

CIVIL SUPERIOR COURT
CASE MANAGEMENT PLAN
TWENTY-FIRST JUDICIAL DISTRICT

(Revised effective January 1, 2001)

These Rules and attached forms are available at the Forsyth County Trial Courts
Web Site at <http://www.aoc.state.nc.us/www/public/courts/forsyth.html>

This civil case management plan for the Superior Court of the Twenty-First Judicial District is hereby ordered into effect January 1, 2001, pursuant to the authority of Rule 2 of the General Rules of Practice for the Superior and District Courts (hereafter referred to as GRP.) These rules replace and supercede any previous rules regulating case management in the Forsyth County Civil Superior Courts except present rules relating to mediation.

**1.0 CASE MANAGEMENT PLAN: PURPOSE: ADMINISTRATION:
ADVISORY COMMITTEE**

This case management plan shall be administered and civil calendars shall be prepared under the supervision of the Senior Resident Superior Court Judge. The Senior Resident Judge may appoint one or more calendar advisory committees that shall include trial attorneys to give advice and suggestions on a continuing basis.

1.1 Purpose The purpose of these rules is to provide for the orderly, just and prompt disposition of civil matters to be heard in the Superior Court of Forsyth County. The rules shall at all times be construed in such a manner as to avoid technical delay, and to insure the prompt, orderly, and reasonable disposition of pending cases. All reasonable efforts will be encouraged to approach or attain the performance standards and goals established by this court, which call for 90% of unexceptional civil cases to be resolved within 365 days of filing and 100% within 730 days of filing, excluding time a case is on appeal.

1.2 Trial Court Administrator: Case Tracking System The responsibility for carrying out this case management plan is delegated to the Trial Court Administrator who shall maintain a case tracking system as contemplated in GRP 2(c).

1.3 It is recognized that these rules are not complete in every detail and will not cover all situations that may arise. If the rules do not cover specific points, the Trial Court Administrator is authorized to act in his discretion subject to consultation with the Senior Resident Judge.

1.4 In the event the Trial Court Administrator is on an extended leave or the position vacant, all duties of that office enumerated herein shall be performed by such person as shall be designated by the Senior Resident Judge.

1.5 Attorneys and parties appearing of record are referred to collectively herein as "party" or "parties" unless the context indicates otherwise. Service upon an attorney is service upon any party represented by such attorney except in cases of attorney withdrawal motions.

1.6 Unless specified otherwise, when the title "Senior Resident Judge" is referenced in these rules it shall be understood to include either the Senior Resident Superior Court Judge or his designee.

2.0 MANAGEMENT AND TRACKING AT EARLY STAGES

2.1 Actions Commenced by Issuance of Summons Any motion or request to enlarge the time allowed to file the complaint as provided in the North Carolina Rules of Civil Procedure (hereafter referred to as RCP), Rule 3(a), shall be ruled upon only by the Senior Resident Judge.

2.2 Service of Process If a proposed party has not been served with summons after an endorsement or an alias and pluries summons has been obtained, the Senior Resident Judge in his discretion may review the case and direct the person causing issuance of the summons to certify due diligence and good faith in service attempts. The Senior Resident Judge may impose sanctions including but not limited to the dismissal of all or part of the action if he finds that due diligence has not been exercised or attempts have not been made in good faith.

2.3 Medical Malpractice Action Upon the filing of any pleading containing a "medical malpractice action" as defined by N.C.G.S. Section 90-21.11, the Clerk of Superior Court pursuant to RCP 3(b) shall immediately notify the Senior Resident Judge by providing a current index copy to the Trial Court Administrator in order that the discovery conference matters mandated by RCP 26(f1) may be properly scheduled. The Trial Court Administrator shall arrange a conference to be conducted by telephone in order to expedite the execution of a discovery scheduling order. Consent orders pursuant to RCP 26(f1) shall be presented to the Senior Resident Judge through the Trial Court Administrator.

2.4 Telephone Conference The Trial Court Administrator may, in his discretion, direct the parties to confer by telephone to seek agreement upon a consent order that establishes deadlines for hearing dispositive motions, written discovery, depositions, identification of experts, mediation, sets motion and trial dates, and such other matters as may aid in the disposition of the action. If a proposed consent order is agreed upon and prepared by the parties, the Trial Court administrator shall present it with his recommendation to an appropriate judge for consideration.

2.5 Motions to Extend Time to Complete Discovery Any motion, proposed consent order, or other request to enlarge the overall period to complete all discovery shall be presented in writing to the Trial Court Administrator with substantially the same certifications and

information as is required on the approved form attached as "A," which is also available at the Forsyth County Trial Courts Web Site. Any objections or responses to the request shall be made as soon as practical in writing to the Trial Court Administrator. If it appears that all parties have consented, all responses have been made, or sufficient time for such responses has been allowed, the Trial Court Administrator may allow or deny the motion, request or proposed consent order in full or in part, and shall notify the parties of his ruling immediately by phone, local courthouse mailbox, postal mail, or by some combination of these methods. An aggrieved party may request a review of any denials by the Senior Resident Judge upon the record timely before the Trial Court Administrator. The review must be requested as soon as practicable. No hearings, other than telephone conferences in the discretion of the Trial Court Administrator, are contemplated.

2.6 Preliminary Motions and Defenses Upon the filing of any defense specifically enumerated in RCP 12(b)(1) through (7), whether made in a pleading or by motion, and upon the filing of any motion for judgment on the pleadings, motion for a more definite statement, or motion to strike, the Clerk of Superior Court shall immediately notify the Trial Court Administrator of such filing. Such motions and defenses are subject to being placed upon a motion calendar at the discretion of the Trial Court Administrator. Parties filing such motions shall promptly request the calendaring of such motions and defenses for a hearing to be held within 60 days of the filing unless such time has been enlarged by the Trial Court Administrator or the Senior Resident Judge.

2.7 Early Discovery All parties shall proceed promptly and expeditiously with discovery they deem necessary as required by GRP 8. Failure to conduct discovery in the earlier stages will be grounds for denying extensions for discovery later in the proceedings. The parties shall have 180 days after the commencement of the action to conduct and complete discovery unless a greater time is allowed, for good cause shown, by the Senior Resident Judge or the Trial Court Administrator.

2.8 Stipulated Delays Parties should not stipulate extensions or delays in filing answers, other pleadings, or discovery responses more than thirty (30) days without approval of the court as required by RCP 6(b). Any request for a longer or additional extension or delay shall be filed and forwarded to the Trial Court Administrator for presentation to the court with the Trial Court Administrator's recommendation.

3.0 READY CALENDAR

The Trial Court Administrator shall maintain lists of all cases pending five (5) months after commencement in the Superior Court which lists shall be called the Ready Calendar.

3.1 Any attorney making an initial appearance in a case on the Ready Calendar shall immediately notify the Trial Court Administrator in writing of such appearance. Failure to submit this written notice of appearance will constitute a reason for no court scheduling notices being provided to such attorney. Other counsel are encouraged to notify the Trial Court Administrator of any changes in representation of any party that occurs in a case on the Ready Calendar.

3.2 Six (6) months after commencement, all cases on the Ready Calendar will be considered ready for trial unless an order to the contrary, such as a discovery period extension, has been signed by the Trial Court Administrator or Senior Resident Judge.

3.3 In cases pending more than six (6) months, any motions to add parties or amend pleadings should not be ruled upon by the Clerk. The Clerk may rule upon motions to extend the time to respond to particular discovery requests for as much as thirty (30) day extensions. The presiding judge for good cause shown may modify any extension beyond the first day of a trial session.

3.4 Administrative Sessions At least semi-annually, pursuant to GRP 2(d), the Senior Resident Judge shall hold administrative sessions during which he shall be responsible for reviewing all cases designated by the Trial Court Administrator and shall take appropriate action to insure prompt disposition of any pending motions or other matters necessary to move the cases toward conclusion.

3.5 Administrative Session Trial Settings During an Administrative Session all cases reviewed will be set for trial with the Court trying to accommodate the schedules of all participants. Parties should determine in advance the availability of trial participants. After the case has been set by the Court, continuance will not be granted except for extraordinary and compelling reasons due to circumstances beyond the control of the parties subsequent to the setting of the case.

4.0 MOTIONS PRACTICE

4.1 Calendar Requests Parties must file a calendar request for any motion with the Trial Court Administrator to seek its placement on a Superior Court civil motion calendar.

4.1.1 Superior Court calendar requests for motions must be filed with the Trial Court Administrator at least fourteen (14) days prior to any session requested. A motion calendar will be published no later than five (5) days prior to the first day of the session, at which time copies of the calendar will be made available in the Trial Court Administrator's office for all parties. Parties should not assume that a motion has been calendared as requested upon receipt of a calendar request from the opposing side. The published motion calendar should be used as confirmation of a scheduled motion hearing. All motions not calendared as requested will be set for hearing at the earliest available practical time. Calendar requests for the same motion for consecutive weeks will not be accepted because this practice may result in the taking of valuable time slots.

4.2 The calendar request must have the following information included: file number, case name, type of motion, estimated hearing time, any special circumstances, the movant's signature and address, opposing party's name and address if pro se and the addresses of attorneys with no office in Forsyth County. The request must contain a completed certificate of service

upon all other parties. (A calendar request form is attached as "B," and is also available through the Forsyth County Trial Courts Web Site.) The Bar's cooperation in including the above information on the request is essential in order to timely publish the motion calendar. If any of the above information is not provided or if the moving party fails to comply with any of the above, it may result in the motion not being calendared for hearing.

4.3 Motion Continuance Prior to the call of the calendar, a request to continue a motion hearing by a party may be made in person, by telephone, or in writing to the Trial Court Administrator but only after having notified all opposing parties of such request. Objections to such requests may be made in like fashion on a timely basis, preferably the same or following day. Requests objected to will be determined by the Trial Court Administrator, subject to review by a presiding judge if necessary. If the motion is continued, the moving party shall forthwith reschedule the motion hearing after conferring with opposing parties.

4.4 Judicial Settings The Senior Resident Judge and the Trial Court Administrator shall each have the authority to calendar motions in order to insure full court utilization and to effectuate timely case management.

4.5 Emergency Motions Emergency motions are those motions that a party believes require the immediate attention of a Judge due to such things as time limitations or fairness and should be addressed to the Trial Court Administrator for calendaring.

4.6 Discovery Motions Parties should confer in a good faith attempt to resolve discovery matters prior to filing motions relating to discovery. The moving party upon any discovery matter shall certify in writing that he has attempted in good faith to confer with opposing parties and to resolve such matter.

4.7 Stay Motions Any motion to stay or other motion that seeks a ruling that would tend to prevent or hinder the Senior Resident Judge or the Trial Court Administrator from carrying out case management and calendaring responsibilities under GRP 2 or RCP 40 shall present the motion or a copy to the Trial Court Administrator for consideration by the Senior Resident Judge or calendaring.

4.8 Withdrawal Motions Any attorney moving to withdraw pursuant to GRP 16 shall serve upon the client by certified mail a copy of the motion and a calendar request indicating the court session requested. Attorneys are required to include the mailing address of the client on all calendar requests before filing with the Trial Court Administrator. The Trial Court Administrator shall insure that the presiding judge before whom the motion to withdraw is set is apprised of any trial date set for that case. This notice shall not be required, if there is a consent order signed by the client indicating the client's address, and acknowledging an understanding that allowance of the motion will not necessarily result in any delay or continuance of trial settings. The Clerk shall notify the Trial Court Administrator immediately of any orders allowing withdrawal. The parties are encouraged to notify the Trial Court Administrator of any change in representation to promote accurate calendaring and appropriate notices.

4.9 Filing of Orders. All orders generated from motion hearings shall be filed with the Clerk pursuant to Rule 8.0 of this Superior Court Case Management Plan.

5.0 TRIAL CALENDARS

5.1 Peremptory Settings Requests for peremptory settings shall be in writing stating good and compelling reasons as required by GRP 2(f), served on all other parties, and filed with the Trial Court Administrator at least five (5) weeks before any requested session. The Senior Resident Judge may set a case peremptorily on his own motion.

5.1.1 Cases which have received a peremptory setting with the consent of all parties or after notice and opportunity to be heard with respect to such setting, should rarely, if ever, be continued.

5.2 Trial Calendars Parties shall receive a notice of a tentative trial date at least seven (7) weeks prior to the first day of the court session. A final calendar shall be published and distributed to parties by the Clerk no later than four (4) weeks prior to the first day of the court session.

5.3 Final Calendar Updating Final calendars will be updated Thursday before the first day of the court session and will be posted by 2:00 p.m. on the lobby bulletin boards on the 6th (Superior Civil) floor of the Forsyth County Hall of Justice for the use of attorneys and parties. Cases which have been continued, reported settled, or disposed of since the publication of the final calendar are indicated on the updated version with descriptions and estimated trial times of other cases on the calendar.

5.4 Settlements – Judgments – Orders – Closing Papers GRP 2(g) requires all attorneys of record to notify the Trial Court Administrator within twenty-four (24) hours of any settlement of a case on a trial calendar and advise who will prepare and present judgment, and when.

Additionally, when any case which appears on a trial calendar is reported settled to the Court or the Court has announced a dispositive decision, the parties should forthwith, and without unnecessary delay, take all steps necessary to close the file and are under an affirmative duty to file all necessary documents before the term expires or within such time as directed by the Court. Failure to comply with this requirement may result in the imposition of sanctions.

6.0 CONTINUANCES AND REMOVALS

6.1 Trial Continuance Requests to remove a case from a trial calendar must be in writing, served on all parties appearing in the case, and addressed and delivered to the Trial Court Administrator for ruling subject to review by the Senior Resident Judge of any denials upon request of a party aggrieved made as soon as practicable.

6.2 Requests to remove from a final trial calendar should be received by the Trial Court Administrator no later than five (5) weeks prior to the first day of the court session. Objections to such requests must be in writing, served on all parties, and delivered to and received by the Trial Court Administrator no later than 12:00 noon of the Thursday immediately before the issuance of the final calendar.

6.3 Requests which could not be made within such time shall be made as promptly as possible after the circumstances used to justify the request become known to the movant.

6.4 Requests which could not be made or have not been decided by the Trial Court Administrator before the final calendar updating (12:00 noon on the Thursday prior to the trial date) shall be in writing and presented directly to the presiding judge for ruling. The movant shall submit a copy of such request to the Trial Court Administrator prior to presentation to the presiding judge. Only readily verifiable emergencies such as a death or serious illness or injury will justify an oral request. The Trial Court Administrator shall be notified of such oral request before presentation to the presiding judge, and shall be allowed to complete such verification of the surrounding circumstances as deemed necessary before a final ruling thereon by the judge. The Trial Court Administrator may make a tentative decision upon such late request subject to later confirmation and approval by the presiding judge.

7.0 APPEARANCES REQUIRED: CONFLICTS

Attorneys and unrepresented parties of record shall appear at the times properly noticed for a calendar call, a trial, a conference, a hearing, an administrative term, or a discovery event, and at the times stipulated and consented to by such party or attorney for such proceedings. GRP 2(e) requires a noticed attorney "to appear for the setting of a calendar, pretrial conference, hearing of a motion or for trial, ...consistent with ethical requirements, 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."

7.1 Conflicts As soon as any potential conflict becomes known, the party involved must provide written notice to all other parties and to the Trial Court Administrator. The court will make every effort to assist attorneys in resolving court calendaring conflicts. The Senior Resident Judge requests that presiding judges assist attorneys in resolving calendar conflicts which could not be presented to the Trial Court Administrator and resolved before the calendar update (12:00 noon the Thursday before the session). Anything that would prevent a party from being present at any time throughout the scheduled court session should be considered a conflict. "Guidelines for Resolving Scheduling Conflicts" adopted June 20, 1985, by the State-Federal Judicial Council of North Carolina is available for review in the Trial Court Administrator's office.

8.0 ORDERS AND JUDGMENTS

All orders and judgments rendered by the court shall be presented by the prevailing party for signing during the session of court in which the order or judgment is rendered unless otherwise directed by the presiding judge or the Senior Resident Judge.

This 30th day of October 2000.

Judson D. DeRamus, Jr.
Senior Resident Judge

MAILING ADDRESS:
Post Office Box 20099
Winston-Salem, North Carolina 27120-0099
(336) 761-2429

NORTH CAROLINA
FORSYTH COUNTY

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

_____))
_____))
Plaintiff(s)

Vs.)

_____))
_____))
Defendant(s)

**MOTION TO EXTEND
DISCOVERY PERIOD**

The undersigned hereby moves that the period of discovery be extended through , 200__.

In support of the motion, the undersigned show(s):

- (1) a brief description of discovery (i.e., plaintiff's interrogatories to defendant, defendant's deposition of plaintiff's expert witness #1, third party defendant's request for admissions from third party plaintiff) completed to date is shown below or on an attached sheet:
- (2) movant's proposed plan for further discovery is briefly described with anticipated completion dates in the space below or attached:
- (3) the undersigned (has) (have) proceeded promptly and expeditiously with discovery as required by Local Rule 2 and (has)(have) made a reasonable good faith effort to reach agreement with respect to the proposed plan and all the parties (have)(have not) agreed to it. *(Please strike through the parentheses above not applicable.)*
- (4) a brief statement of why the proposed discovery has not been completed is shown below or attached:

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this motion upon all other parties to this cause by depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the United States Post Office Department, properly addressed to the attorney or attorneys for said parties, or has otherwise properly served it in the following manner(s):

(Specify here) _____

This the day of , 200__.

Printed Name Signature
(Attorney at Law for) (Plaintiff(s)) (Defendant(s)) (Other-Specify:) _____

(Please strike through all parentheses above not applicable and complete if indicated.)

Your address: _____

Your telephone number: _____

ORDER

For good cause shown, the motion is allowed to extend the period of discovery in this case through , 200__.

It is further ordered that the above case be removed from the , 200__ trial calendar.

This the day of , 200__.

Philip Toelkes, Trial Court Administrator

**FORSYTH SUPERIOR COURT
REQUEST TO CALENDAR**

File No. _____

(PLAINTIFF)

Vs.

APPROXIMATE HEARING TIME _____

Special Circumstances _____

(DEFENDANT)

WEEK YOU ARE REQUESTING: *(Subject to Available Court Time)* _____

HAVE YOU CONFERRED WITH ALL PARTIES INVOLVED AND AGREED THAT THE DATE YOU ARE REQUESTING ABOVE IS SATISFACTORY TO ALL PARTIES?

YES NO

ARE YOU REQUESTING? TRIAL: JURY NON-JURY

MOTION (Indicate Type Below)

IF YOU CHECKED MOTION ABOVE, WHAT TYPE OF MOTION(S)?

- (1) _____
- (2) _____
- (3) _____
- (4) _____

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this request upon all other parties to this cause by depositing a copy hereof in a postpaid wrapper in a post office or official depository under the exclusive care and custody of the United States Post Office Department, properly addressed to the attorney or attorneys for said parties, or has otherwise properly served it in the following manner(s):
(Specify here)

PRINT OR TYPE YOUR NAME: _____

DATE (REQUIRED) _____

SIGN YOUR NAME: _____

YOUR ADDRESS: _____

TELEPHONE NUMBER: _____

(Attorney at Law for) (Plaintiff(s)) (Defendant(s)) (Other-Specify:) _____

(Please strike through all parentheses above not applicable and complete if indicated.)

LIST BELOW OR ATTACHED THE NAMES AND ADDRESSES OF THOSE SERVED:

NAME: ATTORNEY FOR: _____

ADDRESS: _____

NAME: ATTORNEY FOR: _____

ADDRESS: _____

NAME: ATTORNEY FOR: _____

ADDRESS: _____