

IN THE SUPREME COURT OF NORTH CAROLINA

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ORDER AMENDING THE  
GENERAL RULES OF PRACTICE  
FOR THE SUPERIOR AND DISTRICT COURTS

Pursuant to section 7A-34 of the General Statutes of North Carolina, the Court hereby amends Rule 26 of the General Rules of Practice for the Superior and District Courts.

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**~~Rule 26. Secure Leave Periods for Attorneys~~**

~~(A) — Purpose, Authorization. In order to secure for the parties to actions and proceedings pending in the Superior and District Courts, and to the public at large, the heightened level of professionalism that an attorney is able to provide when the attorney enjoys periods of time that are free from the urgent demands of professional responsibility and to enhance the overall quality of the attorney's personal and family life, any attorney may from time to time designate and enjoy one or more secure leave periods each year as provided in this Rule.~~

~~(B) — Length, Number. A secure leave period shall consist of one or more complete calendar weeks. During any calendar year, an attorney's secure leave periods pursuant to this Rule and to Rule 33A of the Rules of Appellate Procedure shall not exceed, in the aggregate, three calendar weeks.~~

~~(C) — Designation, Effect. To designate a secure leave period an attorney shall file a written designation containing the information required by subsection (D), with the official specified in subsection (E), and within the time provided in subsection (F). Upon such filing, the secure leave period so designated shall be deemed allowed without further action of the court, and the attorney shall not be required to appear at any trial, hearing, in court or out of court deposition, or other proceeding in the Superior or District Courts during that secure leave period.~~

~~(D) — Content of Designation. The designation shall contain the following information:~~

- ~~(1) — the attorney's name, address, telephone number and state bar number,~~
- ~~(2) — the date of the Monday on which the secure leave period is to begin and of the Friday on which it is to end,~~

- ~~(3) — the dates of all other secure leave periods during the current calendar year that have previously been designated by the attorney pursuant to this Rule and to Rule 33A of the Rules of Appellate Procedure;~~
- ~~(4) — a statement that the secure leave period is not being designated for the purpose of delaying, hindering or interfering with the timely disposition of any matter in any pending action or proceeding; and~~
- ~~(5) — a statement that no action or proceeding in which the attorney has entered an appearance has been scheduled, peremptorily set or noticed for trial, hearing, deposition or other proceeding during the designated secure leave period.~~

~~(E) — **Where to File Designation.** The designation shall be filed as follows:~~

- ~~(1) — if the attorney has entered an appearance in any criminal action, in the office of the District Attorney for each prosecutorial district in which any such case or proceeding is pending;~~
- ~~(2) — if the attorney has entered an appearance in any civil action, either
  - ~~(a) — in the office of the trial court administrator for each superior court district and district court district in which any such case is pending or;~~
  - ~~(b) — if there is no trial court administrator for a superior court district, in the office of the Senior Resident Superior Court Judge for that district;~~
  - ~~(c) — if there is no trial court administrator for a district court district, in the office of the Chief District Court Judge for that district;~~~~
- ~~(3) — if the attorney has entered an appearance in any special proceeding or estate proceeding, in the office of the Clerk of Superior Court of the county in which any such matter is pending;~~
- ~~(4) — if the attorney has entered an appearance in any juvenile proceeding, with the juvenile case calendaring clerk in the office of the Clerk of Superior Court of the county in which any such proceeding is pending.~~

~~(F) — **When to File Designation.** To be effective, the designation shall be filed:~~

- ~~(1) — no later than ninety (90) days before the beginning of the secure leave period; and~~

~~(2) before any trial, hearing, deposition or other matter has been regularly scheduled, peremptorily set or noticed for a time during the designated secure leave period.~~

~~(G) **Procedure When Court Proceeding Scheduled Despite Designation.** If, after a designation of a secure leave period has been filed pursuant to this rule, any trial, hearing, in-court deposition or other in-court proceeding is scheduled or peremptorily set for a time during the secure leave period, the attorney shall file with the official by whom the matter was calendared or set, and serve on all parties, a copy of the designation with a certificate of service attached. Any party may, within ten days after service of the copy of the designation and certificate of service, file a written objection with that official and serve a copy on all parties. The only ground for objection shall be that the designation was not in fact filed in compliance with this Rule. If no objection is filed, that official shall reschedule the matter for a time that is not within the attorney's secure leave period. If an objection is filed, the court shall determine whether the designation was filed in compliance with this Rule. If the court finds that the designation was filed as provided in this Rule, it shall reschedule the matter for a time that is not within the attorney's secure leave period. If the court finds the designation was not so filed, it shall enter any scheduling, calendaring or other order that it finds to be in the interests of justice.~~

~~(H) **Procedure When Deposition Scheduled Despite Designation.** If, after a designation of a secure leave period has been filed pursuant to this Rule, any deposition is noticed for a time during the secure leave period, the attorney may serve on the party that noticed the deposition a copy of the designation with a certificate of service attached, and that party shall reschedule the deposition for a time that is not within the attorney's secure leave period. Any dispute over whether the secure leave period was properly designated pursuant to this Rule shall be resolved pursuant to the portions of the Rules of Civil Procedure, G.S. 1A-1, that govern discovery.~~

~~(I) Nothing in this Rule shall limit the inherent power of the Superior and District Courts to reschedule a case to allow an attorney to enjoy a leave during a period that has not been designated pursuant to this Rule, but there shall be no entitlement to any such leave.~~

## **Rule 26. Secure-Leave Periods for Attorneys**

**(a) Definition; Entitlement.** A "secure-leave period" is one complete calendar week that is designated by an attorney during which the superior courts and the district courts may not hold a proceeding in any case in which that attorney is an attorney of record. An attorney is entitled to enjoy a secure-leave period that has been designated according to this rule.

(b) **Allowance.**

- (1) Within a calendar year, an attorney may enjoy three different secure-leave periods for any purpose. A secure-leave period that spans across calendar years counts against the attorney's allowance for the first calendar year.
- (2) Within the twenty-four weeks after the birth or adoption of an attorney's child, that attorney may enjoy twelve additional secure-leave periods for the purpose of caring for the child.

(c) **Form of Designation.** An attorney must designate his or her secure-leave periods in writing.

(d) **Content of Designation.** An attorney's designation of a secure-leave period must contain the following information:

- (1) the attorney's name, address, e-mail, telephone number, and state bar number;
- (2) the date of the Sunday on which the secure-leave period is to begin and the date of the Saturday on which it is to end;
- (3) the allowance that the secure-leave period will count against, with reference to either subsection (b)(1) or (b)(2) of this rule;
- (4) the dates of any previously designated secure-leave periods that count against that allowance;
- (5) a statement that the secure-leave period is not being designated for the purpose of interfering with the timely disposition of any proceeding;
- (6) a statement that the attorney has taken adequate measures to protect the interests of the attorney's clients during the secure-leave period; and
- (7) the attorney's signature and the date on which the attorney submits the designation.

(e) **Where to Submit Designation.**

- (1) **In Criminal Actions.** The attorney must submit his or her designation of a secure-leave period to the office of the district attorney for each prosecutorial district in which the attorney's criminal actions are pending.
- (2) **In Civil Actions.** The attorney must submit his or her designation of a secure-leave period to the office of the senior resident superior court judge for each superior court district and to the office of the chief district court judge for each district court district in which the attorney's civil actions are pending.

(3) **In Special Proceedings and Estate Proceedings.** The attorney must submit his or her designation of a secure-leave period to the office of the clerk of the superior court of the county in which the attorney's special proceedings or estate proceedings are pending.

(4) **In Juvenile Proceedings.** The attorney must submit his or her designation of a secure-leave period to the juvenile case calendaring clerk in the office of the clerk of the superior court of the county in which the attorney's juvenile proceedings are pending.

(f) **When to Submit Designation.** An attorney must submit his or her designation of a secure-leave period:

- (1) at least ninety days before the secure-leave period begins; and
- (2) before a proceeding in any of the attorney's cases is scheduled for a time that conflicts with the secure-leave period.

But because of the uncertainty of a child's birth or adoption date, the superior court or district court scheduling authority must make reasonable exception to these requirements so that an attorney may enjoy leave with the child.

(g) **Depositions.** A party may not notice a deposition for a time that conflicts with a secure-leave period that another party's attorney has designated according to this rule.

(h) **Other Leave.** Nothing in this rule limits the inherent power of the superior courts or the district courts to allow an attorney to enjoy leave that has not been designated according to this rule.

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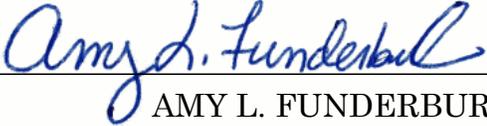
This amendment to the General Rules of Practice for the Superior and District Courts is effective for secure-leave periods designated on or after 11 September 2019.

This amendment 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 4th day of September, 2019.

  
For the Court

WITNESS my hand and the seal of the Supreme Court of North Carolina, this  
the 4th day of September, 2019.

  
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AMY L. FUNDERBURK  
Clerk of the Supreme Court