

STATE OF NORTH CAROLINA
COUNTIES OF CAMDEN, CHOWAN,
CURRITUCK, DARE, GATES,
PASQUOTANK AND PERQUIMANS

IN THE GENERAL COURT OF JUSTICE
FIRST JUDICIAL DISTRICT
DISTRICT COURT DIVISION

ADMINISTRATIVE ORDER

RE: District Court Local Rules of Criminal Procedure

The continuance rules, policies and time standards set out below were adopted to conform to the Supreme Court of North Carolina's Caseflow Management Plan, submitted to the General Assembly May 1, 1996, pursuant to Chapter 333 of the 1995 Session Laws, and to the recommendations of the Administrative Office of the Courts' District Court Model Continuance Policy Committee and pursuant to Chief Justice Paul Newby's Directives of 2021, addressing COVID Related Case Backlogs.

In order to ensure general uniformity throughout the 1st Judicial District, the fair and efficient administration of justice, and to provide justice for our citizens without unnecessary delay and without undue waste of time and other resources of the Court, the litigants, and other case participants, with respect to ALL Criminal District Court matters, the attached and following District Court Local Rules of Criminal Procedure are hereby adopted and effective for ALL District Court criminal proceedings on or after the date of the signing of this order.

The rules adopted herein supersede all previous orders relating to the administration of District Criminal Court. Any prior administrative order that is not addressed in these Local Rules will remain in full force and effect unless contrary to these Local Rules, and for those orders they are null and void. Any prior administrative order that is addressed or referred to in these Rules, shall be read in conjunction with these Rules and are hereby incorporated as if fully set out.

RULE 1 – General Rules

1.1 These rules are applicable in the District Court Division of the General Court of Justice for the 1st Judicial District, Camden, Chowan, Currituck, Dare, Gates, Pasquotank, and Perquimans Counties. They shall, at all times, be construed and enforced in such a manner as to avoid delay and to permit the just and prompt consideration and determination of all business before the Court to ensure equal and efficient access to the District Court.

RULE 2 - Definitions

2.1 Clerk of Superior Court means the elected Clerk of Superior Court of any county in the 1st Judicial District or any deputy/assistant clerk appearing on the Clerk's behalf.

2.2 District Attorney means the elected District Attorney for the 1st Prosecutorial District or any assistant district attorney appearing on the District Attorney's behalf.

2.3 Chief District Court Judge means the appointed Chief District Court Judge and/or any designee appointed by the Chief District Court Judge.

RULE 3 – Dress Code and Court Decorum

3.1 Attorneys are required to appear in court during all sessions in **appropriate business attire**. Casual dress is prohibited. See Rule 12 of the General Rules of Practice for the Superior and District Courts.

3.2 Attorneys **SHALL** refrain from wearing or displaying any political or campaign buttons, lapel stickers, patches, pins or like displays of support for any political candidate, political party, or political organization while in any courtroom. Such items are inconsistent with the administration of justice and may demonstrate an appearance of impropriety and/or favoritism.

3.3 Attorneys are **NOT** allowed to bring food inside the courtroom and/or inside the Bar. Exceptions and extenuating circumstances are to be approved by the presiding judge.

3.4 Attorneys are required to maintain the highest level of professionalism while in the courthouse or courtrooms.

3.5 An attorney's **North Carolina State Bar certified paralegal** is hereby allowed inside the bar to assist an attorney in handling matters before the court, however, other non-certified office staff and noncertified legal assistants are **NOT** allowed **inside the bar** while the attorneys are waiting in court or conducting business in court. Any exception shall be approved by the presiding district court judge.

3.6 An attorney should discourage his/her clients from bringing cell phones into the courtroom and the use of cell phones by non-lawyers is **strictly prohibited** unless being used to present evidence with permission of the presiding judge. Attorneys should silence their cell phones and use their cell phones under **limited circumstances** while in court. Under no circumstances, should an attorney, video, audio record, take photographs, or use a cell phone for any unlawful purpose while in court. Any unauthorized use by an attorney or their client may be punishable by contempt. Any request to record a proceeding in Court, **MUST** be approved by the presiding district court judge pursuant to Rule 15 of the General Rules of Practice for the Superior and District Courts.

3.7 Court personnel and non-lawyer court officers (clerks, probation officers, state agents, mediators, etc.), are to be dressed in proper **business** attire that complies with their agency's directives and policies.

3.8 Private witnesses for the State and/or for the defendant, are **NOT** allowed to sit inside the bar prior to the calling of their case for trial. This may give the appearance of impropriety and appear to give one side an unfair advantage. This

doesn't include court staff, court officers, law enforcement officers, probation officers etc. Any exception or accommodation **MUST** be approved by the presiding district court judge.

3.9 Non-Attorney advocates are not allowed inside the bar, except upon specific authorization of the presiding judge.

3.10 Shorts, mid drifts, tank tops, or any attire that exposes the chest, abdominal area, undergarments, or bare skin around the hip area or buttocks are prohibited in the courtroom. Hats/Head Coverings on men are prohibited, unless said hats/head coverings are associated with religious beliefs or verified medical reasons, are prohibited in the courtroom. Anyone that is inappropriately dressed will be ordered to leave the courtroom and their matter will **NOT** be addressed until they appear in appropriate attire, unless otherwise handled by the presiding judge based on extraordinary circumstances. Attorneys should advise their clients of this dress code policy to avoid any unnecessary delay or potential criminal process.

3.11 The Policies of this section are enforceable by the Court's Contempt Powers.

RULE 4 - Sessions of Criminal Court

4.1 All criminal district courts in the 1st Judicial District are created and scheduled by the Chief District Court Judge or his designee after consultation with the District Attorney. Should the need arise to add a session of district criminal court, the Chief District Court Judge, after consultation with the District Attorney and Clerk of Court of the relevant County, will issue an administrative order creating and scheduling the court.

4.2 Criminal sessions of district court shall operate as designated by the Chief District Court Judge or his designee.

4.3 Criminal sessions of court **SHALL** begin at 9:30am and continue until the Court's business is concluded or until 5:00pm, whichever occurs first. In extenuating circumstances, should a need arise for a session of court to extend beyond 5:00pm, the presiding judge **SHALL** consult with the court staff/personnel affected to ensure that there will not be any undue hardship placed on court staff. If, due to time constraints, the presiding judge is involved in a trial at the time the courthouse closes, and the judge doesn't feel that the matter will be concluded in a reasonable amount of time, the presiding judge may, at his or her discretion, continue the matter to another criminal session of court to conclude the matter.

4.4 ALL persons charged with a felony, **SHALL** have a first appearance within 72 hours or at the next regular session of criminal court, whichever occurs first. If there is **not** a session of criminal court scheduled within 72 hours after the arrest, the Clerk of Superior Court, in conjunction with the Sheriff, **SHALL** ensure that

the defendant(s) be taken before a district court judge presiding at any other session of District Court. In the event there is no District Court scheduled within 72 hours after the defendant's arrest, the Clerk of Superior Court shall conduct a first appearance for the defendant as allowed by NC. G.S. 15A-601 (e). In the event the courthouse is closed for a period of time greater than 72 hours, whether resulting from a natural disaster, pandemic, or holiday closure, first appearances SHALL be held within 96 hours after the defendant's arrest. Under no circumstances shall a first appearance be delayed for more than 96 hours. Any defendant charged with a felony, SHALL have a first appearance pursuant to N.C.G.S. 15A-601 and N.C.G.S. 7A-453.

4.5 All persons charged with a misdemeanor, who are unable to comply with the pretrial release conditions set by a judicial official, **AND** who have been in custody for a period of 72 hours, **SHALL** have a first appearance in front of a District Court Judge during the next available regular session of **criminal** court, as outlined above under 4.4. In the event the courthouse is closed for a period of time greater than 72 hours, whether resulting from a natural disaster, pandemic, or holiday closure, first appearances SHALL be held within 96 hours after the defendant's arrest. Under no circumstances shall a first appearance be delayed for more than 96 hours. It shall be the responsibility of the Clerk of Superior Court and the Sheriff to ensure that **ALL** persons charged **and** in custody have a first appearance in compliance with N.C.G.S. 15A-601 and N.C.G.S. 7A-453. The presiding district court judge shall advise the defendant of the charges against him/her, address the appointment or waiver of counsel, set or review conditions of pretrial release, and notify the defendant of his/her next court date. With the consent of the defendant, District Attorney and the Court, a defendant may waive counsel and tender a plea of guilty or nolo contendere on certain misdemeanor offenses. Any defendant charged with a domestic violence offense, or any crime included in the Crime Victims' Rights Act (CVRA), shall not be allowed to plead guilty at this first appearance **unless** the District Attorney has had an opportunity to comply with the CVRA, and has in fact notified the victim, and the district attorney consents to the entry of the plea.

4.6 ALL persons arrested or cited for a probation violation, whether pending in district court or superior court, shall have their court date set as soon as possible. **ALL** persons **arrested** for a probation violation that have not been released from detention, **MUST** be brought before a district court judge for a preliminary probation violation hearing to determine if there is probable cause to believe that the defendant has violated a condition of probation, pursuant to N.C.G.S. 15A-1345(c). If probable cause is found, then the presiding district court judge shall ensure that the matter is properly scheduled in the appropriate court, and the presiding district court judge may revisit pre-trial release unless the pre-trial release conditions were set by a superior court judge. If the presiding district court judge does not find probable cause, then the probationer **MUST** be released pursuant to N.C.G.S. 15A-1345(c).

4.7 The clerk's office and the detention facility SHALL ensure that there is a policy and procedure in place for the arrested probationer to have access to the court if the probationer has failed to meet the terms and conditions of pre-trial release.

4.8 Magistrates are to ensure that **ALL** felonies and misdemeanors arising out of the SAME transaction and circumstances be set for first appearance on the same date. This will allow the district court judge presiding over the first appearance to advise the defendant on ALL related pending matters.

RULE 5 – Case Calendaring

5.1 The Clerk of Superior Court shall prepare calendars for each district court criminal session as directed by the District Attorney and the Chief District Court Judge.

5.2 The Clerk of Superior Court shall ensure that cases are marked and designated properly and accurately so the Court can rely on the official minutes and shuck when making determinations regarding a criminal matter.

5.3 The Clerk of Superior Court shall ensure that all matters that occur in court are updated in the appropriate electronic criminal system repository so that the calendars reflect the proper and most recent information. For example, the calendar should reflect if an attorney has been appointed or retained, or if the defendant has signed a waiver and an accurate number of prior continuances.

5.4 The Clerk of Superior Court, in conjunction with the District Attorney, Police Chiefs, and Sheriffs, **SHALL** work together to ensure equal balance of law enforcement officers on any given court date. It is the intent of this provision, that the District Attorney, the Clerk, and Law Enforcement Agencies will work together to ensure efficiency and balance on any criminal docket for the fair and efficient administration of justice.

5.5 It SHALL be the responsibility of the District Attorney's office to ensure that ALL prosecuting witnesses have notice of court dates and that subpoenas are issued in a timely manner to ensure cases can be disposed of without undue delay.

5.6 It **SHALL** be the responsibility of the District Attorney's office to issue an Application and Writ of Habeas Corpus Ad Prosequendum (Writ) for any defendant that is incarcerated in a county detention facility or a North Carolina Prison facility in a timely manner to ensure cases can be disposed of efficiently and without undue delay. A copy of said Writ shall be clocked in and placed in the court file as verification of the request.

RULE 6 – Appearances by Attorneys

6.1 Attorneys should always identify themselves to the Court and any nonlocal attorney **MUST** provide the courtroom clerk with a business card **and** their North Carolina State Bar number.

6.2 An attorney making an appearance in **ANY** criminal/infracton proceeding in District Court, is considered to have made a general **appearance** unless the appearance is limited in writing pursuant to N.C.G.S. 1 5A-1 4 l. Attorneys who seek to withdraw **MUST** do so as soon as practicable to ensure new counsel can efficiently and effectively resolve the matter. Any conflict that arises between an attorney and his/her client should be addressed by the filing of a Motion to Withdraw pursuant to N.C.G.S. J 5A-144 and may be granted upon a showing of **good cause**.

An allowed withdrawal of an attorney in a case will not guarantee a continuance of the case(s).

6.3 An attorney may make a general appearance, on any criminal matter, in district court without the defendant being present.

The general appearance of an attorney will not guarantee a continuance of the case(s).

6.4 Attorneys that have matters pending in more than one trial court, to include but not limited to, administrative hearings/courts, juvenile court, probate matters, small claims matters, hearings in front of the Clerk, superior court, federal court, or any appellate court on the state or federal level, **are responsible for notifying** the district attorney and/or the deputy/assistant clerk in district court of their conflict, before court starts, **AND** their anticipated arrival time to resolve their pending matters. Attorneys are encouraged to indicate whether their matter is for plea, trial, or motion to continue in order to promote efficiency and to properly utilize court time. Notice should be sent in writing, (fax or email), however, should the need arise, and written notice is not practicable, due to time constraints or unforeseen circumstances, electronic communication (text) is acceptable, if it is a common form of communication with the district attorney and/or courtroom clerk. **All attorneys should be familiar with Rule 3. 1 of the General Rules of Practice for District and Superior Courts, which outlines guidelines for resolving scheduling conflicts.**

6.5 Attorneys appointed to represent indigent defendants will be provided notification of the appointment from the Clerk within 48 hours after the order is signed by the Presiding District Court Judge. Once appointed, attorneys are encouraged to make contact with their newly appointed client as soon as practicable. If the defendant is in custody, the attorney **SHALL** make all reasonable efforts to meet and confer with their client, in person (or by video teleconference), at the facility in which they are incarcerated, within 72 hours of the appointment, pursuant to the North Carolina Commission of Indigent Defense

Services "Performance Guidelines for Indigent Defense Representation in Non-Capital Criminal Cases at the Trial Level".

6.6 Any attorney appointed as interim counsel OR appointed by the capital defender's office to represent a defendant charged with First Degree Murder or an Undesignated Degree of Murder, SHALL immediately make contact with the defendant in the facility at which the defendant is incarcerated, AND advise the defendant of his/her rights.

6.7 The clerk is to ensure that the shuck accurately reflects the name of any attorney who makes a general appearance, a limited appearance, OR who has been court appointed to represent a criminal defendant. If an attorney is subsequently allowed to withdraw, the clerk shall strike the name of the withdrawing attorney and replace it with the new attorney's name if applicable.

RULE 7 - Motion to Strike an Order for Arrest/FTA/Called and Failed/Forfeiture

7.1 Motions must be made in writing on the local form. (See Motion and Order to Recall attached)

7.2 The Motion to Recall must be completely and properly filled out or risk having the Motion summarily denied. All documentation to support the Motion **MUST** be filed with the motion and presented to the district attorney (unless the District Attorney waives this notice) and the appropriate judge. Motions will be granted for good cause only.

7.3 The district attorney's office must be presented with the motion and given an opportunity to be heard (unless the District Attorney waives this notice).

7.4 Request to Strike an OFA/FTA/CF/Forfeiture must be directed to the appropriate judicial official as follows:

7.5 Motions must be made to the district court judge who was the presiding judge in the courtroom on the day the defendant was called and failed; or to any district court judge with the permission of the presiding district court judge; **OR**

7.5.1 If the motion is being made pursuant to N.C.G.S. 15A-301 (g)(2), then any district court judge, **OR**

7.5.2 the chief district court judge.

7.6 Any District Court Judge has the authority to recall an order for arrest and strike an FTA, Bond Forfeiture etc. IF the clerk becomes aware and has verification that the defendant was incarcerated on the date that the defendant failed to appear in court, upon the Judge Striking/Recalling the Order for Arrest, the clerk SHALL issue a new court date and send a notice to the defendant at the last known address or issue a Writ to have the defendant transported to court on

the next scheduled court date. The clerk is to make a notation in the file/shuck as to what actions have been taken to recall the process.

7.7 Any district court judge has the authority to modify conditions of pretrial release on any individual that has been arrested under the authority of an order for arrest (OFA), after having received information and verification that the defendant was incarcerated when the OFA was issued.

7.8 Once a criminal matter that was previously called and failed has been recalled and placed back on a district criminal court calendar, it should be resolved on the next session of court unless extenuating circumstances would warrant a continuance. Extenuating circumstances would include the need for the State to issue subpoenas to victims and witnesses that were not notified that the criminal matter was placed back on a calendar. Under no circumstances shall a matter that has been called and failed and placed back on a criminal calendar be continued for more than 60 days without the presiding judge making a notation on the back of the shuck noting the basis for the continuance was due to extraordinary circumstances.

RULE 8 - Setting Bonds in Domestic Violence Cases and other related issues

8.1 Persons arrested pursuant to N.C.G.S. ISA-534.I, SHALL be brought before a District Court Judge at the very next available session of district court. If there is no court scheduled within 48 hours of the arrest, the magistrate SHALL set conditions of release and advise the defendant of the Domestic Violence no-contact provisions using the local form attached hereto. (See Conditions of Release For Person Charged with a Crime of Domestic Violence form attached)

8.2 In all cases which are initiated by the general public, the magistrate shall issue a subpoena to the prosecuting witness, ordering him/her to appear in court on the scheduled court date. Exceptions to this provision would be if a misdemeanor and felony are charged at the same time. In the event a felony and misdemeanor domestic violence matter are charged at the same time, the felony provision above shall apply. The felony and misdemeanor shall be set on a first appearance date and the presiding district court judge will determine the appropriate court date.

8.3 Attorneys should refrain from making contact with a judge regarding setting domestic violence conditions of pretrial release, unless the attorney has made contact with the District Attorney and the District Attorney has had an opportunity to be heard regarding any conditions of pretrial release to include any domestic violence no-contact provisions. If the District Attorney consents to the setting of pretrial release conditions and any other provisions, the attorney and the District Attorney will make contact with a judge to prevent any improper ex parte communications. Said consent by the District Attorney shall be memorialized in writing and a copy placed in the file/shuck as soon as possible.

Rule 9 - Fee applications

9.1 When a district court criminal matter is disposed of by trial or plea, an appointed attorney **MUST** orally state, in open court, the amount of hours to be submitted, to properly access cost/fines/fees. Attorneys should make reasonable effort to submit a written fee app at the conclusion of a criminal matter. Fee apps shall be filled out completely, legibly with the attorney's name clear printed, signed, and submitted upon the conclusion of the case. Fee apps not submitted to the Court upon the conclusion of the case should be submitted to the presiding Judge within 30 days of disposition or sooner.

9.2 Attorneys should make every reasonable effort to include the defendant's social security number on the fee app.

9.3 A **signed** verified affidavit or **signed** timesheet SHALL be attached to any fee app that is submitted for (15) hours or more. A detailed time sheet under this provision, may be redacted to the extent necessary to preserve confidentiality between an attorney and client, and under no circumstances should an attorney divulge attorney/client privileged information without express permission from said client.

RULE - 10 Motions for Appropriate Relief (MAR'S)

10.1 Motions for Appropriate Relief made pursuant to N.C.G.S. 15A-1411, shall be made in writing and filed with the Clerk of Superior Court as outlined in N.C.G.S. 15A-1420. The Motion shall be served on the District Attorney. The motion **shall** be calendared during a criminal session of court in front of who presided at the trial or a Chief District Court Judge or the Chief District Court Judge's Designee(s) pursuant to N.C.G.S. 15A-1413.

10.2 All MAR's filed in District Court are subject to dismissal by the Chief District Court Judge or a District Court Judge designated by the Chief District Court Judge, hearing the same if the MAR lacks merit on its face or fails to comply with N.C.G.S. 15A-951 and 15A-1411 thru 15A-1420. The movant is responsible for securing any necessary witnesses or documents in support of such motion. Motions for Appropriate Relief **SHALL** be set on a regular session of District Criminal Court and may, under extenuating circumstances or by consent of the District Attorney, be placed on an add-on calendar.

RULE 11 - Add-ons

11.1 The clerks of Court are not required to add matters onto an existing docket within 48 hours of a scheduled court session.

11.2 Once a final district court criminal calendar is published and made available to the general public, the scheduled presiding district court judge or the chief district court judge may allow an add-on with the consent of the District Attorney.

11.3 Cases that are in called and failed status, failure to comply status, or have a pending order for arrest, **MAY** be added on to a criminal docket. A recall/strike motion that has been denied, **MAY** be added to a criminal docket using the procedure established the Clerk's office.

11.4 The Clerk of Superior Court shall set up a procedure to ensure the efficient, reliable and equitable manner in which matters can be added to a criminal docket, to include, but not limited to, preparing additional (add-on) calendars for use by the presiding judge, assistant district attorney and the courtroom clerk. Once a matter has been approved to be added to a criminal session of court, the clerk will also ensure that the criminal file (shuck) will be brought to the courtroom for entry of judgment/disposition.

RULE 12 – Criminal District Court Continuances Policies

All district court criminal/infraction cases should be disposed of at the earliest opportunity, including the first trial setting. However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process, a continuance may be granted for good cause. Requests for continuances that will delay the resolution of the case beyond the established time standards shall only be granted for extraordinary cause. Whenever possible continuance motions/request shall be made in writing using the appropriate forms.

12.1 Court Conflicts

The various district criminal/infraction courtroom sessions should work together to try to move cases as expeditiously as possible. Age of case, subject matter, and priority of setting set forth in 12.12.9 of these rules, should be given precedence when resolving conflicts. Attorneys shall notify the court and opposing counsel of any other court conflict(s) as they become known and shall keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts, juvenile court cases shall take precedence over all other matters.

[Commentary: All attorneys are reminded of the provisions of Rule 2(e) of the General Rules of Practice requiring their appearance, or the appearance of a partner, associate, or another attorney familiar with the case.]

12.2 Evaluation of Motions for Continuance

Some of the factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:

- the opportunity to exercise the right to effective assistance of counsel;

- the age of the case and seriousness of the charge;
- the incarceration status of the defendant;
- the effect on children and spouses if the issue is continued and not resolved;
- the impact of a continuance on the safety of the parties or any other persons;
- the status of the trial calendar for the session;
- the number, moving party, and grounds for previous continuances;
- the due diligence of counsel, including the District Attorney, in promptly making a motion for continuance as soon as practicable and notifying opposing counsel and witnesses;
- the period of delay caused by the continuance requested;
- the presence of and inconvenience to witnesses;
- the availability of witnesses for the present session or for a future session;
- whether the basis of the motion is the existence of a legitimate conflict with another court setting;
- the availability of counsel;
- consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued; and
- any other factor that promotes the fair administration of justice.

12.3 Criminal cases should be disposed of at the earliest opportunity, including the first trial setting. However, when compelling reasons for a continuance are presented which would affect the fundamental fairness of the trial process, a continuance may be granted for good cause. Whenever possible, continuance motions or request shall be made using appropriate forms.

12.4 Continuances on agreement between parties shall not be granted automatically. Compliance with the rules in this section is still required.

12.5 Continuances of cases outside the parameters and directives of this order are specifically disfavored and shall be granted only in extraordinary circumstances.

12.6 Request for continuances may be granted for good cause shown unless otherwise provided by law.

12.7 Once a criminal docket/calendar has been generated and published by the clerk's office, the authority to continue a criminal matter rest solely with the presiding district court judge or the chief district court judge or her/his designee.

12.8 **ALL** continuances will be granted freely when an attorney has **properly** requested secured leave pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts.

12.9 Attorneys aware of a conflict or their unavailability on a scheduled court date are to notify the District Attorney, the courtroom clerk, and the appropriate judge pursuant to Rule 3.1 (b) of the General Rules of Practice for the Superior and District

Courts to give the opposing counsel an opportunity to properly prepare and/or to notify their witnesses. This notice is to be timely. Continuances are to be granted if an attorney is involved in another matter simultaneously in a court session, that has **priority** over district criminal court. Prior to a regularly scheduled court date, if an attorney becomes aware of a conflict, the attorney **may** file a written motion to continue a criminal matter, and upon the consent of the state, present an order to the chief district court judge granting the motion and continuing the matter.

12.10 A request by the State or defendant to continue a first setting **Probable Cause Hearing, MUST** comply with N.C.G.S. 1 5A-606, if the non-moving party opposes the continuance. A request to continue a second or subsequent probable cause hearing which is opposed, will be granted only in extreme situations and only after the Court has considered the following:

12.10.1 The nature of the offense;

12.10.2 The age of the case;

12.10.3 Any new criminal offenses for which the defendant has either been charged or convicted;

12.10.4 The current pre-trial release conditions;

12.10.5 The length of time the defendant has been incarcerated awaiting a probable cause hearing;

12.10.6 Availability of counsel for the defendant;

12.10.7 The due diligence of counsel, to include the district attorney, in promptly making a motion for continuance as soon as possible and notifying the defendant and/or his attorney and any necessary witnesses, to prevent any undue hardship or delay;

12.10.8 Any other relevant information that the Court needs to determine whether a continuance would be in the interest of justice.

12.11 **TIME STANDARDS**

12.11.1 **Infractions**

All infractions should be disposed of within 90 days of the first court date.

12.11.2 **Misdemeanors** – Criminal and Motor Vehicle (Non-Civilian Witnesses)

All misdemeanors should be disposed of within 120 days of the first court date.

12.11.3 **Infractions/Misdemeanors Civilian Witnesses**

Any cases wherein civilian witnesses are involved shall be expediently resolved so as to limit inconvenience to said civilian witnesses. Therefore, any and all continuances in such cases, are in the presiding Judge's complete discretion, and Motions to Continue in such cases shall be strictly scrutinized.

12.11.4 **DWI's – Non-Blood Draw Cases**

DWI's wherein no blood draws have been performed and submitted to a lab should be disposed of within 150 days of the first court date.

12.11.5 DWI's – Blood Draw for Alcohol Cases

DWI's wherein blood draws for the detection of alcohol have been submitted to a lab should be disposed of within 240 days of the first court date, or shall be disposed of within 60 days after the lab results are submitted to the Defendant/Attorney, whichever is sooner.

12.11.6 DWI's – Blood Draw for Drugs Cases

DWI's wherein blood draws for the detection of drugs have been submitted to a lab should be disposed of within 335 days of the first court date, or shall be disposed of within 60 days after the lab results are submitted to the Defendant/Attorney, whichever is sooner.

12.11.7 Motions to Suppress

In all DWI cases, the charging officer shall provide the district attorney's office with all discovery documents, notes, videos, or other recordings pertaining to the defendant's arrest and charges within (20) days of the issuance of process against the defendant.

In all DWI cases, all attorneys shall serve on the District Attorney's Office, a Notice of Representation within (14) days of making a limited or general appearance on behalf of a client.

The District Attorney's office shall provide the defendant's attorney with access to required discovery documents, notes, videos, or other recordings within (15) days of receipt from an attorney of a written limited or general appearance.

The District Attorney's Office shall provide the attorney of record access to all Lab results within (10) days of the District Attorneys Office's receipt of said results.

The District Attorney shall provide access to or copies of all Lab results to a pro se defendant on the very next scheduled court date after the District Attorney's Office receives said results.

Motions to suppress evidence in DWI cases pursuant to N.C.G.S. 20-38.6 and pursuant to State v. Knoll and State v. Ferguson shall be made in writing within a reasonable time prior to hearing/trial. **A reasonable time shall be defined in these local rules as not later than ninety (90) days after the first regular setting in District Court or (45) days after discovery is released to the Defendant or Attorney. This rule shall apply unless there is an exception under N.C.G.S. 20-38.6 or unless a judge determines that extraordinary circumstances exist to permit the defendant additional time to file said motions.**

12.11.8 Felonies

All felonies should be disposed of in District Court within 180 days of the First Appearance Hearing.

12.11.9 Court Appearance Priorities

In the event an attorney or defendant has a conflict with any other scheduled Criminal District Court Sessions in the First District or any other District, the attorney or defendant shall adhere to the following priority schedule.

FIRST PRIORITY:

If a case has been preemptively set by a presiding Judge in a written, filed order.

SECOND PRIORITY:

If an expert witness has been subpoenaed and is present in Court.

THIRD PRIORITY:

If a case has civilian witnesses and has been continued previously, the attorney and/or defendant shall attend this session first, with the exception of the first and second priorities.

FOURTH PRIORITY:

If a case has been marked LAST CONTINUANCE.

12.12 This priority scale takes precedence over any other cases that are not covered under one or more of these (4) priorities.

12.13 Any criminal case that is not addressed by these rules SHALL be resolved within 150 days from the first court date.

12.14 No case that has been marked "FINAL" or "LAST" should be continued except under extraordinary circumstances as set forth in these rules. This provision does not divest the presiding district court judge of discretion to continue a case marked "FINAL" if the presiding district court judge determines that the case should be continued in the interest of justice.

12.14.1 The clerk is to mark the shuck to reflect who the matter was continued for, such as"

"D" for defendant;

"S" for state;

"C" for court;

"DF" for defendant final;

"SF" for state final;

"AF" for final for all parties.

"J" for joint motion to continue.

12.15 TIME STANDARDS IN NO WAY IMPLY ANY "RIGHT" BY THE STATE OR THE DEFENDANT TO A CONTINUANCE OR SERIES OF CONTINUANCES UP TO THE MAXIMUM TIME FOR DISPOSITION. ON THE CONTRARY, THE POLICY, AS SET OUT IN RULE 1.1, IS THAT ALL DISTRICT COURT CASES SHOULD BE DISPOSED OF AT THE EARLIEST OPPORTUNITY, INCLUDING THE FIRST TRIAL SETTING.]

RULE 13 - Notice of Appeal

13.1 When notice of appeal is given in **open court**, the clerk will duly note the Notice of Appeal and the presiding judge may review the conditions of release pursuant to N.C.G.S. 15A-1431. If the Defendant gives **written** notice of appeal

subsequent to the sentencing date, but within the statutory time period, the Clerk shall duly note the appeal and immediately attempt to make contact with the defendant's attorney, the District Attorney and the sentencing judge for a determination as to whether conditions of release should be modified or whether conditions of pretrial release will remain the same. After due diligence, if the sentencing judge is unavailable, the Clerk shall make contact with the Chief District Court Judge for a determination as to whether conditions of release should be modified or whether they will remain the same. If the clerk is not able to make contact with the appropriate judicial official, the conditions of pretrial release shall remain the same as previously ordered. The purpose of this rule is to ensure that appropriate conditions of pre-trial release are entered promptly, without undue delay for any individual that properly gives notice of appeal.

RULE 14 - Observation/Enforcement of Rules (Pursuant to Rule 22 of the General Rules of Practice for the Superior and District Courts)

14.1 Unless there is uniformity in enforcement of these Rules & Policies, they will be INEFFECTIVE and in order to ensure general uniformity throughout this judicial district, all trial judges should make every attempt to observe and enforce these local rules.

Entered and effective as of this 5 day of Jan., 2023



Edgar L. Barnes
Chief District Court Judge
First Judicial District

STATE OF NORTH CAROLIN
1st JUDICIAL DISTRICT
_____ COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

CR _____
IF _____

STATE OF N.C.

VS.

___ MOTION AND ORDER TO RECALL
___ ORDER FOR ARREST (OFA);
___ FAILURE TO APPEAR (FTA);
___ STRIKE CALLED AND FAILED
___ AND SET ASIDE BOND FORFEITURE
(15A-544.5)

DEFENDANT NAME _____

Defendant is charged with the following: (list ALL charges as they appear on the OFA)

Now comes the Defendant, respectfully moving this Court to strike the Failure to Appear (FTA), Called and Failed, set aside/strike the Forfeiture of Bond and to recall the Order For Arrest (OFA), that occurred on _____ (date), with Judge _____, presiding, and further requests that this matter be rescheduled for Court. In support of this motion, the defendant shows unto the Court, the following:

1. _____ This motion is being made by the defendant's attorney, who is making a _____ general appearance or a _____ limited appearance pursuant to G.S. 1 SA-I 41(2)&(3).
2. That the defendant failed to appear for the following compelling reason: (attach any supporting documents)

Date: _____ Signature: _____
___ Defendant ___ Attorney _____ (printed name)

Notice to DA/ADA

Now comes the District Attorney's Office, acknowledging that it has been notified of this Motion and request the following:

- ___ Consent to the Motion and do not wish to be heard further.
- ___ Opposes the Motion and requests to be heard.
- ___ Opposes the Motion and do not request to be heard.

Date: _____ Signature: _____
District Attorney/Assistant District Attorney

ORDER OF THE COURT

For good cause shown and upon a hearing in open court, or if in chambers, upon the State's indication of its consent or waiver of its right to be heard, and based upon any arguments of the parties, the Court hereby ORDERS the following:

1. _____ The Motion is DENIED.
2. _____ The Motion is GRANTED, and it is hereby ordered that any Called and Failed, any OFA and any FTA, along with any FTA fee/costs or other administrative fee, are recalled/stricken.

Date: _____ Signature: _____
___ Presiding District Court Judge on Defendant failed to appear
___ District Court Judge hearing Motion
___ Chief District Court Judge

NEW COURT DATE: _____

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

COUNTY OF DARE

FILE №

STATE OF NORTH CAROLINA,
Plaintiff,

:
:
:
:
:
:
:
:
:
:

FIRST DISTRICT DOMESTIC VIOLENCE
RISK ASSESSMENT

v.

Defendant.

- 1. Is there currently in effect a Domestic Violence Protective Order against the Defendant?
- 2. Are there pending criminal charges against the Defendant alleging violent behavior?
- 3. Did the Defendant threaten to kill or injure the Plaintiff, a child, or other family member?
- 4. Was a weapon used or threatened to be used by the Defendant against the Plaintiff, a child, or other family member?
- 5. Were there physical injuries to the Plaintiff, a child or other family member?
If so, minor serious severe
- 6. Does the Defendant have a history of violent criminal charges/convictions?
- 7. Has the Defendant been stalking the Plaintiff?
- 8. Has the Defendant threatened suicide?
- 9. Have the parties recently separated?
- 10. That the Defendant and/or his proximity to the Plaintiff poses a substantial threat to his/her person, children, or other family members' safety.

This the _____ day of _____, 20 ____.

-
- District/Superior Court Judge Presiding
 - Magistrate
 - Clerk of Court