

**TWELFTH JUDICIAL DISTRICT  
DISTRICT COURT DIVISION  
CIVIL CASE MANAGEMENT PLAN**

**I. CIVIL CALENDARING RULES**

Adopted April 27, 1999

***Table of Rules***

[RULE 1. GENERAL RULES](#)

[RULE 2. READY CASES](#)

[RULE 3. DISCOVERY PERIOD](#)

[RULE 4. ESTABLISHMENT OF THE TRIAL CALENDAR](#)

[RULE 5. TIME STANDARDS FOR SCHEDULING ORDERS AND FINAL CASE  
DISPOSITION](#)

[RULE 6. ALTERNATIVE DISPUTE RESOLUTION PROGRAM](#)

[RULE 7. PRE-TRIAL CONFERENCES](#)

[RULE 8. PRIORITY, REMANDED AND PEREMPTORY CASES](#)

[RULE 9. MOTIONS FOR CONTINUANCE](#)

[RULE 10. CALENDARING OF MOTIONS](#)

[RULE 11. NOTICE OF SETTLEMENT](#)

# GENERAL CIVIL CASE MANAGEMENT PLAN

## *Civil Calendaring Rules*

### **RULE 1. GENERAL RULES**

**1.1** The purpose of these rules is to institute a Case Management Plan that will provide for the orderly, prompt, and just disposition of civil matters. These rules are promulgated in compliance with the North Carolina Rules of Civil Procedure, the General Rules of Practice for the Superior and District Courts and the Rules Implementing Court Ordered Arbitration in District Court General Civil Actions.

**1.2** These rules supercede all previous calendar rules and court ordered arbitration rules implemented in the Twelfth Judicial, District Court Division.

**1.3** These rules shall, at all times, be construed in such a manner as to avoid technical delay.

**1.4** 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 Administrator is authorized to act in his/her discretion, subject to consultation with the Chief District Court Judge or the Presiding Judge.

**1.5** The calendar for the disposition of civil cases in the Twelfth Judicial District, District Court Division, shall be set and maintained by the Trial Court Administrator in accordance with these rules and under the supervision of the Chief District Court Judge.

**1.6** These rules and procedures, and all amendments hereafter, shall be filed with the Clerk of the Superior Court for Cumberland County and may be cited accordingly.

**1.7** The Trial Court Administrator for the Twelfth Judicial District shall distribute a copy of these rules and subsequent amendments hereafter to each member of the Cumberland County Bar. The Trial Court Administrator shall maintain a supply of printed rules, as well as associated forms to be provided upon request.

**1.8** The Clerk of Superior Court shall provide a case number at the time of filing and place the number upon the summons. All subsequent pleadings and papers filed with the Clerk and all subsequent communications to opposing counsel/unrepresented parties, the Trial Court Administrator, or other personnel shall contain the case number.

**1.9** All papers filed in civil actions, to include magistrate appeals, shall include as the first page of the filing an original plus one copy of the appropriate cover sheet in a format prescribed by the rules or by the Administrative Office of the Courts. The cover sheet shall be fully completed and summarize the critical elements of the filing. The Clerk of Superior Court shall refuse to accept for filing any paper that does not include an original plus one copy of the appropriate cover sheet.

All pleadings and papers, except wills and exhibits, filed with the Clerk of Superior Court shall comply with the 8½" x 11 standards as specified by Rule 5, General Rules of Practice of Superior and District Courts.

## **RULE 2. READY CASES**

**2.1** The Trial Court Administrator shall establish and maintain a case tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts and in accordance with these rules. This system shall be used to monitor the number, age, type, and procedural status of all pending cases and provide for calendaring of the same.

**2.2** A case shall be ready to set for trial when the Trial Court Administrator has determined at least one of the following has occurred:

- a. A case has been on file for one hundred and twenty (120) days or more;
- b. A case has been transferred to the District Court Division on an appeal from the Magistrate Court and does not qualify for, or has appealed from Court Ordered Arbitration;
- c. A case had been remanded for trial by the Appellate Division;
- d. A case is entitled to a priority hearing by statute;
- e. Prior to the expiration of the one hundred twenty (120) day period, all counsel/unrepresented parties have signed and filed with the Trial Court Administrator a written Notice To Calendar certifying the case is ready for arbitration if applicable and/or trial and requesting that it be expedited and placed on a trial calendar. [The Notice To Calendar shall be on a form [CCLF-CV-001](#) as prepared and distributed by the Trial Court Administrator's Office.]

Counsel shall forthwith provide written notice to the Trial Court Administrator of any case identified in [Rule 2.2 \(c\)](#) or [2.2\(d\)](#) above.

**2.3** No case shall be continued or relieved from calendaring because additional time is needed to file an answer, even if all parties agree, unless for a crucial cause that could not have been foreseen.

**2.4** The Trial Court Administrator shall place those cases that he/she has determined to be ready for trial on the trial calendar pursuant to [Rule 4](#) below.

### **RULE 3. DISCOVERY**

**3.1** The following scheduling guidelines necessary to effect the trial date have been established and shall be followed in every District Court Division general civil case, and commence from the date of the Trial Notice:

- a. Experts shall be disclosed within 15 days;
- b. Discovery shall be completed within 30 days;
- c. Dispositive motions shall be filed and heard no later than 30 days;
- d. All pleadings shall be closed no later than 30 days.

**3.2** A motion requesting additional time to complete discovery must be filed with the Trial Court Administrator prior to the expiration of the statutory one hundred twenty (120) day period or the expiration of any discovery periods allowed. Any date established for the trial of the action shall be noted in the motion.

**3.3** Additional extensions of time to complete discovery will only be granted when the trial will not be delayed. Requests by the same party will be granted only in exceptional circumstances.

### **RULE 4. ESTABLISHMENT OF THE TRIAL CALENDAR**

**4.1** The Civil Calendar Notice (Notice of Trial) shall serve as the final calendar and shall be distributed to all parties, not less than four (4) weeks prior to trial.

**4.2** Once the Trial Court Administrator has determined a case to be ready for trial under the guidelines set forth in [Rule 2](#) above, the Trial Court Administrator will distribute to all counsel/unrepresented parties a written Trial Notice.

**4.3** The Trial Notice will assign a trial date no sooner than one (1) month but no later than four (4) months. The Trial Notice will also assign the date, time and location of hearing for all cases selected for Court Ordered Arbitration, excluding Magistrate Appeals.

**4.4** A Magistrate Appeal will be assigned a trial date on the next available general civil trial session such as to allow for ten (10) days' notice to all counsel and/or unrepresented parties.

- a. Cases that do not qualify for Court Ordered Arbitration shall be assigned for trial upon appeal from the Magistrate's Court.
- b. Cases that do qualify for Court Ordered Arbitration shall be assigned upon the party filing a Request for Trial De Novo from the Court Ordered Arbitration Hearing.

**4.5** Any case currently on file for two hundred ten (210) days or more will be subject to immediate and expedited assignment of an arbitration and/or trial date.

**4.6** The trial date assigned shall be a firm date. Continuances will not be granted, even if all parties agree, unless for a crucial cause that could not have been foreseen.

**4.7** Any case noticed for trial is subject to dismissal for failure to prosecute if, at the time it is called for trial, counsel of record and/or unrepresented parties are not present or ready to proceed.

**4.8** Pursuant to Rule 2(e) of the General Rules of Practice for Superior and District Courts and consistent with ethical requirements, counsel for all parties in an action, when notified to appear for a pre-trial conference, arbitration hearing, or for hearing of a motion or trial, must appear as scheduled or have a partner, associate, or other attorney familiar with the case present.

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

## **RULE 5. TIME STANDARDS FOR SCHEDULING ORDERS AND FINAL CASE DISPOSITION**

**5.1** The scheduling order deadline dates shall be established by the Trial Court Administrator, and noticed to all counsel/unrepresented parties on the Notice of Trial. Failure to comply with the scheduling order deadlines may result in the imposition of such sanctions or penalties as deemed appropriate by the court, and allowed by law.

- a. Extensions of established deadline dates shall only be granted by the Trial Court Administrator when the trial will not be delayed. Requests by the same party will be granted only in exceptional circumstances.

**5.2** Absent exigent circumstances, all cases filed must be tried or disposed of within the following deadlines: civil non-jury, nine (9) months; and civil jury, twelve (12) months; magistrate appeals not qualifying for arbitration, sixty (60) days.

## **RULE 6. ALTERNATIVE DISPUTE RESOLUTION PROGRAM**

**6.1** By order of the Chief District Court Judge all civil actions requesting monetary relief filed in the District Court for the Twelfth Judicial District are subject to Court Ordered Arbitration under the rules as set forth in the attached Section II to this Case Management Plan.

## **RULE 7. PRE-TRIAL CONFERENCES**

**7.1** There shall be a pre-trial conference and order in every civil case. The purpose of the conference is to define and narrow the issues for trial and explore carefully the prospects of settlement.

**7.2** The pre-trial conference shall be held by the parties 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 Administrator no later than Wednesday preceding the session on which the case is set for trial.

**7.3** The pre-trial order shall substantially conform to Rule 7, General Rules of Practice for Superior and District Court.

**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. PRIORITY, REMANDED AND PEREMPTORY SETTINGS**

**8.1** Cases entitled to priority settings by statute shall be brought to the attention of the Trial Court Administrator by written motion or letter, with copies to all counsel of record, citing the statutory authority for such setting.

**8.2** When a case is remanded for trial from the Appellate Division, appellant counsel shall promptly notify the Trial Court Administrator in writing, who shall assign the case a trial date.

**8.3** A peremptory setting shall be granted only for good and compelling reasons. Requests shall be made in writing with copies to all counsel of record/ unrepresented parties. The Trial Court Administrator may set a case peremptorily on his/her own motion.

## **RULE 9. MOTIONS FOR CONTINUANCE**

**9.1** All requests for continuance shall be directed to the Trial Court Administrator by written motion on a Motion for Continuance form and shall set forth with particularity the reason for the continuance, consent if given by opposing party(ies), and a requested reschedule date. [The Motion for Continuance shall be on form [CCLF-CV-002](#) as prepared and distributed by the Trial Court Administrator's Office, or in letter form which essentially provides the same information.] Motions shall be presented;

- a. As soon as counsel/unrepresented parties become aware of the reason for the motion for continuance.
- b. Any motions made within ten (10) working days of the beginning of the scheduled session shall be for an exigent cause that could not have been foreseen.

**9.2** Opposing counsel/unrepresented parties must be notified of the motion for continuance prior to the delivery of the request to the Trial Court Administrator. The manner and date of notice to opposing counsel/unrepresented parties shall be indicated on the motion.

**9.3** Opposing counsel/unrepresented parties shall thereafter have three (3) working days to file an objection to the motion for continuance with the Trial Court Administrator. All objections shall be made by written motion on the Objection to Motion for Continuance form setting forth the particular reasons for objection and served on opposing counsel/unrepresented parties. [The Objection to Motion for Continuance shall be on form [CCLF-CV-003](#) as prepared and distributed by the Trial Court Administrator's Office, or in letter form which essentially provides the same information.] If a response is not received from the opposing counsel/parties within three (3) working days of the receipt of the motion to continue, it will be assumed that the opposing counsel/ parties do not object.

**9.4** Motions for continuance pursuant to [Rules 9.1\(a\)](#) shall be ruled upon by the Trial Court Administrator within five (5) working days.

- Motions for continuance pursuant to Rule 9.1(b) may be ruled upon by the Trial Court Administrator provided all provisions of Rule 9 are met, and all parties may be notified of the ruling prior to the scheduled court session.

- Requests for continuance will only be granted when compelling reasons are presented which affect the fundamental fairness of the trial and it is clearly in the interest of justice. In addition, consideration will be given to the following factors:
- Age of the case;
- Status of the trial calendar for the session;
- The order in which the case appears on the calendar, to include peremptory setting status;
- Number of previous continuances;
- The extent to which counsel had input into the scheduling of the trial date;
- The diligence of counsel in promptly filing the continuance motion;
- The reason for continuance and length of the continuance requested;
- Consent or opposition by other counsel/parties to the continuance motion;
- Present or future inconvenience or unavailability of witnesses/parties;

**9.7** 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 motions for hearing ;
- Potential conflicting scheduling of other trials in other courts.
- Should an objection arise, any failure on the part of the moving party to comply with the rules concerning written motion and notice to opposing counsel/ unrepresented parties shall result in the voiding of any continuance granted.
- The Trial Court Administrator, under the supervision of the Chief District 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 any presiding judge prior to the opening of the scheduled trial session. Appeals from the decision of the Trial Court Administrator shall be directed to the Chief District Court Judge. When a case has been continued or not reached during a trial session, the Trial Court Administrator shall distribute a Notice of Trial Reschedule and set a new trial date.

## **RULE 10. `CALENDARING MOTIONS**

**10.1** All motions shall be scheduled for hearing through the Trial Court Administrator's office.

**10.2** In advance of filing a motion, the moving party shall [contact the Trial Court Administrator's office to receive a date and time certain for hearing.](#) This date and time certain should be cited in the Notice of Hearing filed with the Clerk.

**10.3** `To appear on the printed calendar, the moving counsel/ unrepresented party shall deliver a copy of the Notice of Motion Hearing to the office of the Trial Court Administrator by U.S.

Mail, hand delivery or fax, no later than 5:00 p.m. on the Tuesday prior to the scheduled Monday court session. Motions not appearing on the printed calendar, may only be added for hearing in the discretion of the Trial Court Administrator. [The Notice of Motion Hearing shall be on form [CCLF-CV-004](#) as prepared and distributed by the Trial Court Administrator's Office or in letter form, which essentially provides the same information];

- Moving counsel/ party shall serve all counsel/unrepresented parties with the date, time and location of the hearing.
- 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.
- Failure of moving counsel to notify all counsel/unrepresented parties will result in an automatic denial of the motion upon objection of opposing counsel/party.
- Any motion that is not calendared pursuant to [Rule 10.2](#) and [10.3](#) above may, in the discretion of the presiding judge, be summarily denied or such other sanctions may be imposed as deemed to be appropriate and allowed by law.
- Failure to calendar motions for hearing in a timely manner will not delay the trial date assigned.
- The Trial Court Administrator may in his/her discretion calendar pending motions on a timely basis to insure the progression of the calendar.
- 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 Administrator with notification of intent to withdraw the notice of hearing and verification that such withdrawal has been communicated to all party(ies).

## **RULE 11. NOTICE OF SETTLEMENT**

**11.1** Pursuant to Rule 2(g) General Rules of Practice for Superior and District Courts, when a case is settled all attorneys of record must notify the Trial Court Administrator within twenty-four (24) hours of the settlement and advise who will prepare and present the judgment or dismissal, and when. Judgments or dismissals must be filed in accordance with [Rule 12](#) set forth below.

## **RULE 12. DELINQUENT ORDERS OR JUDGMENTS**

**12.1** Cases or motions scheduled for trial or hearing which are removed due to consent or settlement shall be considered delinquent if the order of judgment or disposition is not filed within fifteen (15) working days after the case was announced as settled.

**12.2** Cases or motions scheduled on trial calendars and heard by the Judge or by Jury shall be considered delinquent if the order of judgment or disposition is not filed within fifteen (15) working days after the hearing, unless otherwise directed by the presiding judge.

**12.3** Upon motion of the party against whom the judgment or order was to be taken, cases identified delinquent pursuant to [Rule 12.2](#) above, may be dismissed by the Chief District Court Judge or Presiding Judge.

**12.4** The Trial Court Administrator shall identify those cases which are delinquent, pursuant to [Rule 12.1](#) and [12.2](#) 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 Chief District Court Judge or Presiding Judge. The court may alternatively order such sanctions or impose such penalties as deemed appropriate and allowed by law.

## **RULE 13. JUDICIAL REVIEW OF CASE STATUS**

**13.1** The Trial Court Administrator may, as necessary, set cases for the purpose of judicial review of case status.

**13.2** 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;
- Binding Arbitration by consent;
- Removal to Federal Court;
- Soldiers' and Sailors' Relief Act (50 USCS Appx. 501)

**13.3** The Trial Court Administrator, upon review of the cases pending in the categories established in [Rule 13.2](#) and after consultation with counsel if necessary, shall prepare orders of disposition to be signed by the Chief District Court Judge or presiding judge.

**13.4** In cases in which answers have not been filed and time has expired, Plaintiff's attorney shall file an entry of default prior to the date of the arbitration hearing or assigned trial date, whichever comes first. Failure to comply may result in a dismissal with prejudice, or any other sanctions allowed by law and deemed appropriate.

## **RULE 14. SERVICE OF NOTICE**

**14.1** Notice to or by the Trial Court Administrator shall be accomplished in the following manner:

- U.S. Mail;

- Facsimile;
- Hand Delivery;
- Courthouse attorney mailbox.

**14.2** Providing Notice to the Clerk of Superior Court does not constitute providing Notice to the Trial Court Administrator.

**14.3** Service to opposing counsel shall be defined as service to all attorneys of record as well as unrepresented parties proceeding pro se.

## **RULE 15. NOTICE OF CALENDARING TO ATTORNEYS**

**15.1** The Civil Calendar Notice (Notice of Trial) shall serve as the final calendar and shall be distributed to all parties, not less than four (4) weeks prior to trial.

**15.2** Published calendars are also available for inspection in the Trial Court Administrator's Office. Published calendars, forms and local rules may be downloaded from the following web site:

- <http://www.aoc.state.nc.us>
- Select: Cumberland

**15.3** It is the responsibility of counsel and unrepresented parties to be aware of cases appearing on trial calendars and to contact the office of the Trial Court Administrator to determine trial order in advance of the scheduled trial session.

## **RULE 16. SANCTIONS**

**16.1** Failure to comply with any section of these rules shall subject an action to dismissal or other sanctions allowed by law and deemed appropriate at the discretion of the Chief District Court Judge or presiding judge.

## **RULE 17. ENFORCEMENT OF LOCAL RULES OF PROCEDURE**

**17.1** The signature of the Trial Court Administrator shall be considered the same, and have the same full force and effect as that of the Chief District Court Judge for the purposes of all scheduling order deadlines, trial settings, peremptory settings, compliance with alternate dispute resolution programs, extensions of time both within and beyond scheduling order deadlines, and any similarly situated case management matters.

## **RULE 18. FORMS**

**18.1** Local forms for use by counsel/unrepresented parties in accordance with these Rules are attached hereto and are subject to change as legislation and/or policy dictates.