

**AMENDED CASE MANAGEMENT PLAN
FOR SUPERIOR CIVIL CASES
JUDICIAL DISTRICT 20B
STANLY AND UNION COUNTIES**

Effective July 1, 1996

The following case management plan for the calendaring of civil matters in the Superior Court of the Judicial District 20B has been adopted by the Senior Resident Superior Court Judge as required by the General Rules of Practice for the Superior and District Courts adopted by the Supreme Court of North Carolina.

RULE 1 - CASE TRACKING SYSTEM

The Clerks of Court shall maintain docket sheets for civil cases pending in Superior Court, keeping a separate index for medical malpractice actions.

The Administrative Assistant to the Resident Superior Court Judge shall maintain a case tracking system for civil cases pending in the Superior Courts.

The Clerk's docket sheets and the Superior Court tracking system must record the filing dates for pleadings, a list of pending motions, and a list of trial continuances.

RULE 2 - TIME STANDARDS FOR CALENDARING

A case shall be calendared for trial as soon as practical after the following events:

(a) The lapse of 120 days after the filing of the answer or last required pleading. The 120 day period shall be reserved exclusively for discovery, unless otherwise ordered by the Court, but the trial of the case shall not thereafter be delayed for failure to complete discovery unless, for good cause shown, the Resident Superior Court Judge extends the discovery period prior to the expiration of the 120 day period. Motions for limitation or extension of the discovery period in the Superior Court should be mailed to the Office of the Resident Superior Court Judge.

(b) The remand of a case on appeal for re-trial.

(c) The docketing of any case having statutory priority.

(d) The filing of a consent request for calendaring signed by all attorneys of record in the case and all parties not represented by attorneys.

RULE 3 - REQUESTS FOR CALENDARING

Any attorney or unrepresented party may request that a case be calendared for trial at any scheduled session of court. Requests for calendaring of Superior Court cases should be made to the Office of the Resident Superior Court Judge.

Any request for additions to the Superior Court trial calendar after the publication of the tentative calendar for that session, must be with the consent of all opposing attorneys and unrepresented parties as provided in Rule 4 below.

RULE 4 - SUPERIOR COURT TRIAL CALENDARS

a) Tentative Superior Court Trial Calendars

(1) Publication

Not less than five weeks prior to the first day of each session, the Administrative Assistant to the Resident Superior Court Judge shall prepare a tentative calendar of cases for trial at that session. She shall distribute one copy of the tentative calendar to each law firm with one or more cases listed thereon, and one copy to each party not represented by an attorney if such party's address appears of record. Each attorney and each unrepresented party shall be responsible for seeing that his correct mailing address appears in the record.

(2) Requests for Removal from Tentative Superior Court Trial Calendars

At any time more than three weeks before the first day of a trial session, an attorney or unrepresented party in any case on the tentative Superior Court calendar, after notice to all opposing parties, may request that the case be removed from the tentative calendar. The request shall be directed in writing to the Office of the Resident Superior Court Judge and should state the case number and name, the county and date where tentatively set, the reasons for the request, and whether the request is approved by all opposing counsel. If the motion is based on a need for additional discovery time, it must be accompanied by a written motion to extend discovery which motion shall state the reasons why discovery could not be completed within the time previously reserved for discovery.

(3) Request for Additions to Tentative Superior Court Calendars

At any time after the publication of the tentative calendar and before the publication of the final calendar, attorneys may request that additional cases be added to the calendar for trial. Any such request must have the approval of all opposing attorneys and should be directed to the Office of the Resident Superior Court Judge.

(4) Request for Pre-emptory Settings

At any time more than three weeks before the first day of a session, an attorney may request a pre-emptory setting for any case listed on the tentative calendar. The request should state the reasons why the case should be pre-emptorily set and whether the request is approved by all attorneys in the case. The request should be directed to the Office of the Resident Superior

Court Judge. No more than two pre-emptory settings per week shall be made. If a pre-emptorily set case is continued, attorneys in that case shall not be entitled to a second priority setting unless another request is approved. A medical malpractice suit shall not be set pre-emptorily for trial on the last week of a multi-week session of court.

(b) **Final Superior Court Calendars**

(1) **Publication**

Not less than two weeks prior to the first day of each civil session, the Administrative Assistant to the Resident Superior Court Judge shall prepare a final calendar of cases for trial at that session. She shall distribute one copy of the final calendar to each law firm with one or more cases listed thereon, one copy to each unrepresented party whose address appears of record, and one copy to the Presiding Judge.

(2) **Order of Listing for Trial**

The final calendar shall be composed of cases not removed from the tentative calendar and matters requested by agreement of counsel or parties. Pre-emptorily set cases shall be calendared at the top of the final calendar and marked accordingly. Thereafter, cases shall be set by date of filing in chronological order unless otherwise ordered by the Resident Superior Court Judge. Cases may be called when reached in the order they are set unless the final calendar notes a date before which or after which a case shall not be tried.

(3) **Carry-over of Cases Not Tried When Scheduled**

Cases not reached during the first or subsequent week of a multi-week session shall be carried over to any subsequent weeks of the session to be tried after pre-emptorily set cases unless otherwise ordered by the Resident Superior Court Judge or the Presiding Judge. Cases not disposed of during the session for which they are scheduled may be placed on the final calendar for the next civil session of court, even though the tentative calendar for that session has been previously published without listing that case for trial.

RULE 5 - MOTION CALENDARS

(a) **Regular Motion Calendar**

The Administrative Assistant to the Resident Superior Court Judge shall publish and distribute a regular motion calendar of motions and no-trial matters to be heard at each trial session. It may contain any motions or non-trial matters the court records show are pending at the time the calendar is prepared, as well as others calendared by request.

This regular motion calendar shall not contain more non-trial matters than can reasonably be expected to be heard in the time designated by the Resident Superior Court Judge for the hearing of such matters. Calendar requests for the regular Superior Court motion calendar must be made to the Office of Resident Superior Court Judge prior to the publication of the final calendar.

(b) **Supplemental Motion Calendar**

Any motion calendar request filed after the publication of the final trial calendar for Superior Court should be filed with the Clerk of Court who will place the motion on a supplemental motion calendar. Parties with motions on the supplemental motion calendar must

give notice of hearing to all opposing parties as required by the Rule of Civil Procedure. The hearing of motions listed on the regular motion calendars shall take precedence over the hearing of motions listed on the supplemental motion calendar unless otherwise ordered by the Presiding Judge.

RULE 6 - CONTINUANCES

Any motion for a continuance from the final Superior Court calendar for reasons arising before the close of business on the Friday preceding the first day of the session shall be made, in writing if possible, to the Office of the Resident Superior Court Judge. Motions for continuances may be directed to the Presiding Judge only for reasons arising after the close of the business day on the Friday preceding the first day of the session.

The Administrative Assistant to the Resident Superior Court Judge shall rule upon all continuance requests directed to the Office of the Resident Judge. Either party may appeal such ruling to the Resident Judge. If the continuance request and ruling and appeal are all in writing, the appeal shall be based on such writings and the case tracking card for that case. Otherwise, the appeal shall be heard upon a conference telephone call initiated by the appealing attorney and including all interested attorneys or unrepresented parties if possible.

Except in unusual cases, neither the low listing of a case on the calendar nor the potential trial conflict of counsel shall be considered as a valid reason for a continuance.

RULE 7 - SETTLEMENT OF CASES

(a) Notification Required

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 Clerk of Court of the settlement 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 Clerk must be advised as to who will prepare the judgment or dismissal and when it is to be filed.

(b) Dismissal of Cases When Settlement Documents Not Filed

If the attorney responsible for filing a settlement judgment or dismissal fails to do so within the time indicated when he notified the court of the settlement, the case may thereafter be placed on the regular or supplemental motion calendar for a later session of court for possible dismissal of the case for failure to timely file the settlement documents. Any attorney or party in the case may appear and show cause why the case should not be dismissed. If no good cause is shown, the case may, in the discretion of the Presiding Judge, be dismissed for failure to timely file the settlement judgment or dismissal.

RULE 8 - REMOVING INACTIVE CASES FROM TRIAL DOCKETS

(a) By Request of the Parties

If all parties and attorneys in a case agree that the dispute between the parties is no longer active, that a trial of the case will not be necessary, and that the ends of justice will best be served by declaring the case inactive and removing it from the trial docket, they may prepare a joint motion to that effect and submit it with a proposed order for the approval and signature of the Resident Judge.

(b) Contents of Proposed Order

The proposed order removing a case from the trial docket shall state the reasons why the parties contend justice will be promoted by the order and it shall contain an order that the case be declared inactive and the case file be closed without prejudice to any party's right to have the matter reopened upon a motion in the cause. If the Judge allows the motion, he will sign the order and file it with the Clerk. If he does not allow it, he will return it with a notation that the motion is denied.

(c) Removing Inactive Cases Without Request

The Resident Superior Court Judge or any Presiding Judge may, of his own motion, declare a case inactive and remove it from the trial docket if it appears to him the controversy between the parties no longer exists or that a trial of the matter will not be required. When a case is declared inactive by the Court's own motion, such ruling shall be without prejudice to any party's right to have the case reopened for further necessary proceedings.

This plan may be modified or amended by the Resident Superior Court Judge by subsequent modification orders. Suggested changes or amendments may be addressed to the Resident Judge.

Adopted this 30th day of April, 1990.