

**AMENDED CASE MANAGEMENT PLAN
FOR SUPERIOR CIVIL CASES**

JUDICIAL DISTRICT 30A

CHEROKEE, CLAY, GRAHAM, MACON, SWAIN

Effective July 1, 1998

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The following case management plan for the calendaring of civil matters in the Superior Courts of Judicial District 30A 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 - 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 Senior Resident Superior Court Judge extends the expiration of the 120-day period. Motions for limitation or extension of discovery period shall be mailed to the office of the Senior Resident Superior Court;

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

(c) The docketing of any case having a statutory priority;

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

RULE 2 - SETTING CONFERENCE

At such time as the last required pleading is filed in a case, the case will be scheduled for a calendar conference during one of the following weeks:

(a) The Administrative term of the Senior Resident Superior Court Judge of District 30A which commences the first week of the fall session.

(b) The unassigned week of November during which the Thanksgiving holidays occur.

(c) Any other week that might be specifically designated for calendar conferences should a backlog of case load require the same, and calendars will be mailed at least two weeks in advance of the aforesaid conferences.

Due to the fact that some cases will involve complex issues requiring numerous expert witnesses, extensive discovery, etc. the Judicial Assistant to the Senior Resident Superior Court Judge will schedule a setting conference during which individual attention will be given to special concerns.

Participants in a setting conference shall include counsel of record, pro se litigants, and the Senior Resident Superior Court Judge.

During said conference each party shall be prepared to discuss any unresolved issues. Specifically, each party shall report whether additional parties are necessary; experts, if any have been disclosed; discovery has been completed; the pleadings are closed; and all dispositive motions have been filed and ruled upon by the Court. At the conclusion of the setting conference, trial will be set for a specific session of Court.

RULE 3 - PREEMPTORY SETTINGS

At any time prior to publication of the calendar by the Judicial Assistant to the Senior Resident Superior Court, an attorney or unrepresented party may request a preemptory setting. The request should state the reasons why the case should be preemptorily set and whether the request is approved by all other attorneys or parties in the case. This request should be directed to the Senior Resident Superior Court Judge. If a preemptorily set case is continued, parties in that case shall not be entitled to a second priority setting unless another request is approved.

RULE 4 - TRIAL CALENDAR

(1) Publication

Final calendars for an upcoming civil term of superior court shall be mailed first class to the attorneys of record and all parties not represented by counsel approximately one month prior to the beginning of the said term.

(2) Order of Listing for Trial

Preemptorily set cases shall be calendared at the top of the trial calendar and marked accordingly. Thereafter, cases shall be set by date of filing in chronological order unless otherwise ordered by the Senior Resident Superior Court Judge. Cases shall be called when reached in the order they are set unless the calendar notes a date before which or after which a case shall not be tried.

RULE 5 - SCHEDULING OF MOTIONS

All motions pending in cases shall be made a part of the final calendar for the upcoming prospective term of civil court and shall be heard beginning the first day of court of that particular week. Any motions filed after the preparation of the said final calendar which the parties desire to have heard during the same said upcoming term of court shall be noticed in accordance with the Rules of Civil Procedure, and a copy shall be sent to the office of the Senior Resident Superior Court Judge of District 30A in order that the said motions may be added to the calendar and the presiding judge notified of their impendency.

A motion may be set for hearing at a session outside the county in which venue lies if (1) both parties agree, or (2) the hearing could dispose of a case, or (3) the progress of a case toward resolution would be delayed if the motion was not heard.

Motions not scheduled through the Judicial Assistant to the Senior Resident Superior Court Judge will not appear on a published calendar and will be heard only at the discretion of the Presiding Judge.

Any and all motions and nonjury matters may be scheduled and heard on Saturdays before the Senior Resident Superior Court Judge of District 30A upon proper notice having been given pursuant to the Rules of Civil Procedure. Notice shall also be sent to the office of the Senior Resident Superior Court Judge and if a court reporter is necessary, counsel desiring the court reporter shall arrange for his or her attendance.

RULE 6 - CONTINUANCES

The State of North Carolina Superior Court Model Continuance Policy rules are hereby incorporated as if fully set out herein. A copy of said rules is attached.

RULE 7 - SETTLEMENT OF CASES

When a case on a published calendar is settled, all attorneys of record must notify either the Clerk of Court or the Judicial Assistant to the Senior Resident Superior Court Judge within twenty four (24) hours of the settlement and advise who will prepare and present judgment and when.

If the attorney responsible for preparing and presenting a judgment or dismissal fails to do so within the time indicated when he notified the Clerk of Court or the Judicial Assistant to the Senior Resident Superior Court Judge of the settlement, the case shall thereafter be placed on the regular or supplemental motion calendar for a later session of Court for dismissal of the case for failure to timely file the judgment or dismissal. 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 shall, in the discretion of the Presiding Judge, be dismissed for failure to timely file the judgment or dismissal.

RULE 8 - REMOVING INACTIVE CASES FROM TRIAL DOCKETS

The Senior Resident Superior Court 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 exist, that service was not made and the time expired, or that 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 Senior Resident Superior Court Judge by subsequent orders.

Adopted this the 1st day of July, 1998.

James U. Downs, Senior Resident
Superior Court Judge
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Superior Court communications under this plan should be addressed to:

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