

LOCAL RULES FOR CIVIL SUPERIOR COURT
TENTH JUDICIAL DISTRICT
NORTH CAROLINA
Effective January 7, 2013

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1.0 PURPOSE OF THE RULES

- 1.1 The purpose of these rules is to provide for the just, orderly, and prompt consideration, determination and disposition of civil matters to be heard in Wake County Superior Court. They shall at all times be construed and enforced to avoid technical delay.
- 1.2 These rules are promulgated pursuant to Rule 2 of the General Rules of Practice for Superior and District Court and N.C. Gen. Stat. §1A-1, Rule 40.
- 1.3 The rules and all amendments here after shall be filed with the Clerk of Superior Court for Wake County and published on the North Carolina Administrative Office of the Courts website, www.nccourts.org. The Trial Court Administrator shall maintain a supply of printed rules to be furnished upon request.
- 1.4 The North Carolina Supreme Court standards for resolution of cases filed in civil Superior Court are as follows: 90% resolved within one year, 98% within 18 months and 100% within two years. These rules are to be read consistently with the standards as set forth by the Supreme Court. (See Court Performance Management System at www.nccourts.org/Citizens/SRPlanning/Performance/Default.asp.)
- 1.5 These rules are not complete in every detail and will not cover every situation. In the event the rules do not cover a specific situation, the Trial Court Administrator is authorized to act, subject to consultation with the Senior Resident Superior Court Judge or the Judge Presiding.

2.0 CALENDARING AND NOTICE TO ATTORNEYS

- 2.1 The Trial Court Administrator shall prepare the necessary calendars for the disposition of civil cases in the Superior Court of Wake County in accordance with these rules.
- 2.2 The Senior Resident Superior Court Judge may designate a specific resident judge or a specific judge assigned to hold court in the District to preside over all proceedings in a particular case.
- 2.3 There shall be a calendar call of the cases on the calendar by the presiding judge at 10:00 a.m. on the first day of the session of court. Cases will normally be called for trial or hearing in the order they appear on the calendar; however, any case may be called for trial by the presiding judge at any time during the week. Attorneys and unrepresented parties should be prepared for their case to be called at any time.
- 2.4 **Calendar Publication** All calendars will be prepared by the Trial Court Administrator and published on the Administrative Office of the Courts website no later than three weeks prior to the first day of the court session. Publication of the calendar shall serve as sufficient notice to counsel that a case has been set. Civil court calendars are available at: www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=WAKE.

- 2.5 **Calendar Updates** Updates to court calendars will be posted online not later than 2:00 p.m. on the last business day before the first day of the court session. Parties must provide notice to the Trial Court Administrator's Office of any updates, including settlements and continuances, in cases appearing on the calendar. Any updates arising after the calendar is posted must be made directly to the Court at the call of the calendar.
- 2.6 **Attorney Query Tool** Attorneys may search cases on published calendars using the Civil Calendar Attorney Query by Bar Number tool at www.nccourts.org. To ensure accuracy of this tool, attorneys must provide the Clerk of Superior Court with information regarding withdrawals, notice of appearance, and substitution of counsel in specific cases. Filings must include the North Carolina State Bar number for each attorney of record. Only attorneys active with the North Carolina State Bar and who have a valid North Carolina State Bar identification number may use this search tool.
- 2.7 **Subscription** The North Carolina Court Calendar subscription service is available for civil Superior court cases set for hearing on published calendars in Wake County at the following web address:
www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=WAKE.
- 2.8 **Notice to Unrepresented Parties** Unrepresented parties will be provided notice of the calendar by the Trial Court Administrator. Notice will served by any method authorized for service by North Carolina Rule of Civil Procedure 5(b)(2). Unrepresented parties are required to comply with these local rules and the NC Rules of Civil Procedure and the NC General Rules of Practice in all respects.
- 2.9 **Court Appearance** When an attorney is notified to appear for a pre-trial conference, motion hearing, trial or any other court appearance, the attorney must, consistent with ethical requirements, appear or have a partner, associate, or another attorney familiar with the case appear. Unless an attorney has been excused in advance by the judge before whom the case is scheduled and has given prior notice to his opponent, an attorney's absence should not be grounds for a continuance.

3.0 MOTIONS AND OTHER NON-JURY MATTERS

- 3.1 **Generally** Motions, administrative appeals and other non-jury matters will normally be set during specially designated non-jury sessions. Parties should refer to the sessions schedule to determine the next available non-jury session. The sessions schedule is available online at <http://www.nccourts.org/County/Wake/Calendars.asp>. Non-jury sessions are denominated as "NJ" on the sessions schedule. Matters that are expected to require an hour or more of court time may be placed on trial calendars in the discretion of the Trial Court Administrator, depending on the need to balance courtroom utilization while ensuring that all cases are heard during the requested session. Parties are encouraged to check all published calendars for the setting of their case. In exigent circumstances, the Trial Court Administrator may set a motion for hearing at any time, if all notice requirements are satisfied or all parties consent.

- 3.2 **Calendar Requests** Any party requesting that a matter be heard during a non-jury session must submit a completed calendar request form to the Trial Court Administrator. Calendar requests shall be filed within the deadlines established on the sessions schedule. Calendar requests should not be filed with the Clerk. Calendar requests may be hand-delivered, mailed, emailed or faxed to the Trial Court Administrator's Office. The email address to send calendar requests is: calendarrequestswake@nccourts.org. Submission of only one copy of the request is sufficient. Any special requests regarding the setting of the motion must be included in the calendar request. No calendar request may be made before filing the motion that is the subject of the hearing. Requests submitted before the filing of a motion will be without effect and ignored. If the opposing party has a conflict with the request made, the Trial Court Administrator's Office must be notified within 3 days of service of the calendar request.
- 3.3 **Removal of cases from non-jury calendars** Cases set for non-jury hearing will be removed from the calendar only under the following conditions: (1) settlement of the case and/or final resolution of the motion; (2) written withdrawal of the motion by the moving party; or (3) continuance by the court for good cause shown pursuant to Local Rule 8.
- 3.4 **Consent Motions** Motions consented to by the parties may be presented to the Trial Court Administrator for assignment to a judge for review and decision, without the necessity of formal calendaring. The party filing the motion shall include with the submission a proposed order which shall recite that the motion is consented to or otherwise unopposed. A party filing any of the following motions must make a good faith effort to determine whether there is opposition to the motion:
- (1) Motion for Extension of Time to Respond or Otherwise Plead
 - (2) Motion to Amend a Pleading or Add a Party
 - (3) Motion to Transfer to Superior Court Division
 - (4) Motion to Withdraw as Counsel
 - (5) Motion to Stay Agency Decision Pending Judicial Review
 - (6) Motion for Extension of Time for Discovery Responses
 - (7) Motion to Extend the Period of Time for Discovery
- 3.5 **Motions to Withdraw** Motions to withdraw must include a certificate of service showing service on the client from whom representation is being withdrawn. The motion also must indicate whether all parties consent or if any party opposes the motion. The motion and proposed order must set forth the name and address of substitute counsel, or if not known, the current address of the party from whom representation is being withdrawn. No action will be taken on a motion and proposed order that does not include this information. If the motion to withdraw is granted, the withdrawing attorney must serve a copy of the signed order on the Trial Court Administrator.

4.0 CASE MANAGEMENT ORDERS AND SETTING CASES FOR TRIAL

- 4.1 **Generally** Approximately 120 days after filing of the Complaint, all cases will be reviewed by the Trial Court Administrator for a determination of the status of the case. Cases will either be set for trial or a Status Conference for review. Consistent with the provisions of North Carolina Rule of Civil Procedure Rule 26(f) and Local Rule 5.3, the Trial Court Administrator will use his/her discretion in determining whether a case is appropriate for: (a) entry of a Case Management Order setting a trial or hearing date; (b) requesting written information concerning scheduling and mediation from the parties followed by the entry of a Case Management Order; (c) setting the matter for review at a Status Conference; or (d) setting the matter on a non-jury calendar for hearing and disposition.
- 4.2 **Entry of Case Management Orders** In appropriate cases, the Trial Court Administrator may give the parties written notice that an order will be entered setting a trial date and designating a mediator, and may request written submissions from the parties as to appropriate deadlines. The parties shall confer and use Local Form 2 to respond to the notice. After receipt of such responses, the Trial Court Administrator will enter a Case Management Order which will contain scheduling deadlines and a trial date. If no response is received by the parties, the Trial Court Administrator will set the matter for a Status Conference for a determination of all scheduling matters. The parties may request a scheduling conference with the Trial Court Administrator if the case presents unusual scheduling issues.
- 4.3 **Consent Modification to Case Management Order** The parties may modify the dates in the Case Management Order by consent within 30 days of the issuance of the order. After the 30-day period, the parties may, by consent, modify any deadlines except the trial date. All requests to modify, including consent modifications, must be made in writing and served on the Trial Court Administrator's Office. For all other modifications and continuances, see Local Rule 8.
- 4.4 **Status Conference** The Trial Court Administrator may notice a Status Conference for any case more than four months old. A list of cases set for Status Conference will be published on the Wake County website at www.nccourts.org. Status Conferences will normally occur beginning at 11:00 a.m. on Friday during a specially designated non-jury session of court.
- At the Status Conference, the parties will discuss with the Trial Court Administrator an appropriate trial date, an appropriate mediator, and any other scheduling matters requiring attention. At the conclusion of the Status Conference, the Trial Court Administrator will issue a Case Management Order setting the trial date, selection or appointment of the mediator, and otherwise dealing with any scheduling issues requiring attention. The Trial Court Administrator has full authority to act for the Senior Resident Superior Court Judge in issuing Case Management Orders.
- If the parties agree on scheduling issues and the selection of the mediator, and return Local Form 2 containing this information to the Trial Court Administrator before the Status Conference, the parties will not be required to attend the Status Conference.

Should the parties not agree with dates provided at the Status Conference, the matter will be set for hearing before the Senior Resident Superior Court Judge or his/her designee for a determination of all scheduling matters.

4.5 **Failure to Appear at Status Calendar** In the absence of good cause, any attorney or unrepresented party who fails to appear for a noticed status conference, either with the Trial Court Administrator or the Senior Resident Superior Court Judge, when required by these rules will be considered by the Court to have waived any conflicts or problems with dates in the Case Management Order and will be bound by the dates as if all had been present and consented to the schedule.

5.0 DISCOVERY

5.1 **Generally** Parties are expected to make a good faith effort to participate in discovery as set forth in Rule 8 of the General Rules of Practice.

5.2 **Method** Discovery is expected to begin promptly upon the close of the pleadings and, except as supplemented by these Rules, shall be governed by the North Carolina Rules of Civil Procedure. All forms of discovery may be used in any sequence during the discovery process, unless otherwise ordered. No agreement to delay discovery or engage in informal discovery may serve as a basis to continue the trial date.

5.3 **Time Period for Discovery** Subject to an order modifying discovery procedures, the Court expects discovery to be completed within 6 months from the issuance of the Case Management Order. Modifications to the discovery deadline in the Case Management Order shall not serve to delay the trial absent good cause. Requests to extend the deadline for discovery shall be submitted to the Trial Court Administrator prior to the expiration of the deadline in the Case Management Order. A Discovery Plan as set forth in Rule 26(f) of the North Carolina Rules of Civil Procedure may be incorporated into or supplant, if expressly ordered, the Case Management Order. All Discovery Plans shall include a trial date and must be submitted to the Trial Court Administrator for presentation to the Senior Resident Superior Court Judge.

5.4 **Discovery Motions and Objections** The Court will not consider motions and objections to discovery unless the moving party files a certificate that, after personal consultation and diligent attempts to resolve differences, the parties are unable to reach an accord. The certificate shall set forth the date of the conference, the names of the participants, and the specific results achieved. The filed certificate must be attached to any request to calendar a discovery dispute and sent to the Trial Court Administrator's Office.

5.5 **Medical Malpractice Cases** Discovery plan conferences in medical malpractice actions as defined by N.C. Gen. Stat. § 90-21.11 shall be conducted pursuant to Rule 26(g) of the North Carolina Rules of Civil Procedure. The Discovery Plan shall include a trial date and must be submitted to the Trial Court Administrator for presentation to the Senior Resident Superior Court Judge.

5.6 **Commissions for Discovery to be Conducted Out-of-State** In cases where a party is seeking a commission for obtaining discovery outside of the State, a motion must be filed and calendared for hearing as set forth in Rule 45(f) of the North Carolina Rules of Civil Procedure. Cases requiring a hearing within 20 days must be promptly brought to the Trial Court Administrator for a determination of the next available calendar setting.

6.0 PRE-TRIAL ORDERS, PRE-TRIAL CONFERENCES AND EXHIBITS

6.1 **Pre-Trial Orders** Proposed pre-trial orders are due to the Trial Court Administrator's Office no later than 5:00 p.m. on the Friday prior to the session of court in which the case is calendared for trial. The pre-trial order shall be in substance as shown on the sample form set out in the General Rules of Practice for the Superior and District courts. The pre-trial order shall include a list of the witnesses expected to be called at trial, a list of exhibits, and a list of the issues the parties request be submitted to the jury.

6.2 **Pre-Trial Conference** Any party, or the Court on its own motion, may request a pre-trial conference to address matters relating to final trial preparation or settlement of a case. Any party requesting a conference with the presiding judge pursuant to Rule 7 of the General Rules of Practice must send a written request to the Trial Court Administrator no later than 15 days before the date the case is scheduled for trial. At the time of or immediately following the pre-trial conference, unless otherwise ordered or agreed, it shall be the duty of the plaintiff to prepare the final proposed pre-trial order to be signed by all counsel.

6.3 **Exhibits** Exhibits shall be pre-marked with appropriate stickers with sequential numbers. A list of all exhibits in sequential order shall be provided to the courtroom clerk at the beginning of the trial. If publication of hard copies to the jury is intended, counsel are encouraged to provide a sufficient number of copies of exhibits for use by the jury.

7.0 PEREMPTORY AND PRIORITY SETTINGS

7.1 **Generally** Written requests for the peremptory setting of a case shall be served on the Trial Court Administrator's Office within 30 days of the issuance of the Case Management Order. Local Form 5 may be used. All counsel of record and unrepresented parties must be copied on the request. Parties may request a peremptory setting at the time of the issuance of the Case Management Order. Only the Senior Resident Superior Court Judge may authorize a peremptory setting.

7.2 **Reasons for request** The request must state the reason(s) for the need to have a peremptory setting. Travel of short distances for parties or witnesses typically will not warrant the setting of a case peremptorily. Factors that are considered in determining whether a case will receive a peremptory setting include: the age of the case; the number of times the case has previously been set; travel distance and means required of those involved in the case; the number of expert witnesses expected to testify at trial; and any other reason that may greatly impact the just and proper resolution of the case.

- 7.3 **Setting by the Court** The Court may set a case peremptorily at any time.
- 7.4 **Continuance of a Peremptory Setting** Cases that have peremptory settings may be continued only by the Senior Resident Superior Court Judge or his/her designee.
- 7.5 **Approval of Dates** Attorneys and unrepresented parties must consult with the Trial Court Administrator's Office to determine the availability of a peremptory setting. Generally, no more than two peremptory settings will be approved during a single session of court. Requests for peremptory settings included in consent Discovery Scheduling Orders, especially in the case of medical malpractice actions, must be approved by the Trial Court Administrator before presentation to the Senior Resident Superior Court Judge for approval.
- 7.6 **Other Priority Settings** Counsel shall notify the Trial Court Administrator in cases in which there is statutory authority granting a priority setting.

8.0 CONTINUANCES

- 8.1 **Generally** Any motion to continue must initially be filed with the Clerk of Superior Court then submitted to the Trial Court Administrator. Opposing counsel and/or unrepresented parties must be notified of the motion to continue before delivery of the motion to the Trial Court Administrator. No continuance shall be granted solely because all parties agree. Motions to continue a case set for trial are generally disfavored and will not be granted absent good cause shown.
- 8.2 **Content** Any motion to continue must be in writing and contain the following information:
- (a) Caption and file number of the case;
 - (b) Session at which the case is set;
 - (c) The basis for the motion;
 - (d) The number of times the case has previously been continued;
 - (e) A certification that the moving party conferred, or attempted in good faith to confer, with all parties before filing the motion, and a statement of whether the motion is opposed; and
 - (f) A proposed session within 90 days for the rescheduling of the case. When the parties do not include a proposed reschedule date, the Trial Court Administrator shall reset the case.
- 8.3 **Timing** A motion to continue must be filed no later than 3 business days before the first day of the session of court in which the case is set. Motions to continue filed thereafter will not be considered until the calling of the calendar, except where the motion reflects extreme hardship or extraordinary circumstances. Parties who are moving to continue a case set for trial should be prepared to move forward with trial in the event the motion to continue is denied. Before the date of trial, only the Senior

Resident Superior Court Judge or his/her designee may rule on a motion to continue a case set for trial.

8.4 **Objections** Objections to motions to continue must be in writing and submitted to the Trial Court Administrator within 2 days of receipt of the motion to continue. Objections not made within 2 days are considered waived.

8.5 **Cases Not Reached or Mistried** If a case is not reached for trial or is mistried, counsel and unrepresented parties may submit an agreed-upon date for rescheduling to the Trial Court Administrator's Office no later than close of business on the first Friday following the session of court in which the case was originally set. If counsel and unrepresented parties fail to submit such an agreed-upon date, the case shall be reset by the Trial Court Administrator.

9.0 JUDICIAL REVIEW OF ADMINISTRATIVE ACTION

9.1 **Generally** The judicial review of a final agency decision shall commence by the filing of a Petition for Judicial Review with the Clerk of Superior Court pursuant to N.C. Gen. Stat 150B-43, et seq or by the filing of a Petition for writ of Certiorari. Petitioner shall serve a copy of the Petition or Writ upon the agency. Within 30 days after receipt of the petition or writ, the agency shall cause to be filed with the Clerk of Superior court the original or a certified copy of the official record in the case under review from which the final agency decision was entered. The agency or the Petitioner may move for additional time within which to file the record. Counsel for the agency shall notify Petitioner in writing when the record is filed with the clerk.

9.2 **Briefs** Petitioner shall have 30 days from notice of the record being filed to serve its brief on Counsel for the agency. The agency shall have 30 days from receipt of Petitioner's brief to serve its response brief on Petitioner. The brief of any Intervenor shall be served on all parties concurrently with the motion to intervene. No reply brief shall be allowed except by order of the court. The court for good cause may alter or enlarge the times provided for the filing of briefs.

9.3 **Hearings** Judicial review proceedings shall be set by the Trial Court Administrator upon the submission of a completed calendar request. Hearings projected to last less than one hour may be scheduled during specially designated non-jury sessions of court. Hearings projected to last one hour or longer will be scheduled for hearing on final calendars. Counsel and unrepresented parties are encouraged to check all calendars for the scheduling of their case. Judicial review proceedings are not subject to mandatory mediation unless ordered by the Senior Resident Superior court Judge.

9.4 **Special Provision for the Denial of a Special Use Permit for a Sexually-Oriented Business** An applicant who has been denied a special use permit for a sexually-oriented business by a municipality or county may request, in writing, expedited judicial review after filing a timely petition for certiorari. The applicant's brief required under Local Rule 9.2 shall accompany the request.

10.0 BANKRUPTCY CASES

- 10.1 Any request to continue, stay, or in any other way delay disposition of a case due to bankruptcy of one of the parties must be accompanied by a copy of the stay of proceeding order from the United States Bankruptcy Court having jurisdiction and shall apply only to cases involving the party filing for relief in Bankruptcy.
- 10.2 Any case that has been the subject of an approved request pursuant to Rule 10.1 shall be placed on inactive status and removed from the active docket of cases pending with the Clerk of Superior Court. Upon resolution of the bankruptcy proceedings or dissolution of the stay, the case may be reopened upon motion to the Court and placed on the active docket of cases pending before the Superior Court.

11.0 PRODUCTION OF MEDICAL RECORDS IN LIEU OF APPEARANCE

- 11.1 **Generally** The Trial Court Administrator shall be the designee to accept by registered mail or personal delivery certified copies of medical records pursuant to G.S. §1A-1, Rule 45(c).
- 11.2 **Release of Medical Records** The Trial Court Administrator shall release medical records by presentation of a copy of a written order of the Court or upon request from the presiding judge for use in court proceedings. In the Trial Court Administrator's discretion, records may be released when all parties, including the person who is the subject of the medical records, agree to the release in writing.
- 11.3 **Retention of Medical Records** Once a case has been closed and all direct appeals exhausted, the Trial Court Administrator shall destroy any medical records in the case that remain unclaimed, unless otherwise directed by an order of the Court.

12.0 JUDICIAL REVIEW OF SETTLEMENTS (MINOR SETTLEMENTS)

- 12.1 All requests for review of settlements requiring judicial approval, including minor settlements, shall be submitted to the Trial Court Administrator. Such matters will be given priority and will be set for hearing at the next available session of court. A notice of hearing must be sent to the Trial Court Administrator no later than 5:00 p.m. on the Wednesday before the first day of the court session requested.
- 12.2 The Minor and his/her Guardian *ad Litem* must be present at the hearing, unless excused in advance by the Judge Presiding.

13.0 CONDEMNATION ACTIONS

- 13.1 Parties must submit Local Form 3 no later than 60 days after service of the last answer filed in public condemnation actions. This form must include agreed upon proposed dates for: completion of the project at issue in the condemnation action, the expected start of discovery and a deadline for its completion, a mediation deadline and a trial

date. Based on this information, the Trial Court Administrator will issue a Case Management Order.

- 13.2 If the parties are not able to agree or do not submit Local Form 3 within 60 days of service of the last answer filed, the case will be set for a Status Conference. The parties must then report to the Court for a determination of the posture of the case and the entry of a Case Management Order.

14.0 REQUESTS FOR INJUNCTIVE RELIEF

- 14.1 **Generally** Applications for Temporary Restraining Orders and Motions for Preliminary Injunctions made pursuant to North Carolina Rule of Civil Procedure 65 will be heard only after the commencement of a civil action through the filing of a complaint and/or issuance of the summons.

- 14.2 **Application for Temporary Restraining Orders** Requests for hearings on Applications for Temporary Restraining Orders shall be presented to the Trial Court Administrator for assignment. Hearings normally will be scheduled at 2:00 p.m. before the judge presiding in civil court. Alternate arrangements may be made in the discretion of the Trial Court Administrator. No hearing will be scheduled later in the court week than 2:00 p.m. on Friday without the approval of the Senior Resident Superior Court Judge or his/her designee.

- 14.3 **Notice** Litigants requesting injunctive relief must notify opposing counsel, if any, that such judicial action is being requested and shall so certify to the Trial Court Administrator that notice was given before the request for hearing was made. Upon the scheduling of the motion by the Trial Court Administrator, counsel shall notify opposing counsel in writing of the time and place of hearing.

- 14.4 **Preliminary Injunctions** Motions for preliminary injunctions that are set by the court during a hearing on the application for the temporary restraining order must be presented to the Trial Court Administrator's office to ensure the motion is properly set for hearing. No preliminary injunction shall be issued without notice to the adverse party. Preliminary Injunctions are set for hearing on the next available session of court and are given priority over all other matters, except older matters that are of the same character.

15.0 MEDIATION

- 15.1 **Rules Governing Mediation** The North Carolina Supreme Court's Rules governing mediated settlement conferences are available at www.nccourts.org/Courts/CRS/Councils/DRC/NARules.asp. The Court expects the parties to follow these rules in conducting the mediated settlement conference. Sanctions will be imposed when appropriate.

- 15.2 **Eligible Cases** All civil actions in Superior Court shall be ordered into the mediated settlement conference except for administrative appeals, declaratory judgment

actions and actions in which a party is seeking the issuance of an extraordinary writ. Requests to dispense with mediation are generally disfavored and may only be granted by the Senior Resident Superior Court Judge.

- 15.3 **Mediation Deadlines and Extensions** The deadline for the mediated settlement conference will appear in the Case Management Order and will normally be 60 days prior to the trial date. Short extensions of the deadline may be allowed so long as the trial date is not affected. The parties may submit a proposed stipulated order in lieu of a motion to continue for consideration by the Senior Resident Superior Court Judge to extend the mediation deadline. Parties may use Local Form 4 for this purpose.
- 15.4 **Designation of Mediator** Parties are encouraged to timely select a mediator for their case. The Designation of Mediator form shall be filed with the Clerk of Superior Court and a copy sent to the Trial Court Administrator's office. Parties are encouraged to consider the availability and schedule of the mediator during the selection process. Scheduling conflicts concerning the mediated settlement conference will not serve as a basis to continue trial. If the parties are unable to agree upon the selection of a mediator, the Trial Court Administrator will designate a mediator from the list of court approved mediators. This designation will appear in the Case Management Order. Once a mediator has been appointed, motions to substitute will only be allowed if the designated mediator has a conflict, is otherwise unable to mediate the case or for good cause shown. Substitutions must be authorized by the Senior Resident Superior Court Judge.

16.0 DESIGNATION OF SECURE LEAVE

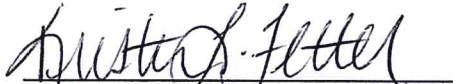
- 16.1 Pursuant to Rule 26 of the General Rules of Practice for the Superior and District Courts, attorneys may designate periods of Secure Leave. Attorneys appearing in cases pending before the civil Superior Court of Wake County must submit their Notice of Secure Leave to the Trial Court Administrator.
- 16.2 Notice of Secure Leave shall be sent to the following address:
- Trial Court Administrator's Office
Post Office Box 1916
Raleigh, North Carolina 27602
ATTN: SECURE LEAVE
- 16.3 Secure leave designations are not filed in the court files and should not contain a case number. The Trial Court Administrator will enter the information into a database used to track periods of Secure Leave.
- 16.4 The policy and procedures described herein are not exclusive. In extraordinary circumstances the time limitations for notification of designated weeks may be waived by the court when attorneys have been faced with particular or unusual situations. Furthermore, attorneys shall be able to make other requests to be excused from appearing before the court for personal and professional reasons.

17.0 MISCELLANEOUS

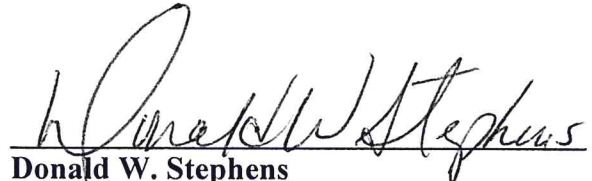
- 17.1 **Cases Under Advisement** Attorneys or unrepresented parties should notify the Trial Court Administrator of cases that have been heard and taken under advisement when a period of more than 90 days has passed since the hearing without a ruling. The Trial Court Administrator will then notify the presiding judge in writing of the need for a prompt and fair resolution in the matter. If no decision is rendered by the presiding judge, the Senior Resident Superior Court Judge may then enter an order finding that the presiding judge has relinquished jurisdiction over the matter and instruct the Trial Court Administrator to re-calendar the case before another judge for a hearing *de novo*.
- 17.2 **Courtroom Utilization** Upon resolution of the civil Superior Court trial calendar, Superior Court Judges may be assigned to preside over cases from the Criminal Division. The Trial Court Administrator shall designate such assignments. Civil clerks will coordinate with criminal clerks to facilitate the addition of cases to the calendar.
- 17.3 **Scheduling Conflicts** When an attorney has more than one case set in different courts at the same time, the scheduling conflict will be resolved pursuant to Rule 3 of the General Rules of Practice.
- 17.4 **Courtroom Presence** Counsel for each party and the presiding judge shall remain in the courtroom throughout the course of a trial, including jury selection, opening statements and closing arguments. The absence of the presiding judge or of counsel during any trial phase conveys to jurors the impression that those procedures are unimportant. Courtroom absences by the presiding judge increase the risk that jurors will be exposed to prejudicial information which cannot be corrected by a jury instruction. If emergencies arise, presiding judges should deal with such by taking a brief recess to avoid any attorney or judge's absences from the courtroom proceedings.
- 17.5 **Removal** When a case is removed to Federal Court, notice of such removal must be provided to the Trial Court Administrator. The State case will be inactivated and removed from the docket of cases pending before the Superior Court of Wake County.
- 17.6 **Sanctions** Should counsel or an unrepresented litigant fail to comply in good faith with any provision of these local Rules, or the General Rules of Practice for the Superior and District Courts, the Court may impose appropriate sanctions in its discretion. An order obtained in substantial violation of these rules is subject to modification or vacation by the Senior Resident Superior Court Judge.
- 17.7 **Transcripts/Electronic Recordings of Court Proceedings** Requests for transcripts of court proceedings shall be made to the resident Court Reporters of the 10th District who will determine the reporter that kept record of each case. If the court proceeding was electronically recorded, a request for the recording shall be made to the supervisor of Courtroom Clerks in the Clerk's Office. An electronic recording of the hearing and a list of persons authorized and approved to prepare a transcript will be provided.

These rules shall become effective January 7, 2013.¹ They have been promulgated and approved by the undersigned.

This, the 4 day of January, 2013.



Kristen L. Fetter
Trial Court Administrator



Donald W. Stephens
Senior Resident Superior Court Judge

¹ To the extent Rule 2(a) of the General Rules of Practice for Superior and District Court applies, these Rules shall be considered preliminary in nature and will become final rules of the Court effective July 1, 2013.

CALENDAR REQUEST FOR WAKE COUNTY SUPERIOR & DISTRICT COURT (CIVIL)

 FILE NO. _____
 VS. JURY _____ NON-JURY _____

 SESSION BEGINNING: _____

TRIAL	PRE-TRIAL	DEFAULT	DIVORCE	SMALL CLAIM APPEAL	MOTION

If Motion(s), specify type: _____

1. Approximate hearing time: _____ day(s), _____ hour(s), _____ minutes.
2. Have you conferred with all parties involved? _____ YES _____ NO
3. Have all parties agreed to the requested date? _____ YES _____ NO
4. Special request: _____

This the _____ day of _____ 20__.

 Attorney for ___ Plaintiff ___ Defendant

PRINT NAME: _____

ADDRESS: _____

PHONE NUMBER: _____

SUBMIT REQUESTS TO: MAIL: Trial Court Administrator's Office
 Post Office Box 1916, Raleigh, NC 27602
FAX: (919) 792-4951 **EMAIL:** calendarrequestswake@nccourts.org

List the names and addresses of those served:

 ATTORNEY FOR _____

 ATTORNEY FOR _____

NOTE: SUPERIOR COURT: SEE SESSIONS SCHEDULE FOR THE DATE REQUESTS ARE DUE
DISTRICT COURT: REQUESTS ARE DUE FIVE WEEKS IN ADVANCE OF TRIAL/MOTION DATE

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
___ CVS ___

PLAINTIFF

VS

RESPONSE TO NOTICE -
CASE MANAGEMENT

DEFENDANT

In response to the Notice that the above referenced case is scheduled on the upcoming Status Calendar in Wake County Superior Court for the entry of a Case Management Order, the parties submit the following, agreed-upon information:

(1) Trial dates (Date must be within 8 months; or within 18 months of file date for medical malpractice claims and unusual cases)

- a. First choice: _____
b. Second choice: _____

(2) Length of trial

- a. Estimated length: _____ day(s)
b. Jury or Non-Jury: _____

(3) Mediation

- a. Parties selection of mediator: _____
b. Request for court selected mediator: _____
c. Deadline for completion of mediation: _____

(4) Special request(s): _____

Signature

Date

Print Name: _____ Attorney for: _____

COPIES OF THIS RESPONSE SHOULD BE SERVED ON ALL COUNSEL OF RECORD AND ANY UNREPRESENTED PARTIES AND DELIVERED TO THE TRIAL COURT ADMINISTRATOR'S OFFICE. If you return this form prior to the scheduled Status Conference, you will be excused from the Status Conference.

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
___ CVS ___

Plaintiff (s),

vs.

Condemnation Case
Status Report

Defendant (s).

Pursuant to Tenth District Local Rule 13 and in accordance with N.C. Gen. Stat. §40A-50/N.C. Gen. Stat. § 136-110, the following parties (the "Reporting Parties") report the current status of this condemnation case as set out below:

Plaintiff estimates the completion date of the project for which it filed this case as:

The Reporting Parties estimate that they will begin discovery by _____ and complete it by _____.

The Reporting Parties estimate that they will be ready to select a mediator in this case not earlier than _____ and to complete mediation not earlier than _____.

The Reporting Parties estimate that any motion pursuant to N.C. Gen. Stat. § 40A-47/N.C. Gen. Stat. § 136-108 or any dispositive motions would be ready for hearing by

The Reporting Parties estimate that, if this case is not settled, it would be ready for trial as of

The Reporting Parties have consulted or attempted to consult any other parties, whose positions on the matters addressed in this report are as follows: _____

Respectfully submitted this the _____ day of _____, 20 ____.

PLAINTIFF,

DEFENDANT,

_____ ,

_____ ,

By: _____

By: _____

Copy sent to:

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
__ CVS __

PLAINTIFF,

VS.

STIPULATED ORDER
EXTENDING COMPLETION
DATE FOR MEDIATION

DEFENDANT.

This Court hereby extends the Completion Date for mediation in the above referenced matter and finds as follows:

It is hereby ORDERED that the completion date for mediation shall be extended until

_____.

This the ____ day of _____, 20 __.

Senior Resident Superior Court Judge

STATE OF NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
__ CVS __

Plaintiff(s),

vs.

Request for Peremptory Setting

Defendant(s).

The undersigned requests a peremptory setting for the above captioned case based on the following:

Jury Non-Jury
Estimated length of trial: _____

Date of request: _____

Attorney for: Plaintiff Defendant
PRINT NAME: _____

Copy mailed to: _____

The preliminary request for a peremptory setting is: Denied Approved for

Trial Court Administrator/Designee

ORDER: The undersigned hereby authorizes the Trial Court Administrator to set the above referenced case peremptorily.

Date

Senior Resident Superior Court Judge