

# 25<sup>TH</sup> JUDICIAL DISTRICT – RULES OF COURT

## ARTICLE 4. RULES FOR GENERAL CIVIL CASES

### Civ Rule 1. Trial Court Coordinator Manages Cases.

- 1.1 All non-domestic civil cases, jury and non-jury, are managed administratively by the Trial Court Coordinator and Chief District Court Judge.

### Civ Rule 2. Special Rules for Civil, Non-domestic Cases.

- 2.1 Discontinued Cases. Cases discontinued because **120 days** have passed since the last summons was issued with no service may be re-opened upon the issuance of a new summons. Where the Administrative Office of the Courts has not caused a case to be discontinued wherein **120 days** have passed since the last summons with no service, the Trial Court Coordinator may prepare an Order of Discontinuance to be signed by a Judge.
- 2.2 Defaults. Upon review of the pending caseload, if the Trial Court Coordinator finds cases eligible for the entry of default, he/she shall notify the attorneys in the case of his/her findings. Cases eligible for default include those in which an attorney has made an appearance to obtain an extension of time but has not filed a pleading or motion within the time allowed by law. In such cases unless the non-defaulting party requests otherwise, the Trial Court Coordinator shall notify the defaulting party and that party's attorney that the matter will be presented to a District Court Judge for Entry of Default and Default Judgment. The Coordinator shall give the party and the attorney **at least three (3) days** notice in accordance with Rule 55 of the NC Rules of Civil Procedure.

### Civ Rule 3. Arbitration Procedures.

- 3.1 Applicable Rules. The arbitration program shall be conducted in accordance with the North Carolina Rules for Arbitration published by the North Carolina Supreme Court and the additional rules hereinafter set forth applicable to this District.
- 3.2 Settlements. It is the duty of attorneys to inform the Trial Court/Arbitration Coordinator that a case has been settled as soon as such information becomes known and sufficiently in advance of any arbitration to cancel the hearing. The Coordinator will then notify the assigned arbitrator that the hearing is cancelled, ensure that the appropriate settlement documents are filed and reset the case for arbitration if the documents are not filed within a reasonable time.
- 3.3 Continuances. Arbitration hearings will not be continued except for good cause. Cases may be continued only by the Trial Court/Arbitration Coordinator. In emergencies, when the Coordinator is unavailable, a judge may continue an arbitration hearing. If a hearing is continued by a judge, the attorney requesting the continuance shall contact the

Coordinator at the earliest opportunity to notify him/her of the continuance. When a hearing is continued, the Coordinator shall notify the arbitrator and the opposing party and reschedule the hearing as soon as possible. Attorneys and arbitrators cannot continue hearings.

- 3.4** No direct contact with arbitrator. Rule 3(i) of the North Carolina Rules for Arbitration proscribes contact between the parties or attorneys and the arbitrator about any matter connected with the case prior to the hearing.
- 3.5** Filing fee upon request for trial de novo. The filing fee required for a trial de novo in District Court shall be determined pursuant to Rule 5(b) of the North Carolina Rules for Arbitration. The words, “a party filing a demand for trial de novo” mean a plaintiff or group of plaintiffs or a defendant or group of defendants. When there is more than one plaintiff or defendant, only one filing fee shall be charged for the group of plaintiffs or defendants. Each plaintiff or each must, however, file a written demand for trial de novo within the time specified in Rule 5(a) of the Rules for Arbitration if that plaintiff or defendant wishes to appeal. The arbitrator’s judgment will become the judgment of the court with respect to any plaintiff or defendant who does not file a written request for trial de novo within the time specified in Rule 5(a).

#### **Civ Rule 4. When a party files bankruptcy.**

- 4.1** Authority. Civil actions (including those within the arbitration program) in which one of the parties has filed a Petition under the Federal Bankruptcy Act, or has been adjudicated bankrupt, will be disposed of in accordance with the following authority and procedure:
- a) Applicable provisions of the U.S. Code;
  - b) North Carolina General Statutes, section 1 – 23; and
  - c) Applicable caselaw.
- 4.2** Bankruptcy notice required. Any request to continue, hold in abeyance or delay disposition of a case due to bankruptcy of a party must be accompanied by a Certificate of Bankruptcy filing or a filed copy of the first page of the Bankruptcy Petition or by Notice of Bankruptcy Stay utilizing CIV FORM J. The movant shall serve a copy of CIV FORM J upon all parties of record and shall send a copy to the office of the Trial Court Coordinator.
- 4.3** Case placed on inactive docket. Upon receipt of notification by any method set forth in **Civ Rule 4 b)** above or by verification of the Coordinator that a Bankruptcy Petition has been filed by a party, the Coordinator shall refer the case to a judge for entry of an Order placing the case on the inactive calendar and closing the file without prejudice. If the Bankruptcy Court grants relief from stay, the case will be re-activated.

**Civ Rule 5. Calendaring Civil Cases for Trial; Special Rules.**

- 5.1** Case scheduling. Civil non-domestic cases are set in accordance with **Gen Rule 3 d) ii).** The Chief District Court Judge and the Trial Court Coordinator shall periodically review the pending caseload and schedule sessions as needed. Attorneys and parties may request cases be set during one of these sessions by completing and sending CIV FORM A to the Coordinator prior to the publishing of the calendar.
- 5.2** Calendars prepared. The Clerk shall prepare and distribute calendars to the attorneys and parties, if unrepresented, no later than four (4) weeks prior to the first day of Court. Cases may be added on to such calendars with consent of the parties after the four week deadline.

**Civ Rule 6. Effective date.**

- 6.1** The Rules in this Article shall be effective on the date specified in the Order adopting them signed by the Chief District Court Judge.