

15B JUDICIAL DISTRICT

SUPERIOR COURT DIVISION

ADMINISTRATIVE ORDER
ESTABLISHING CONTINUANCE POLICY

It is the policy of this Court to provide justice for citizens without unnecessary delay and without undue waste of the time and other resources of the Court, the litigants, and other case participants. For all case types and dockets, and in all courtrooms, the Court looks with strong disfavor on motions or requests to continue court events. In order to protect the credibility of scheduled trial dates, trial-date continuances are especially disfavored.

Now therefore, IT IS HEREBY ORDERED as follows:

1. Superior Court Continuances:

- A. Except in unusual circumstances, any continuance motion or request made in Superior Court shall be in writing and filed not later than 2 business days before the court event for which rescheduling is requested.
- B. Any attorney or party requesting a continuance shall state the reasons for the request.
- C. Continuances on agreement of counsel or the parties shall not be automatically granted.
- D. The Court shall grant a continuance only for good cause shown unless otherwise provided by law.
- E. Whenever possible, continuance motions or requests shall be made using the appropriate forms issued by the North Carolina Administrative Office of the Courts, which include:
 - i. AOC-CV-221 for motions to continue civil superior cases; and
 - ii. AOC-CR-410 for motions to continue criminal superior cases;

2. District Court Continuances:

- A. Criminal—Generally, all district court cases should be disposed at the earliest possible court setting with a goal of disposing of most cases within 120 days of the first court date.
 - i. Assistant District Attorneys and Defendants, by and through counsel or directly if self-represented, may continue a criminal district court case by agreement without court approval no more than 3 times and to a date not later than 120 days after the initial court date. This includes cases scheduled for Felony Administrative Sessions.

- ii. All agreed upon continuances allowed by Section 2.A.i. hereinabove, shall be documented in writing either in or on the court file in a method to be determined by the District Attorney in consultation with the Clerk. The writing shall identify the moving party and the reason for the continuance.
 - iii. In all District Court criminal matters that are not scheduled on a Felony Administrative Session, all motions or requests to continue made after the 3rd continuance or that would result in a continuance to a date later than 120 days from the initial court date, shall be made in writing and presented to and ruled upon by the presiding judge. The written motion to continue must include the following information:
 - 1. the date the defendant's initial court date;
 - 2. the number of previous continuances;
 - 3. the facts constituting a compelling reason for the continuance or why the interest of justice requires the continuance; and
 - 4. the requested reschedule date.
 - iv. Except for cases requiring blood or other laboratory analysis to be completed before trial, any criminal district court case calendared after the 3rd continuance or on a date later than 120 days after the initial court date, whichever occurs first, shall be considered as set for trial, and further continuances will only be granted by the presiding judge for compelling reasons that affect the fundamental fairness of the trial process.
 - v. In cases requiring blood or other laboratory analysis to be completed, the trial shall be scheduled within 30 days of the service of the analyst's report on the defendant. Any motion to continue the trial date shall go before the presiding judge, and will only be granted for compelling reasons that affect the fundamental fairness of the trial process.
 - vi. Beginning January 1, 2023, in all matters that are scheduled on a Felony Administrative Session, cases shall not remain on the Felony Administrative Session docket for more than 120 days without coming before a district court judge. If the defendant has not been indicted or entered a misdemeanor plea within 120 days after the initial court date, the matter shall go before a district court judge to determine whether the matter will be scheduled for a Probable Cause hearing or return to the Felony Administrative Session docket for a specified period of time. Notwithstanding the forgoing rule, unindicted felonies with a pending laboratory analysis may remain on the Felony Administrative Session docket without going before a district court judge until 30 days after the analysis report is received.
- B. Civil—Generally, once a civil district court case is set for trial or hearing on any issue, continuances will only be granted for compelling reasons that affect the fundamental fairness of the trial process.
- i. All requests for continuances in civil district court cases shall be made in the form of written motions using AOC-CV-222, even if the parties are joining in the request. The motion shall contain all information required on the form.

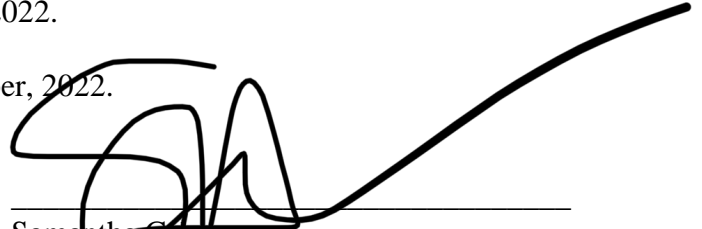
- ii. The motion shall be filed as soon as possible after the moving party is aware of facts they believe justify a continuance.
 - iii. The attorney for the moving party, or the party if self-represented, shall file their motion with the Clerk of Court and email an electronic copy to Jennifer Ray, the District Court Trial Coordinator, via email at Jennifer.D.Ray@nccourts.org as soon as they are aware that they will be requesting a continuance.
 - iv. Absent extraordinary circumstances, all attorneys, parties, and subpoenaed witnesses shall be present in court at their appointed date and time if the continuance was requested less than 48 hours before the trial date and time, or if the presiding judge or the District Court Trial Coordinator has not contacted the moving party about the judge's ruling on such motion.
 - v. A case will not be removed from a docket upon the report of "settlement" until an order or memorandum of settlement is entered or filed in the case. Parties may request a continuance to prepare the settlement documents using the process outlined hereinabove, but such continuance is not guaranteed.
3. In all courts, both Superior and District, continuances of "older cases" are specifically disfavored and shall be granted only in extraordinary circumstances. "Older cases" are defined as follows:
 - A. In Criminal Superior Court, a case pending more than 60 days from indictment or information.
 - B. In Criminal District Court, a case pending more than 120 days from the initial court date.
 - C. In Civil Superior Court, a case not in compliance with the timetable set out in the original case management order.
 - D. In Civil District Court, a case with issues other than child custody or support pending more than 1 year after the filing of the Complaint.
 - E. In Civil District Court cases involving the issues of child custody or support, a case will be considered an "older case" at anytime at which the issue of custody or support is pending more than 90 days from the filing of the complaint or most recent motion.
4. Any grant of a continuance motion or request by the Court shall be made in writing or on the record, with an indication of who requested it and the reasons for granting it.
5. Whenever possible, the Court shall hold the rescheduled court event not later than 30 days after the date from which it was continued.
6. Information about the source of each continuance motion or request in a case and the reason for any continuance granted by the Court shall be included in the written request and the Court's Order.
7. To the extent that this order conflicts with any statutory provision applicable to a particular continuance motion or request, the statutory provision will control.

8. At least quarterly, the Senior Resident Superior Court Judge and Chief District Court Judge shall generate and review a report of pending cases and any data the Administrative Office of the Courts can make available regarding the number of court dates each case had. To promote the consistent application of this continuance policy, these reports should be reviewed and discussed with all other judges in the district, bar representatives and other court-related agencies to seek resolution of any organizational or systemic problems that cause unnecessary delay in the timely resolution of all cases.
9. This order shall be published on the Administrative Office of the Court's Local Rules website.
10. This order shall be effective and shall apply to all cases pending in Superior and District Court in Judicial District 15B as of October 1, 2022.

Entered and effective as of this 1st day of September, 2022.



Allen Baddour
Senior Resident Superior Court Judge
15B Judicial District



Samantha Eby
Chief District Court Judge
15B Judicial District