



NORTH CAROLINA  
ADMINISTRATIVE OFFICE  
*of the* COURTS

## **North Carolina Business Court Semiannual Report (July –December 2014)**

G.S. 7A-343(8a)

**April 1, 2015**





## Introduction

N.C.G.S. 7A-343(8a) provides that the duties of the Director of the Administrative Office of the Courts includes the following:

(8a) Prepare and submit a semiannual report on the activities of each North Carolina business court site to the Chief Justice and to each member of the General Assembly. The semiannual report required under this subdivision shall be separate from the report required under subdivision (8) of this section and shall include the total number of civil cases pending in each business court site over three years after being designated as a mandatory complex business case, motions pending over six months after being filed, and civil cases in which bench trials have been concluded for over six months without entry of judgment, including any accompanying explanation provided by the Business Court.

The North Carolina Administrative Office of the Courts (NCAOC) respectfully submits this report pursuant to the legislative mandate.

## An Overview of the North Carolina Business Court

The North Carolina Business Court is a specialized forum within the North Carolina General Court of Justice designed to oversee cases involving complex business and technical issues. During 2014, North Carolina had three business courts, with locations in Charlotte, Greensboro and Raleigh. Each business court has a designated special superior court judge assigned to hear the cases assigned to that court.

N.C.G.S. 7A-45.4 governs the designation of business court cases. The statute provides that any party may designate as a mandatory complex business case an action that involves a material issue related to the following types of disputes:

- Disputes involving the law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, and limited liability companies
- Disputes involving securities
- Disputes involving antitrust law
- Disputes involving trademark law
- Disputes involving the ownership, use, licensing, lease, installation, or performance of intellectual property, including computer software, software applications, information technology and systems, data and data security, pharmaceuticals, biotechnology products, and bioscience technologies
- Disputes involving trade secrets
- Contract disputes in which specified statutory conditions are met

In addition, the statute establishes three types of cases that must be designated as mandatory complex business cases:

- An action involving a material issue related to tax law that has been the subject of a contested tax case for which judicial review is requested under G.S. 105-241.16, or a civil action under G.S. 105-241.17 containing a constitutional challenge to a tax statute
- An action described in subdivision (1), (2), (3), (4), (5), or (8) of subsection (a) of G.S. 7A-45.4 in which the amount in controversy computed in accordance with G.S. 7A-243 is at least five million dollars (\$5,000,000)
- An action involving regulation of pole attachments brought pursuant to G.S. 62-350

Once a case is designated as a complex business case under G.S. 7A-45.4 after approval by the Chief Justice, all proceedings in the action are heard before the business court judge to whom it has been assigned. The current special superior court judges assigned to the business court are the Honorable James L. Gale, Louis A. Bledsoe III, and Gregory P. McGuire. Judge Gale serves as the chief judge of the business court, and oversees the Guilford County site located in the Elon University School of Law. Judge Bledsoe oversees the Mecklenburg County site located in the Mecklenburg County Courthouse, while Judge McGuire oversees the Wake County site located in the Wake County Courthouse.

The Chief Justice has discretion to assign other exceptional cases to the business court under Rule 2.1. However, as a practical matter, the rise in the number of cases designated as mandatory complex business cases has minimized the number of other cases assigned to business court judges by the Chief Justice under Rule 2.1. When necessary, business court judges may be called upon in their capacity as special superior court judges to handle cases or court sessions in addition to the regular business court caseload.

## **Case Statistics**

### Cases Pending More than Three Years

As of December 31, 2014, the North Carolina Business Court had 231 pending cases. Of that number, 189 cases were active cases, 23 cases were on appeal and 19 were inactive or stayed. A case may be stayed or designated inactive for a variety of reasons, such as an interlocutory appeal, bankruptcy filing, arbitration, or a request by the parties.

Fifty-six cases have been on the Business Court's docket for more than three years as of December 31, 2014, including 17 on appeal, and 12 appealed and returned to the Business Court for further proceedings. In addition, nine cases were stayed for other reasons. The attached Table 1 includes a list of the cases pending more than three years as of December 31, 2014 and information related to significant actions that contributed to the disposition time.

### Motions Pending More than Six Months

In 2014, the Business Courts heard oral argument on more than 300 motions, and resolved many other motions without oral argument. As of December 31, 2014, there were 48 motions filed prior to July 1, 2014. Those motions originated from 20 cases.

It is not unusual, particularly in complex, multiparty litigation, for a motion to be pending for several months before briefing is complete in accordance with the Court's rules and the motion is ripe for consideration. Motions rarely remain pending for more than six months after being briefed and heard, although written opinions are sometimes extensive, requiring time-intensive writing and editing. The attached Table 2 includes a list of the motions pending more than six months as of December 31, 2014, and information related to significant actions that contributed to the disposition time.

#### *Bench Trials with No Entry of Judgment after Six Months*

The Business Court heard one bench trial in 2014, and issued an opinion within three weeks of the end of the trial. The Court has no cases in which a bench trial was concluded for more than six months without entry of judgment.

#### **Summary**

As of December 31, 2014, the Business Court had 56 of 231 cases pending for more than three years, 48 motions pending more than six months after being filed, and no cases in which a bench trial was concluded for more than six months without entry of judgment. The Business Court continuously strives to improve efficiencies that will lead to more timely disposition of motions and business court cases overall.



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**Table 1. Cases Pending More than Three Years as of December 31, 2014.**

Case Name	Case Number	Designation Date	Relevant Actions
<i>Allran v. Branch Banking &amp; Trust Corp.</i>	10 CVS 5482	12/17/10	Case stayed in 2013 pending appeal of summary judgment ruling.
<i>Anderson v. Coastal Comms.</i>	09 CVS 1042	02/23/10	Consolidated cases stayed pending appeal to Supreme Court of North Carolina.
<i>Arneson v. Coastal Comms.</i>	10 CVS 781	03/26/10	
<i>Barry v. Coastal Comms.</i>	10 CVS 496	03/18/10	
<i>Barton v. Coastal Comms.</i>	10 CVS 314	02/26/10	
<i>Beadnell v. Coastal Comms.</i>	09 CVS 3376	01/08/10	
<i>Associate Behavioral Servs. v. Smith</i>	09 CVS 3854	02/17/10	
<i>BB&amp;T BOLI Plan Trust v. Mass. Mutual Life Ins. Co.</i>	09 CVS 4007	06/22/09	Case reassigned following retirement of Mecklenburg County business court judge. Set for trial in May 2015.
<i>BDM Invs. v. Wells Fargo &amp; Co.</i>	11 CVS 449	04/07/11	Case stayed at request of parties due to related pending case.
<i>BOGNC, LLC v. Pruitt</i>	10 CVS 19072	10/29/10	Awaiting final report of court-appointed receiver.
<i>Watson v. Walton</i>	10 CVS 12371	08/09/10	
<i>Bollinger v. Biltmore Fin. Grp., Inc.</i>	08 CVS 4340	12/11/08	Case stayed beginning March 2009 in favor of concurrent federal litigation.
<i>Buncombe Cnty. v. Hotels.com</i>	07 CVS 585	02/01/07	Consolidated cases stayed in 2012 pending appeal of summary judgment ruling. Court of Appeals affirmed in 2014. The parties filed a petition for discretionary review with the Supreme Court of North Carolina.
<i>Dare Cnty. v. Hotels.com</i>	07 CVS 56	02/22/07	
<i>Mecklenburg Cnty. v. Hotels.com</i>	08 CVS 741	01/14/08	
<i>Wake Cnty. v. Hotels.com</i>	06 CVS 16256	02/01/07	
<i>Capps v. Blondeau</i>	07 CVS 16486	11/07/07	Case settled during trial in 2014, just before retirement of Wake County business court judge. Because trial judge must enter judgment, Judge John R. Jolly, Jr. will enter judgment when he is able to return to the bench as a retired/recalled judge.
<i>Cnty of Catawba v. Frye Reg'l Med. Ctr.</i>	11 CVS 2780	10/12/11	Case has been actively litigated. Court has issued two written opinions.
<i>Daniel v. West</i>	11 CVS 6279	12/14/11	Case resolved by settlement. Court will hold case open until parties fulfill their obligations under the settlement agreement.
<i>DeGorter v. Capitol Bancorp Ltd.</i>	10 CVS 20825	12/08/10	Case has been actively litigated. Court has issued two written opinions.
<i>EHP Land Co. v. Bosher</i>	07 CVS 59	04/04/07	All legal claims have been resolved. Case will be closed once receivership concludes.

Case Name	Case Number	Designation Date	Relevant Actions
<i>Ehrenhaus v. Baker</i>	08 CVS 22632	10/14/08	Case intermittently stayed pending appeals of several rulings; currently stayed pending appeal.
<i>Elliott v. KB Home N.C., Inc.</i>	08 CVS 21190	06/17/10	Case stayed during pendency of multiple appeals, including an attempted appeal to the Supreme Court of the United States
<i>Fidelity Bank v. N.C. Dep't of Revenue</i>	10 CVS 3405	02/24/10	Court issued opinion on administrative appeal in 2013. Decision was appealed, and appeal was subsequently dismissed. Case has been remanded to agency for further action and is in inactive status in Business Court.
<i>Fountain v. Fountain Powerboats, Inc.</i>	11 CVS 236	04/05/11	Case informally stayed while parties worked toward resolution.
<i>Garrison v. Garrison</i>	11 CVS 14182	07/22/11	Case on appeal following bench trial in June 2014.
<i>Gholizadeh v. Sec. Bonded Warehouse, Inc.</i>	11 CVS 13977	10/12/11	Pursuant to agreement of parties, active litigation proceedings held in abeyance pending a business valuation.
<i>Global Promotions Grp., Inc. v. Danas, Inc.</i>	11 CVS 11756	09/29/11	Court proceedings held in abeyance while parties pursue mediation.
<i>GlaxoSmithKline LLC v. Dendreon Corp.</i>	11 CVS 5458	10/28/11	Case mandatorily stayed following defendant's bankruptcy filing.
<i>Henderson v. Manuel</i>	09 CVS 7254	05/15/09	Case partially stayed during investigation by court-appointed receiver.
<i>Home Depot v. N.C. Dep't of Revenue</i>	11 CVS 2261	02/11/11	Case has been actively litigated.
<i>Joalpe-Industria De Expositores, S.A. v. Alves</i>	10 CVS 5697	07/05/11	Case has been actively litigated.
<i>Lancaster v. Harold K. Jordan &amp; Co.</i>	08 CVS 883	03/28/08	Case currently stayed pending appeal of summary judgment ruling.
<i>Land v. Land</i>	05 CVS 11688	12/21/05	Case was tried before a jury in 2011. Judgment was appealed, and defendant subsequently initiated a bankruptcy action, mandating a stay.
<i>LeCann v. Cobham</i>	10 CVS 11169	07/12/10	Court held a bench trial in 2012. Defendant noticed appeal, then filed a bankruptcy petition. Case stayed pending completion of bankruptcy proceedings.
<i>Legalzoom.com, Inc. v. N.C. State Bar</i>	11 CVS 15111	10/31/11	Case has been actively litigated.
<i>Levin v. Jacobson</i>	10 CVS 12062	09/03/10	Cases reassigned following retirement of Wake County business court judge.
<i>Shareff v. Jacobson</i>	09 CVS 9983	06/03/09	
<i>Lockerman v. S. River Elec. Membership Corp.</i>	11 CVS 152	03/14/11	Case stayed in 2012 during appeal of summary judgment ruling.
<i>Loftin v. KPMG</i>	03 CVS 16882	07/25/06	Case stayed from 2007 to 2013.
<i>MBRAB&amp;B, PLLC v. Brewer</i>	06 CVS 6091	07/05/06	Case intermittently stayed for parties to pursue alternative resolution.
<i>McKee v. James</i>	09 CVS 3031	10/19/09	Case stayed pending appeal of summary judgment ruling.
<i>Morris v. Scenera</i>	09 CVS 19678	03/31/11	Case was tried before a jury in 2012; judgment was appealed and affirmed by Court of Appeals. Case currently stayed pending appeal to Supreme Court of North Carolina.

Case Name	Case Number	Designation Date	Relevant Actions
<i>Nelson v. Alliance Hospitality Mgmt.</i>	11 CVS 3217	03/22/11	Case has been actively litigated and was stayed pending appeal of summary judgment ruling. Set for trial in March 2015.
<i>NNN Durham v. Grubb &amp; Ellis</i>	10 CVS 4392	08/24/10	Case has been actively litigated.
<i>Phillips &amp; Jordan v. Bostic</i>	11 CVS 53	04/04/11	Case stayed pending appeal of summary judgment ruling.
<i>Premier v. Peterson</i>	11 CVS 1054	01/19/11	Case was stayed following appeal of 2012 decision.
<i>Revolutionary Concepts, Inc. v. Clements Walker, PLLC</i>	08 CVS 4333	02/29/08	Case stayed pending appeal.
<i>SCR-Tech LLC v. Evonik Energy Servs., LLC</i>	08 CVS 16632	10/10/08	Case has been actively litigated and is presently stayed pending appeal of ruling on motion to dismiss.
<i>Se. Air Charter, Inc. v. Stroud</i>	11 CVS 946	10/28/11	All substantive claims have been resolved. Court is holding case open pending resolution of motion for costs and attorney's fees.
<i>Speedway Motorsports Int'l, Ltd. v. Bronwen Energy Trading, Ltd.</i>	08 CVS 9450	06/06/08	Case was stayed in 2011 but has otherwise been actively litigated.
<i>Superior Performers v. Simpson</i>	08 CVS 3764	01/21/09	Case has been stayed since 2012 as a result of a bankruptcy filing.
<i>Thomas v. McMahon</i>	08 CVS 24887	09/01/10	Case has been actively litigated and is set for trial in February 2015.
<i>Tong v. Dunn</i>	11 CVS 1522	08/25/11	Case was previously stayed during appeal.
<i>Walters &amp; Zimmerman v. Walters</i>	08 CVS 4182	03/07/08	Case is in inactive status while parties fulfill obligations under a settlement agreement.
<i>Wortmann v. Hutaff</i>	10 CVS 4082	01/05/11	Case has been actively litigated. Court issued final ruling on motion for costs in December 2014.

**Table 2. Motions Pending More than Six Months as of December 31, 2014**

Case Name	Case Number	Motion Filing Date	Type of Motion	Relevant Actions
<i>Abrons Family Practice &amp; Urgent Care, P.A. v. N.C. Dep't of Health &amp; Human Servs.</i>	14 CVS 711	04/04/14	Motion to Dismiss	Case reassigned following retirement of Wake County business court judge in September 2014.
		06/03/14	Motion to Dismiss	
<i>Artistic S., Inc. v. Lund</i>	12 CVS 11789	04/10/13	Motion for Judgment on the Pleadings	Case reassigned following retirement of Wake County business court judge in September 2014.
<i>Bergenstock v. Legalzoom.com, Inc.</i>	13 CVS 15686	02/17/14	Motion to Compel Arbitration	Motions held in abeyance to allow plaintiff to obtain and review court record for a related case.
		02/17/14	Motion to Abate	
<i>Brady v. Prince</i>	13 CVS 5996	08/23/13	Motion to Dismiss	Case reassigned following retirement of Wake County business court judge in September 2014.
<i>Brady v. Van Vlaanderen</i>	12 CVS 7552	04/21/14	Motion to Dismiss	Court held a hearing in June 2014; case was then stayed while the parties made efforts to resolve some claims.
		05/23/14	Motion to Compel Discovery	
<i>Cape Hatteras Elec. Membership Corp. v. Stevenson</i>	13 CVS 190	09/13/13	Motion to Dismiss	Case reassigned following retirement of Wake County business court judge in September 2014.
		03/10/14	Motion for Partial Summary Judgment	
		04/30/14	Motion for Summary Judgment	
		05/01/14	Motion for Summary Judgment	
<i>City of Oxford, N.C. v. City of Henderson, N.C.</i>	13 CVS 840	10/30/13	Motion to Dismiss	Case was stayed by request of parties shortly after motions were filed.
		11/01/13	Motion to Dismiss	
<i>Cold Springs Ventures, LLC v. Gilead Sci., Inc.</i>	14 CVS 1873	03/21/14	Motion to Disqualify	Case was reassigned following retirement of Wake County business court judge in September 2014.

Case Name	Case Number	Motion Filing Date	Type of Motion	Relevant Actions
<i>Deluca v. Cape Fear Bluffs, LLC</i>	13 CVS 783	12/06/13	Motion to Amend Complaint/Motion to Not Allow Amendment/Motion to Dismiss Amended Complaint	Court held a hearing in July 2014; opinion addressing the motion is in process.
<i>Fountain v. Fountain Power Boats, Inc.</i>	11 CVS 236	10/04/12	Application for Restraining Order and Motion for Preliminary Injunction	Motion held in abeyance pending parties' efforts to resolve case.
<i>Gamma Eta of Phi Kappa Tau House Corp. v. Francis</i>	14 CVS 172	04/25/14	Motion to Dismiss	Case reassigned following retirement of Wake County business court judge in September 2014.
<i>GlaxoSmithKline LLC v. Dendreon, Corp.</i>	11 CVS 5458	06/11/14	Motion for Summary Judgment	After motion was filed, defendant filed a bankruptcy petition, mandating a stay of case.
<i>Grasinger v. Williams</i>	13 CVS 13297	12/09/13	Motion to Dismiss	Case was reassigned following retirement of Wake County business court judge in September 2014.
<i>Harrington v. Plymell</i>	13 CVS 2169	08/09/13	Motion to Dismiss	Case was stayed following a hearing on the motion for parties to pursue mediation. Mediation resulted in a resolution among some parties; remaining parties have agreed to arbitrate.
<i>Horner Int'l Co. v. McKoy</i>	13 CVS 7131	02/11/14	Motion to Compel	Case reassigned following retirement of Wake County business court judge in September 2014.
<i>Joalpe-Industria De Expositores, S.A. v. Alves</i>	10 CVS 5697	12/11/12	Motion for Partial Summary Judgment	Case reassigned following retirement of Wake County business court judge in September 2014.
		03/08/13	Motion for Partial Summary Judgment	
		03/08/13	Motion for Summary Judgment	
		04/03/13	Motion to Amend Answer	
<i>Kezeli v. Logan</i>	12 CVS 12925	01/23/14	Motion for Partial Summary Judgment	Case reassigned following retirement of Wake County business court judge in September 2014.

Case Name	Case Number	Motion Filing Date	Type of Motion	Relevant Actions
<i>Koch Measurement Devices, Inc. v. Armke</i>	11 CVS 3478	04/22/13	Motion for Summary Judgment	Case reassigned following retirement of Wake County business court judge in September 2014.
		05/30/13	Motion for Summary Judgment	
		06/21/13	Motion to Supplement	
<i>Levin v. Jacobson</i>	10 CVS 12062	02/06/12	Motion for Summary Judgment	Related cases reassigned following retirement of Wake County business court judge in September 2014.
<i>Shareff v. Jacobson</i>	09 CVS 9983	05/14/12	Cross Motions for Summary Judgment	
		06/14/12	Motion to Strike	
		03/11/13	Motion for Protective Order, Expedited Briefing & Sanctions	
		06/03/13	Motion to Consolidate	
<i>Mag Phos., Inc. v. Latitude 18, Inc.</i>	13 CVS 15606	05/20/14	Motion to Dismiss	Case reassigned following retirement of Wake County business court judge in September 2014.
<i>NNN Durham Office Portfolio 1, LLC v. Highwoods Realty Ltd. P'ship</i>	10 CVS 2597	11/15/13	Motion for Partial Summary Judgment	Briefing on motion held in abeyance during discovery.
<i>Progress Point One-B Condo. Ass'n., Inc. v. Progress Point One Prop. Owners Ass'n, Inc.</i>	14 CVS 467	06/30/14	Motion to Dismiss or for More Definite Statement	Case reassigned following retirement of Wake County business court judge in September 2014.
<i>Riggi v. Ehmman</i>	14 CVS 7503	06/27/14	Motion to Dismiss	Court held a hearing in September 2014. The case subsequently settled.
<i>RREF BB Acquisitions, LLC v. MAS Props., LLC</i>	13 CVS 193	07/01/13	Motion to Dismiss Counterclaims	Case reassigned following retirement of Wake County business court judge in September 2014.
		08/02/13	Motion to Dismiss Third-Party Complaint	
<i>Skybridge Terrace, LLC v. Phelan</i>	12 CVS 22411	03/07/14	Motion for Summary Judgment	Ruling was deferred following a substitution of parties. The motions are now under advisement.
		03/07/14	Motion for Summary Judgment	
		05/30/14	Motion to Dismiss	

<b>Case Name</b>	<b>Case Number</b>	<b>Motion Filing Date</b>	<b>Type of Motion</b>	<b>Relevant Actions</b>
<i>Soft Line v. Italian Homes, LLC</i>	13 CVS 9429	05/23/14	Motion for Alternative Method of Service	Ruling on summary judgment motion is in process. Parties have requested the Court hold ruling on service motion.
		05/30/14	Motion for Summary Judgment	
<i>Velleros, Inc. v. Patterson</i>	13 CVS 5834	11/27/13	Motion for Summary Judgment and Default Judgment	Case reassigned following retirement of Wake County business court judge in September 2014.
		01/10/14	Motion to Amend Answer and Include Third-Party Complaint	

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