

# **CIVIL MOTIONS IN SUPERIOR COURT**

## **JUDICIAL DISTRICT 42**

### **HENDERSON, POLK, TRANSYLVANIA COUNTIES**

#### **When and Where:**

Civil Motions in cases pending in Superior Court in District 42 (Henderson, Polk, and Transylvania counties) are heard during each term of Civil Superior Court, as said terms appear on the Master Schedule for Superior Court. Pursuant to local rules, a motion in a civil action pending in this district may be heard in any county of the district. Typically, motions in all cases are heard only on the first day of the term; the balance of the term is reserved for trials.

#### **How to Schedule a Motion:**

Motion hearings are scheduled through the Trial Court Manager for District 42, Daphne Carland. (Daphne.P.Carland@nccourts.org) Requests for scheduling shall be made not later than ten calendar days in advance of the requested date. (Please know that Motions Calendars typically fill up a month or more in advance, however). Requests shall be accompanied by an estimate of time needed for all parties to be heard. Your calendared motion hearing will be assigned to either (1) a specific time of hearing or (2) a morning session or an afternoon session, based upon your time estimate. Hearings not concluded within the estimate of time will be continued in progress to another date. Rule 6 of the General Rules of Practice for the Superior and District Courts as amended from time to time shall be observed.

#### **Notice of Hearing:**

For all types of hearings, all counsel of record and *pro se* (self-represented) parties shall be served in compliance with Rule 5 of the NC Rules of Civil Procedure, as modified to permit electronic notice through Odyssey-Enterprise Justice.

#### **In-Person and Remote Hearings:**

All motions will be heard in person, unless remote hearing is agreed to in writing by all parties in advance, or otherwise approved in the discretion of the judge presiding. The party scheduling the remote hearing shall provide the record email address for all counsel or self-represented parties.

Evidentiary hearings are not scheduled for hearing in a Civil Motions session unless the presiding judge shall approve in advance. Whenever scheduled, evidentiary hearings shall be in-person, unless otherwise authorized in the discretion of the presiding judge.

Remote hearings will be conducted via the WebEx online platform; the Clerk is the host of remote hearings, and will send, by email message, a link to join the hearing. Members of the public wishing to view or listen to a remote hearing shall also be provided a link but are not permitted to participate in the hearing. Disruption of remote court proceedings is addressed through contempt proceedings, the same as if in-person. Those joining a remote hearing by video shall dress and conduct themselves appropriately. Rule 12 of the General Rules of Practice for the Superior and District Courts shall apply with the exception that counsel or *pro se* parties may observe “business casual”.

Neither audio nor video recordings of any portion of any hearing (remote or in-person) are permitted to be made by any party or by any member of the public. Other than a reporter, the Clerk of Superior Court is the sole record keeper for any hearing. Pursuant to the demand for court reporters for trial sessions, a court reporter may not be present for civil motion sessions.

Proceedings are open to the public. Any individual interested in viewing the proceedings may do so. If the hearing is held remotely, via WebEx, an individual may contact the Trial Court Manager Ms. Carland (Daphne.P.Carland@nccourts.org) to request that a link be sent by the Clerk of Court. No one other than named litigants and attorneys of record will be allowed to participate by voice in the remote hearing.

**Memoranda and Supporting Materials:**

Any memoranda and materials offered in support of a party’s position on a motion should be submitted as far in advance of the scheduled hearing as is convenient, but in any event, not later than two business days prior to such hearing. Materials may be emailed; longer submissions will not be printed, however, and may not be conducive to referencing by counsel during the hearing. Printed versions of supporting materials may be hand-delivered to Trial Court Manager Daphne Carland at the Henderson County Courthouse, 200 North Grove Street, Hendersonville, NC 28792.

As was the case prior to the introduction of electronic filing, memoranda are not uploaded to the court file.

**Consent Orders.**

As always, orders consented to and signed by all parties may be uploaded and tasked by counsel or party, using the electronic filing system, to the appropriate judge to be entered at any time.

**Signing of Orders by Judge**

It is the responsibility of the counsel or party who uploads an order for signature by the judge presiding to confirm that the proposed order has been tasked, by clerk of court or other person, to the judge whose signature is sought. It is not incumbent upon the judge presiding to periodically visit a court file to learn if a proposed order has been uploaded for consideration.

Proposed orders shall follow exactly as directed by the judge presiding and should first be submitted to opposing counsel or party prior to uploading for signature. Any objections to language of a proposed order should be communicated via email to the judge presiding, either directly or through the trial court manager. Such objections should be accompanied by a copy of the proposed order objected to, and a clear description of the language to which the party objects.

There shall be a presumption that all orders tasked to a judge presiding shall have been first sent to opposing party or counsel at least two business days in advance.

When a judge presiding shall direct counsel to email a copy of the proposed order to the judge in advance of filing, the drafting counsel shall of course include all opposing counsel or *pro se* parties in such communication.

**These policies regarding civil motion practice in District 42 shall be treated in all regards the same as any local rule established pursuant to statutory authority by the senior resident superior court judge.**