

CIVIL RULES OF THE
SUPERIOR COURT DIVISION

BLADEN and COLUMBUS COUNTIES
JUDICIAL DISTRICT 13A

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STATE OF NORTH CAROLINA
JUDICIAL DISTRICT 13A

IN THE GENERAL COURT JUSTICE
SUPERIOR COURT DIVISION
BLADEN and COLUMBUS

ORDER

IN RE: LOCAL RULES AND PROCEDURE FOR THE CALENDARING OF CIVIL CASES
IN JUDICIAL DISTRICT 13A SUPERIOR COURT DIVISION.

Pursuant to Rule 40(A), North Carolina Rules of Civil Procedure, and Rule 2(A), General Rules of practice for the Superior and District Courts Supplemental to the Rules of Civil Procedure as amended, the attached "Local Rules and Procedure for the Calendaring of Civil Cases in 13A Judicial District Superior Court Division" are hereby adopted and shall become effective as of _____, 2012.

IT IS SO ORDERED this _____ Day of _____ 2012.

Douglas B. Sasser
Senior Resident Superior Court Judge

JUDICIAL DISTRICT 13A
SUPERIOR COURT DIVISION

CIVIL CASE MANAGEMENT PLAN
CIVIL CALENDARING RULES

- RULE 1. GENERAL RULES
- RULE 2. CALENDARING OF CASES-TRIAL SETTING CONFERENCE
- RULE 3. PEREMPTORY, PRIORITY AND REMANDED CASES
- RULE 4. CONTINUANCE REQUESTS
- RULE 5. CALENDARING OF MOTIONS
- RULE 6. CALENDAR CALLS, ATTORNEY'S PRESENCE
- RULE 7. DELINQUENT ORDERS OR JUDGMENTS
- RULE 8. PRE-TRIAL PROCEDURE
- RULE 9. ADMINISTRATIVE/SUPPLEMENTAL CALENDARS
- RULE 10. NOTICE OF CALENDARING TO ATTORNEYS
- RULE 11. COURT ORDERED MEDIATED SETTLEMENT CONFERENCES

LOCAL RULES FOR THE CALENDARING OF CIVIL CASES
IN JUDICIAL DISTRICT 13A
SUPERIOR COURT DIVISION

RULE 1: GENERAL RULES

- 1.1 The purpose of these Rules is to institute a case management plan in the Superior Court Division of Judicial District 13A - Columbus and Bladen counties in compliance with Rule 40(a), Rules of Civil procedure, and Rule 2(a), General Rules of Practice for Superior and District Courts and to provide for the orderly and prompt, and just disposition of civil matters.
- 1.2 These rules shall at all times be construed in a manner as to avoid technical delay.
- 1.3 It is recognized that these Rules are not complete in every detail and will not cover every situation, which may arise. In the event that these Rules do not cover a specific matter, the Trial Court Coordinator is authorized to act in his/her discretion, subject to consultation with the Senior Resident Superior Court Judge or Presiding Judge.
- 1.4 The calendar for the disposition of civil cases in Judicial District 13A, Superior Court Division, shall be set by the Trial Court Coordinator in accordance with these Rules and under the Supervision of the Senior Resident Superior Court Judge.
- 1.5 Where forms are specified to be used by these Rules, counsel may use either the forms provided or a form of their own which substantially corresponds to that specified.
- 1.6 These Rules and procedures, and all amendments hereafter shall be filed with each Clerk of the Superior Court in Judicial District 13A and may be cited accordingly.
- 1.7 These Rules and Procedures may be found at www.nccourts.org
- 1.8 All pleadings and papers, except wills and exhibits filed with the Clerk of the Superior Court shall comply with the 8 ½ x 11, standards as specified by Rule 5, General Rules of practice for Superior and District Court.

- 1.9 The Clerk of the Superior and District Courts shall provide a case number at the time of filing and place the number upon the summons. All subsequent pleadings and papers filed with the Clerk and all subsequent communications to opposing counsel, or parties, or court personnel shall contain the case number.
- 1.10 All papers filed in civil actions, to include special proceedings and estates, shall include as the first page of the filing an original plus one copy of the appropriate cover sheet in a format prescribed by the Administrative Office the Courts. The cover sheet shall be fully completed and summarize the critical elements of the filing. The Clerk of Superior Court shall refuse to accept for filing any paper that does not include an original plus one copy of the appropriate cover sheet or conform with GS7A-34.1.

RULE 2: CALENDARING OF CASES FOR TRIAL BY TRIAL SETTING CONFERENCE

- 2.1 When a case has reached at least 120 days of age after filing, a "120 Day Calendar Setting Conference Notice" shall be published and mailed to all attorneys and unrepresented parties in said case by the Trial Court Coordinator notifying them of the conference.
- A. A date shall be selected for trial of the case agreeable to all parties, from a list of scheduled dates established by the court.
 - B. Within (5) days after the Trial Setting Conference the Trial Court Coordinator shall issue a Mediated Settlement order and discovery scheduling order.
 - C. The parties/counsel shall conform with Rules of Mediation and select a mediator within (21) days of the date the Trial Setting Conference, and submit a "Designation of Mediator" form (AOC-CV-812) to the Trial Court Coordinator for signature.
- 2.2 Once a date for trial has been selected from the 120 Day Calendar Setting Conference, a request for the continuance of the case from the established trial date will not be considered, except for the most dire of circumstances that neither attorneys nor parties have any control.

- 2.3 Should a case not be reached on the session of court requested at the trial setting conference, counsel and unrepresented parties will be given an opportunity to select another date for the trial of their case. Should parties fail to contact the Trial Court Coordinator, the case will automatically be calendared at the next civil session for which a calendar has not been published.
- 2.4 All procedures regarding the mediated settlement order issued at the trial setting conference shall comply with the rules as set forth in the "Revised Rules of Mediated Settlement Conferences" adopted April 1994, by the North Carolina Supreme Court.

RULE 3: PEREMPTORY, PRIORITY AND REMANDED CASES

- 3.1 Cases entitled to priority settings by statute shall be brought to the attention of the Trial Court Coordinator in writing, with copies to all counsel of record/unrepresented parties and cite the statutory authority for such setting.
- 3.2 The Trial Court Coordinator may grant a peremptory setting for good cause shown. Requests should be made at the trial setting conference or thereafter in writing with copies to all counsel of record/unrepresented parties. The Trial Court Coordinator may set a case peremptorily on his/her own motion.
- 3.3 When a case is remanded for trial from the Appellate Division, appellant's counsel shall promptly notify the Trial Court Coordinator in writing, which shall assign the case for trial after all parties have an opportunity to express scheduling preferences.
- 3.4 A case has been transferred to the Superior Court Division on appeal from the Clerk of Superior Court.
- 3.5 The designation of any case as "Exceptional" or "Complex Business" shall be in accordance with Rule 2.1, General Rules of Practice for the Superior and District Courts. A copy of any such request shall be served upon the TCC.
- 3.6 Medical Malpractice cases shall be set peremptorily in the Discovery Scheduling Order, which is approved and signed by the Senior Resident Superior Court Judge.

- 3.7 A Discovery Scheduling Order shall be presented to the Trial Court Coordinator by counsel to determine compliance, prior to presentation to the Judge for signature.
- 3.8 The Discovery Scheduling Order shall be amended only by the Senior Resident Superior Court Judge and not by consent of counsel.
- 3.9 In medical malpractice cases scheduling deadlines and trial settings shall be made in accordance with the Discovery Scheduling Order.

RULE 4: CONTINUANCE REQUESTS

- 4.1 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 case;
 - B. Status of the trial calendar for the session;
 - C. The order in which the case appears on the calendar, to include peremptory settings;
 - D. Number of previous continuances;
 - E. The reason for continuance.
- 4.2 Reasons that shall not be considered for allowing a continuance motion.
 - A. First time setting of the case for trial;
 - B. Failure to calendar a motion;
 - C. Failure to mediate the case;
 - D. Conflicting scheduling of other trials in other courts.
- 4.3 All requests for continuances shall be received by the Trial Court Coordinator by written motion using the Continuance Request form AOC-CV-221 at least ten (10) days prior to the beginning of the scheduled session and specify with particularity the reason for continuance and state when the case may be rescheduled for trial.
- 4.4 Copies of the request for continuance shall be mailed to all opposing counsel or unrepresented parties unless the response of all opposing counsel or parties is included in the request. Objections by opposing counsel shall be made in writing and

mailed to the Trial Court Coordinator. If a response is not received from opposing counsel or unrepresented parties within five (5) working days of the mailing date of the request, it will be assumed that the opposing party does not desire to be heard on the request.

- 4.5 The Trial Court Coordinator, 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.
- 4.6 Any failure to comply with the Rules concerning notice of continuance request to opposing counsel or unrepresented parties shall result in the voiding of any continuance granted should an objection arise upon notification from the Court that a continuance has been granted.
- 4.7 Cases, which have been peremptorily set or set by other court order, may be continued only by the Senior Resident Superior Court Judge.

RULE 5: CALENDARING OF MOTIONS

- 5.1 All motions shall be calendared for hearing through the Trial Court Coordinator.
- 5.2 Providing notice to the Clerk of Court does not constitute providing notice to the Trial Court Coordinator.
- 5.3 Motions shall be filed at least five (5) working days before the date of the publication of the trial calendar.
- 5.4 Failure of counsel to calendar motions for hearing in a timely manner will not delay the trial date assigned.
- 5.5 Prior to the beginning of the scheduled court session, the moving party may remove any motion he/she has noticed for hearing from the calendar by providing the Trial Court Coordinator with notification of intent to withdraw the notice of hearing and verification that such withdrawal has been communicated to all party(ies).

- 5.6 Add on motions: motions added to a published calendar for hearing, shall not be added unless the Trial Court Coordinator has received notice of hearing of the motion. To calendar add on motions, the moving counsel/unrepresented party shall deliver a copy of the Notice of Motion Hearing to the office of the Trial Court Coordinator by U.S. Mail, hand deliver, or fax, no later than 5:00 p.m. on the Tuesday prior to the scheduled Monday court session. Motions not appearing on the printed calendar, may only be added for hearing in the discretion of the Trial Court Coordinator

RULE 6: CALENDAR CALLS, ATTORNEY'S PRESENCE

- 6.1 The call of the Superior Court Calendar shall be at 10:00 am on the first day of the session.
- 6.2 Cases will be called in the order on which they appear on the trial calendar unless counsel is otherwise instructed by the presiding Judge or the Trial Court Coordinator.
- 6.3 Pursuant to Rule 2(e), General Rules of Practice for Superior and District Courts, counsel for all parties in an action, when notified to appear at a pre-trial conference, hearing on motions or at trial, must, consistent with ethical requirements, appear or have a partner, associate, or other attorney present. Unless an attorney has been excused in advance by the Judge before whom the matter has been scheduled and has given prior notice to his opponent, a case will not be continued.

RULE 7: DELINQUENT ORDERS OR JUDGMENTS

- 7.1 When a case on a published calendar (jury or non-jury) has settled, dismissed, jury verdict, or judge's order, has not been closed, then it shall be deemed delinquent.
- 7.2 If determined delinquent, the Trial Court Coordinator shall re-calendar the case on the next available motions calendar. The Presiding Judge shall have discretion to dismiss the case.

RULE 8: PRE-TRIAL PROCEDURES

- 8.1 Rule 7, General Rules of Practice for the Superior and District Courts shall control Pre-Trial Conferences and Pre-Trial Orders.

RULE 9: ADMINISTRATIVE AND SUPPLEMENTAL CALENDARS

- 9.1 The Trial Court Coordinator may, as necessary, set supplemental calendars during administrative weeks, during other scheduled non-jury terms, or with motion calendars for the purpose of judicial review of case status where cases appear to be delinquent in some respect or have been continued for reasons such as extended discovery, or for complex cases, and at which the Presiding Judge may dispose of pending motions and set dates for ending discovery, pre-trial orders, and trial.

RULE 10: NOTICE OF CALENDARING TO ATTORNEYS

- 10.1 The Final Trial Calendar shall be distributed to all parties not less than four (4) weeks prior to trial.
- 10.2 Calendars will be published on the internet at www.nccourts.org and select Columbus or Bladen.
- 10.3 It is the responsibility of counsel and unrepresented parties to be aware of cases appearing on trial calendars and to contact the office of the Trial Court Coordinator to determine trial order in advance of trial session.

RULE 11: COURT ORDERED MEDIATED SETTLEMENT CONFERENCES

- 11.1 N.C.G.S. 7A-38.1, Mediated Settlement Conferences in Superior Court Civil Actions, and the Rules Implementing Statewide Mediated Settlement Conferences in Superior Court Civil Actions, shall control mediation.

