

NORTH CAROLINA
CABARRUS COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR AND DISTRICT
COURT DIVISIONS

2022 FEB -4 P 3: 56

22 R 78

IN RE:

CABARRUS CO., C.S.C. ADMINISTRATIVE ORDER

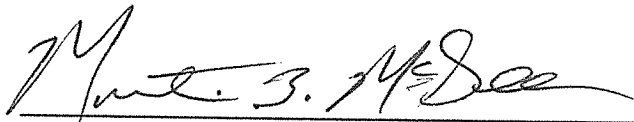
MEDICAL MALPRACTICE)
PROCEDURES FOR)
JUDICIAL DISTRICT 19A)

MA

22- 05

The undersigned Senior Resident Superior Court Judge, in accordance with the revisions to N.C. Gen. Stat. § 7A-47.3 enacted by Session Law 2021-47 (SB 255), hereby enters this Administrative Order relating to Judicial Assignment in Superior Court Medical Malpractice cases as set out in the attached memorandum.

This the 4th day of February 2022.



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

Judicial District 19A Procedures: 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 (e), 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 a 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 as 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, allegations 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 occurs first.

For all medical malpractice cases filed prior to and pending on 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 by 5:00 p.m. on March 1, 2022.

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

A copy of the MedMal Form shall be submitted by email to the Trial Court Coordinator 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.

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 NCRC Rule 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 and
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.²

The Trial Court Coordinator 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 19A Judicial District Local Rules for Civil Superior Court, and supplemental procedures shall apply to medical malpractice actions filed in Superior Court, Cabarrus County.

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 19A or the judges who are assigned to Judicial District 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.

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 Judicial District 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 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.

(EXHIBIT A)

STATE OF NORTH CAROLINA
CABARRUS COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
CASE NO: _____

Plaintiff(s),

vs.

MEDICAL MALPRACTICE
CASE INFORMATION SHEET

Defendant(s),

1. Judge Assigned: _____

2. Trial Date: _____

3. Mediator: _____

4. Mediation Deadline: _____

5. Discovery Deadline: _____

6. Plaintiff's Counsel Email: _____

7. Defendant's Counsel Email: _____

*** This Exhibit MUST be attached to each Discovery Scheduling Order (DSO) or Amended DSO submitted to the Court. ***

STATE OF NORTH CAROLINA	File No. _____
Cabarrus County	In The General Court Of Justice Superior Court Division
Name of Plaintiff(s)	MEDICAL MALPRACTICE CASE NOTIFICATION AND CONSULTATION
VERSUS	
Name of Defendant(s)	
<p>NOTE: Parties in all Cabarrus County Superior Court medical malpractice actions subject to N.C.G.S. 90-21.11(2) are required to complete and file this form upon the filing of a responsive pleading or motion requiring a determination by a superior court judge, whichever occurs first. After filing with the Clerk of Superior Court, the parties shall deliver a copy of this form by email to the Trial Court Coordinator. Failure to comply with the Judicial District 19A Procedures: Assignment of Medical Malpractice Actions, absent good cause, will be considered a waiver of any objections to the proposed and selected trial dates and judges. This form serves as notification to and consultation with the Senior Resident Superior Court Judge.</p>	
<p>In accordance with the requirements of N.C.G.S. § 7A-47.3(e) and the Judicial District 19A Procedure: Assignment of Medical Malpractice Actions, the parties consulted and submit this completed form for review by the Senior Resident Superior Court Judge.</p>	
<p>(1) Select one:</p> <p><input type="checkbox"/> The agreed-upon information herein is jointly submitted by the parties to this action.</p> <p><input type="checkbox"/> The information herein is submitted by the Plaintiff(s) only; a copy has been delivered to Defendant(s).</p> <p><input type="checkbox"/> The information herein is submitted by the Defendant(s) only; a copy has been delivered to Plaintiff(s).</p>	
<p>(2) Date Case Filed: _____.</p>	
<p>(3) Proposed Trial Dates: _____.</p>	
<p>(4) Anticipated Length of Trial: _____.</p>	
<p>(5) Available dates in the next 60 days for the medical practice discovery conference, which may be held remotely: _____.</p>	
<p>(6) Select one:</p> <p><input type="checkbox"/> All parties voluntarily agree to waive venue for hearing pretrial motions.</p> <p><input type="checkbox"/> The Plaintiff(s) voluntarily agree to waive venue for hearing pretrial motions</p> <p><input type="checkbox"/> The Defendant(s) voluntarily agree to waive venue for hearing pretrial motions.</p>	
<p>(7) Suggested superior court judge(s) for assignment to preside over all proceedings in this case and his/her judicial district:</p> <p>Judge _____ (District # _____) Select one: <input type="checkbox"/> has agreed to assignment / <input type="checkbox"/> has not been consulted.</p> <p>Judge _____ (District # _____) Select one: <input type="checkbox"/> has agreed to assignment / <input type="checkbox"/> has not been consulted.</p>	
<p>NOTE: Parties are encouraged to select from the resident judges and judges who are assigned to the Judicial District 19A per the Superior Court <u>Master Calendar</u> during the spring or fall rotation in which they expect the case to be tried, or a judge in the Fourth Judicial Division, and must consult with their <u>suggested judges</u> to determine their availability. In assigning a superior court judge, the senior resident superior court judge may consider, but is not bound by, the judges suggested by the parties.</p>	
<p>Submitted by:</p> <p><input type="checkbox"/> Self-Represented Plaintiff <input type="checkbox"/> Plaintiff's Attorney <input type="checkbox"/> Self-Represented Defendant <input type="checkbox"/> Defendant's Attorney</p>	
Signature:	Signature:
Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
Email Address:	Email Address:

Attach additional sheets as necessary to include names and contact information of all attorneys and self-represented litigants.

APPOINTMENT OF SUPERIOR COURT JUDGE

<i>Name and Address of Appointed Judge:</i>	<i>Case Number:</i> <div style="text-align: right;">Cabarrus County</div>
	<i>Caption:</i>

Case Management Conference

<i>Date:</i>	<i>Time:</i>	<i>Location:</i> <div style="text-align: center;">Webex</div>
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In accordance with Session Law 2021-47 (SB 255) and after consultation with counsel and/or the parties, the undersigned Senior Resident Superior Court Judge for Judicial District 19A, Cabarrus County, hereby **ORDERS that The Honorable _____ be designated as the trial judge assigned to preside over all proceedings in the above referenced Cabarrus County civil matter.**

All pleadings subsequent to the original complaint and other papers required or permitted to be served on a party may be served by e-mail to the party's attorney, using the e-mail address on file with the NC State Bar. Service may also be made upon a self-represented party by e-mail if the party has consented to receive e-mail service pursuant to Rule 5(b)(2) of the North Carolina Rules of Civil Procedure.

Parties and their attorneys shall coordinate the scheduling of all matters through Cabarrus County Trial Court Coordinator who will consult with the assigned judge regarding scheduling and the availability of court resources.

<i>Date</i>	<i>Name of Senior Resident Superior Court Judge (Type or Print)</i> <div style="text-align: center;">Honorable Martin B. McGee</div>	<i>Signature of Senior Resident Superior Court Judge</i>
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CERTIFICATE OF SERVICE

The undersigned hereby certified that on this date a copy of the foregoing Appointment of Superior Court Judge in the Superior Court Civil Action was served on the parties at the addresses below by placing a copy of the same in the United State Mail, postage prepaid or by email.

<i>Party or Attorney:</i>	<i>Party or Attorney:</i>
<i>Email:</i>	<i>Email:</i>
<i>Party or Attorney:</i>	<i>Party or Attorney:</i>
<i>Email:</i>	<i>Email:</i>
<i>Party or Attorney:</i>	<i>Party or Attorney:</i>
<i>Email:</i>	<i>Email:</i>
<i>Date:</i>	<i>Trial Court Administrator</i>

APPOINTMENT OF SUPERIOR COURT JUDGE

Name and Address of Appointed Judge:

HONORABLE Martin (Marty) B. McGee
 Senior Resident Superior Court Judge
 Cabarrus County - District 19A
 Post Office Box 70
 Concord NC 28026-0070

Case Number:

(Cabarrus County)

Caption:

Case Management Conference

Date:

Time:

Location:

Webex

In accordance with Session Law 2021-47 (SB 255) and after failure to submit Medical Malpractice Case Notification and Consultation form by _____, the undersigned Senior Resident Superior Court Judge for Judicial District 19A, Cabarrus County, hereby ORDERS that The Honorable _____ be designated as the trial judge assigned to preside over all proceedings in the above referenced Cabarrus County civil matter.

All pleadings subsequent to the original complaint and other papers required or permitted to be served on a party may be served by e-mail to the party's attorney, using the e-mail address on file with the NC State Bar. Service may also be made upon a self-represented party by e-mail if the party has consented to receive e-mail service pursuant to Rule 5(b)(2) of the North Carolina Rules of Civil Procedure.

Parties and their attorneys shall coordinate the scheduling of all matters through Cabarrus County Trial Court Coordinator who will consult with the assigned judge regarding scheduling and the availability of court resources.

Date

Name of Senior Resident Superior Court Judge (Type or Print)

Signature of Senior Resident Superior Court Judge

Honorable Martin B. McGee

CERTIFICATE OF SERVICE

The undersigned hereby certified that on this date a copy of the foregoing Appointment of Superior Court Judge in the Superior Court Civil Action was served on the parties at the addresses below by placing a copy of the same in the United State Mail, postage prepaid or by email.

Party or Attorney:

Party or Attorney:

Email:

Email:

Party or Attorney:

Party or Attorney:

Email:

Email:

Party or Attorney:

Party or Attorney:

Email:

Email:

Date:

Trial Court Administrator

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

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

Appendix F