

JUDICIAL DISTRICT 16A

CASE MANAGEMENT PLAN

The purpose of these rules is to institute a case management plan for the Superior Court of Judicial District 16A which will provide for the orderly, just, and prompt disposition of civil matters. They are promulgated in compliance with Rule 2, GENERAL RULES OF PRACTICE.

Rule 1. GENERAL RULES:

- 1.1 These rules are adopted to provide for the orderly, just, and prompt disposition of matters to be heard in the Superior Courts of Scotland and Hoke Counties. They shall be at all times construed and enforced in such a manner as to avoid technical delay.
- 1.2 The calendar for the disposition of civil cases in Scotland and Hoke County Superior Courts shall be set by the Trial Court Coordinator of Superior Court under the supervision of the Resident Superior Court Judge in accordance with these rules.
- 1.3 It is recognized that these rules are not complete in every detail and will not cover every situation that may arise. In the event that these rules do not cover a specific matter, the Trial Court Coordinator is authorized to act in his/her discretion, subject to consultation with the Senior Resident Superior Court Judge or the Presiding Judge.

Rule 2. MEDIATION

- 2.1 The Senior Resident Superior Court Judge shall order cases into mediation as in accordance with GS 7A 38-1)
- 2.2 The Trial Court Coordinator shall prepare an Order for Mediation when the case is 150 days from the filing date and the last pleading has been filed, or counsel may request voluntary mediation. The trial date shall be set and indicated on the Mediation Order. The case will be set for trial on the date indicated unless the counsel contacts the Trial Court Coordinator and agrees on an alternate date.
- 2.3 In accordance with the Rules of Mediation, the attorneys have twenty one (21) days to designate a mediator on AOC form # AOC CV 812. Said form shall be submitted to the Trial Court Coordinator within 21 days or he/she shall assign a mediator.
- 2.4 If a mediation date was set and, for justifiable reasons, the conference was not held, the mediator should submit a request for an extension of mediation deadline to the Senior Resident Superior Court Judge or his designee.
- 2.5 The mediator is to file a report with the Trial Court Coordinator within ten (10) days after the mediated settlement conference to report the results

- 2.6 When the parties do not timely select a mediator, the general procedure for judicial appointment shall be to appoint the next certified mediator on the appropriate list who currently resides or maintains an office in this judicial district or a contiguous judicial district or who certifies in writing annually to the Senior Resident Judge that he or she wishes to mediate in this judicial district, is familiar with these Local Mediation Rules, and will comply with them and the Supreme Court Rules. The Senior Resident Superior Court Judge shall retain discretion to depart from the general procedure in particular circumstances such as the appointment of one mediator to multiple related cases, appointment of a newly certified mediator, or to withhold a mediator who has not followed Local or Supreme Court Rules from appointment.

Rule 3. CALENDARING OF NON-TRIAL SETTING CONFERENCE CASES BY THE COURT:

- 3.1 The Trial Court Coordinator shall establish and maintain a case tracking system pursuant to Rule 2©, General Rules of Practice for the Superior and District Courts, and in accordance with these rules:
- 3.2 A case shall be deemed ready for trial when the Trial Court Coordinator has determined that at least one of the following has occurred.
- a. One hundred and twenty (120) days will have elapsed since the filing of the last required pleading by the start of the scheduled session.
 - b. All counsel have filed with the Trial Court Coordinator a Calendar Request form requesting that the case be placed on a trial calendar prior to the expiration of the 120 day period.
 - c. A case has been transferred to the Superior Court Division on appeal from the Clerk of the Superior Court.
 - d. A case has been remanded for trial by the Appellate Division.
 - e. A case is entitled to priority hearing by statute.
Counsel shall forthwith provide written notice to the Trial Court Coordinator of any case identified in Rule 3.2 (b), 3.2 (c), 3.2 (d).
- 3.3 The Trial Court Coordinator shall place those cases that he/she has determined to be ready for trial on a trial calendar.

Rule 4. TRIAL CALENDAR:

- 4.1 Not less than four (4) weeks prior to the first day of each regularly scheduled session of Superior Court for the trial of Civil cases, the Trial Court Coordinator shall prepare a final calendar for said session. Cases set on the tentative calendar designated by the Order for Mediated Settlement Conference shall be set on the trial calendar unless settled or continued as hereafter provided.

- 4.2 It shall be the ongoing duty of all counsel/unrepresented parties to notify the Trial Court Coordinator of any addition(s) or deletion(s) of counsel/unrepresented parties.

Rule 5. PREEMPTORY SETTING:

- 5.1 Request for a preemptory setting for cases involving persons who must travel long distances, or which involve numerous expert witnesses, or other extraordinary circumstances for such request, must be made in writing to the Senior Resident Superior Resident Judge. Such request shall set out the reasons for the requested preemptory setting, and a copy thereof must be served on the opposing party or his attorney in accordance with the Rules of Civil Procedure. Provided, that such service shall not be required if the opposing attorney consents to said request. Requests for preemptory settings shall be made at least six (6) weeks prior to the commencement of the session of court for which the preemptory setting is sought. It is preferable that such request be made during administrative session of the court. The Senior Resident Superior Court Judge Resident Judge may set cases peremptorily upon his own motion (Rule 2-F)

Rule 6. CONTINUANCES – CIVIL CASES

- 6.1 Appropriate Judicial Official
Prior to the opening of Court for the session in which the case is calendared, all applications for continuances shall be made to the Senior Resident Superior Court Judge or his 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.
- 6.2 Form of Motion
All applications for continuances shall be by written motion on state form AOC CV 221.
- 6.3 Notification of Opposing Counsel/Unrepresented Parties
A copy of the completed form AOC CV 221 must be distributed to all counsel of record and/or unrepresented parties prior to presentation of the motion to the appropriate judicial official. Distribution of the motion may be by U.S. mail, facsimile transmission, hand delivery, or distribution by means of attorney distribution boxes maintained in the courthouse facility.
- 6.4 Objections to Motion for Continuance
Opposing counsel and/or unrepresented parties shall have a period of three (3) working days following completion of distribution to communicate, by any means, objections to the motion for continuance to the moving party and the office of the Senior Resident Superior Court Judge or the office of his/her designee. Objections not raised within the time period are deemed waived.

6.5 Evaluations of Motions 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 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.

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

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

6.6 Reasons that shall not be considered valid bases for allowing a continuance motion include:

- First time scheduling of the case for trial
- Failure to calendar a motion
- Failure to mediate the case
- Potential conflicting schedules of other trials in other courts.

6.7 Should an objection arise, any failure on the part of moving counsel to comply with the rules concerning written motion and notice to opposing counsel/unrepresented parties shall result in the voiding of any continuance granted.

6.8 The Trial Court Coordinator, under the supervision of the Senior Resident Superior Court Judge Resident Superior Court Judge, has sole authority to continue cases prior to the scheduled trial session. At no time shall any counsel/unrepresented parties present any motion to continue to the presiding judge prior to the opening of the scheduled trial session.

Case Rescheduling

Prior to granting a motion for continuance, the appropriate judicial official, in consultation with the office of the Senior Resident Superior Court Judge or his/her designee, should reschedule the trial of the case after receiving scheduling input from all counsel.

Rule 7. PRE-TRIAL ORDER

- 7.1 There shall be a pre-trial conference and order in every civil case. The purpose of this conference is to define and narrow the issues for trial and explore carefully the prospects of settlement.
- 7.2 The parties shall hold the pre-trial conference at least twenty one (21) days prior to the trial date and a pre-trial order prepared and signed by all attorneys of record shall be filed with the Clerk of Superior Court. A copy of the pre-trial order shall be presented to the Trial Court Coordinator no later than Wednesday proceeding the session on which the case is set for trial
- 7.3 The pre-trial order shall be prepared in compliance with the provision of Rule 7 of the General rules of Practice of the Superior and District Court as they appear in volume 4A, Appendix 1 of the North Carolina General Statutes.
- 7.4 Failure to comply with these provisions may result in the Presiding Judge, in his/her discretion entering an order to exclude certain evidence, an order of dismissal, or order such other sanctions deemed appropriate and allowed by law.

Rule 8. NOTICE OF SETTLEMENT

- 8.1 When a case on a published calendar (tentative or final) is settled, all attorneys of record must notify the clerk the Trial Court Coordinator within twenty-four (24) hours of the settlement and advise who will prepare and present judgment and when.

Rule 9 DELINQUENT ORDERS OR JUDGMENT

- 9.1 Cases or motions scheduled on the trial calendar and removed due to the consent or settlement shall be considered delinquent if the order of judgment or dismissal is not filed within fifteen (15) working days after the matter was announced as settled.
- 9.2 Cases or motions scheduled on the trial calendar and heard by the Judge or by jury shall be considered delinquent if the order or judgment of dispositions is not filed within fifteen (15) working days after the hearing, unless otherwise directed by the Presiding Judge.

- 9.3 Upon motion of the party against whom the judgment or order was to be taken, cases identified delinquent pursuant to Rule 9.2 above may be dismissed by the Senior Resident Superior Court Judge or Presiding Judge.
- 9.4 The Trial Court Coordinator shall identify those cases, which are delinquent, pursuant to Rule 9.1 and 9.2 above, and bring them to the attention of counsel/unrepresented parties by means of a "Notice of Delinquent Order. After such notice, cases remaining delinquent may be dismissed at the discretion of the Senior Resident Superior Court Judge or Presiding Judge. The court may alternatively order such sanctions or impose such penalties as deemed appropriate and allowed by law.

Rule 10. CALL OF THE CALENDAR:

- 10.1 There will be a call of the calendar at 10:00 a.m. on the first day of each civil session. The purpose of this call will be:
 - a. To notify attorneys with cases scheduled of disposition made since the publication of the final calendar.
 - b. To consider any requests for continuance
 - c. In double sessions, to assign courtrooms for the first cases up.
 - d. To give attorneys an indication of when their case is expected to be reached.
- 10.2 Motions shall be set for hearing as the first order of business on Monday morning. Motions not heard on Monday may be heard at any time during the term in the discretion of the Presiding Judge.
- 10.3 Cases set for trial will ordinarily be set on the calendar with the oldest case appearing first, and the other cases following in order of their age. When cases have been consolidated for trial, they shall be treated as one case for calendaring purposes and will take the priority of the oldest case in the group.
- 10.4 Unless otherwise directed by the Presiding Judge, cases will be called for trial in the order in which they appear on the calendar. Cases not reached on the day on which they are set will be carried over from day to day during the term, and will be called when reached any day thereafter. Cases will not be called before the day upon which is set except with consent of all counsel and the Presiding Judge.

RULE 11. MOTIONS:

- 11.1 All motions shall be scheduled for hearing through the Trial Court Coordinator's Office.
- 11.2 Moving counsel/party shall serve all counsel/unrepresented parties with the date, time, and location of the hearing.

- 11.3 Moving counsel is responsible for notification to their client of the date, time, and location of hearing with respect to Motion to Withdraw as Counsel.
- 11.4 Failure of counsel to calendar motions for hearing in a timely manner will not delay the trial date assigned.
- 11.5 The Trial Court Coordinator may in his/her discretion calendar pending motions on a timely basis to insure the progression of the calendar.
- 11.6 Prior to the beginning of the scheduled court session, the moving party may remove any motion he/she has noticed for hearing from the calendar by providing the Trial Court Coordinator with notification of intent to withdraw the notice of hearing and verification that such withdrawal has been communicated to all party(ies).
- 11.7 A party filing a motion shall contemporaneously file a separate written request that the motion be calendared for hearing. All motions so requested shall be set at the next available session of Civil Superior Court, unless the requesting party in writing and for good cause specifies a later session. Motion requests shall be filed no later than ten (10) days prior to the first day of a civil session.
- 11.8 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 continuance of the case.
- 11.9 Any motion which is filed which deals with the admission of attorneys from out of state of limited practice may only be added to a Motion calendar by order of the Senior Resident Superior Court Judge. Copies of all motions to admit out of state attorneys for limited practice pursuant to N.C. General Statutes 84-4.1 must be filed with the Office of the Senior Resident Superior Court Judge at P.O. Box 769, Laurinburg, N. C. 28353. All requests for calendaring such motions must be addressed in writing to the Senior Resident Superior Court Judge, with the original of said request being filed in the Court file, with a copy sent to the Office of the Senior Resident Superior Court Judge.

RULE 12. DISCOVER:

- 12.1 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 practicable.

RULE 13. ATTENDANCE BY ATTORNEYS:

- 13.1 When an attorney is notified to appear for the hearing of a motion, or for trial, he must, consistent with ethical requirements appear or have a partner, associate or another attorney familiar with the case present. Unless an attorney has been excused in advance by the Judge before whom the

matter is scheduled and has given prior notice to his opponent, a case will not be continued.

RULE 14. JUDICIAL REVIEW OF CASE STATUS

- 14.1 The Trial Court Coordinator may, as necessary, set cases for the purpose of judicial review of case status.
- 14.2 Cases involving, but not limited to, the following matters shall be eligible for judicial review and appropriate disposition:
- Bankruptcy
 - Service not made and summons expired
 - Removal to Federal Court
 - Soldiers and Sailors Relief Act (50 USCS Appx. 501)
 - Periodic Settlement Payments
- 14.3 The Trial Court Coordinator, upon review of the cases pending in categories identified in 13.2 and after consultation with counsel, if necessary, shall prepare orders to be signed by the Senior Resident Superior Court Judge or Presiding Judge disposing of such matter appropriately.
- 14.4 In cases in which answers have not been filed and time has expired, Plaintiff's attorney shall file an entry to default prior to the date of the assigned trial. Failure to comply may result in an entry to dismissal with prejudice, or any other sanctions allowed by law and deemed appropriate.

RULE 15. SANCTION

- 15.1 Failure to comply with any sections of these rules shall subject an action to dismissal, or such other sanctions allowed by law and deemed appropriate in the discretion of the Senior Resident Superior Court Judge or presiding judge.

RULE 16 ENFORCEMENT OF LOCAL RULES OF PROCEDURE

- 16.1 The signature of the Trial Court Coordinator shall be considered the same, and have the same full force and effect as of the Senior Resident Superior Court Judge for the purposes of all scheduling order deadlines, trial settings, mediation, extensions of time both within and beyond scheduling order deadlines, and any similarly situations case management matters.

RULE 17. NOTICE:

- 17.1 The Clerks of Court shall immediately forward a copy of this Order to all practicing attorneys in Scotland and Hoke Counties. The clerks and Trial Court Coordinator shall maintain a supply of this Order for those attorneys and parties who request the same.