

**STATE OF NORTH CAROLINA**  
**JUDICIAL DISTRICT 4B**

**IN THE GENERAL COURT OF JUSTICE**  
**SUPERIOR COURT DIVISION**

**ORDER**

The undersigned Senior Resident Superior Court Judge of Judicial District 4b hereby amends the Civil Calendar and Case Management Rules for Judicial District 4b (Onslow County), Superior Court, as attached.

IT IS THEREFORE ORDERED that the attached Civil Calendar and Case Management Rules are hereby adopted for implementation in Onslow County, effective July 1, 2004, subject to further order of the Senior Resident Superior Court Judge.

This the 5<sup>th</sup> day of April, 2004.

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Charles H. Henry  
Senior Resident Superior Court Judge  
Judicial District 4B

# **CIVIL CALENDAR AND CASE MANAGEMENT RULES FOR JUDICIAL DISTRICT 4B (Onslow County) SUPERIOR COURT DIVISION**

## **Rule 1. General Rules**

1.1 The purpose of these rules is to establish calendaring and case management procedures that will facilitate the orderly, prompt and just disposition of civil matters in the Superior Court Division. They are adopted in compliance with Rule 40(a), *Rules of Civil Procedure* and Rule 2(a), *General Rules of Practice for Superior and District Courts*. Unless otherwise noted, they are applicable to all civil sessions of Superior Court in Onslow County and supersede any previous calendar rules.

1.2 The calendar for the disposition of civil cases shall be set by the Trial Court Administrator in accordance with these rules and under the supervision of the Senior Resident Superior Court Judge.

## **Rule 2. Pre-Trial Case Management**

2.1 All parties shall proceed promptly and expeditiously with discovery they deem necessary as required by the General Rules of Practice. In most cases, the Court will allow 120 days after the last required pleading to conduct discovery so that the parties may engage in meaningful discussions at the mediated settlement conference. The trial of a case shall not be delayed for failure to complete discovery unless upon written motion, for good cause shown, a Superior Court Judge extends the discovery period prior to the expiration of the 120 days allowed. Extensions of time will only be granted in complex cases or in exceptional circumstances.

2.2 Parties shall not stipulate extensions or delays in filing answers or other pleadings more than 30 days without approval of the Court. Any request for a longer of additional extension must be approved by the Senior Resident Superior Court Judge.

2.3 **Medical Malpractice Cases:** When a medical malpractice action is filed, the plaintiff shall submit a copy of any scheduling order signed by a Presiding Judge or Senior Resident Superior Court Judge to the Trial Court Administrator. Upon receiving the scheduling order pursuant to Rule 16(b) of the Rules of Civil Procedure, the Trial Court Administrator may set a date for a final conference with the Senior Resident Superior Court Judge and notify the parties of that date.

2.4 All procedures and case management techniques related to mandatory mediated settlement conferences shall comply with the rules as they appear in the "Rules for Superior Court Mediated Settlement Conferences," published as a supplement to these Rules.

### **Rule 3. Scheduling Cases for Trial and Notice of Calendaring to Attorneys**

3.1 The Senior Resident Superior Court Judge or his/her designee will conduct telephone scheduling conferences as required/directed for the purpose of determining discovery deadlines, mediated settlement conference deadlines, and setting primary and backup trial dates for civil superior cases that are determined ready for trial scheduling:

- a. More than 120 days have elapsed since the last required pleading in a case;
- b. The case has been transferred from District Court to Superior Court;
- c. The case has been transferred to the Superior Court Division on appeal from the Clerk of Superior Court;
- d. The case has been remanded for trial by the Appellate Division;
- e. The case is entitled to a priority hearing by statute; or
- f. A presiding or Senior Resident Superior Court Judge directs that the case be calendared for a specific session.

3.2 Upon conclusion of the scheduling conference, the Trial Court Administrator will prepare a scheduling order memorializing the terms and dates agreed upon by the parties at the conference. This order will be reviewed by the Senior Resident Superior Court Judge and, following the judge's approval, forwarded to the parties for their review and signature.

3.3 Following signature by the parties, the scheduling order will be signed by the Senior Resident Superior Court Judge and filed with the Clerk of Superior Court as part of the official court case file. Upon request of any party, a supplemental Rule 3 conference with all parties shall be held with the Trial Court Administrator or Senior Resident Superior Court Judge to discuss any outstanding scheduling issues that have arisen since the initial conference.

3.4 Any party may request a case be added to a trial calendar by sending a written request to the Trial Court Administrator with a copy to all other parties. Trial setting requests should be received by the Trial Court Administrator no later than five weeks before the start of the requested court session.

3.5 Unless objected to by opposing counsel or otherwise determined by the court, any case will be calendared for trial on the date requested by the moving party.

3.6 The Trial Court Administrator may recalendar at another session any case for trial after it has been continued or reported ready for trial at a court session and not reached.

3.7 Trial calendars will be published and distributed to all parties not less than four weeks prior to the date of trial.

3.8 Calendars will be published and distributed to in-state counsel through the North Carolina Court system website, <http://www.nccourts.org>, under "Civil Calendars." Published calendars are also available for inspection in the Office of the Trial Court Administrator.

3.9 Calendars will be provided to out-of-state counsel and unrepresented parties by the Trial Court Administrator. It will be the responsibility of all counsel and unrepresented parties to be aware of cases appearing on trial calendars.

#### **Rule 4. Peremptory and Priority Settings, Remanded Cases and Special Sessions**

4.1 Requests for favorable settings should be mailed to the Senior Resident Superior Court Judge in care of the Trial Court Administrator. Unless exceptional circumstances exist, trial calendars will generally list the oldest cases first, with calendar position determined by case age.

4.2 Counsel with cases entitled to priority setting by statute should notify the Trial Court Administrator of this entitlement in writing and send a copy of this notice to all attorneys of record. This notice should also cite the statutory authority for a priority setting.

4.3 When a case is remanded for trial by the Appellate Division, appellant's counsel should promptly notify the Trial Court Administrator of the remand. The Trial Court Administrator will schedule the case for trial after consulting with all attorneys in the case.

4.4 Any request for a special session should be mailed to the Senior Resident Superior Court Judge in care of the Trial Court Administrator. The request should specify the reason why a special session is needed and the desired trial dates for the special session.

#### **Rule 5. Calendaring Motions**

5.1 All motions filed with the court must be accompanied by a calendaring request for a motion hearing. The moving party must forward the calendaring request to the Trial Court Administrator if the case is to appear on a published calendar. If no calendaring request accompanies the motion, then the Trial Court Administrator will calendar the motion at the earliest possible civil session of superior court.

5.2 Unless objected to by opposing counsel or otherwise determined by the court, the motion will be calendared for hearing on the date requested by the moving party.

5.3 Any motion which could delay the trial shall be filed in time for it to be heard before the session of court on which the case has been set.

5.4 It will be the responsibility of all counsel and unrepresented parties to be aware of cases appearing on motions' calendars.

## **Rule 6. Continuances**

6.1 Requests to remove a case from the trial calendar must be in writing, addressed and delivered to the Trial Court Administrator. Counsel must provide notice of the request to all attorneys and pro se parties in the case.

6.2 Any request for a continuance from a tentative trial date must be received no later than 7 days prior to final calendar publication for that court session. Objections to such requests must be in writing, delivered to all parties, and received by the Trial Court Administrator no later than 12:00 noon of the Thursday immediately preceding publication of the final trial calendar.

6.3 Any continuance request that is not made before publication of the final trial calendar will not be considered except for the direst circumstances that neither attorneys nor parties have any control. Continuance requests **shall not** be submitted to the presiding judge before the start of the trial session.

6.4 **Under no circumstances will a case be continued off a published trial calendar for failure to complete the mediated settlement conference.**

## **Rule 7. Attorney Appearances and Conflicts**

7.1 Attorneys and unrepresented parties of record shall appear at the times properly noticed for calendar call, trial, conference, hearing, administrative session, or discovery hearing. If attorneys have conflicts with another Superior Court, they shall report in writing (with copies to appropriate parties) regarding the conflict before the trial calendar is published so that the conflict may be resolved.

7.2 Attorneys residing outside Judicial District 4B accepting employment for client representation within this judicial district must arrange their schedules to be present when their cases are calendared. Conflicts such as seminars, vacations, appellate and Federal court appearances must be resolved with the Trial Court Administrator before the case appears on the published final trial calendar.

7.3 If a conflict arises after publication of the final trial calendar, counsel of record must make available to the Court someone in his or her office to try any case that may be scheduled on a particular week of court. Any case listed on a published trial calendar is subject to dismissal for failure to prosecute if, at the time it is called for trial, the attorneys or pro se parties are not present or ready to proceed. All cases calendared shall be ready for trial at any time during the session.

7.4 Any motion listed on a published calendar is subject to dismissal for failure of the movants, or of the movant's attorney to be present and ready to proceed with the hearing of the motion.

## **Rule 8. Orders and Judgments**

8.1 When a case that appears on a published calendar is settled, the attorneys of record must notify the Trial Court Administrator's Office within 24 hours of settlement and specify who will prepare the judgment or other document terminating the case and when it will be presented. If the case is on a published trial calendar, the attorneys shall also notify all counsel in the next case calendared.

8.2 If an order or judgment is not filed within 10 working days of disposition, the case will be calendared on the next available session for a motion to dismiss with prejudice or other appropriate action.

## **Rule 9. Pre-trial Orders**

9.1 There shall be a pre-trial conference and order in every civil case, unless counsel for all parties stipulate in writing to the contrary and the Court has approved the stipulation. The purpose of the conference is to explore settlement possibilities, define and narrow the issues for trial, and to generally review the case scheduled to ensure a firm trial calendar.

9.2 The attorney(s) for the plaintiff(s) shall, at least three (3) weeks prior to the start of the session, arrange the pre-trial conference with the attorney(s) for the defendant(s), which conference shall be held and a pre-trial order prepared and signed by all attorneys of record and filed with the court before the start of the trial session.

9.3 If, after due diligence, attorney(s) for the plaintiff(s) cannot arrange a conference with the defendant attorney, he may apply to the Senior Resident Superior Court Judge or presiding judge who shall make an appropriate order.

9.4 The defense attorney may initiate the pre-trial conference under the same rules applicable to the plaintiff attorney. A party who has not requested a pre-trial conference may not move for a continuance on the grounds that it has not been held.

## **Rule 10. Docket Review and Administrative Dispositions**

10.1 The Trial Court Administrator shall periodically review all pending civil cases to determine those which may be subject to discontinuance, dismissal for lack of prosecution, default judgment, or some other appropriate disposition, and make dispositional recommendations to the Senior Resident Superior Court Judge.

10.2 Any attorney representing a party who has filed bankruptcy or any pro se litigant who has filed bankruptcy must file a copy of the stay order from the United States Bankruptcy Court with the Clerk of Superior Court, which the Clerk shall copy and forward to the Trial Court Administrator.

10.3 The Senior Resident Superior Court Judge may take appropriate dispositional action to clear the docket of inactive cases.

## **Rule 11. Compliance**

1.1 Failure to comply with any provision of these rules will subject an action to dismissal or such other remedy allowed by law and deemed appropriate by the Presiding Judge or Senior Resident Superior Court Judge