 CONDEMNATION CASES

5.1 Condemnation actions brought pursuant to Article 9, Chapter 136, Condemnation, or by a **public condemnor** pursuant to Chapter 40A, *Eminent Domain*, shall be presumed ready for trial 180 days after an 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.

5.2 Under this Rule 5, if necessary, counsel for property owners and/or any unrepresented property owner shall provide the TCC with notice of a request for appointment of commissioners.

5.3 If the Commissioner’s report is appealed from (and a jury trial demanded), the Clerk shall, within 10 business days, serve the TCC with notice of entry of the appeal and transfer to the superior court civil docket.

5.4 Condemnation actions brought by a **private condemnor** pursuant to Chapter 40A, *Eminent Domain*, shall be presumed ready for trial upon transfer to the superior court docket.

5.5 If commissioners are appointed and their report is appealed from (and a jury trial demanded), the Clerk shall, within 10 business days, serve the TCC with notice of entry of the appeal and transfer to the superior court civil docket.

## 6.0 CONTINUANCE POLICY

6.1 Any motion to continue must be submitted to the SRSCJ for signature before filing using AOC-CV-221 "Motion and Order for Continuance of Civil Superior Cases" (**APPENDIX H**). Opposing counsel and/or pro se parties must be notified of the motion to continue prior to the delivery of the motion to the TCC. No continuance shall be granted solely because all parties agree. Motions to continue a case set for trial are generally disfavored and will not be granted, absent good cause shown.

6.2 Any motion to continue must be in writing and contain the following information:

- a. Caption and file number of the case;
- b. Session at which the case is set;
- c. The basis for the motion;
- d. The number of times the case has previously been continued;
- e. **A certification that the moving party conferred, or attempted in good faith to confer, with all opposing counsel and unrepresented parties before filing the motion, and a statement of whether the motion is opposed; and**
- f. A proposed session within 90 days for the rescheduling of the case.

6.3 Timing. A motion to continue must be filed no later than 5 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. Parties who are moving to continue a case set for trial should be prepared to move forward with trial in the event the motion to continue is denied. Before the date of trial, only the Senior Resident Superior Court Judge or his/her designee may rule on a motion to continue a case set for trial. The TCC shall have authority to act on behalf of the SRSCJ. Any decision of the TCC can be appealed in writing to the SRSCJ within 24 hours.

6.4 Objections to motions to continue must be in writing and submitted to the TCC within 3 days of receipt of the motion to continue. Objections not made within 3 days are considered waived.

6.5 If a case is not reached for motions, trial or mistried, counsel and unrepresented parties may submit an agreed-upon date for rescheduling to the TCC no later than close of business on the first Friday following the session of court in which the case was originally set. If counsel and unrepresented parties fail to submit such an agreed-upon date, the case shall be reset by the TCC.

## 7.0 MEDIATION

7.1 N.C.G.S. § 7A-38.1, Mediated Settlement Conferences in Superior Court Civil Actions, and the Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions, shall govern mediation procedures.



7.2 The Mediated Settlement Conference should be completed at least forty-five (45) days before trial. A request for extension should be made in writing using AOC-CV-835 “Motion and Order Extending Completion Date for Mediation Settlement Conference or Other Settlement Procedure” (APPENDIX E).

7.3 Litigants are encouraged to timely select a mediator who is appropriate for the case. If the parties do not agree on a mediator, the Court will appoint one. See Rule 2.1.

## 8.0 CALENDAR CALL, REMOTE HEARINGS AND BRIEFS

8.1 Unless otherwise directed by the Court, there shall be no calendar calls as matters will be scheduled in advance by the TCC.

8.2 Duly calendared cases shall be called in the order which they appear, unless otherwise determined by the Presiding Judge or the TCC.

8.3 If a calendar call is required by the Court, then Rule 2(e), *Superior and District Court Rules*, shall control the appearance of attorneys at calendar call. However, it is expected that all attorneys of record or unrepresented parties with cases calendared for motion or trial will be present at the convening of court for the calendar call and will remain in the courtroom or its immediate proximity unless excused by the Presiding Judge. Attorneys residing outside the 19A Judicial District accepting employment to represent clients in the 19A Judicial District **must** arrange their schedules to be present when their cases are calendared. Conflicts such as seminars, appellate courts, and vacations must be worked out with the TCC and the SRSCJ before the case is calendared for trial and the calendar published. Attorney cooperation is essential to the proper functioning of our court system. The Court wants to work with the attorneys and make their jobs as easy and convenient as possible and the Court expects the attorneys to respond by being punctual and prepared at the scheduled time.

8.4 As a general rule, the Court will conduct motions hearings not involving live testimony remotely using WebEx. As provided in Rule 1.7 above, motions will be scheduled by the TCC for a time certain. Counsel and pro se parties should use their best efforts to estimate the duration of the hearing and list the same on the Calendar Request. For good cause, counsel and pro se parties may petition for an in-person hearing as provided in Rule 1.7. Motions involving live testimony should be conducted in-person and the TCC should be notified if the motion involves the same.

Remote hearings can be connected to by the use of WebEx at: <https://nccourts.webex.com/meet/cabacr5.sh> or by telephone by dialing 1-415-655-0001 and using Access Code: 146 473 4278. Participants should sign into the hearing 15 minutes prior to the schedule time for the hearing.

Remote hearings are open to the public.

8.5 All briefs, responses, memorandums and supporting cases, or any other materials intended to be used in oral argument or submitted to the Court may only be submitted to the TCC via email by 5:00 p.m. the Wednesday prior to the hearing of the motion. Parties should not incur the expense of mailing briefs because physical copies of the same cannot easily be transferred to visiting judges. If materials have been submitted by email, then a physical copy should be provided from counsel to the Judge the first day of the session. Materials that have not been submitted by email may not be accepted by the Court unless the presiding Judge decides otherwise. Pursuant to N.C.G.S. 1A-1, Rule 5(d), briefs and memoranda provided to the Court may not be filed with the Clerk unless ordered by the Court.

**8.6** All hearing materials delivered to the Court in accordance with this Rule shall be delivered to counsel for the opposing party or any unrepresented party by hand-delivery, email, facsimile, express delivery or mail, such that the opposing counsel receives the materials no later than three business days before the hearing date. If any hearing materials to which this rule applies are not served on opposing counsel within the time and the manner specified herein, the Court may continue the hearing for a reasonable period of time, proceed with the hearing without considering the untimely served materials, or take such other action as justice requires.

## **9.0 INACTIVE OR DELINQUENT CASES**

**9.1** Inactive cases do not require monitoring, calendaring, or review. If approved by the Court, a case may be declared inactive by the filing of a consent motion with the TCC, executed by, and served upon, all counsel of record and/or any unrepresented party. Upon filing, the SRSCJ may order the Clerk of Superior Court to close and remove the case from the Court's active docket (**APPENDIX I**).

**9.2** The Court may declare as inactive certain cases that are on appeal, in binding arbitration, removed to federal court, or in bankruptcy. Nothing shall prohibit a case from being reactivated, at any time, for good cause shown.

**9.3** Cases or motions scheduled for trial or hearing which are removed due to consent or settlement shall be considered delinquent if the order, judgment or dismissal is not submitted or filed within thirty (30) days after the case is settled ("delinquent cases").

**9.4** Cases or motions scheduled and heard by the Judge or by Jury shall be considered delinquent if the order or judgment is not submitted within thirty (30) days after the hearing, unless otherwise directed by the presiding Judge.

**9.5** The TCC shall identify those orders, judgments or dismissals which are delinquent, pursuant to Rule 9.3 and 9.4 above and bring them to the attention of counsel/unrepresented parties. After such notice, cases remaining delinquent may be dismissed at the discretion of the SRSCJ or presiding Judge. The Court may alternatively order such sanctions or impose such penalties as deemed appropriate and allowed by law.

**9.6** At any appropriate time, the TCC may prepare a Clean-Up Calendar for cases in which no progress has been noted. The Clean-Up Calendar may contain any cases which, in the opinion of the TCC, may be a proper subject of inquiry as to their status, and may include, without limitation, cases in which no service has been obtained or any case that does not appear to be moving towards disposition. If not dismissed as provided in Rule 9.5 above, delinquent cases may also be placed on a Clean-Up Calendar.

**9.7** In lieu of placing a case on a cleanup calendar, the Court may seek a written Joint Response Status Update Form (**APPENDIX K**). Failure to timely respond will result in the case being calendared. On the Calendared date, all parties as well as their lawyers shall be present at the hearing to inquire into the status of the case.

## 10.0 ADMINISTRATIVE TRIAL ISSUES

**10.1** Rule 7, *Superior and District Court Rules*, shall control pre-trial conferences and pre-trial orders. A pre-trial order is required in each jury trial case. Pre-trial orders shall be in substance as shown in the form attached to the General Rules of Practice for Superior and District Courts. **Pre-trial orders are due by 5:00 p.m. on the Wednesday prior to the session at which the trial is scheduled.** A copy of the same shall be emailed to the TCC by the due date and a printed copy shall be presented to the presiding Judge at calendar call.

**10.2** If counsel intends to submit exhibits to the jury, it is the best practice to have individual copies of the same for each juror.

**10.3** Counsel should submit proposed jury instructions to the Court as soon as possible.

**10.4** Counsel should make sure that all audio/visual tools and equipment work properly before being offered.

**10.5** If a trial notebook is submitted to the Court, counsel should submit a copy of the same to the Court Reporter for ease in referencing the materials. The same applies to expert witness reports.

## 11.0 BANKRUPTCY

**11.1** Counsel of record for any party and/or any unrepresented party who has filed a petition for relief under the United States Bankruptcy Code, shall file with the Clerk of Superior Court a “Notice of Bankruptcy Stay,” (**APPENDIX G**) accompanied by a file-stamped copy of the “Certificate of Bankruptcy Filing” or “Stay of Proceeding” from the bankruptcy court having jurisdiction. A copy of the motion shall be served by email to the TCC. Upon receipt, the TCC shall prepare an “Inactive Order” (**APPENDIX I**), stating the reason for closing the case.

**11.2** Upon completion of the bankruptcy proceedings or the lifting of the stay, any party may seek to reopen the case by filing an appropriate motion.

## 12.0 MISCELLANEOUS

**12.1 Medical Malpractice Cases.** The rules regarding medical malpractice cases are contained in Administrative Order 22-05, which is available on the Court’s website.

**12.2 Pro Hac Vice.** Motions to be admitted Pro Hac Vice must be accompanied by the fee required by the North Carolina General Statutes, together with an appropriate affidavit that the attorney seeking Pro Hac Vice status is a member in good standing in every jurisdiction in which the attorney is licensed to practice, has not been disciplined in any of the jurisdictions where the attorney is licensed to practice, has never had a Pro Hac Vice status revoked by law tribunal, and is not the subject of any pending disciplinary proceedings. Local counsel shall sign an affirmation that he/she will comply with Rules 5.5 (c)(4) and 5.5 (e)(5) of the Revised Rules of Professional Conduct of the North Carolina State Bar. Motions not accompanied by the fee will be denied without notice. Should a motion not accompanied by the fee be inadvertently allowed, the Order allowing the admission will be revoked without notice.

**12.3 Notice of Appearance.** Any attorney filing a Notice of Appearance, Substitution of Counsel, or similar document, shall provide a copy to the TCC (via email) when the motion is filed.

**12.4 Service.** A party filing a lawsuit is expected to promptly undertake reasonable efforts to obtain personal service on all defendants. If service is not obtained within five (5) months after undertaking reasonable efforts, the party shall seek service by publication. Failure to undertake reasonable efforts to obtain service or to prevent summonses from expiring will result in dismissal for failure to prosecute.

If any party to the lawsuit has been served, then the TCC shall send an Order for Mediated Settlement Conference and Order for Scheduling Notice Response Pursuant to Rule 2.0 of the Local Rules of Practice for Superior Civil Cases and a form Scheduling Notice (**APPENDIX A**) as provided in Rule 2.1. Cases shall not be delayed for lack of reasonable efforts to serve all parties.

If service has not been obtained on any defendant within 120 days of filing, then the TCC shall schedule the matter to review service.

**12.5 Voluntary Dismissals.** If a party files a voluntary dismissal of a case, claim, or party and the case is on a calendar within ten (10) days of the dismissal, the party filing the dismissal shall immediately deliver a filed copy to each opposing party and to the TCC on the date the dismissal is filed, by facsimile, hand-delivery or electronic transmission.

**12.6 Order Submission Form.** All draft orders prepared by counsel on behalf of the Court shall be submitted with a completed Order Submission Form to the TCC unless otherwise directed by the presiding Judge (**APPENDIX J**). The draft order shall be first submitted to all counsel and/or unrepresented parties in the action with notice to respond within 10 days to any objections to the form of the order. Thereafter, the draft should be submitted to the TCC with any proposed revisions or confirmation that the draft was approved as to form. If there is no response, then that should be noted on the Order Submission Form when it is submitted. The TCC shall be responsible for forwarding the draft order to the presiding Judge unless the presiding Judge directs otherwise.

**12.7 Secured Leave.** Pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts, attorneys may designate periods of secure leave. Attorneys appearing in cases pending before the civil Superior Court of Cabarrus County must submit their Notice of Secure Leave (**Appendix L**) to the Clerk of Superior Court's office. It is not necessary to provide an additional copy to the SRSCJ or TCC, and doing so is disfavored. Notices of Secure Leave should be sent to the following Address:

Clerk of Superior Court  
Attn: Civil Division  
PO Box 70  
Concord, NC 28026

Secured leave designations are not filed in the court files and should not contain a case number. The TCC will enter the information into a database used to track periods of secure leave. While this provision relates to secured leave periods for lawyers involved in civil superior cases, it is also not necessary to provide forms to the SRSCJ or TCC related to criminal matters. The Clerk forwards all Notices of Secured Leave filed with him to the TCC. Of course, notice to the District Attorney should

be provided as set forth in Rule 26 of the General Rules of Practice for the Superior and District Courts.

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.

**12.8 Motions to Withdraw.** Motions to withdraw must include a certificate of service showing service on the client from whom representation is being withdrawn. The motion also must indicate whether all parties consent or if any party opposes the motion. The motion and proposed order must set forth the name and address of substitute counsel, or if not known, the current address of the party from whom representation is being withdrawn. No action will be taken on a motion and proposed order that does not include this information. If the motion to withdraw is granted, the withdrawing attorney must serve a copy of the signed order on the TCC.

**12.9 Guidelines for Resolving Scheduling Conflicts.** Rule 3.1 of the General Rules of Practice for the Superior and District Courts should be followed. Unless necessity requires, it is unacceptable for counsel to point out conflicts to the Court without providing the Court ample time to resolve the same. Rule 3.1(b) requires counsel to “promptly give written notice” when the attorney learns of a scheduling conflict.

**12.10 Conferences.** The Court welcomes the opportunity to conduct scheduling or pre-trial conferences when the parties think doing so would be helpful. To request a conference, either in court, in chambers, or by telephone, please contact the TCC by email. The Court also resolves the right to request conferences.

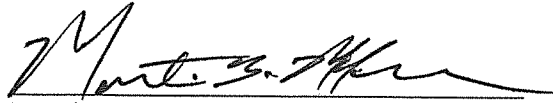
**12.11 Rule 12 and Professional Courtesy.** Rule 12 of the General Rules of Practice for the Superior and District Courts shall be strictly enforced. Counsel and unrepresented parties should treat others as they want to be treated.

**12.12 Cases Under Advisement.** Attorneys or unrepresented parties should notify the TCC of cases that have been heard and taken under advisement when a period of more than 90 days has passed since the hearing without a ruling. The TCC shall then contact the presiding Judge to seek an update the parties of when an anticipated decision will be forthcoming.

**12.13 Transcripts/Electronic Recordings of Court Proceedings.** Requests for transcripts of court proceedings shall be made to the Resident Court Reporter of Judicial District 19A. If a court proceeding was electronically recorded, a request for the recording shall be made to the Clerk. An electronic recording of the hearing and a list of persons authorized and approved to prepare a transcript will be provided.

**12.14 Effective Date.** These rules shall be effective January 1, 2023.

SO ORDERED, this the 29<sup>th</sup> day of December 2022 to be effective January 1, 2023.

A handwritten signature in black ink, appearing to read "Martin B. McGee", written over a horizontal line.

Martin B. McGee  
Senior Resident Superior Court Judge  
Judicial District 19A-Cabarrus County

NORTH CAROLINA  
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NO. \_\_\_\_\_

\_\_\_\_\_  
PLAINTIFF(S)  
Vs.  
\_\_\_\_\_  
DEFENDANT(S)

**SCHEDULING NOTICE**  
(Due 30 days after receipt)

INTERESTED PARTIES:

☐ All counsel have conferred and agree to the following:

1. Trial Date: 1<sup>st</sup> choice \_\_\_\_\_ 2<sup>nd</sup> choice \_\_\_\_\_

☐ The Court needs to select a trial date for the parties.

Trial dates proposed must be not more than 12 months from filing (Local Rule 2.1) unless the matter is a condemnation action or other exceptional matter, in which case the proposed trial date should be within 18 months of filing.

2. Estimated length of trial: \_\_\_\_\_ days

☐ Jury Trial

☐ Exceptional Case (type): \_\_\_\_\_

☐ Non-Jury Trial

3. Mediator: \_\_\_\_\_  
- OR -

Compensation Rate: \_\_\_\_\_ (hourly)  
\_\_\_\_\_ (admin. fee)

☐ Check box if you want the Court to appoint a mediator.

**Please note: mediators must be certified. Once a mediator is appointed, the parties are not allowed to substitute a different selected mediator. A list of mediators for District 19A is published on our web site at <http://www1.aoc.state.nc.us/mediatorpublic/login.do>**

☐ This form is being submitted on behalf of one party only because the opposing counsel/party has not responded to repeated requests to confer regarding these issues.

\_\_\_\_\_  
Signature Date Attorney for

\_\_\_\_\_  
Signature Date Attorney for

-----  
**COPIES OF THIS RESPONSE SHOULD BE SERVED ON ALL COUNSEL OF RECORD AND ANY PRO SE PARTIES, AND RETURNED TO: Lindsay Daniels, Trial Court Coordinator, Fax (704) 262-5517 or email (preferred) [Lindsay.A.Daniels@nccourts.org](mailto:Lindsay.A.Daniels@nccourts.org)**

Appendix A

STATE OF NORTH CAROLINA  
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NO. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s),

Vs.

\_\_\_\_\_  
Defendant(s),

**SCHEDULING ORDER**

THE COURT, after giving the parties an opportunity to provide input, hereby enters the following scheduling order:

**TRIAL DATE:** \_\_\_\_\_

**Discovery Schedule:**

1. Written discovery – 60 days prior to trial
2. Expert witness disclosure:
  - Plaintiff's Expert - 90 days prior to trial
  - Defendant's Expert - 60 days prior to trial
  - Plaintiff's Rebuttal Expert - 30 days prior to trial
3. Discovery depositions – 60 days prior to trial
4. Completion of discovery (except *bene esse* depositions) - 60 days prior to trial
5. Completion of mediation – 45 days prior to trial
6. Dispositive motions – The civil session prior to trial date

**APPOINTMENT OF MEDIATOR:**

- ☐ The parties consent to the appointment of the mediator listed below at an agreed upon compensation rate provided in their Scheduling Notice.
- ☐ The parties having reported their failure to agree upon the selection of mediator or the parties having failed to notify the Court of their selection or nomination of a mediator within 30 days after this case was ordered to mediation, the Court appoints the following certified mediator to conduct the mediated settlement conference.

Mediator (name and address): \_\_\_\_\_

SO ORDERED, this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Appendix B

\_\_\_\_\_  
Martin B. McGee  
Senior Resident Superior Court Judge



NORTH CAROLINA  
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NO: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Plaintiff

vs.

**CALENDAR REQUEST**

\_\_\_\_\_  
\_\_\_\_\_  
Defendant

Please place the above captioned matter on the Cabarrus County civil superior court calendar for the \_\_\_\_\_ session for:

☐ Motion      Type of Motion \_\_\_\_\_  
☐ Trial      Jury ☐      Non-Jury ☐

Estimated Length of Hearing: \_\_\_\_\_  
Nature of Case \_\_\_\_\_

\_\_\_\_\_  
Attorney for ☐ Plaintiff ☐ Defendant  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

Email Calendar Request to: Lindsay Daniels, Trial Court Coordinator  
[Lindsay.A.Daniels@nccourts.org](mailto:Lindsay.A.Daniels@nccourts.org)

And a Copy to:  
(Give name and address of opposing counsel and/or unrepresented parties)

☐ This calendar request form shall constitute notice of hearing pursuant to Rule 7(b)(1) of the North Carolina Rules of Civil Procedure.

Appendix C

NORTH CAROLINA  
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

CASE NO: \_\_\_\_\_

☐ Jury ☐ Non Jury

\_\_\_\_\_  
Plaintiff(s),

vs.

**PEREMPTORY SETTING REQUEST**

\_\_\_\_\_  
Defendant(s).

.....  
The undersigned attorney requests a peremptory setting for the above captioned case for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The estimated length of trial is \_\_\_\_\_ days.

\_\_\_\_\_  
Attorney for: ☐ Plaintiff ☐ Defendant

\_\_\_\_\_  
Date

**Copy mailed to:**

\_\_\_\_\_  
Attorney for: ☐ Plaintiff ☐ Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for: ☐ Plaintiff ☐ Defendant

\_\_\_\_\_  
Date

.....  
This request for a peremptory setting is: ☐ Denied ☐ Approved for: \_\_\_\_\_

\_\_\_\_\_  
Senior Resident Superior Court Judge/TCC

**STATE OF NORTH CAROLINA**

File No. \_\_\_\_\_

\_\_\_\_\_  
County

In The General Court Of Justice

☐ District ☐ Superior Court Division

Name Of Plaintiff(s)

**VERSUS**

Name Of Defendant(s)

**MOTION AND ORDER  
EXTENDING COMPLETION DATE FOR  
MEDIATED SETTLEMENT CONFERENCE  
OR OTHER SETTLEMENT PROCEDURE**

G.S. 7A-38.1, 7A-38.4A; Rule 3 of the Rules Implementing Statewide Mediated Settlement Conferences and Other Settlement Procedures in Superior Court Civil Actions; Rule 3 of the Rules Implementing Settlement Procedures in Equitable Distribution and Other Family Financial Cases.

**MOTION**To: ☐ Senior Resident Superior Court Judge ☐ District Court Judge

Motion Filed By

Previous Number Of Extensions

Initial Date Ordered To Mediation

Current Deadline For Completion

Requested Deadline For Completion

Tentative Trial Date

Specific Basis For Motion

Name Of Mediator

Name(s) Of Opposing Counsel(s)

Date

Signature of Movant

**ORDER**

This Motion for Extension is

☐ allowed.☐ denied.

Completion Deadline Extended To

Name Of Senior Resident Superior Court Judge/District Court Judge Or Designee

Date

Signature Of Senior Resident Superior Court Judge/District Court Judge Or Designee

*This Motion may be used by a party (including a pro se party) when the parties disagree about extending the deadline. Submit the Motion to the Trial Court Coordinator/Administrator, send a copy to all other parties and the mediator, file, calendar, and notice the Motion for hearing.*

	<b>CERTIFICATE OF SERVICE</b>	
--	-------------------------------	--

The undersigned hereby certifies that on this date a copy of the foregoing Motion and Order was served on the parties or attorneys named below at the addresses specified by placing a copy of the same in the United States Mail, postage prepaid.

Name And Address Of Party Or Attorney		Name And Address Of Party Or Attorney	
Name And Address Of Party Or Attorney		Name And Address Of Party Or Attorney	
Name And Address Of Party Or Attorney		Name And Address Of Party Or Attorney	
Name And Address Of Party Or Attorney		Name And Address Of Party Or Attorney	
Date	Name Of Moving Party		Signature Of Moving Party

STATE OF NORTH CAROLINA  
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NO: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s),

vs.

REPORT OF SETTLEMENT

\_\_\_\_\_  
Defendant(s),

This matter is presently scheduled for trial or hearing on \_\_\_\_\_.  
The parties through counsel/pro se hereby report to the Court that this case has been resolved in its entirety and there is nothing left to be heard. The parties represent to the Court and agree that:

- ☐ The parties will prepare and present a Consent Order to the Court no later than \_\_\_\_\_ which will resolve all pending issues.
- ☐ The parties will prepare and present a Consent Judgment to the Court no later than \_\_\_\_\_ which will resolve all pending issues.
- ☐ The Plaintiff will file a Voluntary Dismissal of all claims no later than \_\_\_\_\_.
- ☐ The Defendant will file a Voluntary Dismissal of all counterclaims/cross-claims/third party claims no later than \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Plaintiff/Counsel for Plaintiff

\_\_\_\_\_  
Defendant/Counsel of Defendant

NORTH CAROLINA  
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NO: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s),

vs.

**NOTICE OF BANKRUPTCY STAY**

\_\_\_\_\_  
Defendant(s).

.....  
A petition has been filed and an Order for relief under Chapter \_\_\_\_\_ of the  
Federal Bankruptcy Act has been entered for \_\_\_\_\_.

Relief has been granted in case number \_\_\_\_\_ filed on \_\_\_\_\_ day of  
\_\_\_\_\_ 20\_\_\_\_, in the United States Bankruptcy Court for the  
\_\_\_\_\_ District of \_\_\_\_\_, \_\_\_\_\_ Division.

Further proceedings involving \_\_\_\_\_ are stayed  
pursuant to the provisions of 11USC 363, 1201 & 1301.

\_\_\_\_\_  
Attorney for: ☐ Plaintiff ☐ Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print or Type Attorney's Name

\_\_\_\_\_  
Print or Type Name of Party  
Attorney Represents

**Copy to:**

\_\_\_\_\_  
Attorney for: ☐ Plaintiff ☐ Defendant

\_\_\_\_\_  
Date

Appendix G

# STATE OF NORTH CAROLINA

File No.

In The General Court Of Justice  
Superior Court Division

County

Name Of Plaintiff(s)

VERSUS

Name Of Defendant(s)

## MOTION AND ORDER FOR CONTINUANCE (CIVIL SUPERIOR CASES)

**INSTRUCTIONS:** **MOVING PARTY** must complete all information requested below. Copy of completed form must be faxed, mailed or hand delivered to opposing counsel or unrepresented party prior to delivery to **Senior Resident Superior Court Judge or his/her designee**. Upon receipt, **OPPOSING PARTY** must immediately communicate any objections to **Senior Resident Superior Court Judge or his/her designee**.

Previous Number Of Continuances

Date Case Filed

Calendared Trial Date

Opposing Counsel

Copy(ies) Distributed To Opposing Counsel(s)/Party(ies) By  
☐ U.S. Mail ☐ Facsimile ☐ Hand Delivery ☐ Atty Box

Date

Reason(s) For Continuance Request (attach additional sheet if necessary)

Requested Reschedule Date Or Carryover Date

Name And Address Of Movant

Has Client(s) Been Notified Of Continuance Request?  
(not applicable if pro se)

☐ Yes ☐ No

Telephone No.

Date Issued

Signature Of Movant

### TO BE COMPLETED BY JUDICIAL SUPPORT STAFF

Objection(s) Received?  
(Attach written objections) ☐ Yes ☐ No

Date

Case Age:

☐ Less Than 12 Months

☐ 12 to 18 Months

☐ More Than 18 Months

Total No. Of Cases On Trial Calendar

Current Ranking Of This Case On Trial Calendar

Date Case Set On This Trial Calendar

Attorney input into trial setting?

☐ Yes

☐ No

Ruling: ☐ Denied ☐ Granted

Date Rescheduled

Counsel Notified Of Ruling By

Date

Date

Name Of Senior Resident Superior Court Judge/Designee (Type Or Print)

Signature Of Senior Resident Superior Court Judge/Designee

NORTH CAROLINA  
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NO: \_\_\_\_\_

\_\_\_\_\_  
Plaintiff(s),

vs.

**INACTIVE ORDER**

\_\_\_\_\_  
Defendant(s).

It appearing to the undersigned Judge that this action is no longer an active lawsuit, that a trial of the case will probably not be necessary, or that the ends of justice will best be served by declaring the case inactive and removing it from the trial docket:

And the following circumstances support such conclusion:

\_\_\_\_\_  
Now, therefore, it is **ORDERED, ADJUDGED** and **DECREED**, that this case file be closed and the action removed from the trial docket without prejudice to the rights of any party to move the court to reopen the file if further action becomes appropriate or necessary.

This the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Martin B. McGee  
Senior Resident Superior Court Judge

By Consent:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Appendix I



NORTH CAROLINA  
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

FILE NO. \_\_\_\_\_

JUDGE \_\_\_\_\_

\_\_\_\_\_, )  
Plaintiff, )  
 )  
vs. )  
 )  
\_\_\_\_\_, )  
Defendant. )  
\_\_\_\_\_ )

ORDER SUBMISSION FORM

1. The attached order:

- ☐ was announced and decided by the judge in open court
- ☐ was announced to the attorneys/parties by a decision letter
- ☐ is entered pursuant to a Memorandum of Judgment Order
- ☐ is entered with the consent of both parties

Date decision was announced or Memorandum/consent order signed: \_\_\_\_\_.

2. Check the box that applies:

- ☐ The opposing party/counsel has reviewed the proposed order and all corrections/revisions have been resolved. Both parties agree that this order is correct as to form and is ready for entry.
- ☐ The draft was delivered to the opposing party/counsel by ☐ US Mail ☐ Facsimile ☐ e-mail ☐ personal delivery on \_\_\_\_\_ with instructions to contact the undersigned within 10 days if any corrections/revision were requested. The opposing party/counsel has not responded to the undersigned as to the order as drafted and more than ten (10) days have passed since the delivery of the draft.
- ☐ The opposing party/counsel has reviewed the order and does not believe that it is correct as to form. ☐ The written objections of each party are attached, or ☐ an electronic version of the form has been/is being submitted.

This the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
☐ Plaintiff ☐ Defendant  
☐ Plaintiff's Attorney ☐ Defendant's Attorney

### Joint Response Status Update

Name of Case: \_\_\_\_\_

File Number: \_\_\_\_\_

1) Has this case been resolved: ☐ Yes ☐ No

If not, should this case be placed in Inactive status: ☐ Yes ☐ No

Why: \_\_\_\_\_

2) Has discovery been completed: ☐ Yes ☐ No

If not, how much additional time is needed? \_\_\_\_\_

3) Has mediation been completed: ☐ Yes ☐ No

If not, how much additional time is needed? \_\_\_\_\_

4) Are there any motions that need to be heard: ☐ Yes ☐ No

If yes, when would you like the motions to be scheduled? \_\_\_\_\_

5) Has a trial date been set: ☐ Yes ☐ No

a) If yes, when: \_\_\_\_\_

b) If no, when would you like the trial scheduled: \_\_\_\_\_

c) Is it: ☐ Jury ☐ Non-jury

6) Is there anything the court can do to assist in the case moving forward: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for

(If multiple parties, then all should sign)

**SUBMIT THIS COMPLETED FORM NO LATER THAN 10 DAYS UPON RECEIPT.**

**You may submit via email [Lindsay.A.Daniels@nccourts.org](mailto:Lindsay.A.Daniels@nccourts.org), fax (704) 262-5517, or personal delivery.**

Appendix K

Attorney Name:	SECURE LEAVE FORM		
Address:			
Telephone Number:			
State Bar Number:			
<i>Notice: Secure Leave shall consist of one or more calendared weeks, but in any even shall not consist of more than three (3) calendared weeks during any calendar year.</i>			
<b>Statement of Attorney</b>			
I hereby certify that the secure leave period designated below is not being designated for the purpose of delaying, hindering or interfering with the timely disposition of any matter in any pending action or proceeding.			
I further certify that no action or proceeding in which I have entered an appearance has been scheduled, peremptorily set or noticed for trial hearing, deposition or other proceeding during the designated leave period.			
<b>Designated Secure Leave Dates</b>			
<i>Indicate the dates you are noticing as Secure Leave Dates:</i>			
<b>Monday</b>	<i>Beginning Date:</i>	<b>Until Friday</b>	<i>Ending Date:</i>
Indicate any previously designated Secure Leave periods during the current calendar year that have previously been designated pursuant to Rule 26 and Rule 3A of the Rules of Appellate Procedure.			
<i>Beginning Date(s):</i>		<i>Ending Date(s):</i>	
<i>This Secure Leave Notification must be filed not later than ninety (90) days before the beginning of the secured leave period and before any trial, hearing, deposition or other matter has been regularly scheduled, peremptorily set or noticed for a time during the designated secure leave period.</i>			
Date:		<div style="border-bottom: 1px solid black; height: 20px; width: 100%;"></div> <b>Attorney Signature</b>	
<b>This form is required to be filed in each of the following offices if the attorney has entered an appearance of record as follows: (please check the offices filed.)</b>			
<input type="checkbox"/> District Attorney [Criminal Cases]		<input type="checkbox"/> Clerk of Superior Court [All Cases]	
<b>NOTICE TO ATTORNEY:</b> Should any matter be set during your Secure Leave Period, you are required to serve notice on the official calendaring the matter, and the parties of record to the matter. This Notice shall contain the following: (1) A copy of this form (2) The case number and name of case set (3) A certificate of service.			
<i>Filing a Designation of Secured Leave with the Clerk of Superior Court is deemed sufficient notice to the Superior Court pursuant to Rule 26 of the Superior Court and District Court Rules.</i>			