



REPORT ON NORTH CAROLINA BUSINESS COURT

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

REPORT PREPARED BY
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
AUGUST 1, 2019



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, 2019 through June 30, 2019.

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 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 preliminary 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 of the General Rules of Practice and Procedure for the Superior and District Courts. When necessary, Business Court judges may be called upon in their capacity as judges of the superior court division to handle cases or court sessions in addition to their regular Business Court caseloads.

As of June 30, 2019, there were five active Business Court judges maintaining chambers in Charlotte, Greensboro, Raleigh and Winston-Salem: Louis A. Bledsoe, III, Chief Business Court Judge (Mecklenburg County Courthouse), Gregory P. McGuire (Wake County Courthouse), Michael L. Robinson (Wake Forest University School of Law), Adam M. Conrad (Mecklenburg County Courthouse), and James L. Gale, Senior Business Court Judge (Elon University School of Law).

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 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. The new system also provides a browser-based case management system with workflow queues and judicial tools to aid the Business Court judges, their judicial staffs, and the parties in managing cases from filing through resolution. The system 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

There were 303 cases pending in the Business Court as of June 30, 2019 (192 when counting a consolidated group of cases as one case). Of those 303 cases, 283 were assigned to the Business Court as mandatory complex business cases designated pursuant to G.S. 7A-45.4. The Chief Justice designated six cases as complex business cases and 14 cases as exceptional cases in the Chief Justice’s discretion under Rule 2.1 of the General Rules of Practice for the Superior and District Courts.

Table 1 below represents the number of new, closed, and pending cases in the Business Court as of December 31 in 2018, 2017, and 2016 in the counties where the Business Court maintains chambers. For purposes of this report, “Pending Cases” include all cases, without regard to the year in which the case was first designated to the Business Court. “New Cases” include all cases designated to the Business Court in the year reported. “Closed Cases” include all cases closed during each year. The “Mecklenburg A” and “Mecklenburg B” designations reflect the two judges that have maintained chambers in Mecklenburg County since January 1, 2017.

Table 1. Pending Cases, New Cases, Closed Cases, and Average Age of Business Court Cases by County (Calendar Years 2016 - 2018)

CALENDAR YEAR	COURT	PENDING CASES*	NEW CASES	CLOSED CASES
2018	Forsyth	43 (40)	32	31
2018	Guilford	137 (40)	47**	26
2018	Mecklenburg A	54 (40)	29	24
2018	Mecklenburg B	46 (44)	32	23
2018	Wake	43 (41)	33	37
2018	Statewide	324 (206)†	173	142‡
2017	Forsyth	43 (37)	31	31
2017	Guilford	115 (34)	76***	19
2017	Mecklenburg A	50 (37)	24	24
2017	Mecklenburg B	36	33	21
2017	Wake	45 (40)	39	42
2017	Statewide	289 (184)	203	137
2016	Forsyth	40	24	14
2016	Guilford	57	27	39
2016	Mecklenburg	53	42	55
2016	Wake	54	53	62
2016	Statewide	204	148	172

* Parenthetical figures represent when a consolidated group of cases is counted as one case.

** 28 of these 47 new cases were consolidated into the *Charlotte School of Law* cases.

*** 67 of these 76 new cases were consolidated into the *Charlotte School of Law* cases.

† Includes one unassigned case currently on appeal and previously assigned to former Business Court Judge John R. Jolly.

‡ Includes one closed case previously assigned to former Business Court Judge John R. Jolly.



Average Age of Pending Cases

As of June 30, 2019, 148 of the Business Court's 303 pending cases were subject to stay or appeal. The average age of pending cases not subject to stay or appeal was 533 days, with a median age of 354 days. The average age of all pending cases was 647 days, with a median age of 548 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, 2019, a total of 49 motions filed prior to January 1, 2019 remained pending in 17 cases. Table 2 below illustrates by location the number of motions pending more than six months as of June 30, 2019.

**Table 2. Motions Pending More than Six Months by Court Location
(As of June 30, 2019)**

LOCATION	NUMBER OF MOTIONS	MOTIONS IN CASES PREVIOUSLY STAYED	CASES WITH PENDING MOTIONS
Forsyth	20	20	4
Guilford	15	15	7
Mecklenburg A	11	5	4
Mecklenburg B	3	3	2
Wake	0	0	0
Statewide	49	43	17

Forty-three of the motions pending more than six months were in cases that had been formally or informally stayed at some stage because of appeal, bankruptcy, reported settlement, extended or supplemental briefing schedules prior to hearing oral argument, or other reasons associated with case management. Business Court motions are subject to a briefing schedule that must be completed before a motion is ready to be heard, and in many instances, a motion is not ready to be heard and ruled upon with the required written opinion within six months of filing. In several instances, the complexity of the issues and the number of counsel involved make it difficult to schedule a hearing within six months of a motion's filing. The Business Court issued 40 written opinions on motions and other matters between January 1, 2019 and June 30, 2019, many involving issues of first impression.

Bench Trials with No Entry of Judgment after Six Months

As of June 30, 2019, there were no cases pending in the Business Court in which bench trials had been concluded for over six months without entry of judgment.



EXPENDITURES

Expenditures for the Business Court for FY 2018-2019 were \$2,082,687. The table below sets forth those expenditures by county.

Table 3. Business Court Expenditures for FY 2018-2019 by County

Court Location	Expenditures
Guilford	\$291,676
Forsyth	\$511,582
Mecklenburg	\$821,310
Wake	\$458,119
Statewide	\$2,082,687

SUMMARY

The North Carolina Business Court provides a specialized forum for cases involving complex business issues. As of June 30, 2019, five judges were responsible for the court's 303 pending cases. The Business Court remains continuously focused on increased efficiency and timely disposition of cases.



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