

# **CIVIL CALENDAR AND CASE MANAGEMENT RULES FOR JUDICIAL DISTRICT 4A**

**(Duplin, Jones & Sampson Counties)  
SUPERIOR COURT DIVISION**

## **Rule 1. GENERAL RULES:**

1.1 The purpose of these rules is to establish calendaring and case management procedures which will facilitate the orderly, prompt and just disposition of civil matters in the Superior Court Division. They are adopted in compliance with Rule 40(a), Rules of Civil Procedure and Rule 2(a), General Rules of Practice for Superior and District Courts. Unless otherwise noted, they are applicable to all civil sessions of Superior Court in Duplin, Jones and Sampson Counties and supersede any previous calendar rules.

1.2 The calendar for the disposition of civil cases shall be set by the Trial Court Administrator in accordance with these rules and under the supervision of the Senior Resident Superior Court Judge.

1.3 These Rules and all amendments hereafter shall be filed with each Clerk of the Superior Court in Judicial District 4A. The Clerk for each county shall distribute a copy of these rules to each member of the bar in their respective counties. The Trial Court Administrator and Judicial Assistant shall maintain a supply of copies to distribute to all others upon request.

1.4 All complaints, answers, counterclaims, and cross-claims filed in a civil action or appeals from a ruling by the Clerk of Superior Court must be accompanied by a civil action cover sheet which the Clerk shall forward to the Judicial Assistant.

1.5 Except in the following instances, the Clerk of Superior Court is ordered to refuse to accept for filing any pleading not accompanied by a completed civil action cover sheet.

Exemption: If the Clerk receives for filing through the mail a document from a pro se litigant or out-of-county attorney, and the document does not have a cover sheet attached, the Clerk may file the document and copy the first page and deliver the copy together with any letters of instruction to the Judicial Assistant. The Trial Court Administrator will take appropriate action to inform the attorneys or pro se parties of the requirements of this rule requiring cover sheets, and thereafter the party shall comply.

## **Rule 2. Pre-Trial Case Management:**

2.1 All parties shall proceed promptly and expeditiously with discovery they deem necessary as required by the General Rules of Practice. In most cases, the Court

will allow 120 days after the last required pleading to conduct discovery. The trial of a case shall not be delayed for failure to complete discovery unless, for good cause shown by motion, a Superior Court Judge extends the discovery period prior to the expiration of the 120 days allowed. Extensions of time should only be granted in exceptional circumstances.

2.2 Parties should not stipulate extensions or delays in filing answers or other pleadings more than 30 days without approval of the Court. Any request for a longer or additional extension should be filed with the Senior Resident Superior Court Judge.

2.3 **Medical Malpractice Cases:** When a medical malpractice action is filed, the Clerk's office shall immediately notify the Judicial Assistant and the Senior Resident Superior Court Judge in accordance with applicable General Statutes. The plaintiff shall submit a copy of any scheduling order signed by a Presiding Judge or Senior Resident Superior Court Judge to the Judicial Assistant. Upon receiving the scheduling order, the Trial Court Administrator may set a date for a final conference with the Senior Resident Superior Court Judge pursuant to Rule 16(b) of the Rules of Civil Procedure and notify the parties of that date.

2.4 All procedures and case management techniques related to mandatory mediated settlement conferences shall comply with the rules as they appear in the "Local Rules for Superior Court Mediated Settlement Conferences," published as a supplement to these Rules.

### **Rule 3. Scheduling Cases for Trial**

3.1 The Trial Court Administrator shall notify all unrepresented parties and attorneys of record twice per year of all cases that are considered ready for trial. Cases that meet one or more of the following criteria are determined ready for trial scheduling:

- a) more than 120 days have elapsed since the last required pleading in a case;
- b) the case has been transferred from District Court to Superior Court;
- c) the case has been transferred to the Superior Court Division on appeal from the Clerk of Superior Court;
- d) the case has been remanded for trial by the Appellate Division;
- e) the case is entitled to a priority hearing by statute; or
- f) a presiding or the Senior Resident Superior Court Judge directs that the case be calendared for a specific session.



3.2 The Trial Court Administrator shall send a Case Status Report Form to each attorney of record and unrepresented party who has a case being considered for trial scheduling. These reports should be completed and returned on a timely basis to the Trial Court Administrator.

3.3 Using information contained in the status reports, the Trial Court Administrator shall set ready cases onto tentative trial calendars for the subsequent six months, and notify all attorneys of record and unrepresented parties of their trial dates within 10 working days of the deadline established for the submission of all Case Status Reports.

3.4 Any party may request a case be added to a trial calendar by sending a written request to the Trial Court Administrator with a copy to all other parties. Trial setting requests should be received by the Trial Court Administrator no later than five (5) weeks before the start of the requested court session.

3.5 Unless objected to by opposing counsel or otherwise determined by the court, any case will be calendared for trial on the date requested by the moving party.

3.6 The Trial Court Administrator may, if requested by all parties, reschedule at another session during the six-month term any case for trial after it has been continued or reported ready for trial at a court session and not reached. In most instances, the Trial Court Administrator will refer any case not reached on a trial calendar to the Judicial Assistant for inclusion in the Mediated Settlement Conference program.

#### **Rule 4. Peremptory and Priority Settings, Remanded Cases and Special Sessions**

4.1 Requests for favorable settings should be outlined in the Case Status Report. Unless exceptional circumstances exist, trial calendars will generally list the oldest cases first, with calendar position determined by case age.

4.2 Counsel with cases entitled to priority setting by statute should notify the Trial Court Administrator of this entitlement in writing and send a copy of this notice to all attorneys of record. This notice should also cite the statutory authority for a priority setting.

4.3 When a case is remanded for trial by the Appellate Division, appellant's counsel should promptly notify the Trial Court Administrator of the remand. The Trial Court Administrator will schedule the case for trial after consulting with all attorneys in the case.

4.4 Any request for a special session should be mailed to the Senior Resident Superior Court Judge in care of the Trial Court Administrator. The request should

specify the reason why a special session is needed and the desired trial dates for the special session.

## **Rule 5.     Calendaring Motions**

5.1 All motions filed with the court must be accompanied by a calendaring request for a motion hearing. The attorney filing the request should also forward a copy of it to the Judicial Assistant. If no calendaring request accompanies the motion, then the Judicial Assistant will calendar the motion at the earliest possible civil session of Superior Court.

5.2 Unless objected to by opposing counsel or otherwise determined by the court, the motion will be calendared for hearing on the date requested by the moving party.

5.3 Any motion which could delay the trial shall be filed in time for it to be heard before the session of court in which the case has been set.

## **Rule 6.     Continuances**

6.1 Requests to remove a case from the trial calendar must be in writing addressed and delivered to the Trial Court Administrator. Counsel must provide notice of the request to all attorneys and pro se parties in the case.

6.2 Any request for a continuance from the trial calendar must be received no later than five weeks prior to the first day of the court session. Objections to such requests must be in writing, delivered to all parties, and received by the Trial Court Administrator no later than 12:00 noon of the Thursday immediately preceding publication of the final trial calendar.

6.3 Any continuance request that is not made before publication of the final trial calendar will not be considered except for the most dire circumstances that neither attorneys nor parties have any control. Continuance requests **shall not** be submitted to the presiding judge before the start of the trial session.

6.4 The Trial Court Administrator shall make a prompt determination in writing of a request for a continuance. Any party that disagrees with the decision may appeal to the Senior Resident Superior Court Judge by submission of a motion and order for continuance, which motion and order shall set forth that the request was denied by the Trial Court Administrator. Ex parte requests for continuance, without notice to opposing parties and an opportunity for the opposing party to be heard will not be considered by the Court.



## **Rule 7. Attorney Appearances and Conflicts**

7.1 Attorneys and unrepresented parties of record shall appear at the times properly noticed for calendar call, trial, conference, hearing, administrative session, or discovery hearing. If attorneys have conflicts with another Superior Court, they should report in writing (with copies to appropriate parties) regarding the conflict in advance of the trial date so that the conflict may be resolved.

7.2 Attorneys residing outside Judicial District 4A accepting employment for client representation within this judicial district must arrange their schedules to be present when their cases are calendared. Conflicts such as seminars, vacations, appellate and Federal court appearances should be resolved with the Trial Court Administrator before the case appears on the published final trial calendar.

7.3 If needed, counsel of record must make available to the Court someone in their office to try any case that may be scheduled on a particular week of court. Any case listed on a published trial calendar is subject to dismissal for failure to prosecute if, at the time it is called for trial, the attorneys or pro se parties are not present or ready to proceed. All cases calendared shall be ready for trial at any time during the session.

## **Rule 8. Orders and Judgments**

8.1 When a case that appears on a published calendar is settled, the attorneys of record must notify the Trial Court Administrator's Office within 24 hours of settlement and specify who will prepare the judgment or other document terminating the case and when it will be presented. If the case is on a published trial calendar, the attorneys shall also notify all counsel in the next case calendared.

8.2 If an order or judgment is not filed within 10 working days of disposition, the case will be calendared on the next available session for a motion to dismiss with prejudice or other appropriate action.

## **Rule 9. Pre-trial Orders**

9.1 There shall be a pre-trial conference and order in every civil case, unless counsel for all parties stipulate in writing to the contrary and the Court has approved the stipulation. The purpose of the conference is to explore settlement possibilities, define and narrow the issues for trial, and to generally review the case scheduled to ensure a firm trial calendar.

9.2 The plaintiff attorney shall, at least three (3) weeks prior to the start of the session, arrange the pre-trial conference with the defendant attorney, which conference shall be held and a pre-trial order prepared and signed by all attorneys of record and filed with the court before the start of the trial session.

9.3 If, after due diligence, plaintiff's attorney cannot arrange a conference with the defendant attorney, he may apply to the Senior Resident Superior Court Judge or presiding judge who shall make an appropriate order.

9.4 The defense attorney may initiate the pre-trial conference under the same rules applicable to the plaintiff attorney. A party who has not requested a pre-trial conference may not move for a continuance on the grounds that it has not been held.

#### **Rule 10. Docket Review and Administrative Dispositions**

10.1 The Trial Court Administrator shall periodically review all pending civil cases to determine those which may be subject to discontinuance, dismissal for lack of prosecution, default judgment, or some other appropriate disposition, and make dispositional recommendations to the Senior Resident Superior Court Judge.

10.2 Any attorney representing a party who has filed bankruptcy or any pro se litigant who has filed bankruptcy must file a copy of the stay order from the United States Bankruptcy Court with the Clerk of Superior Court, which the Clerk shall forward to the Judicial Assistant.

10.3 The Senior Resident Superior Court Judge may take appropriate dispositional action to clear the docket of inactive cases.

#### **Rule 11. Compliance**

11.1 Failure to comply with any provision of these rules will subject an action to dismissal or such other remedy allowed by law and deemed appropriate by the Presiding Judge or Senior Resident Superior Court Judge.