



# CHIEF JUSTICE'S RULES ADVISORY COMMISSION MINUTES OF MEETING

June 17, 2022

North Carolina Judicial Center, Hickory Boardroom  
901 Corporate Center Drive  
Raleigh, NC 27607

## **Call to Order**

A meeting of the Chief Justice's Rules Advisory Commission was called to order at 2:02 p.m. on Friday, June 17, 2022, by Judge Paul Ridgeway.

## Commission Members in Attendance in Person:

John Rabiej, former *Deputy Director*, Bolch Judicial Institute, Duke University School of Law

Paul Ridgeway, *Senior Resident Superior Court Judge*, Wake County

Michael Robinson, *Special Superior Court Judge for Complex Business Cases*, North Carolina Business Court

## Commission Members in Attendance via Webex:

Michelle Ball, *Clerk of Superior Court*, Johnston County

Mark Holt, *Partner*, Holt Sherlin LLP

Mike Mitchell, *Attorney*, Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, LLP

Christine Walczyk, *District Court Judge*, Wake County

## Other Attendees in Attendance in Person:

Seth Ascher, *Assistant Administrative Counsel*, Supreme Court of North Carolina

Grant Buckner, *Clerk of the Supreme Court*, Supreme Court of North Carolina

Betse Hamilton, *Office Administrator*, Supreme Court of North Carolina

Corrine Lusic, *Deputy Legal Counsel*, North Carolina Administrative Office of the Courts

Emily Mehta, *Research and Planning Associate*, North Carolina Administrative Office of the Courts

Jen Wyatt, *Assistant Administrative Counsel*, Supreme Court of North Carolina

## Other Attendees in Attendance via Webex:

Brad Fowler, *Chief Business Officer*, North Carolina Administrative Office of the Courts

Jon Harris, *General Counsel*, North Carolina Court of Appeals

Amanda Martin, *General Counsel*, North Carolina Press Association

## **Approval of Minutes**

The minutes from the March 25, 2022 meeting were approved as written.

## ***eCourts* Update**

Brad Fowler reported to the commission that the release of the *eCourts* system is delayed pending the finalization of the *eWarrants* system. The development team is still working to resolve defects in the *eWarrants* system, but the current defects are smaller and more manageable than those previously identified and resolved. While the *eCourts* system will initially go live only in the pilot counties, the *eWarrants* system will go live in all 100 counties at the same time.

The current plan is for only new documents in active cases to be included in the *eCourts* system, and documents in previously-disposed cases will not be included. Documents in previously disposed cases will be retained as normal. A plan is still in place to train court staff on the software in the pilot counties and to have individuals available to answer any inquiries as the system goes live.

## **Subcommittee Reports**

### *General Rule of Practice 15 Subcommittee*

- Judge Ridgeway, subcommittee chair, shared a draft of an amendment to General Rule of Practice 15 and invited feedback from the commission.
- The proposed rule retains the purpose statement from the original rule, which was last amended by the Supreme Court in 1990.
- The subcommittee drafted the proposed rule with the following objectives in mind: (1) to prohibit media coverage of protected classes; (2) to leave the practical requirements of recording to the local courts; (3) to provide judges discretion to limit the rule as they see fit; and (4) to account for the prevalence and accessibility of recording devices.
- Next steps for the subcommittee: (1) incorporate minor edits to the draft; and (2) Judge Ridgeway will ask for feedback from judges during the NC Superior Court Judges' Conference.

### *Privacy Subcommittee*

- Judge Michael Robinson, subcommittee chair, shared a draft of an amendment to Rule 5(f) of the North Carolina Rules of Civil Procedure and invited feedback from the commission. The current draft incorporates language from N.C.G.S. § 14-113.20 and N.C.G.S. § 132-1.10.
- There was discussion about whether the *eCourts* system could be configured to scan a document and inform a filer when the document includes personal identifiable information.

The system is currently configured to display a notice informing filers to check the document for possible PII before filing.

- Corrine Lusic shared that the Office of General Counsel at the Administrative Office of the Courts has also been looking at the issue and considering whether the provision belongs in the Rules of Civil Procedure or whether it could be incorporated into the Rules of Recordkeeping. She has also been looking at how the proposed rule interacts with General Rule of Practice 27.
- Michelle Ball reiterated that clerks would welcome additional guidance about redacting personal identifiable information (PII) in the Rules of Recordkeeping or otherwise.
- Next steps for the subcommittee: (1) hold a subcommittee meeting and invite guests from the Office of General Counsel to participate in the discussion; and (2) work to finalize the draft of proposed Rule 5(f).

#### *Motion Consultation Rule Subcommittee*

- Judge Michael Robinson, subcommittee chair, shared a draft of an amendment to General Rule of Practice 6 and invited feedback from the commission.
- The proposed new subsection would add a motion consultation requirement to the General Rules of Practice in Rule 6(a). The new subsection was modeled from a similar requirement in Rule 7.3 of the North Carolina Business Court Rules, and it exempts from the general rule certain types of motions that are typically contested by the opposing party.
- The subcommittee intended for the draft of General Rule of Practice 6 to account for the following: (1) to allow the trial court to know the parties' positions on a motion when the motion is filed, (2) to avoid the trial court needing to schedule hearings on motions without knowing the availability of the parties and their attorneys, and (3) to encourage resolution of the conflict by the parties.
- Jon Harris suggested submitting the amendment proposal to the North Carolina Bar Association for informal comments.
- Next steps for the subcommittee: (1) send the draft of General Rule of Practice 6 to the North Carolina Bar Association's Litigation Section for comments and feedback; and (2) work to finalize the draft of General Rule of Practice 6.

#### *Criminal Service Subcommittee*

- Judge Christine Walczyk, subcommittee chair, reported that the subcommittee received a copy of proposed amendments from the Office of General Counsel which that office plans to submit to the General Assembly for consideration.

- After reviewing the list of proposed statutory amendments, the subcommittee forwarded several questions to the drafting group through Troy Page, assistant legal counsel for the Administrative Office of the Courts. The subcommittee is currently awaiting a response from the Office of General Counsel.
- Next step for the subcommittee: continue to correspond with the Office of General Counsel to determine whether that office would benefit from the subcommittee's further work on the project.

#### *General Rule of Practice 3.1 Subcommittee*

- Judge Christine Walczyk, subcommittee chair, shared drafts of two versions of an amendment to General Rule of Practice 3.1 and invited feedback from the commission.
- One version of the rule includes a list of priority categories that is similar to the current rule, and the second version omits the list of priority categories and relies more heavily on a list of factors to be considered by judges and attorneys when resolving scheduling conflicts.
- General Rule of Practice 3.1 was originally adopted by the Supreme Court in 2002 and was last amended in 2004, but similar language was included in the General Rules of Practice as early as 1970.
- Next steps for the subcommittee: (1) incorporate minor edits to the drafts; (2) send both versions of General Rule of Practice 3.1 to the North Carolina Bar Association for comments and feedback; and (3) work to finalize the preferred draft of General Rule of Practice 3.1 after receiving feedback on the two versions of the rule.

#### **Ongoing Business**

- Jon Harris reported that he has been looking through the Rules of Civil Procedure to determine whether updates to the rule set may be necessary for remote hearings, and he has been in consultation with the North Carolina Bar Association's Litigation Section regarding this topic.
- Mr. Harris will provide an update on his findings at the next commission meeting, but no further action by the commission is needed at this time.

#### **Upcoming Commission Meetings**

The next commission meeting is scheduled for Friday, September 23, 2022, at 2:00 p.m.

Minutes of Meeting  
Chief Justice's Rules Advisory Commission  
June 17, 2022

**Adjournment**

The meeting was adjourned at 5:32 p.m. by Judge Ridgeway.

**Minutes submitted by:** /s/ Jennifer N. Wyatt  
Assistant Administrative Counsel, Supreme Court of North Carolina

**Date:** 6/27/2022