

Rules for Civil Superior Court, Judicial District 15B

These local rules are to be read in conjunction with, and supplemental to, the General Rules of Superior and District Courts adopted by the North Carolina Supreme Court, the Guidelines of Resolving Scheduling Conflicts, the Rules of Civil Procedure, the Constitution of the United States, the Constitution and Statutes of North Carolina.

[Note: References to other rules are not exhaustive.]

Rule 1. Purpose, Policy and Standards

- 1.1 **Policy:** The courts of this district shall be open to all people. Justice shall be provided in an appropriate forum, in an orderly manner, without unnecessary appearances or expense and without delay.
- 1.2 **Purpose:** These rules are to implement the above policy, provide for the orderly, just and prompt disposition of the matters to be heard in the Superior Courts of Orange and Chatham Counties. They shall be at all times construed and enforced in such a manner as to avoid delay. Delay is any elapsed time beyond that necessary to prepare and conclude a particular case.
- 1.3 **Scope:** It is recognized that these rules are not complete in every detail and will not cover every situation which may arise. In the event these rules do not cover a specific matter, the Judicial Support Staff (JSS) is authorized to act in its discretion, subject to consultation with a Resident Superior Court Judge, or any Superior Court Judge presiding.
- 1.4 **Modification:** The Senior Resident Superior Court Judge reserves the right to make such modifications or additions to these Local Rules, or application to special cases or circumstances, as he deems will promote the efficient administration of the Civil Superior calendar and caseload.
- 1.5 **Administration:** The JSS is responsible for the administration of these rules. Each Clerk of Superior Court should designate one "Civil Calendar Clerk" who will assist in the administration of these rules.
- 1.6 **Citation:** These local rules are to be cited as "15B Local Civil Rule ____."
- 1.7 **Compliance:** It shall be the obligation of all attorneys practicing in Judicial District 15B to know and comply with these Rules, including any future modifications.
- 1.8 **Duty upon Appearance:** Upon making an appearance in a case, the attorney is responsible for ensuring the Clerk, JSS, and opposing counsel have all contact information for the attorney, including email, phone, facsimile, and mailing address.
- 1.9 **Presumed method of communication:** Communication from the JSS shall be presumed to be via email, unless the attorney notifies the JSS that another method is necessary.
- 1.10 **Duty to Keep Current:** Attorneys are under a continuing obligation, when practicing in District 15B, to keep the Clerk and JSS informed of all contact information, including a current email address.

Rule 2. Enlargement of Time

(see NC General Rule 4; NC Civil Procedure Rule 6(b))

- 2.1 Time: Time for filing an answer, responsive pleading, or other motions, shall not be enlarged by the Clerk of Court or other judicial official except upon written motion setting forth good cause justifying enlargement. The motion shall certify it has been served on all parties. If granted, it shall be for the minimum time necessary. Extension of time to complete mediation, to change the trial date or other scheduled event can only be given by the JSS, a Resident Judge, or a presiding Superior Court Judge.
- 2.2 Revision of Schedule: The JSS shall revise the Civil Case Management Schedule (CCMS) (see 15B Local Civil Rule 3) in accordance with any extension granted.

Rule 3. Case Management Schedules and Orders

(see NC General Rule 7; Civil Procedure Rule 16)

In All Cases *except* State Rule 2.1, State Rule 2.2, 15B Local Civil Rule 3.7, or 15B Local Civil Rule 3.8 cases:

- 3.1 Civil Case Management Schedule: After the final responsive pleading has been filed or the time to file has expired, the Court shall prepare a proposed Civil Case Management Schedule (CCMS) for management and disposition of the case. The Court will provide a schedule to attorneys and pro se parties.
- 3.2 The Civil Case Management Schedule shall include: time for filing of all pleadings and motions, time for mediation, time within which to complete discovery, last date for hearing motions, date for filing pre-trial order, and trial date. The CCMS may contain other provisions as deemed appropriate by the parties or the Court. The schedule shall assume that all matters in the case can be handled expeditiously and without delay.
- 3.3 Additional Time or Modification: If any party believes that more or less time is necessary for any event or a date should be changed or the CCMS should be otherwise modified, then that party shall file a request with the JSS setting forth the original deadline, how much time is needed or what date(s) need to be changed and the specific facts supporting the request. The same form may be used to request a modification of the schedule. This form is available online at www.nccourts.org and shall be filed with the JSS.
- 3.4 No Additional Time or Modification: If no Request for Additional Time or other modification is received by the JSS within 14 days of the proposed CCMS, then the proposed CCMS shall become the order of the Court.
- 3.5 Sanctions: At the discretion of a Resident Judge or a Presiding Judge, sanctions may be imposed against parties who do not meet the scheduled deadlines. Sanctions may include any one or more of the following: dismissal of the action, striking of any answer or other pleading, award of costs, attorneys fees, monetary fine, or other sanctions.
- 3.6 Abeyance: If the parties determine that the case cannot progress in a timely manner because of some extraordinary reason, such as a Plaintiff is receiving treatment which may

determine whether the injury is permanent, then the parties may move that the related discovery, trial and other events be held in abeyance. The parties shall fully explain these circumstances and suggest the appropriate time of review with the JSS. No portion of the CCMS shall be delayed or otherwise held in abeyance absent approval of a Resident Judge.

3.7 Medical Malpractice Actions: In any medical malpractice action, as defined in G.S. 90-21.11, within 30 days after the filing of the first responsive pleading, the Court shall notice all parties to appear for a discovery conference pursuant to Rule 26(f1) of the North Carolina Rules of Civil Procedure. At the conclusion of the conference, the Court shall enter orders as provided for in Rule 26(f1)(2) and (3). In lieu of appearing personally for a Rule 26(f1) conference, the parties or their attorneys may, within 21 days of the date of the Court's notice, submit a consent order setting forth a discovery schedule for the case. Such orders shall be submitted to the JSS for entry, amendment or denial by a Resident Superior Court Judge.

3.7.1 Amendment of Discovery Orders: Amendment of discovery orders entered pursuant to Rule 3.7 above may be by mutual consent of all parties or pursuant to a motion to any Presiding or Resident Superior Court Judge. Amended discovery orders shall be filed with the JSS and the Court.

3.8 The Senior Resident 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. That judge may, with input from the attorneys, create a CCMS based on the unique circumstances of the case, or may order the one created pursuant to 15B Local Civil Rule 3.1.

Rule 4. Case Management Conferences

4.1 Scheduling Conference: If a Resident Judge determines, sua sponte or upon motion of a party, that a pending case is not moving toward conclusion in accordance with the scheduling orders, he may schedule a case management conference to determine what actions, if any, need to be taken and what orders, if any, need to be entered.

4.2 Status Reports: A Status Report shall be provided by the attorneys upon request of a Judge or the JSS. The Report may be submitted via email, facsimile, or regular mail.

4.3 Telephone Conferences: The Court may direct that case management conferences, hearing of specified motions and other matters take place by telephone conference call.

Rule 5. Motions

(see NC General Rule 6; NC Civil Procedure Rule 7)

- 5.1 Scheduling Motions: A party wishing to schedule a motion or other non-jury matter must contact the JSS by telephone or email to determine the date when the matter could be heard. For calendaring of motions, see 15B Local Civil Rule 9.6 below.
- 5.2 Selecting Date for Hearing: Prior to noticing a motion or other non-jury matter, the moving party should confer with the other parties in the action and attempt to determine a date when the Court and all parties are available to appear for a hearing. If a hearing is scheduled on less than 21 days notice, the movant's notice shall include a certification that the movant has in good faith conferred or attempted to confer with other parties in the action to determine their availability for hearing and whether the date noticed is or is not one that all parties were able to agree.
- 5.3 Notice of Hearing: A party scheduling a hearing shall file a Notice of Hearing containing all of the information below. The Notice will be filed with the Court and a copy shall be served on all parties as provided for by the Rules of Civil Procedure. A copy shall also be provided to the JSS by mail, fax or email attachment. The Notice shall contain the following information:
- Case caption;
 - The nature of the motion and the Rules pursuant to which it is filed;
 - An estimate of the length of time the hearing will require;
 - The date, time and location of the hearing;
 - A Certificate of Service reflecting all parties served and the manner of the service;
 - Identification of counsel or pro se party filing the Notice, and their contact information including fax and email address (if available); and
 - The willingness of the party to appear by teleconference;
- 5.4 Exhibits: See 15B Local Civil Rule 13.
- 5.5 Preparation of Orders: If there is no agreement on the proposed order, the parties must notify opposing counsel, affirmatively state to the Court that there is no agreement, and inform the Court that the opposing party may be submitting a separate order.

Rule 6. Discovery

(see NC General Rule 8; NC Civil Procedure Rule 26-37)

- 6.1 Purpose of Rules: These rules are intended to supplement the North Carolina Rules of Civil Procedure. They are based upon the premise that discovery can be costly and inefficient if it is conducted (or resisted) without a clear set of goals or a carefully reasoned plan. The objective of these Rules is to (i) eliminate unnecessary effort and expense, (ii) reduce the opportunities for misusing the discovery process, and (iii) encourage a cooperative rather than adversarial approach to discovery.

- 6.2 Filing and Preservation of Discovery: Discovery materials, including but not limited to, deposition notices; expert designations; interrogatories; requests for production; requests for admission; requests for documents; and answers and responses thereto, are not to be filed unless ordered by the Court. All such papers must be served on all other counsel and on all parties not represented by counsel. The party taking a deposition or obtaining any material through discovery is responsible for its preservation and delivery to the Court if needed or so ordered.
- 6.3 Numbering Discovery Procedures: Each time a particular discovery procedure is used, it shall be sequentially numbered (e.g. First Set of Interrogatories," "Second Set of Interrogatories," etc.) so it will be distinguishable from a prior procedure.
- 6.4 Presumptive Limits on Discovery Procedures: Subject to an order modifying discovery procedures for good cause shown, the Court expects discovery in cases to be completed as expeditiously as possible. Unless the time is extended by a Resident or Presiding Judge, the pendency of discovery will not be allowed to delay trial, or any other proceeding before the Court, after 6 months have elapsed from the filing of the last responsive pleading. Presumptively, subject to stipulation of the parties or order of the Court for good cause shown, interrogatories (including sub-parts) and requests for admission are limited to fifty (50) in number by each party. Depositions are presumptively limited to twelve (12) depositions each (not including depositions of testifying experts) by the plaintiffs, by the defendants, and by any third-party defendants. Each deposition is presumptively limited to six (6) hours of time on the record in any given day unless a different duration is consented to by the witness and all parties or otherwise ordered by the Court.
- 6.5 Simultaneous Electronic or Digital Service of Discovery:
- 6.5.1 In addition to service of a paper copy of written discovery (interrogatories, requests for production, and requests for admission), the requesting party shall simultaneously serve a digitally preserved copy of the discovery request (e.g. on CD) or shall send such a copy of same as an email attachment to the counsel or party to whom the discovery is directed. All electronic documents shall be submitted in a generally accepted word processing format. Neither digital nor electronic service is required for other parties to the litigation who are not expected to respond to the particular set(s) of discovery being served.
- 6.5.2 With the consent of all parties, or upon order of the Court in its discretion, discovery requests and responses may be exchanged solely by electronic means.
- 6.5.3 All documents served electronically shall include a certificate of service indicating the date the documents were mailed or emailed.
- 6.5.4 The service date is based upon the date indicated in the certificate of service and is calculated the same as if served by U.S. Mail.
- 6.5.5 This Rule is intended to simplify and reduce the cost of providing discovery responses and is not intended to be punitive. Therefore, any party who in good faith is unable to comply with its provisions shall not be compelled to do so.

- 6.6 Production of Documents: Unless the parties otherwise agree, or the Court otherwise orders:
- 6.6.1 A party who produces documents for inspection shall produce them as they are kept in the usual course of business (or as received by the party) or shall organize and label them to correspond with the categories in the request;
 - 6.6.2 If a request does not specify the form or forms for producing electronically stored information, a responding party must produce the information in a form or forms in which it is ordinarily maintained or in a form or forms that are reasonably usable; and
 - 6.6.3 A party need not produce the same electronically stored information in more than one form.
- 6.7 Depositions: The Court expects counsel to conduct discovery in good faith and to cooperate and be courteous with each other in all phases of the discovery process. Depositions shall be conducted in accordance with the following guidelines:
- 6.7.1 Counsel shall not make objections or statements which might suggest an answer to a witness. When making objections, counsel should briefly and succinctly state the basis of the objection and nothing more.
 - 6.7.2 Deposing counsel shall provide to counsel for the witness and counsel for all parties present, upon request, a copy of all documents shown to the witness during the deposition. The copy may be provided either before the deposition begins or contemporaneously with the showing of each document to the witness.
 - 6.7.3 If a deponent or other party impedes or delays the examination, the Court may allow additional time beyond the presumptive deposition duration noted in Rule 6.4, if needed for a fair examination. If the Court finds that an impediment, delay, or other conduct has frustrated the fair examination of the deponent, it may impose upon the person(s) responsible an appropriate sanction, including reasonable cost and attorney's fees incurred as a result thereof.
- 6.8 Motions and Objections Relating to Electronic Discovery: Prior to filing motions and objections relating to discovery of information stored electronically, the parties shall discuss the possibility of shifting costs for electronic discovery, the use of Rule 30(b)(6) depositions of information technology personnel, and informal means of resolving disputes regarding technology and electronically stored information.

RULE 7. Mediated Settlement Conference

(See Rules of N.C. Supreme Court Implementing Statewide Mediated Settlement Conferences)

- 7.1 Selection of Mediator: Parties shall have no more than 21 days from issuance date of the Order for Mediated Settlement Conference to select a mediator. Otherwise, the Court will issue an order appointing a mediator without further notice pursuant to Rule 2 of the Rules

of the North Carolina Supreme Court Implementing Statewide Mediated Settlement Conferences, as amended.

- 7.2 Appointment of Mediator: When the parties have not selected a certified mediator of their choice, a Resident Judge will appoint Mediators pursuant to Rule 2 of the Rules of the North Carolina Supreme Court Implementing Statewide Mediated Settlement Conferences, as amended.
- 7.3 Time to Complete Mediation: The Mediated Settlement Conference (MSC) shall be conducted as soon as practical and, unless approved by a Resident Superior Court Judge, within 6 months from issuance of the Order. When parties select a Mediator, they shall also schedule a date for the mediation. The parties shall select a Mediator who can timely schedule the mediation.
- 7.3.1 No extension of the deadline to complete the Mediated Settlement Conference shall be allowed except for good cause shown. Failure to comply with these rules or timely act shall not be considered good cause. Any request for extension shall be in accordance with Mediated Settlement Conference Rule 3.C.
- 7.3.2 In the event counsel for all parties believe that a particular mediator, because of his/her experience, background or expertise, has a substantially greater likelihood of accomplishing a settlement in a given case than other mediators, a Resident Superior Court Judge will consider an extension of time to complete mediation.
- 7.3.3 The MSC and any granted extensions of time to complete the MSC shall not be the cause for delay in other aspects of the case, including completion of discovery, filing or hearing of motions, or trial, except by order of a Resident Superior Court Judge.
- 7.4 Scheduling Mediation: Upon receiving notice of the appointment, the Mediator shall contact the parties and schedule, within fifteen (15) days, a time for mediation.
- 7.5 Compliance with Rules: All parties, attorneys, and mediators shall comply with The Supreme Court Rules for Mediated Settlement Conferences and these Rules. Mediators shall report any failure of the parties to comply.
- 7.6 Report of Settled Cases: All cases settled shall be reported to the JSS by the mediator within two business days, and the Report of Mediator (AOC-CV-813) filed within ten days.
- 7.7 Exemption from Mediation: Judicial reviews of Administrative Actions (see 15B Local Civil Rule 19) are presumed exempt from mediation, but may be ordered to mediation in the discretion of a Resident or Presiding Judge.

Rule 8. Peremptory Settings

(same as NC General Rule 2(f))

- 8.1 Timing: Requests for a peremptory setting should be made to a Resident Superior Court Judge or the JSS at least ten weeks prior to the proposed trial date.

8.2 Grounds: A peremptory setting shall be had only for good and compelling reasons and may be ordered either by request or upon the Court's own motion by a Resident Superior Court Judge.

Rule 9. Calendaring of Civil Cases

(see NC General Rule 2; NC Civil Procedure Rule 40(a))

- 9.1 Preparation of Calendars: The civil calendars for Orange and Chatham Counties shall be prepared by the JSS under the supervision of a Resident Superior Court Judge in accordance with these rules.
- 9.2 CCMS: The JSS shall maintain all Civil Case Management Schedules.
- 9.3 Cases Without Service: If there is a failure to make timely service on the parties and there is no outstanding valid summons, then the JSS shall schedule a hearing for dismissal of the case on the next available calendar.
- 9.4 Order of Cases: Cases shall be calendared by the Court according to the age of the case unless a different setting is ordered by the Court. In addition to cases set by court order, attorneys may request that any pending case be set for trial. A request for such a setting of a case on the trial calendar shall be made no later than sixty (60) days prior to the beginning of the session of court, and shall be set in the following priority: (1) cases in which all parties have agreed upon a trial date; (2) cases requested to be on the trial calendar by only one party; (3) cases requested for setting by neither party, but due to age and status should be ready for trial. Cases of equal priority under this rule will be set in numerical sequence.
- 9.5 Calendar: The calendar shall be set no later than thirty (30) days prior to the first day of each session of court. However, the Court reserves the right to alter the date of publication or to publish a supplemental calendar if deemed necessary.
- 9.6 Scheduling of Motions: Motions shall be set for hearing on the first day of the Civil Session or as otherwise scheduled by the JSS or the Court. Motions not heard on the first day may be heard at any time during the term, in the discretion of the Presiding Judge. Cases for trial shall be set for a designated week and may be called for trial any time during the week.
- 9.7 Publication of Calendar: The calendar shall be published and distributed to each attorney of record (or party where there is no attorney of record) and to the Presiding Judge, no later than four weeks prior to the first day of court. (NC General Rule 2(b)) Initial Calendars shall be published on the website for the Administrative Office of the Courts.
- 9.7.1 Distribution: The calendar may be distributed by email, the AOC website (www.nccourts.org), regular mail, by hand delivery to attorneys' courthouse boxes, or any other manner as determined by the JSS. It is the duty of the attorney to inform the JSS of a change to his or her contact information, including email address, pursuant to 15B Local Civil Rule 1.10.

- 9.8 Cases Not Reached: If for any reason a case is not reached for trial during the session of court for which it is set, a Resident Judge or JSS may set the case for trial at a subsequent term of court including a session where criminal cases have priority.
- 9.9 Appearance of Attorney: When an attorney is notified to appear for a pre-trial conference, motion hearing or trial, he/she must, consistent with ethical requirements, appear or have a partner, associate or another attorney familiar with the case appear. When circumstances prevent an attorney from appearing or arranging an appearance as described above, an attorney must contact the JSS and opposing counsel as soon as the conflict becomes apparent, and where feasible, shall send that communication to the JSS in writing. The absence of an attorney should not automatically be grounds for a continuance.

Rule 10. Continuances

(see NC General Rule 3; NC Civil Procedure Rule 40(b))

- 10.1 Appropriate Judicial Official: Prior to the opening of court for the session in which the case is calendared, all applications for continuance shall be made to a Resident Superior Court Judge. Following the opening of court for the session in which the case is calendared, any application for continuance shall be made to the Presiding Judge of the court in which the case is calendared.
- 10.2 Written Motion: All applications for continuance shall be made by written motion.
- 10.3 Notification of Parties: A copy of the written continuance must be distributed to all counsel of record and/or unrepresented parties and the JSS prior to presentation of the application to the appropriate judicial official. Distribution of the motion may be made by facsimile transmission, email, or hand delivery, but shall also be contemporaneously served pursuant to Rule 5 of the N.C.R.C.P and filed with the Clerk of Court.
- 10.4 Judicial Staff Review: The JSS shall review all applications for continuance, the case history, and the court calendar, and shall consider dates for rescheduling. The JSS may then make recommendations to the Court including a date for rescheduling.
- 10.5 Evaluation of Applications for Continuance: Continuance requests are presumptively disfavored. However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process or when a continuance clearly is in the interest of justice, a continuance may be granted in the exercise of judicial discretion to further the best interest of the fair administration of justice. A party should propose a date for recalendaring the case for trial when it moves for a continuance and shall indicate whether opposing counsel agrees to that date.
- 10.6 Factors: In addition to other factors, the appropriate judicial official shall consider the following when deciding whether to grant or deny a motion for continuance:
- age of the case;
 - status of the trial calendar for the week;
 - order in which the case appears on the trial calendar, including whether it is peremptorily scheduled;

- number of previous continuances;
- extent to which counsel had input into scheduling the trial date;
- due diligence of counsel in promptly filing a motion for continuance as soon as practical;
- whether the reason for continuance is a “short-lived” event which could be resolved prior to the scheduled trial date;
- length of continuance requested;
- position of opposing counsel;
- present or future inconvenience or unavailability of witnesses or parties, and;
- any other matter that promotes the ends of justice.

Consent of all the parties and their attorneys may be grounds for a continuance, subject to the Court’s discretion.

10.7 Case rescheduling: Any trial, motion or other event continued or not reached shall immediately be rescheduled by the Court or the JSS. The parties shall advise the JSS if there are any dates when it should not be rescheduled. Parties are encouraged to propose dates for rescheduling.

10.7.1 The matter may be rescheduled for any civil or mixed session even though a calendar for that session has already been published.

Rule 11. Pre-Trial Orders

(see NC General Rule 7; NC Civil Procedure Rule 16)

11.1 Pre-Trial Conferences: The JSS may schedule a Pre-Trial Conference with a judge prior to the week of trial. In addition, an attorney for any party may request a Pre-Trial Conference. When practicable, the Pre-Trial Conference will be scheduled with the Judge that will preside over the trial.

11.2 Motions Not Resolved: All pending motions not resolved at the time of entry of the Pre-Trial Order are deemed waived unless identified and preserved within the Pre-Trial Order.

11.3 Sanctions: A failure to follow the requirements of N.C. General Rule 7 and Rule 16 of the N.C. Rules of Civil Procedure shall be grounds for sanctions against the party, either the plaintiff or defendant, whose conduct occasioned the failure. Appropriate sanctions should be ordered in the discretion of the Court and may include a dismissal of the action or the striking of an answer or other pleading.

Rule 12. Forms

12.1 Many forms are available online at www.nccourts.org .

12.2 Local, fillable forms may also become available at the same address.

Rule 13. Evidence and Exhibits

(see NC General Rule 14 and AOC Forms)

- 13.1 Trial or Other Hearings: The attorneys shall be responsible for handling and marking of evidence. Parties appearing pro se shall be instructed and assisted by the clerk in applying these rules.
- 13.2 Marking of Exhibits: All exhibits shall be marked, numbered, and introduced with “evidence” tags or labels indicating whether Plaintiff or Defendant as applicable. When there are multiple parties, labels shall reflect which party. All exhibits shall be marked and numbered by counsel prior to trial or hearing. All exhibits, except rebuttal exhibits, shall also be provided to opposing counsel before trial or hearing.
- 13.3 Custody: All evidence shall be in the custody of the Clerk once it is introduced. Prior to that time the respective attorneys, parties and witnesses shall be responsible for all evidence exhibits. If possible, the presiding judge and Counsel should agree on disposition of evidence at the end of trial.
- 13.4 Log: The courtroom clerk shall maintain an evidence log on form AOC-G-150. Attorneys are encouraged to provide a list of proposed exhibits and case law citations to the clerk and court reporter prior to the beginning of any hearing or trial.
- 13.5 Large Exhibits, Diagrams, Posters, or other Enlarged Evidence: When a party offers an enlarged exhibit, they shall also offer a photograph or reduced reproduction of the exhibit to the court. The enlargements shall be maintained by the party producing them unless otherwise directed by the Court. If the Clerk is to preserve any documents or other exhibits mounted on foamboard or other backing, the offering party should remove it from the backing.
- 13.6 Copies: Attorneys shall be responsible for ensuring simultaneous viewing by the Court, attorneys, and jury providing all documents which are introduced into evidence, when practical. This may be done electronically (video, PowerPoint, slides, etc), or by ensuring sufficient copies of each document to provide the Court, attorneys, and each juror with a copy. At the conclusion of the trial, the Clerk shall destroy all copies upon maintaining the original or one copy of the document.
- 13.7 Preservation of Evidence
- 13.7.1 Conclusion of Trial: At the conclusion of trial, the Clerk shall take all of the evidence and confirm that it is clearly marked. The Clerk shall prepare disposition and destruction orders for signing by the Judge.
- 13.7.2 Packaging: The Clerk shall place all evidence in a package (envelope, plastic bag, or cardboard box as appropriate), seal the package with tape, date and initial the seal in a manner so that later the Clerk may determine if the package has been breached.

- 13.7.3 **Notice of Intent to Dispose of Evidence:** The Clerk shall prepare and serve each attorney with a Notice of Intent to Dispose of Exhibits/Evidence (form AOC-G-151) prior to the conclusion of the trial.
- 13.7.4 **Inventory:** The Clerk shall maintain an inventory of all evidence in the custody of the Clerk.

Rule 14. News Media

(see NC General Rule 15)

- 14.1 **Access to the Courts:** It is the policy to provide access to the Courts by the media in accordance with NC General Rule 15.
- 14.2 **Notification to Courts:** News media may be allowed pursuant to NC General Rule 15 only if a Resident Superior Court Judge or Presiding Judge is notified.
- 14.3 **Jurors:** Media coverage, publication, or identification of jurors is expressly prohibited at any stage of a judicial proceeding, including jury selection.

Rule 15. Juries of less than 12 when a Juror is excused

Except where not allowed by statute, parties are encouraged to stipulate that a jury may consist of as few as 10 in the event that jurors are excused once trial has begun.

Rule 16. Filing by Electronic or Facsimile Transmission

(see NC Civil Procedure Rule 5(e)(2))

- 16.1 **Administrative Filings:** Any calendar request, notice, continuance application, preemptory setting request, or discovery extension request to the JSS may be made by email or facsimile (see 15B Local Civil Rule 26), provided that it not exceed 10 pages if sent by fax.
- 16.2 **Documents for Judges:** Memoranda of Law and correspondence may be sent by email (preferred) or facsimile to the JSS to be delivered to the Judge hearing or considering a matter provided it does not exceed 10 pages if sent by fax.
- 16.3 **Original Written Documents Filed with Clerk:** Original written documents must be filed with the Clerk of Superior Court and copies shall be contemporaneously emailed or faxed (in the same manner as used to communicate with the Court/JSS pursuant to 15B Local Civil Rule 16.1 or 16.2 above), as well as served on opposing counsel.

Rule 17. Filed Settlement of Cases

(see NC General Rule 2(g))

- 17.1 **Attorneys to Notify:** When any case on a calendar is settled, it shall be the responsibility of the attorneys of record in the case to either notify the JSS of the settlement in writing

within 24 hours or appear at the calendar call on the first day of the session to announce the case settled. Such writing may be sent to the JSS by U.S. Mail, facsimile, or email. When such notice of settlement is given, the JSS must be advised in writing who will prepare the judgment or dismissal, and the time frame for filing.

- 17.2 Appearance at Calendar Call After Settlement: Upon receipt of such written notice by the JSS, the attorneys of record are relieved of appearance at calendar call unless their attendance is requested by the Court or the JSS.
- 17.3 Sanctions for Failure to File Judgment or Dismissal: A failure to file a settlement judgment or dismissal within the designated time shall be grounds for the imposition of sanctions by the Court.

Rule 18. Orders, Judgments, or Dismissals

- 18.1 Attorney to File or Submit: In any event, attorneys shall file a dismissal, settlement agreement or submit an appropriate proposed order or judgment within thirty (30) days after any settlement or court hearing unless otherwise directed by the Court.
- 18.2 Delinquent Orders or Judgments: The JSS will bring delinquent orders or judgments to the attention of a Resident Superior Court Judge. The Judge may order such sanctions and impose penalties as he deems appropriate and as allowed by law.

Rule 19. Judicial Review of Administrative Action

(see NCGS sec.150B 43-52)

The following rules shall govern judicial review of final administrative agency decisions pursuant to the Administrative Procedure Act (Chapter 150B):

- 19.1 Case Management Schedule: The Court, upon its own motion or by request of any party, may establish a schedule for a particular case. If no schedule is set, the following rules shall apply.
- 19.2 Briefs, Petitioner(s) / Appellant(s): The brief of the Petitioner/Appellate shall be filed with this Court and served upon all other parties to the proceedings within 20 days after the original or a certified copy of the record of the proceedings under review has been filed with this Court or as provided by Writ of Certiorari.
- 19.3 Brief, Respondent(s) / Appellee(s): All other parties shall file and serve briefs within twenty (20) days after service of the brief of the Petitioner(s)/Appellant(s).
- 19.4 Reply briefs: Unless the Court in its discretion shall order to the contrary, there shall be no reply briefs.
- 19.5 Calendaring: Judicial Review proceedings shall be set for hearing by the Judge or the JSS.

19.6 Exempt from MSC: Judicial Reviews of Administrative Actions are exempt from Mandatory Mediated Settlement Conferences.

Rule 20. Judicial Approval of Minor/Incompetent Settlements

- 20.1 Hearings in Open Court: All hearings for judicial approval of minor/ incompetent settlements shall be held in open court.
- 20.2 On the Record: All such hearings shall be recorded by a court reporter.
- 20.3 Presence Required: The Minor/Incompetent and his or her Guardian Ad Litem must be present at the hearing absent prior excusal by the Court.
- 20.4 Statement of Insurance Coverage: Defense counsel shall state on the record the total and complete amount of insurance coverage afforded to a Defendant in the situation in question.
- 20.5 Structured Settlements: To the extent a Minor/Incompetent settlement is to be structured, Plaintiff's counsel shall certify to the Court the present value of the settlement to the minor/incompetent.
- 20.6 Filing of Documents; Sealing File: All documents submitted to the Court for consideration shall be placed in the file and may be placed under seal in the discretion of the Court.

Rule 21. Bankruptcy Cases

- 21.1 Stay in Proceedings: Any request to continue, hold, or in any 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.
- 21.2 Remain on Civil Administrative Calendar: The JSS shall maintain such case on the civil administrative calendar. Appearances at administrative sessions may be waived upon approval by the JSS.

Rule 22. Production of Medical Records in lieu of Appearance

(see N.C. Civil Procedure Rule 45(c))

- 22.1 JSS to Receive Medical Records: The JSS shall be the designee to accept by registered mail or personal delivery certified copies of medical records pursuant to G.S. sec. 1A-1, Rule 45(c).
- 22.2 Destruction or Release of Records: Any records remaining in the custody of the JSS sixty (60) days after the final order of the case shall be destroyed pursuant to HIPPA. The records will be released by the JSS only upon the receipt of a HIPPA-compliant release.

Rule 23. Weapons in Court

- 23.1 No Weapons: Except as provided in N.C.G.S. Sec. 14-415.11(c), and 14-269.4, no one except a Law Enforcement Officer who is on duty may possess firearms or other weapons in any Courthouse.

Rule 24. Sanctions

- 24.1 Failure to Comply: Should counsel or a pro se 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, in its discretion, impose appropriate sanctions.
- 24.2 Modification of an Order: Any procedural or administrative order entered in substantial violation of these local rules is subject to review, modification and/or vacation by a Resident Superior Court Judge.

Rule 25. Secure Leave Policy

- 25.1 Designation of Secure Leave: Each attorney is entitled to designate three weeks during each calendar year as secure leave during which time no matter requiring that attorney's appearance shall be calendared for hearing in any court in this District and the attorney shall not otherwise be required to appear before any tribunal of this District. The weeks designated may be consecutive.
- 25.2 Time to Designate: A secured leave period shall be designated 90 days or more in advance. Attorneys shall not be entitled to designate a period subsequent to a trial or other matter having already been set by a Court.
- 25.3 Method of Designation: Designation shall be made by the attorney by filing a letter in the offices of the Resident Superior Court Judge in each county in which the attorney has pending matters and the Chief District Court Judge if they practice in the respective division and depending upon "division" pendency of the case(s) referenced in the letter. Any pending civil case should be referenced. Also, any attorney practicing in the criminal courts shall comply with 15B Local Criminal Rule 18. The attorneys shall retain a copy of the letter which may be provided to the Court and opposing counsel as needed.
- 25.4 This policy is not exclusive: For extraordinary circumstances, the Court may designate other or additional weeks of vacation when an attorney is faced with a particular or unusual situation or for other reasons as has been the custom in this District.

Rule 26. Mailing Address

26.1 Mailing Addresses: Requests for the setting of motions for hearing, cases for trial, and inquiries concerning these rules shall be addressed as follows:

Cases filed in Orange County:

Trial Court Coordinator
Superior Court Judges' Office
Old Orange County Courthouse
104 East King Street
Hillsborough, North Carolina 27278
Tel. (919) 245-2221
Fax (919) 644-3026
Email Stacie.J.Cruz@nccourts.org

Cases filed in Chatham County:

Judicial Assistant
Superior Court Judges' Office
Chatham County Courthouse
PO Box 609
Pittsboro, North Carolina 27312
Tel. (919) 542-7234
Fax (919) 542-7204
Email Tammy.K.Keshler@nccourts.org

26.2 Physical Locations: The offices of the Resident Superior Court Judges are located at the following addresses:

Orange:

Old Orange County Courthouse, 104 East King Street, Hillsborough, NC 27278.

Chatham:

Chatham County Courthouse, 1 Hillsboro Street, Pittsboro, NC 27312. The courthouse is in the middle of the traffic circle, and the offices are on the 3rd floor, which is accessible via the stairwell on the east side, behind the courtroom. Persons with disabilities or who anticipate difficulty in accessing the office should call ahead to make arrangements.

26.3 Appropriate JSS: Requests for the setting of motions for hearing, cases for trial and inquiries concerning these rules may be submitted by email to the JSS in the county in which the case is filed.

Rule 27. Notice

27.1 Notice: These rules shall be posted at the following:

- Clerk's office in Orange and Chatham Counties
- Superior Court Judges' Offices in Orange and Chatham Counties
- www.nccourts.org

27.2 Copy to Attorneys: These rules shall be distributed to all attorneys of record within the judicial district pursuant to Rule 2 of the Superior and District Court Rules.

27.3 Additional Copies: The Clerks and the JSS shall maintain a supply of these Rules for those attorneys and parties who request the same.

These Rules are hereby adopted this the ____ day of April, 2008 to be effective 1 July 2008.

Carl R. Fox
Senior Resident Superior Court Judge
Judicial District 15B

15B CIVIL RULES

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Rules for Civil Superior Court Judicial District 15B

These local rules are to be read in conjunction with, and supplemental to, the General Rules of Superior and District Courts adopted by the North Carolina Supreme Court, the Guidelines of Resolving Scheduling Conflicts, the Rules of Civil Procedure, the Constitution of the United States, the Constitution and Statutes of North Carolina.

[Note: References to other rules are not exhaustive.]

Rule 1. Purpose, Policy and Standards

1.1 Policy: The courts of this district shall be open to all people. Justice shall be provided in an appropriate forum, in an orderly manner, without unnecessary appearances or expense and without delay.

1.2 Purpose: These rules are to implement the above policy, provide for the orderly, just and prompt disposition of the matters to be heard in the Superior Courts of Orange and Chatham Counties. They shall be at all times construed and enforced in such a manner as to avoid delay. Delay is any elapsed time beyond that necessary to prepare and conclude a particular case.

1.3 Scope: It is recognized that these rules are not complete in every detail and will not cover every situation which may arise. In the event these rules do not cover a specific matter, the Trial Court Coordinator “TCC” is authorized to act in her discretion, subject to consultation with the Senior Resident Superior Court Judge and any judge presiding.

1.4 Standards: To achieve the above goals the court adopts the following standards:

- (1) Time. Civil Cases shall be disposed
 - 50% within 150 days of filing.
 - 75% within 200 days of filing.
 - 90% within 240 days of filing.
 - 95% within 365 days of filing.
 - 98% within 545 days of filing.
 - 100% within 700 days of filing.
- (2) Appearances. Parties, witnesses, and attorneys should never make an unnecessary appearance and should not be required to wait more than one hour in court.
- (3) Scheduling. Appearances and events shall be scheduled in advance and in a manner convenient to the parties, attorneys, witnesses, and court personnel.

Note: With the cooperation of attorneys and other court personnel, the Court hopes to achieve or exceed the above standards. Of course some matters will be rescheduled, some people must wait, and some events will not timely occur in spite of our best efforts.

1.5 Modification: The Senior Resident Superior Court judge reserves the right to make such modifications or additions to these Local Rules, or application to special cases or circumstances, as he deems will promote the efficient administration of the Civil Superior calendar and caseload.

1.6 Administration: The TCC is responsible for the administration of these rules. Each Clerk of Superior Court should designate one “Civil Calendar Clerk” who will assist in the administration of these rules.

1.7 These local rules are to be cited as “15B Civil Rule #____.”

1.8 It shall be the obligation of all attorneys practicing in Judicial District 15B to know and comply with these Rules, including any future modifications.

Rule 2. Enlargement of Time (see NC General Rule 4; NC Civil Procedure Rule 6(b))

2.1 Time for filing an answer, responsive pleading, or other motions, shall not be enlarged by the Clerk of Court or other judicial official except upon written motion setting forth good cause justifying enlargement. The motion shall certify it has been given to all parties, including the client of the attorney making the motion. If granted, it shall be for the minimum time necessary. Extension of time to complete discovery or mediation, to change the trial date or other scheduled event can only be given by the TCC or Resident Judge, or a presiding Superior Court Judge.

2.2 The TCC shall revise the *Civil Case Management Schedule* in accordance with any extension granted.

Rule 3. Scheduling (see NC General Rule 7; Civil Procedure Rule 16)

3.1 After the first responsive pleading has been filed or the time to file has expired, the court shall prepare a proposed schedule for management and disposition of the case. The proposed schedule will be in a form similar to the attached *Civil Case Management Schedule* (the “CCMS”). The court will provide a schedule to attorneys and *pro se* parties.

3.2 The *Civil Case Management Schedule* shall include: time for filing of all pleadings and motions, time for mediation, time within which to complete discovery, last date for hearing motions, date for filing pre-trial order, and trial date. The CCMS may contain other provisions as deemed appropriate by the parties or the Court. The schedule shall assume that all matters in the case can be handled expeditiously and without delay.

3.3 If any party believes that more or less time is necessary for any event or a date should be changed, then that party shall set forth how much time is needed or what date(s) need to be changed and the specific facts supporting the request on a form similar to the *CCMS Request For Additional Time*. The same form may be used to request a modification of the schedule. This will be filed with the TCC.

3.4 If no *Request for Additional Time* nor a requested date change is received by the TCC within 14 days of the proposed *CCMS*, then the proposed *CCMS* shall become the order of the court.

3.5 At the discretion of the Resident Judge or a Presiding Judge, sanctions may be imposed against parties who do not meet the scheduled deadlines. Sanctions may include any one or more of the following: dismissal of the action, striking of any answer or other pleading, award of costs, attorneys fees, monetary fine, or other sanctions.

3.6 If the parties determine that the case cannot progress in a timely manner because of some extraordinary reason, such as a Plaintiff is receiving treatment which may determine whether the injury is permanent, then the parties may move that the related discovery, trial and other events be held in abeyance. The parties shall fully explain these circumstances and suggest the appropriate time of review with the TCC.

Rule 4. Pre-Trial Conference

4.1 Quarterly, pending cases shall be set for a pre-trial conference before the Judge or TCC. The pre-trial conference may be in open court, conference in chambers, by telephone or by written correspondence.

4.2 Whenever the TCC or Senior Resident Judge becomes aware that any case is not moving as scheduled, or for other good reason, they may schedule a case status conference in court, chambers, or by conference call to determine what actions need to be taken.

4.3 At the pre-trial conference, the Judge or TCC shall review the status of the case and the *CCMS*, may hear any pending motions, may set the case for trial or hearing at a designated term of Court, may enter orders regarding discovery, and may take such other actions as may be appropriate to move the case towards a conclusion.

4.4 **Written Status Reports:** A written Status Report shall be provided by the attorneys upon request of the Judge or TCC.

4.5 **Telephone Conferences:** The Court may direct that pre-trial conferences, hearing of specified motions and other matters take place by telephone conference call. Hearings, motions, objections to discovery and other matters which are required before the court shall be promptly scheduled. The parties making a motion shall contact the TCC for the time and place of such hearing after consulting with other counsel in the case.

Rule 5. Motions (see NC General Rule 6; NC Civil Procedure Rule 7)

5.1 Notice of Motion: A party filing a motion shall contemporaneously file a “Notice of Motion” using the form attached hereto. The notice shall be filed as directed in Mailing Address Section. All motions shall be set at the next available session of Civil Superior Court, unless a Judge or TCC designates a different session or time for the hearing of the motion.

5.2 Preparation of Orders: When an attorney comes to a motion hearing where the court may rule in his favor, the attorney should bring a draft order for consideration. When the court enters the order and asks counsel to prepare the same, counsel shall prepare the order within 24 hours and provide opposing counsel with the order. The opposing counsel shall have 24 hours to prepare a response and the order shall then be immediately presented for the Judge’s signature. This shall occur immediately, prior to the end of the session, and if additional time is needed, counsel shall obtain permission from the court.

5.3 A failure to comply with these rules shall be grounds for the denial of any motion at the discretion of the Judge.

5.4 The pendency of a motion where the “Notice of Motion” was not filed as required shall not be grounds for a continuance of trial or other event.

5.5 The filing of a motion subsequent to the setting of the case for trial (either by court order or by the publication of a calendar) shall not be grounds for the continuance of the case.

5.6 Telephone Argument. The Court, upon the request or with the consent of all parties, may direct that oral arguments of any motion be by telephone conference call.

Rule 6. Discovery (see NC General Rule 8; NC Civil Procedure Rule 26-37) State form

6.1 Parties are encouraged to initiate discovery proceedings as soon as possible after the institution of a civil action and to complete the same as soon as practical.

6.2 Enlargement of time to file answer and completing Mediation shall not be cause for delay of discovery.

6.3 Initial written discovery shall be completed within 60 days of service of the defendant(s), unless good cause is shown why it cannot be completed and the Court approves a longer time in the CCMS. All initial interrogatories and requests for documents and admissions shall be served within 30 days from the filing of the complaint.

6.4 Unless the time is extended by a Resident or Presiding Judge, the pendency of discovery will not be allowed to delay trial or any other proceeding before the Court after 150 days have elapsed from the institution of the suit.

6.5 Attorneys serving interrogatories or requests for admissions are encouraged to make available the interrogatories or requests on a 3 ½ inch disc in a word process format normally used in the legal community.

6.6 If any party finds a request or interrogatory objectionable, the party shall file a notice stating that objection and the support reasons on or before the date a response is due. All other interrogatories or requests are to be completed within the allotted time frame. When any party makes an objection to discovery or a motion to compel the party shall immediately contact the TCC to schedule a hearing.

6.7 Unless all parties consent or a Judge allows, no party may schedule any deposition within 10 days of any scheduled trial date.

RULE 7. Mediated Settlement Conference (See Rules of N.C. Supreme Court Implementing Statewide Mediated Settlement Conferences.)

7.1 Parties shall have *no more than 21 days* from issuance date of the Order for Mediated Settlement Conference to select a mediator, otherwise, the Court will issue an order appointing a mediator without further notice.

7.2 The Mediated Settlement Conference shall be conducted as soon a practical, but in any event, within 120 days from issuance of the Order. When parties select a Mediator, they shall also schedule a date for the mediation. **(The parties shall select a Mediator who can timely schedule the mediation.)**

No extension of the deadline to complete the Mediated Settlement Conference shall be allowed except for good cause shown. Failure to comply with these rules or timely act shall not be considered good cause. Any request for extension shall be in accordance with Mediated Settlement Conference Rule 3.C.

7.3 Upon receiving notice of the appointment, the Mediator shall contact the parties within two (2) working days, and schedule a time for mediation within five (5) working days. The Mediator shall then send a notice of the time of scheduled mediation to the TCC.

7.4 The Court will appoint Mediators under the following policy:

- A. The Senior Resident Superior Court Judge or TCC shall maintain and make appointment from a current list of certified mediators provided by the Dispute Resolution Commission in the following Judicial Districts: 15B, 9A, 10, 11 (Lee and Harnett Counties), 14, 15A, and 19B (Randolph and Moore Counties) who are approved by the Senior Resident Superior Court Judge. The Judge may remove any mediator who fails to comply with the Statewide and Local Rules, who is unavailable or for other good cause.

- B. Court appointment of mediator shall be made in order as the available certified mediator appears on the list.
- C. The Judge or TCC, in his/her discretion, may appoint a particular mediator to a particular case or group of cases.

7.5 All parties, attorneys, and mediators shall comply with The Supreme Court Rules for Mediated Settlement Conferences and these Rules. Mediators shall report any failure of the parties to comply.

Rule 8. Peremptory Settings (same as NC General Rule 2(f))

8.1 Requests for a peremptory setting should be made to the Senior Resident Superior Court Judge or the TCC at least ten weeks prior to the proposed trial date.

8.2 A peremptory setting shall be had only for good and compelling reasons and may be ordered either by request or upon the courts own motion by the Resident Superior Court Judge.

Rule 9. Calendaring of Civil Cases (see NC General Rule 2; NC Civil Procedure Rule 40(a))

9.1 The civil calendars for Orange and Chatham Counties shall be prepared by the Trial Court Coordinator under the supervision of the Senior Resident Superior Court Judge in accordance with these rules.

9.2 The TCC shall maintain all CCMSs.

9.3 If there is a failure to make timely service on the parties and there is no outstanding valid summons, then the TCC shall schedule a hearing for dismissal of the case on the next available calendar.

9.4 In addition to cases set by court order, attorneys may request that any pending case be set for trial. Requests for the setting of cases on the trial calendar shall be made no later than five weeks prior to the beginning of the session of court.

9.5 The calendar shall be set no later than 10:00 a.m. on the fifth Friday preceding the first day of each session of court. However, the Court reserves the right to alter the date of publication or to publish a supplemental calendar if deemed necessary.

9.6 Motions shall be set for hearing Monday or as otherwise scheduled by the TCC or a Court. Motions not heard on Monday may be heard at any time during the term, in the discretion of the Presiding Judge. Cases for trial shall be set for a designated week and may be called for trial any time during the week. Cases for trial during the first week of a two week session are subject to be called for trial the second week of the session.

9.7 The calendar shall be published and distributed to each attorney of record (or party where there is no attorney of record) and to the Presiding Judge, no later than four weeks prior to the first day of court. (NC General Rule 2(b))

9.8 If for any reason a case is not reached for trial during the session of court for which it is set, the Resident Judge or TCC may set the case for trial at a subsequent term of court including a session where criminal cases have priority.

Rule 10. Continuances (see NC General Rule 3; NC Civil Procedure Rule 40(b))

10.1 Appropriate Judicial Official: Prior to the opening of court for the session in which the case is calendared, all applications for continuance shall be made to the Senior Resident Superior Court Judge of the judicial district in which the case is filed, or his/her designee. Following the opening of court for the session in which the case is calendared, any application for continuance shall be made to the Presiding Judge of the court in which the case is calendared.

10.2 Form of Application: All applications for continuance shall be made by written motion on state form AOC-CV1997.

10.3 Notification of Parties: A copy of the completed form AOC-CV-1997 must be distributed to all counsel of record and/or unrepresented parties and the TCC prior to presentation of the application to the appropriate judicial official. Distribution of the motion may be made by U.S. Mail, facsimile transmission, hand delivery, or distribution by means of attorney distribution boxes maintained in the courthouse.

[Timely notification of all parties is essential to provide an opportunity for hearing. Timely notice to the Trial Court Coordinator is necessary for setting of a hearing and case management.]

10.4 Objections to Application for Continuance: Opposing counsel and/or unrepresented parties shall have three (3) working days following completion of distribution to communicate, by any means, any objection to the motion for continuance to the moving party and the office of the Senior Resident Superior Court Judge and the TCC. Objections not raised within this period are deemed waived.

10.5 Trial Court Coordinator Review: The TCC shall review all applications, the case history, the court calendar and consider dates for rescheduling. She may then make recommendations to the court including a date for rescheduling.

10.6 Evaluation of Applications for Continuance: **Continuance requests are presumptively disfavored.** However, when compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process or when a continuance clearly is in the interest of justice, a continuance may be granted in the exercise of judicial discretion to further the best interest of the fair administration of justice. **A party should propose a date for**

recalendaring the case for trial when they move for a continuance and whether opposing counsel agrees to that date.

In addition to other factors, the appropriate judicial official shall consider the following when deciding whether to grant or deny a motion for continuance:

- age of the case;
- status of the trial calendar for the week;
- order in which the case appears on the trial calendar, including whether it is peremptorily scheduled;
- number of previous continuances;
- extent to which counsel had input into scheduling the trial date;
- due diligence of counsel in promptly filing a motion for continuance as soon as practical;
- whether the reason for continuance is a short lived event which could be resolved prior to the scheduled trial date;
- length of continuance requested;
- position of opposing counsel;
- present or future inconvenience or unavailability of witnesses or parties, and;
- any other matter that promotes the ends of justice.

Reasons that shall not be considered valid bases for allowing a continuance motion include: first time scheduled for trial, potential conflicting schedule of other trials in other courts, and whether counsel of record has received payment.

10.7 Case rescheduling: Any trial, motion or other event continued or not reached shall immediately be rescheduled by the Court or the TCC. **The parties shall advise the TCC if there are any dates when it should not be rescheduled.** Parties are encouraged to propose dates for rescheduling.

The matter may be rescheduled for any civil or mixed session even though a calendar for that session has already been published.

Rule 11. Pre-Trial Orders (see NC General Rule 7; NC Civil Procedure Rule 16)

11.1 A pre-trial order shall be prepared and filed in every civil case by at least one week prior to the trial date.

11.2 A failure to file a pre-trial order shall be grounds for sanctions against the party, either the plaintiff or defendant, whose conduct occasioned the failure. Appropriate sanctions should be ordered in the discretion of the Court and may include a dismissal of the action or the striking of an answer or other pleading.

11.3 The TCC may schedule a Pre-Trial Conference with a judge prior to the week of trial.

Rule 12. Forms

12.1 See Appendix for forms.

Forms published by the Administrative Office of the Courts, set forth in the Appendix to these Rules or provided by the Court should be used when appropriate.

Rule 13. Evidence and Exhibits (see NC General Rule 14 and AOC Forms)

13.1 Trial: The attorneys shall be responsible for handling and marking of evidence. Parties appearing *pro se* shall be instructed and assisted by the clerk in applying these rules.

- A. Marking of Exhibits: All exhibits shall be marked, numbered, and introduced with “evidence” tags or labels indicating whether Plaintiff/Defendant/State as applicable. When there are multiple parties, labels shall reflect which party. **All exhibits shall be marked and numbered by counsel prior to trial. The exhibits should also be provided to opposing counsel before trial.**
- B. Custody: All evidence shall be in the custody of the Clerk once it is introduced. Prior to that time the respective attorneys, parties and witnesses shall be responsible for all evidence exhibits. If possible, Judge and Counsel should agree on disposition of evidence at the end of trial.
- C. Log: The courtroom clerk shall maintain an evidence log on form AOC-G-150.
- D. Large Exhibits, Diagrams, Posters, of Evidence: When a party offers an enlarged documentary exhibit, they shall also offer the document in its regular size to the court. The enlargements shall be maintained by the party producing them unless otherwise directed by the court.
- E. If the Clerk is to preserve any documents or other exhibits mounted on foamboard or other backing, the offering party should remove it from the backing.
- F. Copies: Attorneys shall be responsible for providing at least 15 copies of all documents which are introduced into evidence when practical. At the conclusion of the trial, the Clerk shall destroy all copies upon maintaining the original or 1 copy of the document.

13.2 Preservation of Evidence

- A. Conclusion of Trial: At the conclusion of trial, the Courtroom Clerk shall take all of the evidence, confirm that it is clearly marked. The Clerk shall prepare disposition and destruction orders for signing by the Judge.

- B. Packaging: The Clerk shall place all evidence in a package (envelope, plastic bag, or cardboard box as appropriate), seal the package with tape, date and initial the seal in a manner so that later the Clerk may determine if the package has been breached.
- C. Notice of Intent to Dispose of Evidence: The courtroom clerk shall prepare and serve each attorney with a Notice of Intent to Dispose of Exhibits/Evidence (form AOC-G-151) *prior to the conclusion of the trial.*
- D. Inventory: The Clerk shall maintain an inventory of all evidence in her custody.
- E. Controlled Substances: Whenever controlled substances are introduced into evidence, the Clerk shall place the controlled substances in a sealed envelope and initialize it in a manner that the Clerk can tell if the envelope has been breached. All controlled substances shall be secured in a safe or other secure locked depository in a vault. Only the Clerk and one or two evidence custodians designated by the Clerk shall have access to that depository.
- F. Inventory of Controlled Substances: A copy of the inventory of controlled substances shall be provided by the Clerk to the Senior Resident Superior Court judge, the District Attorney, and the Sheriff, at least quarterly. *Twice a year, on or about the 15th of January and the 15th of July, the Clerk shall review the inventory of all evidence and destroy all which are no longer needed.*
- G. Firearms, Ammunition, and other Incendiary Devices: Firearms, ammunition, and other incendiary devices shall be separately inventoried by the Clerk. They shall be separately maintained in a locked, sealed cabinet within the vault in the Clerk's Office. Only the Clerk and designated evidence custodian shall have access to it. At the conclusion of each trial, the Clerk shall inquire of the District Attorney and the defense attorney as to the preservation of any ammunition or incendiary devices. The Clerk shall also request of the Court an order to destroy the firearm, and shall maintain that order with the inventory of the firearm and in the appropriate court file.

Rule 14. News Media (see NC General Rule 15)

14.1 It is the policy to provide access to the Courts by the News Media in accordance with NC General Rule 15.

14.2 News media may be allowed pursuant to NC General Rule 15 only if the Senior Resident Superior Court Judge or Presiding Judge is notified prior to the beginning of court.

Rule 15. Juries of less than 12 when a Juror is excused

15. Except where not allowed by statute, parties are encouraged to stipulate that a jury may consist of as few as 10 in the event that a juror has been excused once trial has begun.

Rule 16. Filing by Telefacsimile Transmission (see NC Civil Procedure Rule 5(e)(2))

16.1 Any motion, calendar request, notice, continuance application, peremptory setting request, or discovery extension request to the TCC may be made by facsimile to Fax Number 919-644-3026, provided that it not exceed 10 pages.

16.2 Memorandums of Law and correspondence may be sent by facsimile to the TCC to be delivered to the Judge hearing or considering a matter provided it does not exceed 10 pages.

Rule 17. Filed Settlement of Cases (see NC General Rule 2(g))

17.1 When any case on a calendar is settled, it shall be the responsibility of the attorneys of record in the case to either notify the TCC of the settlement within 24 hours or appear at the calendar call on the first day of the session to announce the case settled. When such notice of settlement is given, the TCC must be advised who will prepare the judgment or dismissal and when it is to be filed.

17.2 A failure to file a settlement judgment or dismissal within the designated time shall be grounds for the imposition of sanctions by the Court.

Rule 18. Delinquent Orders or Judgments

18.1 Attorneys shall file a dismissal, settlement agreement or submit an appropriate proposed order or judgment within fifteen (15) working days after any settlement or court hearing unless otherwise directed by the Court.

18.2 The TCC will bring delinquent orders or judgments to the attention of the Senior Resident Superior Court Judge. Cases so identified may be dismissed at the discretion of the Senior Resident Superior Court Judge or Presiding Judge, or the Judge may order such other sanctions and impose penalties as he deems appropriate and are allowable by law.

Rule 19. Judicial Review of Administrative Action (see NCGS sec.150B 43-52)

19.1 The following rules shall govern judicial review of final administrative agency decisions.

19.2 Case Management Schedule: The Court, upon its own motion or by request of any party, may establish a schedule for a particular case. If no schedule is set then the following rules shall apply.

19.3 Briefs, Petitioner(s) / Appellant(s): The brief of the Petitioner/Appellate shall be filed with this Court and served upon all other parties to the proceedings within 20 days after the original or a certified copy of the record of the proceedings under review has been filed with this Court or as provided by Writ of Certiorari.

19.4 Brief, Respondent(s) / Appellee(s): All other parties shall file and serve briefs within twenty (20) days after service of the brief of the Petitioner(s)/Appellant(s).

19.5 Reply briefs: Unless the Court in its discretion shall order to the contrary, there shall be no reply briefs.

19.6 Calendaring: Judicial Review proceedings shall be set for hearing by the Judge or the TCC.

19.7 Nothing contained in the previous rules shall be deemed to prohibit this Court, in its discretion for good cause shown, from shortening or enlarging the times herein provided for filing briefs, from permitting the filing of briefs after the expiration of the time previously allotted for such filing, or from continuing and rescheduling.

19.8 Time: All time periods prescribed or allowed by the rules concerning judicial review shall be computed in accordance with G.S. sec. 1A-1, Rule 6(a).

Rule 20. Minor's Settlement Conference

20.1 All minor's settlement conferences shall be held in open court.

Rule 21. Bankruptcy Cases

21.1 Any request to continue, hold, or in any way delay disposition of a case due to bankruptcy or one of the parties, must be accompanied by a copy of the stay of proceeding order from the United States Bankruptcy Court having jurisdiction.

Rule 22. Production of Medical Records in lieu of Appearance (see N.C. Civil Procedure Rule 45(c))

22.1 The TCC shall be the designee to accept by registered mail or personal delivery certified copies of medical records pursuant to G.S. sec. 1A-1, Rule 45(c).

Rule 2. Weapons in Court

23.1 Pursuant to N.C.G.S. Sec. 14-415.11(c), and 14-269.4, no one except a Law Enforcement Officer who is on duty may possess firearms or other weapons in any Courthouse.

Rule 24. Sanctions

24.1 Should counsel or a *pro se* 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, in its discretion, impose appropriate sanctions. Sanctions may include those listed previously, but are not limited to those alone.

Rule 25. Vacation Policy

25.1 Each attorney is entitled to designate three weeks during each calendar year as “vacation” during which time no matter requiring that attorney’s appearance shall be calendared for hearing in any court in this District and the attorney shall not otherwise be required to appear before any tribunal of this District. The weeks designated may be consecutive.

25.2 Vacation period shall be designated 90 days or more in advance. Attorneys shall not be entitled to designate a period subsequent to a trial or other matter having already been set by a Court.

25.3 Designation shall be made by the attorney filing a letter in the offices of the Clerks of Superior Court of Orange and Chatham Counties as applicable. The offices of the Clerks of Superior Court for Judicial District 15B shall maintain a file containing letters from attorneys regarding vacation status. In addition, attorneys shall file a copy with the offices of the Senior Resident Superior Court Judge and the Chief District Court Judge if they practice in the respective division and depending upon “division” pendency of the case(s) referenced in the letter. Any pending civil case should be referenced. Also, any attorney practicing in the criminal courts should give a copy to the District Attorney. The attorneys shall retain a copy of the letter marked filed which may be provided to the judges and opposing counsel as needed.

25.4 This policy is not exclusive. For extraordinary circumstances, the court may designate other or additional weeks of vacation when an attorney is faced with a particular or unusual situation or for other reasons as has been the custom in this District.

Rule 26. Mailing Address

26.1 Requests for the setting of motions for hearing, cases for trial, and inquiries concerning these rules shall be addressed as follows:

Trial Court Coordinator

Old Orange County Courthouse
104 East King Street
Hillsborough, North Carolina 27278

The offices of the Senior Resident Superior Court Judge are located on the first floor of the Old Orange County Courthouse, 104 East King Street, Hillsborough, N.C. 27278. The telephone numbers are (919) 732-818 (Hillsborough) 967-9251 (Chapel Hill) 688-7331(Durham) 227-2031 (Mebane/Graham/Burlington) extension 2240; the fax number is (919) 644-3026 and the email address is: Marie.Rice@aoc.state.nc.us.

Rule 27. Notice

27.1 The Clerk of Court shall immediately forward a copy of these Rules to all practicing attorneys in Orange and Chatham Counties, and to all attorneys having matters pending in their county. The Clerks and the TCC shall maintain a supply of these Rules for those attorneys and parties who request the same.

These Rules are hereby adopted this 30 October 1998 to be effective 1 January 1999.

Wade Barber
Senior Resident Superior Court Judge
Judicial District 15B

STATE OF NORTH CAROLINA
COUNTY OF

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO.

Plaintiff(s))
)
)
)
Versus)
)
)
Defendant(s))

**CIVIL CASE
MANAGEMENT SCHEDULE**

This Civil Case Management Schedule (CCMS) is hereby entered at the direction of the Senior Resident Superior Court Judge by the Trial Court Coordinator in accordance with 15B Civil Rule 3. The parties shall comply with the following schedule:

- ◆ *All responsive pleadings and motions shall be filed by:*
- ◆ The parties are requested to select a mediator and schedule a Mediated Settlement Conference. If the parties do not agree on a mediator, then the court will appoint :
- ◆ **The Mediated Settlement Conference will be scheduled for completion by:**
- ◆ If not noticed earlier, any motion to dismiss and all other pending motions shall be heard:
- ◆ Discovery shall be completed by:
- ◆ All Pretrial motions not previously heard shall be scheduled for hearing on:
All shall be timely filed and noticed for then or an earlier date.
- ◆ The Final Pretrial Order shall be submitted ten days in advance of the trial date.
- ◆ Trial Date:

If any party believes that more or less time is necessary for any event in this case, then a Request for Additional Time shall be filed and served on the Trial Court Coordinator within 14 days; otherwise, this CCMS shall become the order of the court.

DATE:

Marie H. Rice
Trial Court Coordinator
104 E. King Street
Hillsborough, N.C. 27278
Telephone: 919-732-8181 Ext.2240
Fax: 919-644-3026

CCMS furnished to following attorneys and/or parties of record:

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. _____ CVS _____

)
)
)
Plaintiff(s))
)
Versus)
)
)
)
)
)
)
Defendant(s))

**Civil Case Management Schedule
Request For Modification**

_____ attorney for € Plaintiff € Defendant hereby respectfully requests that modification of the Civil Case Management Schedule be considered in accordance with 15B Civil Rule 3.3. For the reason set forth on the reverse, the modification requested is as follows:

[check appropriate box]

[insert proposed modification date]

- Deadline for filing of all pleadings and motions: _____
- Mediated Settlement Conference to be completed by: _____
- Deadline for hearing motion to dismiss: : _____
- Deadline to complete discovery: _____
- Final date for hearing all pending motions: _____
- Trial Date : _____
- Other: _____

The undersigned represents that:

- (1) This request has, has not, been discussed with my client; and
- (2) All opposing parties agree object or have not been consulted.
- (3) The parties have selected a mediator: _____.

Date: _____

Submitted by: _____

Attorney/Party

Address: _____

Telephone No.: _____

Requested modification is allowed or denied as indicated:

Date: _____

Signature of Superior Court Judge / Trial Court Coordinator

[See Reverse Side]

STATEMENT IN SUPPORT OF REQUEST

Please state the nature of the case, current status and reasons for this request. Also include positions of other parties.

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

ORANGE/ CHATHAM COUNTY

FILE NO. _____ CVS _____

(Circle one)

_____))
 _____))
 _____))
 _____))
 _____))
 _____))
 _____))
 _____))
 _____))

Plaintiff(s)

Vs.

NOTICE OF MOTION

TO: **Trial Court Coordinator**
104 East King Street
Hillsborough, N.C. 27278

The undersigned attorney has this date filed and served a motion:

(Check One)

- To dismiss under Rule 12.
 - To amend pleadings.
 - For sanctions under Rule 37.
 - For summary judgment under Rule 56.
 - Other: _____
- Estimate time to hear: _____(hrs.) _____(mins.)
- It is requested that this motion be calendared for hearing at the next term of Court.
 - It is requested that this motion be calendared for hearing at the term of Court beginning _____, because _____.

DATE: _____

Attorney for: _____

Copy sent to opposing attorney:

Address: _____

(Name)

(Address:)

Telephone No. _____

