

IN THE SUPREME COURT OF NORTH CAROLINA

ORDER AMENDING THE
NORTH CAROLINA BUSINESS COURT RULES

Pursuant to Section 7A-34 of the General Statutes of North Carolina, the Court hereby amends the North Carolina Business Court Rules. This order affects Rules 4 and 7 and Appendix 1.

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Rule 4. Time

4.1. Motions to extend ~~time-periods~~.

- (a) **Procedure.** After an action has been designated as a mandatory complex business case or assigned to a Business Court judge under Rule 2.1 of the General Rules of Practice, all motions to extend ~~any time-period~~ a deadline prescribed or allowed by these rules, by the Rules of Civil Procedure, or by court order must be filed with the Court. If the action has been designated as a mandatory complex business case but has not yet been assigned to a particular Business Court judge, then the motion must be submitted to the Chief Business Court Judge.
- (b) **Basis.** A motion to extend a ~~time-period~~ deadline must demonstrate good cause and comply with BCR 7.3.
- (c) **Effect.** Except as to deadlines set by court order, including deadlines for the completion of fact and expert discovery, the timely filing of a motion to extend time automatically extends the time for filing or the performance of the act for which the extension is sought until the earlier of the expiration of the extension requested or a ruling by the Court. If the Court denies the motion, then the filing is due or the act must be completed no later than 5:00 p.m. Eastern Time on the second business day after the Court issues its order, unless the Court's order provides a different deadline.
- (d) **Modifications by the Court.** The Court may modify ~~any time-period~~ a deadline on its own initiative, unless a rule or statute prohibits modification of the ~~time-period~~ deadline.

- (e) ~~Relationship with Rule 6(b) of the Rules of Civil Procedure.~~ Nothing in these rules precludes parties from entering into binding stipulations in the manner permitted by ~~Rule 6(b) of the Rules of Civil Procedure.~~ Deadlines imposed by an order of the Court. A deadline that has been set or modified by an order of the Court may be extended only by a further order of the Court. The parties may not act unilaterally under BCR 4.2(b) or (c) to extend the deadline.

4.2. Extensions of time that do not require a motion.

- (a) **Documents due within twenty days of designation.** If any statute, rule of procedure, Business Court Rule, or court order requires the filing or service of any document fewer than twenty days after the designation of an action as a mandatory complex business case or the assignment of an action to a Business Court judge under Rule 2.1 of the General Rules of Practice, then the time for filing or service of that document is automatically extended to the twentieth day following the designation, unless a Business Court judge orders otherwise. This rule does not apply to ~~time periods~~ a deadline that, by rule or statute, cannot be extended and is subject to modification by court order.
- (b) ~~Discovery responses.~~ ~~The parties may agree, without a court order, to extend any time period for responses to written discovery. A court order is required, however, if a party seeks to modify any discovery-related deadline that has been established by a court order. BCR 10.4(a) contains the standards and procedure for filing a motion to extend the discovery period or to take discovery beyond the limits set forth in the Case Management Order.~~ **Responses to pleadings.** Following the procedure found in Rule 6(b) of the Rules of Civil Procedure, the parties may enter into binding stipulations to extend a deadline to respond to a pleading. When this occurs, the parties must file a Notice of Stipulation that informs the Court of the new deadline. The deadline may not be extended, in the aggregate, more than 30 days.
- (c) **Responses to written discovery requests.** Without notifying the Court, the parties may agree to extend a deadline to respond to a written discovery request. The parties may not extend the deadline beyond the discovery period specified in the Court's Case Management Order.

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Rule 7. Motions

7.1. ~~Filing~~ General provisions.

- (a) **Business Court judge presides.** After an action has been designated as a mandatory complex business case or assigned to a Business Court judge under Rule 2.1 of the General Rules of Practice, the Business Court judge to whom the action is assigned will preside over all motions and proceedings in the action, unless and until an order has been entered under N.C.G.S. § 7A-45.4(e) ordering that the case not be designated a mandatory complex business case or the Chief Justice of the Supreme Court of North Carolina revokes approval of the designation.
- (b) **Scope.** BCR 7 applies to written motions filed with the Court, not to oral motions made at a hearing or trial.
- (c) **Effect of noncompliance.** The Court has discretion to disregard or strike a filing that does not comply with these rules.

7.2. Form of motion and brief; scope of motion hearing. ~~All motions must be accompanied by a brief (except for those motions listed in BCR 7.10). Each motion must be set out in~~ Each motion must be filed as a separate document. A motion unaccompanied by a required brief may, in the discretion of the Court, be summarily denied. This rule does not apply to oral motions made at trial or as otherwise provided in these rules. Unless listed in BCR 7.10, a motion must be accompanied by a brief. The Court has discretion to deny the motion summarily if a required brief is not filed.

~~The function of all briefs required or permitted by this rule is to define clearly the issues presented to the Court and to present the arguments and authorities upon which the parties rely in support of their respective positions. A party should therefore brief each issue and argument that the party desires the Court to rule upon and that the party intends to raise at a hearing. The parties must brief the matters they intend to discuss at a hearing on the motion. The Court has discretion to expand the scope of the hearing to matters that do not appear in the briefs.~~

7.3. Consultation. ~~All motions~~ Each motion, except those one made pursuant to Rules 12, 55, 56, 59, 60, or 65 of the Rules of Civil Procedure, must ~~reflect consultation with and the position of opposing counsel or any pro se parties~~ include a statement reporting whether each party consents, does not object, or objects and intends to file a response to the motion. The motion must state whether any party intends to file a response. If a consultation with a party is not possible, then the motion must include a statement that explains the movant's reasonable and diligent efforts to effectuate a consultation.

7.4. Motions decided without a hearing. The Court may rule on a motion without a hearing. Special considerations thought by counsel sufficient to warrant a hearing or oral argument may be brought to the Court's attention in the motion or response.

7.5. Supporting materials and citations. ~~This rule applies to all motions and briefs filed with the Court.~~ All materials, including affidavits, on which a motion or brief relies must be filed with the motion or brief. Materials that have been filed previously need not be refiled, but the filing party should, using the form ECF No. ___, cite to the docket location of the previously filed materials. In selecting materials to be filed, parties should attempt to limit the use of voluminous materials. If the adequacy of service of process is at issue in any motion, proof of service must be submitted in support of the motion.

The filing party must include an index at the front of the materials. The index should assign a number or letter to each exhibit and should describe the exhibit with sufficient detail to allow the Court to understand the exhibit's contents.

When a brief refers to a publicly available document, the brief may contain a hyperlink to or URL address for the document in lieu of attaching the document as an exhibit. The filing party is responsible for keeping or archiving a copy of the document referenced by hyperlink or URL address.

When a motion or brief refers to any supporting material, the motion or brief must include a pinpoint citation to the relevant page of the supporting material whenever possible. Unless the circumstances dictate otherwise, only the cited page(s) should be filed with the Court in the manner described above.

If a motion or brief cites a decision that is published only in sources other than the West Federal Reporter System, Lexis System, commonly used electronic databases such as Westlaw or LexisNexis, the official North Carolina reporters, or decisions of the Court listed on its website as opinions, then the motion or brief must attach a copy of the decision.

7.6. Responsive briefs. A party that opposes a motion may file a responsive brief within twenty days of service of the supporting brief. This period is thirty days after service for responses to summary judgment motions and for responses to opening briefs in administrative appeals. If a party fails to file a response within the time required by this rule, the motion will be considered and decided as an uncontested motion.

If a motion has been filed without a brief before a case is designated as a mandatory complex business case, then the time period to file a responsive brief begins running only when the moving party files a supporting brief in the Court. A motion filed without a brief before a case is designated as a mandatory complex business case will not be considered by the Court unless and until the moving party files a supporting brief with the Court.

7.7. Reply briefs. Unless otherwise prohibited, a reply brief may be filed within ten days of service of a responsive brief. A reply brief must be limited to ~~discussion of~~ matters newly raised in the responsive brief, ~~and the Court may decline to consider issues or arguments raised by the moving party for the first time in a reply brief. The Court retains discretion to strike any reply brief that violates this rule.~~

7.8. Length. Briefs in support of and in response to motions cannot exceed 7,500 words, except as provided in BCR 10.9(c). Reply briefs cannot exceed 3,750 words. These word limits include footnotes and endnotes but do not include the case caption, any index, table of contents, or table of authorities, signature blocks, or any required certificates.

A party may not incorporate by reference arguments made in another brief or file multiple motions to circumvent these limits.

A party may request the Court to expand these limits but must make the request no later than five days before the deadline for filing the brief. Word limits will be expanded only upon a convincing showing of the need for a longer brief.

Each brief must include a certificate by the attorney or party that the brief complies with this rule. Counsel or pro se parties may rely on the word count of a word-processing system used to prepare the brief.

In the absence of a court order, all parties who are jointly represented by any law firm or attorney must join together in a single brief. That single brief may not exceed the length limits in this rule.

7.9. Suggestion of subsequently decided authority. In connection with a pending motion, a party may file a suggestion of subsequently decided authority after briefing has closed. The suggestion must contain the citation to the authority and, if the authority is not available on an electronic database, a copy of the authority. The suggestion may contain a brief explanation, not to exceed 100 words, that describes the relevance of the authority to the pending motion. Any party may file a response to a suggestion of subsequently decided authority. The response may not exceed 100 words and must be filed within five days of service of the suggestion.

7.10. Motions that do not require briefs. Briefs are not required for the following motions:

- (a) for an extension of time, provided that the motion is filed prior to the expiration of the time to be extended;
- (b) to continue a pretrial conference, hearing, or trial of an action;
- (c) to add parties;
- (d) consent motions, unless otherwise ordered by the Court;
- (e) to approve fees for receivers, special masters, referees, or court-appointed experts or professionals;
- (f) for substitution of parties;
- (g) to stay proceedings to enforce a judgment;
- (h) to modify the case-management process pursuant to BCR 9.1(a), provided that the motion is filed prior to the expiration of the case-management deadline sought to be extended;

- (i) for entry of default;
- (j) for pro hac vice admission;
- (k) motions in limine complying with BCR 12.9;
- (l) to seal confidential information (except as provided by BCR 5);
- (m) to withdraw as counsel; and
- (n) for a bill of costs.

These motions must state the grounds for the relief sought, ~~including~~include any necessary supporting materials, and ~~must~~ be accompanied by a proposed order.

7.11. Late filings. Absent a showing of excusable neglect or as otherwise ordered by the Court, the failure to timely file a brief or supporting material waives a party's right to file the brief or supporting material.

7.12. Motions decided without live testimony. Unless the Court orders otherwise, a hearing on a motion, including an emergency motion, will not involve live testimony. A party who desires to present live testimony must file a motion for permission to present that testimony. In the absence of exigent circumstances, the motion must be filed promptly after receiving notice of the hearing and may not exceed 500 words. After the motion is filed, the Court will either (i) issue an order that requests a response, (ii) deny the motion, or (iii) issue an order with further instructions. The opposing party is not required to file a response unless ordered by the Court. If the Court elects to conduct a telephone conference on the motion, then the Court may decide the motion during the conference.

7.13. Emergency motions prior to designation.

- (a) **Actions in which a Notice of Designation was filed when the action was initiated.** If a party seeks to have an emergency motion heard in the Court, the party should contact the Chief Justice of the Supreme Court of North Carolina promptly after filing the Notice of Designation and request expedited designation of the case as a mandatory complex business case. The party should also promptly contact the Court's Trial Court Coordinator and advise that the party seeks to have an emergency motion heard in the Court.
- (b) **Actions subsequently designated as mandatory complex business cases.** If a party has filed an emergency motion in an action before a Notice of Designation has been filed, and the action is later designated as a mandatory complex business case or assigned to a Business Court judge under Rule 2.1 of the General Rules of Practice, then the emergency motion will be heard by the Business Court judge to whom the action has been assigned as provided by N.C.G.S. § 7A-45.4(e). If, however, the emergency motion is heard by a non-Business Court judge prior

to designation or assignment, then, barring exceptional circumstances, the Business Court judge will defer to the judge who heard the motion.

- (c) **Briefing.** When a party moves for emergency relief under BCR 7.13(a) or (b), the Court will, if practicable, establish a briefing schedule for the motion. A party that moves for emergency relief under BCR 7.13(a) must file a supporting brief that complies with these rules. The Court's briefing schedule for a BCR 7.13(a) motion will establish deadlines for a response and, in the Court's discretion, a reply.

Unless the Court orders otherwise, the length restrictions in BCR 7.8 apply to all briefs filed under this rule.

7.14. Amicus briefs.

- (a) **When permitted.** An amicus curiae may file a brief only with leave of the Court.
- (b) **Motion for leave.** A motion for leave to file an amicus brief must state the nature of the movant's interest, the issues that the amicus brief would address, the movant's position on those issues, and the reasons that an amicus brief would aid the Court. The motion must also attach the proposed amicus brief. The Court will generally rule on the motion without a response or argument.
- (c) **Deadline for filing.** A motion for leave to file an amicus brief must be filed no later than the deadline for the brief of the party supported.
- (d) **Method of filing.** The motion and proposed amicus brief must be filed consistent with BCR 3.
- (e) **Contents and length.** An amicus brief may not exceed 3,750 words and must comply with all other aspects of BCR 7.8. The brief must also state whether (i) a party's counsel authored the brief, (ii) a party or party's counsel paid for the preparation of the brief, and (iii) anyone other than the amicus curiae paid for the brief and, if so, their identities.
- (f) **Response.** A party must obtain leave to file a separate response to an amicus brief. If the Court provides leave, the response must be limited to points and authorities presented in the amicus brief. The response may not exceed 3,750 words. An amicus curiae may not file a reply brief.
- (g) **Oral argument.** An amicus curiae may not participate in oral argument without leave of the Court.

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Appendix 1. Notice of Designation Template

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

COUNTY OF _____

CIVIL ACTION NO.:

JOHN DOE,

Plaintiff,

v.

ABC CORPORATION,

Defendant.

NOTICE OF DESIGNATION

Pursuant to N.C.G.S. § 7A-45.4, [INSERT PARTY] seeks to designate the above-captioned action as a mandatory complex business case. In good faith and based on information reasonably available, [INSERT PARTY], through counsel, hereby certifies that this action meets the criteria for:

_____ Designation as a mandatory complex business case pursuant to N.C.G.S. § 7A-45.4(a), in that it involves a material issue related to:

- _____ (1) Disputes involving the law governing corporations, except charitable and religious organizations qualified under N.C.G.S. § 55A-1-40(4) on the grounds of religious purpose, partnerships, and limited liability companies, including disputes arising under Chapters 55, 55A, 55B, 57D, and 59 of the General Statutes.
- _____ (2) Disputes involving securities, including disputes arising under Chapter 78A of the General Statutes.
- _____ (3) Disputes involving antitrust law, including disputes arising under Chapter 75 of the General Statutes that do not arise solely under N.C.G.S. § 75-1.1 or Article 2 of Chapter 75 of the General Statutes.
- _____ (4) Disputes involving trademark law, including disputes arising under Chapter 80 of the General Statutes.

- _____ (5) Disputes involving the ~~ownership, use, licensing, lease, installation, rights to~~ or performance of intellectual property, including computer software, software applications, information technology and systems, data and data security, pharmaceuticals, biotechnology products, and bioscience technologies.
- _____ (8) Disputes involving trade secrets, including disputes arising under Article 24 of Chapter 66 of the General Statutes.
- _____ (9) Contract disputes in which all of the following conditions are met:
 - (a) At least one plaintiff and at least one defendant is a corporation, partnership, or limited liability company, including any entity authorized to transact business in North Carolina under Chapter 55, 55A, 55B, 57D, or 59 of the General Statutes.
 - (b) The complaint asserts a claim for breach of contract or seeks a declaration of rights, status, or other legal relations under a contract.
 - (c) The amount in controversy computed in accordance with N.C.G.S. § 7A-243 is at least one million dollars (\$1,000,000).
 - (d) All parties consent to the designation. [If all parties have not consented, indicate that the Notice of Designation is conditional pursuant to BCR 2.5.]

_____ Designation as a mandatory complex business case pursuant to N.C.G.S. § 7A-45.4(b), in that it is ~~an action~~:

- _____ (1) ~~Involving~~ 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 N.C.G.S. § 105-241.16, or a civil action under N.C.G.S. § 105-241.17 containing a constitutional challenge to a tax statute.
- _____ (2) ~~Described~~ An action described in subsection (1), (2), (3), (4), (5), or (8) of N.C.G.S. § 7A-45.4(a) in which the amount in controversy computed in accordance with N.C.G.S. § 7A-243 is at least five million dollars (\$5,000,000).
- _____ (4) An action in which a general receiver is sought to be appointed pursuant to N.C.G.S. § 1-507.24 for a debtor that

is not an individual business debtor as defined in N.C.G.S. § 1-507.20 and has assets having a fair market value of not less than five million dollars (\$5,000,000), if the party making the designation is either (i) the debtor or (ii) one or more creditors or creditors' duly authorized representatives that assert a claim or claims against the debtor exceeding, in the aggregate, twenty-five thousand dollars (\$25,000) that in each case is not contingent as to liability and is not the subject of a bona fide dispute as to liability or amount. Any creditor or creditor's duly authorized representative that is not a party to the action may join in the notice of designation with the same effect as if such joining creditor or creditor's representative were a party.

- _____ (5) An appeal of a decision of the North Carolina Oil and Gas Commission concerning trade secret or confidential information as provided in N.C.G.S. § 113-391.1.

Briefly explain why the action falls within the specific categories checked above and provide information adequate to determine that the case has been timely designated (e.g., dates of filing or service of the complaint or other relevant pleading). If necessary, include additional information that may be helpful to the Court in determining whether this case is properly designated a mandatory complex business case.

Attach a copy of all significant pleadings filed to date in this action (e.g., the complaint and relevant pending motions).

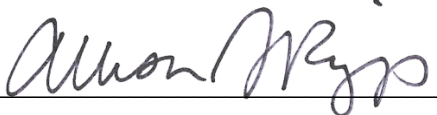
[INSERT DATE AND SIGNATURE BLOCKS]

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These amendments to the North Carolina Business Court Rules become effective on 2 September 2025.


These amendments shall be published in the North Carolina Reports and posted on the rules web page of the Supreme Court of North Carolina.

Ordered by the Court in Conference, this the 20th day of August 2025.



For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this the 20th day of August 2025.



GRANT E. BUCKNER
Clerk of the Supreme Court