



REPORT ON NORTH CAROLINA BUSINESS COURT

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

PREPARED BY
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
AUGUST 1, 2017



About the North Carolina Judicial Branch

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

About the North Carolina Administrative Office of the Courts

The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

Introduction

N.C.G.S. 7A-343(8a) requires the Director of the North Carolina Administrative Office of the Courts (“NCAOC”) to submit an annual report on the North Carolina Business Court. The statute specifically provides as follows:

(8a) Prepare and submit a semiannual report on the activities of each North Carolina business court site to the Chief Justice, the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety, the chairs of the of the Joint Legislative Oversight Committee on Justice and Public Safety, and to all other members of the General Assembly on February 1 and August 1. The report shall include the following information for each business court site:

- a. The number of new, closed, and pending cases for the previous three years.
- b. The average age of pending cases.
- c. The number of motions pending over six months after being filed.
- d. The number of 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 August 1 report shall include an accounting of all business court activities for the previous fiscal year, including the itemized annual expenditures.

NCAOC submits this report in compliance with the legislative mandate for the period from January 1, 2017 through June 30, 2017.

An Overview of the North Carolina Business Court

The North Carolina Business Court is an administrative division of the North Carolina General Court of Justice designed to provide a specialized forum for cases involving complex business and technical issues.

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 two 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)

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 Chief Justice has discretion to assign other exceptional cases to the business court 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.

As of June 30, 2017, there were five active business court judges maintaining chambers in Charlotte (2), Greensboro, Raleigh and Winston-Salem. The Business Court includes the Honorable James L. Gale, senior business court judge who serves as Chief Business Court Judge maintaining chambers at the Elon University School of Law; and four special superior court judges for complex litigation, including Louis A. Bledsoe III, maintaining chambers at the Mecklenburg County Courthouse; Gregory P. McGuire, maintaining chambers at the Wake County Courthouse; Michael L. Robinson, maintaining chambers at the Wake Forest University School of Law in Winston-Salem; and Adam M. Conrad, maintaining chambers at the Mecklenburg County Courthouse.

An early leader in electronic filing since 1996, the North Carolina Business Court launched a new web-based filing system in June 2017 that provides much improved functionality and features for attorneys, filers, and judicial staff. The interface delivers a modern and user-friendly experience, features new search capabilities, and provides public access to case information online. Additionally, the new system provides a browser-based case management system with workflow queues and judicial tools to manage cases, parties, and events through the complete life cycle of a case. It streamlines judicial processes and the dissemination of filings, orders, and opinions.

Case Statistics

The Number of New, Closed and Pending Cases for the Previous Three Years

The Business Court had 218 cases pending as of June 30, 2017. Of those, 190 cases were assigned to the court as mandatory complex business cases designated pursuant to G.S. 7A-45.4. The Chief Justice designated eight cases as complex business cases and 13 cases as exceptional cases



pursuant to his discretion under Rule 2.1 of the General Rules of Practice for the Superior and District Courts. Seven cases resulted from the consolidation of other pending cases.

Table 1 below represents the number of new, closed and pending cases for calendar years 2016, 2015 and 2014, as of December 31 of the respective calendar year, for each of the counties where the Business Court maintains chambers. “New Cases” include the number of new cases assigned to the Business Court’s docket during the calendar year through designation or consolidation, and “Closed Cases” include the number of cases closed during the respective calendar year.

Table 1. Pending Cases, New Cases, Closed Cases and Average Age of Business Court Cases by County (Calendar Years 2014 - 2016)

Calendar Year	COURT	Pending Cases	New Cases	Closed Cases
2016	Mecklenburg	53	42	55
2016	Guilford	57	27	39
2016	Wake	54	53	62
2016	Forsyth	40	24	14
2016	Statewide	204	148	172
2015	Mecklenburg	80	55	46
2015	Guilford	82	42	44
2015	Wake	69	44	52
2015	Statewide	231	141	142
2014	Mecklenburg	66	48	48
2014	Guilford	85	40	47
2014	Wake	80	34	38
2014	Statewide	231	122	133

Average Age of Pending Cases

As of June 30, 2017, 46 of the Business Court’s 218 pending cases were subject to stay or appeal on that date. The average age of the pending cases not subject to any present stay or appeal was 481 days, with a median age of 364 days. The average age of all pending cases was 580 days, with a median age of 411 days. For cases closed between January 1, 2017 and June 30, 2017, the average age was 457 days, with a median age of 397 days. The duration of a case may be affected by multiple stays or appeals throughout the life of the case.

Motions Pending More than Six Months

As of June 30, 2017, 41 motions filed prior to January 1, 2017 remained pending. Twenty-seven of those motions were in cases that had been stayed at some point because of appeal, bankruptcy,



or other reason, and 14 of those motions were in cases that had not been subject to any stay. In many instances, a motion cannot be resolved within six months of filing either because the motions were not fully briefed and ready for oral argument for several months after filing, or the complexity or novelty of the motion requires substantial time to review an extensive record and prepare the published written opinion. The Business Court issued 55 written opinions on motions between January 1, 2017 and June 30, 2017, many involving issues of first impression.

Bench Trials with No Entry of Judgment after Six Months

As of June 30, 2017, only one case remained pending for more than six months after a bench trial. That case, *N.C. Acupuncture Licensing Bd. v. N.C. Bd. of Physical Therapy Exam’rs* (2017 NCBC 66), involved judicial review of an administrative decision and evaluation of an administrative record consisting of more than 2,300 pages. The court heard argument in the case on December 7, 2016 and entered its opinion on August 2, 2017.

Expenditures

Expenditures for the Business Court for FY 2016-2017 were \$1,961,950.38. The table below sets forth the expenditures by county.

Table 2. Business Court Expenditures for FY 2016-2017 by County

Court Location	Expenditures for FY 2016-17
Mecklenburg	608,412.43
Guilford	383,172.85
Wake	442,260.51
Forsyth	528,104.59
Statewide	\$1,961,950.38

Summary

The North Carolina Business Court provides a specialized forum for cases involving complex business and technical issues. As of June 30, 2017, five judges were responsible for the court’s 218 pending cases. The Business Court remains continuously focused on increased efficiency and timely disposition of cases.



