

FILED

STATE OF NORTH CAROLINA
CUMBERLAND COUNTY
DIVISIONS

IN THE GENERAL COURT OF JUSTICE
SUPERIOR AND DISTRICT COURT

2023 FEB -2 P 3:03

CUMBERLAND CO., C.S.C.

IN RE:

BY _____

CONTINUANCE POLICY

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**AMENDED
ADMINISTRATIVE ORDER**

NOW COMES the undersigned Chief District Court Judge and the Senior Resident Superior Court Judge entering this Administrative Order is entered as a supplemental order to the administrative order that was filed and made effective December 1, 2022 regarding the Continuance Policy for the 12th Judicial District.

Civil District Court

1. All requests for continuance shall be directed to the Trial Court Administrator by written motion and shall set forth with particularity the reason for the continuance, consent if given by opposing party(ies), and a requested reschedule date.
2. The Motion for Continuance shall be on form CCLF-CV-002 as prepared and distributed by the Trial Court Administrator’s Office, or in letter form which essentially provides the same information. This form can be found at:
<http://www.nccourts.org/Courts/CRS/Policies/LocalRules/Default.asp>

Motions shall be presented:

- a. As soon as counsel/unrepresented parties become aware of the reason for the motion for continuance.
- b. Any motions made within seven (7) working days of the beginning of the scheduled session shall be for an exigent cause that could not have been foreseen.

3. Opposing counsel/unrepresented parties shall be given a copy of the motion for continuance at the same time it is given to the Trial Court Administrator. The manner and date of notice to opposing counsel/unrepresented parties shall be indicated on the motion.
4. Opposing counsel/unrepresented parties shall thereafter have three (3) working days to file an objection to the motion for continuance with the Trial Court Administrator. All objections shall be made in writing, setting forth the particular reasons for the objection and served on opposing counsel/unrepresented parties.
5. The Objection to Motion for Continuance shall be on form CCLF-CV-003 (<http://www.nccourts.org/Courts/CRS/Policies/LocalRules/Default.asp>) as prepared and distributed by the Trial Court Administrator's Office, or in letter form, which essentially provides the same information. If a response is not received from the opposing counsel/unrepresented parties within three (3) working days of the receipt of the motion to continue, it will be assumed that the opposing counsel/unrepresented parties do not object.
6. Motions for continuance pursuant to Rule 9.1 shall be ruled upon by the Trial Court Administrator.
7. Requests for continuance will only be granted when compelling reasons are presented which affect the fundamental fairness of the trial and it is clearly in the interest of justice. In addition, consideration will be given to the following factors:
 - a. Age of the case;
 - b. Status of the trial calendar for the session;
 - c. The order in which the case appears on the calendar, to include peremptory setting status;
 - d. Number of previous continuances;
 - e. The extent to which counsel had input into the scheduling of the trial date;
 - f. The diligence of counsel in promptly filing the continuance motion;
 - g. The reason for continuance and length of the continuance requested;

- h. Consent or opposition by other counsel/unrepresented parties to the continuance motion;
 - i. Present or future inconvenience or unavailability of witnesses/parties;
 - j. Conflicts pursuant to Rule 3.1 of the General Rules of Practice for the Superior and District Courts Supplemental to the Rules of Civil Procedure.
8. Reasons that shall not be considered valid basis for allowing a continuance motion include:
- a. First time scheduling of the case for trial;
 - b. Failure to calendar motions for hearing.
9. The Trial Court Administrator, under the supervision of the Chief District Court Judge, has sole authority to continue cases prior to the scheduled trial session. At no time shall any counsel/unrepresented parties present any motion to continue to any presiding Judge prior to the opening of the scheduled trial session.
10. Appeals from a continuance decision of the Trial Court Administrator shall be directed to the Chief District Court Judge.
11. When a case has been continued or not reached during a trial session the Trial Court Administrator shall set a new trial date.
12. The Trial Court Administrator, under the supervision of the Chief District Court Judge, has authority to settle any scheduling conflicts arising between attorneys and/or pro se parties due to scheduling of cases in other jurisdictions.

Civil Superior Court

1. All requests for continuance shall be directed to the Trial Court Administrator by written motion on a Motion for Continuance form and shall set forth with particularity the reason for the continuance, consent if given by opposing party(ies), and a requested reschedule date. [The Motion for Continuance shall be on form CCLF-CV-002 as prepared and distributed by the Trial Court Administrator's Office, or in letter form which essentially provides the same information.]

Motions shall be presented:

- a. As soon as counsel/unrepresented parties become aware of the reason for the motion for continuance.
 - b. Any motion made within ten (10) working days of the beginning of the scheduled session shall be for an exigent cause that could not have been foreseen.
2. Opposing counsel/unrepresented parties must be notified of the motion for continuance prior to the delivery of the request to the Trial Court Administrator. The manner and date of notice to opposing counsel/unrepresented parties shall be indicated on the motion.
3. Opposing counsel/unrepresented parties shall thereafter have three (3) working days to file an objection to the motion for continuance with the Trial Court Administrator. All objections shall be made by written motion on the Objection to Motion for Continuance form setting forth the particular reasons for objection and served on opposing counsel/unrepresented parties. [The Objection to Motion for Continuance shall be on form CCLF-CV-003 as prepared and distributed by the Trial Court Administrator's Office, or in letter form which essentially provides the same information]. If a response is not received from the opposing counsel/parties within three (3) working days of the receipt of the motion to continue, it will be assumed that the opposing counsel/ parties do not object.
4. Motions for continuance pursuant to Rules 9.1(a) shall be ruled upon by the Trial Court Administrator within five (5) working days.
5. Motions for continuance pursuant to Rule 9.1(b) may be ruled upon by the Trial Court Administrator provided all provisions of Rule 9 are met, and all parties may be notified of the ruling prior to the scheduled court session.
6. Requests for continuance will only be granted when compelling reasons are presented which affect the fundamental fairness of the trial and it is clearly in the interest of justice. In addition, consideration will be given to the following factors:
 - Age of the case;
 - Status of the trial calendar for the session; District 12 Superior Civil Case CalendaringRules Page 9 of 13 · The order in which the case appears on the calendar, to include

peremptory setting status; · Number of previous continuances; · The extent to which counsel had input into the scheduling of the trial date; · The diligence of counsel in promptly filing the continuance motion; · The reason for continuance and length of the continuance requested; · Consent or opposition by other counsel/parties to the continuance motion; · Present or future inconvenience or unavailability of witnesses/parties;

7. Reasons that shall not be considered valid bases for allowing a continuance motion include:
 - a. First time scheduling of the case for trial,
 - b. Failure to calendar a motion,
 - c. Failure to mediate the case,
 - d. Potential conflicting scheduling of other trials in other courts.
8. Should an objection arise, any failure on the part of moving counsel to comply with the rules concerning written motion and notice to opposing counsel/unrepresented parties shall result in the voiding of any continuance granted.
9. The Trial Court Administrator, under the supervision of the Senior Resident Superior Court Judge, has sole authority to continue cases prior to the scheduled trial session. At no time shall any counsel/unrepresented parties present any motion to continue to the presiding judge prior to the opening of the scheduled trial session.
10. Appeals from the decision of the Trial Court Administrator shall be directed to the Senior Resident Superior Court Judge.
11. When a case has been continued or not reached during a trial session the Trial Court Administrator shall issue a Notice of Rescheduling, providing an opportunity of five (5) days for input from parties on setting a new trial date. Failure of parties to respond to the Notice of Rescheduling will result in the automatic setting of a trial date by the Trial Court Administrator.
12. The Trial Court Administrator, under the supervision of the Senior Resident Superior Court Judge, has authority to settle any scheduling conflicts arising between attorneys and/or pro se parties due to scheduling of cases in other jurisdictions.

Criminal District Court

Criminal non-motor vehicle – cases are to be disposed within **6 months** of the 1st court date.

Criminal motor vehicle- cases are to be disposed within **6 months** of 1st court date.

Infractions- cases are to be disposed of within **120 days** of first court date.

Felonies:

Class A – C Felonies to be disposed or indicted within 365 days of 1st court date (exception for lab cases, conditional discharges, homicides, sex offenses).

Class D – I Felonies to be disposed or indicted within 180 days of 1st court date (exception for lab cases and conditional discharges).

****The following cases ALWAYS require written continuances with reasons stated and the judges initials to show whether granted and/or denied and the continuance date.***

Driving While Impaired Offenses – cases are to be disposed of within 9 months of the 1st court date.

Domestic Violence Cases (misdemeanors) – cases are to be disposed of within 6 months of the 1st court date.

Criminal misdemeanors (private citizens/victims) – cases are to be disposed of within 6 months of the 1st court date.

- With the exception of the above cases, all Continuance requests that are made outside of the specified guidelines must be made in written format with the reason for the request and presented to the presiding judge of that courtroom, who may grant a continuance for good cause shown.

- Non-motor vehicle offenses are to be continued *no more than 90 days* outside of the specified guidelines unless there is good cause shown for additional delay. The Court shall hold the rescheduled court date for the officer's next court date or the court date presented by the District Attorney's Office.
- If the charge is a felony, the Court shall hold the rescheduled court date to the ADA screener's next scheduled date or the date presented by the District Attorney's Office.

Criminal Superior Court

Misdemeanor Appeals – to be disposed within 90 days of first Superior Court date.

Class A – C Felonies to be disposed or arraigned within 365 days 1st Superior Court date (exception for lab cases, conditional discharges, homicides, sex offenses).

Class D – I Felonies to be disposed or arraigned within 180 days of 1st court date (exception for lab cases and conditional discharges).

Any Superior Court trial continuance is to only be presented to either the Senior Resident Superior Court Judge or the trial judge. If the continuance is granted, the matter should be scheduled for the next trial settings.

******Please note that Conditional Discharges are not dispositions******

The criminal cases heard by the District Court and Superior Court should be continued and heard pursuant to North Carolina General Statutes promulgated by the North Carolina General Assembly, the Constitution of the State of North Carolina, the Constitution of the United States of America and any applicable Federal law.

DOMESTIC -CIVIL DISTRICT

CONTINUANCE REQUEST AFTER CALENDAR IS POSTED.

After the posting of the calendar, any continuance request must be noted on the party's status sheet. Contemporaneously with the sending of your status sheet to the Court, the party moving must send a written motion to continue on the Court's form (Rule 14.B.) to other parties by email or fax. If the opposing party is pro se, the motion must be mailed to the pro se party the same day based upon Rule 5 of the North Carolina Rules of Civil Procedure.

CONTINUANCE REQUEST AT CALENDAR CALL OR DAY OF HEARING/TRIAL.

Motion to Continue made at calendar call or at the time of the hearing, must be written on the court's form (Rule 14.B.) that must be filed prior to the hearing/trial or contemporaneously with the making of a motion to continue in open court. If the motion to continue is filed prior to the hearing/trial, the moving party must send a copy of the continuance motion to other parties by email or fax. If the opposing party is pro se, the motion must be mailed to the pro se party the same day. If motion to continue is in open court, a copy of the motion to continue will be given to the opposing party at the time the motion is made. If the party is not present, the Motion to Continue will be mailed to the opposing party based upon Rule 5 of the North Carolina Rules of Civil Procedure.

CONTINUANCE REQUEST FOR TEMPORARY CHILD SUPPORT AND TEMPORARY CUSTODY.

For a continuance request of hearings for temporary child custody and/or temporary child support, the motion to continue, shall be on the court's form (Rule 14.B.), and shall be filed contemporaneously with the making of the motion in open court. A copy of the motion to continue will be given to the opposing party at the time the motion is made. If the party is not present, the Motion to

Continue will be mailed to the opposing party based upon Rule 5 of the North Carolina Rules of Civil Procedure.

ABUSE, NEGLECT AND DEPENDENCY

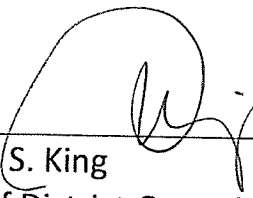
These cases should be continued and heard pursuant to North Carolina General Statute 7B-506, 7B-807, 7B-901, 7B-906(c) and any other relevant statutes promulgated by the North Carolina General Assembly, the Constitution of the State of North Carolina, the Constitution of the United States of America and any applicable Federal law.

JUVENILE DELINQUENCY

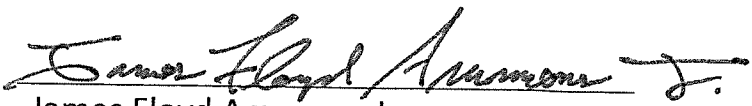
These cases should be continued and heard pursuant to North Carolina General Statute 7B-1601 and any other relevant statutes promulgated by the North Carolina General Assembly, the Constitution of the State of North Carolina, the Constitution of the United States of America and any applicable Federal law.

These guidelines are subject to exceptions and good cause. It is anticipated that requests for exceptions will include good cause, justification with specificity as to why a proposed date is outside the guidelines.

Entered in chambers this the 1 day of February 2023.



Toni S. King
Chief District Court Judge
12th Judicial District



James Floyd Ammons, Jr.
Senior Resident Superior Court Judge
12th Judicial District