

Please refer to 22R000078-120 through Portal for the full Administrative Order regarding Medical Malpractice Procedures for Judicial District 25 (Formerly 19A).

Assignment of Medical Malpractice Actions

Authority

Section 1(b) of S.L. 2021-47 amends G.S. 7A-47.3 to add a new subsection €, effective October 1, 2021:

(e) The Senior Resident Superior Court Judge, in consultation with the parties to the case, shall designate a specific resident judge or specific judge assigned to hold court in the district to preside over all proceedings in a case subject to G.S. 90-21.11(2).

Applicable Actions

This procedure applies to

1. Medical malpractice actions defined by G.S. 90-21.11(2);
 - a. A civil action for damages for personal injury or death arising out of the furnishing or failure to furnish professional services in the performance of medical, dental, or other health care by a health care provider.
 - b. A civil action against a hospital, a nursing home licensed under Chapter 131E of the General Statutes, or an adult care home licensed under Chapter 131D of the General Statutes for damages for personal injury or death, when the civil action (i) alleges a breach of administrative or corporate duties to the patient, including, but not limited to, allegation of negligent credentialing or negligent monitoring and supervision and (ii) arises from the same facts or circumstances as a claim under sub-subdivision a. of this subdivision.
2. Brought in the Superior Court Division, Cabarrus County.¹

Notification to the Senior Resident & Consultation

For all medical malpractice cases filed on or after the entry of this order, the parties must file a Medical Malpractice Case Notification and Consultation Form ("MedMal Form") with the Cabarrus County Clerk of Superior Court within thirty (30) days of the filing of a responsive pleading or motion requiring a determination by a superior court judge, whichever comes first.

For all medical malpractice cases filed prior to and pending on the entry of this order, the parties must file a MedMal Form with the Cabarrus County Clerk of Superior Court by 5:00 pm on March 1, 2022.

A copy of the MedMal Form shall be submitted by email to the Court Manager on the date the form is filed, for review by the Senior Resident Superior Court Judge. If the parties are unable to agree on the content of the MedMal Form, each party may submit a separate MedMal Form.

¹ See NCAOC's August 26, 2021 *Judicial Assignment in Superior Court Medical Malpractice Cases* memo.

The MedMal Form must include:

1. Contact information, including email addresses, of all attorneys and self-represented litigants;
2. Proposed trial dates;
3. Anticipated length of trial;
4. Dates on which the parties are available within 60 days for the NCRCP Rules 26(f1) medical malpractice discovery conference, which may be held remotely;
5. Statement indicating whether the parties voluntarily agree to waive venue for hearing pretrial motions;
6. Up to two suggested judges for assignment;²
7. The signature of all attorneys and self-represented litigants.

In the interest of efficient case management, any attorney or unrepresented party who fails to file and submit the MedMal Form in accordance with these procedures, absent good cause, will be considered by the Court to have waived any objections to the proposed and selected dates and judges.

Judicial Assignment & Local Rules

In assigning a specific resident superior court judge or a judge assigned to hold court in the district, including but not limited to superior court judges from other districts within the Fourth Judicial Division, special superior court judges, and emergency superior court judges, the senior resident superior court judge may consider, but is not bound by, the judges suggested by the parties. Failure to consult with requested Judge will make his/her assignment less likely.

The Court Manager shall thereafter notify the parties of the judicial assignment and date of the medical malpractice discovery conference.

Pursuant to Rule 22 of the General Rules of Practice for the Superior and District Courts, the 25 (formerly 19A) Judicial District Local Rules for Civil Superior Court, and supplemental procedures shall apply to medical malpractice actions filed in Superior Court, Cabarrus County.

Medical Malpractice Discovery Conference

Following the discovery conference, the Court shall enter a Case Management Order (CMO), which must include an order to mediation, discovery deadlines, dispositive motion deadlines, the manner in which the parties/counsel may communicate with the court, whether the parties agree to waive venue for hearing pretrial motions, and a tentative trial date (note that peremptory settings may only be authorized by the

² The parties may each, or jointly, suggest up to two superior court judges that they seek to have assigned to the case. Parties are encouraged to select the Resident Judge of Judicial District 25 (formally 19A) or the judges who are assigned to Judicial District 25 (formally 19A) per the Superior Court Master Calendar during the spring or fall rotation in which the parties expect the case to be tried. The parties must consult with their requested judges prior to filing the MedMal Form to determine their availability.

Judicial District 25 (formerly 19A) Senior Resident Superior Court Judge). Each Case Management Order or amendment must include as an attachment an Exhibit A, which is attached hereto.

In the interest of efficient case management, any attorney or unrepresented party who fails to attend the medical malpractice discovery conference, absent good cause, will be considered by the Court to have waived any objections to the deadlines and trial date set by the Court.

***Please see <https://www.nccourts.gov/locations/cabarrus-county/cabarrus-county-local-rules-and-forms> for all relevant WCAG compliant updated local forms.**

- Medical Malpractice Case Information Sheet
- Medical Malpractice Case Notification and Consultation
- Order Submission Form
- Report of Settlement