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State of North Carolina
General Court of Justice
Fifth Judicial District

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NEW HANOVER COUNTY, O.S.C.
BY _____

To: New Hanover County and Pender County criminal defense attorneys

From: Phyllis M. Gorham, Senior Resident Superior Court Judge
Benjamin R. David, District Attorney

After review of the Fifth Judicial District Docket Management System for Criminal Superior Court and in an effort to improve efficiency in the judicial district, the following shall become effective March 1, 2019:-

NEW HANOVER COUNTY TRIAL WEEK

1. The district attorney shall publish a trial calendar scheduling cases for trial, which will be called at 10:00 a.m. on the first day of the session.
2. Beginning March 2019, and continuing on each first day of successive sessions, the district attorney shall publish a printed "priority calendar" from cases on the trial calendar.
 - a. The priority calendar shall be distributed (electronically, by hand delivery, US mail, or by placement in a distribution folder maintained in the courthouse) to attorneys with cases thereon not less than ten (10) business days before trial (Saturdays, Sundays, and state holidays excluded).
 - b. The priority calendar shall contain cases the district attorney reasonably expects to call for trial, listed in bulleted order, and should not be primarily or exclusively those of one district attorney, defense attorney, or defendant.
 - c. Any case on the priority calendar shall be subject to call for trial, notwithstanding its bulleted position.
 - d. If a defendant whose case is called for trial objects, continuances shall require approval by the presiding judge; but the defendant may not object if all cases on the priority calendar have been disposed of or delayed with the judge's approval.
 - e. After receipt of the priority calendar, a district attorney, defense attorney, or defendant is entitled to move that his or her case be continued from the calendar for compelling reasons which would affect the fundamental fairness of the trial process or because the continuance is clearly in the interest of justice.
 - i. The MOVING PARTY must fully complete form AOC-CR-410 and distribute it to all attorneys of record and/or unrepresented parties before presenting it to the appropriate judicial official.
 - ii. Before the session of court at which the case is calendared, the appropriate judicial official is the Senior Resident Superior Court Judge or designee. The designee shall be the Trial Court Administrator for the Fifth Judicial District (TCA). Decisions of the TCA shall be final.

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NEW HANOVER COUNTY
BY Mak
Assistant Deputy Clerk Superior Court

- iii. Beginning the first day of the session of court at which the case is calendared, the appropriate judicial official is the presiding judge.
 - iv. Upon receipt, the OPPOSING PARTY must immediately communicate any objections to the appropriate judicial official.
- f. Cases on the priority calendar shall be the first cases called for trial. If all priority cases have been disposed of or delayed, the district attorney may call any case appearing on the published trial calendar.
 - g. "Order of Trial. – The district attorney, after calling the calendar and determining cases for pleas and other disposition, shall announce to the court the order in which the district attorney intends to call for trial the cases remaining on the calendar." (N.C.G.S. §7A-49.4(f)) This shall be accomplished by the district attorney posting the priority calendar listed in numerical order on the courtroom door by 12:30 PM on the first day of each trial session.
- 3. Probation first appearances and guilty pleas shall be held after the call of the trial calendar and priority calendar.
 - 4. Jury selection for the first trial shall begin as soon as practicable, depending on the estimated length of the first trial.
 - 5. All court sessions are mixed. Cases appearing on the published trial calendar, or priority calendar, may be called for trial in any courtroom whether designated criminal or civil, in consultation with the superior court judge(s) duly assigned.

NEW HANOVER COUNTY ADMINISTRATIVE WEEK

Monday

- 6. Administrative Week shall be held during the second full week of each month.
- 7. Two weeks prior to Administrative Week, the administrative calendar shall be posted on nccourts.org (including all indicted cases not yet added to a trial calendar).
- 8. Only matters appearing on the administrative calendar are eligible to be resolved during the Administrative Week.
- 9. Retained or appointed defense attorneys, public defenders, and district attorneys shall, with the consent of the other party, schedule a time for guilty pleas, plea conferences, status conferences, arraignments, or waivers of arraignment by contacting Stacy Haines, Docket Manager (stacy.g.haines@nccourts.org, 910-772-6904), by **noon Wednesday prior to the Administrative Week**. Defendants shall report at the designated time, or risk having an order for arrest and/or order of forfeiture issue.
- 10. Once a case is scheduled it shall not be continued, except by the presiding judge. If a defendant's scheduled plea is not entered, the defendant may be arraigned instead.
- 11. A calendar call shall be held at 10:00 a.m. Monday for all defendants with retained or appointed counsel, or unrepresented defendants who have not scheduled a time with the assigned district attorney for a guilty plea, conference, status conference, arraignment, or waiver of arraignment pursuant to ¶ 9, above, or who have cases otherwise on the administrative calendar at settings S1 or S2. A calendar call shall be held at 11:00 a.m. Monday for all defendants represented by the Public Defender's Office who have not so scheduled a time with the assigned district attorney or docket manager.
 - a. A defendant's appearance at calendar call shall be excused if defendant, or his/her attorney, has agreed with the assigned district attorney regarding the status of defendant's case by **noon Wednesday preceding Administrative Week**. If agreement is reached, the district attorney shall update the status of defendant's case on the calendar.
 - b. If no agreement is reached, or if defendant, or his/her attorney, fails to contact the assigned district attorney by deadline, defendant's appearance at calendar call shall be mandatory, and the presiding judge shall:

- i. Be apprised by a defense attorney or public defender whether they represent any defendant on the unrepresented administrative calendar.
- ii. Be apprised by a defense attorney or public defender as to the status of their defendant's case and determine any contested matters.
- iii. Be apprised by a defense attorney or public defender as to the reason for their defendant's absence from calendar call.

12. A Probation First Appearance Calendar shall be held at 2:00 p.m.

13. Public Defenders and the assigned district attorney shall provide Stacy Haines with the name of any inmate scheduled for guilty plea by **12:00 noon Friday preceding Administrative Week.**

Tuesday A.M.

14. Video arraignments for in-custody defendants shall be held on Tuesday at 9:30 a.m. Arraignments for out-of-custody defendants, not otherwise scheduled pursuant to ¶ 9, above, shall be held upon completion of video arraignments.

15. Attorneys may file waivers of arraignment, which must be signed by a defendant and filed with the clerk of court by **noon Wednesday preceding Administrative Week.** A copy shall be provided to the assigned district attorney.

- a. A Defendant's appearance at calendar call shall be excused if his/her attorney has filed a waiver and has agreed with the assigned district attorney regarding the status of defendant's case by **noon Wednesday preceding Administrative Week.** If agreement is reached, the district attorney shall update the status of defendant's case on the calendar.

Tuesday, Wednesday, Thursday, and Friday

16. The balance of Tuesday, all day Wednesday and Thursday, and until 12:00 PM Friday shall be for pleas, plea conferences, status conferences, or arraignments. Court shall conclude no later than 12 NOON on Friday.

NEW HANOVER COUNTY PROBATION WEEK

Monday, Tuesday, Wednesday, and Thursday

17. Probation Week shall be held during the first full week of each month.

18. Probation Week shall begin at 10:00 a.m. on Monday, and 9:30 a.m. on Tuesday, Wednesday, and Thursday.

Friday

19. The presiding judge in New Hanover County Probation Week shall travel to Pender County to preside over Pender County Probation Day, beginning at 9:30 a.m. Friday.

PENDER COUNTY TRIAL WEEK

20. Criminal jury trials shall be held during the last full workweek of each month (except December).

21. Guilty pleas shall be taken after calendar call.

22. Jury selection for the first trial shall begin as soon as practicable, depending on the estimated length of the first trial.

23. Probation first appearances shall be held on Tuesday morning at 9:30 a.m. If a jury trial is in progress, the presiding judge shall use his or her best efforts to schedule and conduct probation first appearances at some point during Tuesday.
24. In order to alleviate overcrowding conditions existing in the Pender County jail, after the jury in the last trial retires to deliberate (subject to the judge's availability), district attorneys and retained or appointed defense attorneys shall endeavor to negotiate and take acceptable guilty pleas for incarcerated defendants. If plea negotiations fail, then such cases shall be placed on the next appropriate trial calendar.

PENDER COUNTY ADMINISTRATIVE DAY

25. Administrative Day for Pender County shall be held at 10:00 a.m. on the first day of the Pender County trial session.
26. Two weeks prior to Pender County Administrative Day, the entire administrative calendar shall be posted on nccourts.org (including all indicted cases not yet added to a trial calendar).
27. Once a case is scheduled it shall not be continued, except by the presiding judge. If a defendant's scheduled plea is not entered, the defendant may be arraigned instead.
28. Retained or appointed defense attorneys with cases on the administrative calendar shall attend calendar call. At calendar call, the presiding judge shall:
 - b. Release those attorneys who have previously scheduled a time for a plea, conference, status conference, or arraignment.
 - c. Be apprised by defense attorneys if they represent any defendant on the unrepresented portion of the administrative calendar.
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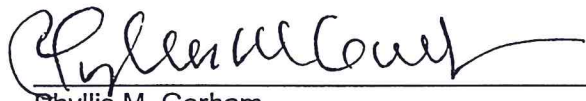
PENDER COUNTY PROBATION DAY

29. Probation Day for Pender County shall be held at 9:30 on the Friday of New Hanover County Probation Week (first full week of each month).
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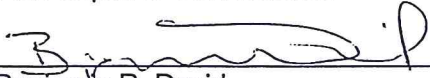
SUPERSECESSION

These rules supersede and amend any other local rules previously in effect governing management of criminal cases that are inconsistent with these rules. If these rules conflict with the General Statutes of North Carolina, the Constitution of North Carolina, or the United States Constitution, the conflicts are inadvertent and the local rules are superseded.

Amended and filed in the Office of the Clerk of Court of New Hanover County and in the Office of the Clerk of Court of Pender County this 3 day of May, 2019 effective March 1, 2019.



Phyllis M. Gorham
Senior Resident Superior Court Judge
Fifth Superior Court District



Benjamin R. David
District Attorney
Sixth Prosecutorial District

* Signature page for Fifth Judicial District Docket Management System for Criminal Superior Court,
signed May 3, 2019, effective March 1, 2019.

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State of North Carolina
General Court of Justice
Fifth Judicial District

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PENDER CO., C.S.C.

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CLERK OF SUPERIOR COURT
PENDER COUNTY
BY *Christina P. [Signature]*
ASSISTANT CLERK SUPERIOR COURT

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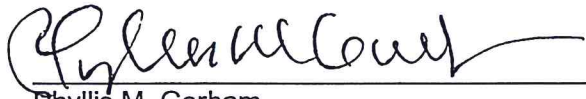
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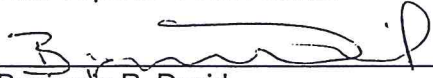
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