



General Court of Justice
24th Judicial District

CHARLES C. LAMM
RESIDENT SUPERIOR COURT JUDGE

DISTRICT COURT JUDGES
ROBERT H. LACEY, CHIEF
ALEXANDER LYERLY
C. PHILIP GINN

MEMORANDUM TO THE CLERKS OF SUPERIOR COURT OF THE TWENTY-FOURTH
JUDICIAL DISTRICT:

Please find enclosed a copy of the [Revised] Rules of Civil Procedure to become effective 1 January 1989 throughout the Twenty-Forth Judicial District for cases filed in the District Court Trial Division.

I will appreciate your office making sufficient copies of the following so as to furnish each attorney practicing in your county with a copy. Please maintain a register showing each attorney who receives a copy of these local rules, and the date upon which he or she was provided with a copy. It would be well for you to make additional copies to provide attorneys from outside this District a copy upon their filing a complaint, answer, or other pleadings.

I realize that this revision of the local Rules imposes some additional burden on your office; however, it is my feeling that these Rules will expedite Civil matters throughout the District.

If you have any questions concerning this, please do not hesitate to contact me.

With kindest personal regards, I remain,

Respectfully,

Robert H. Lacey
Chief District Court Judge
Twenty-Fourth Judicial District

Guidelines for Resolving Scheduling Conflicts:

The State-Federal Judicial Council of North Carolina adopted guidelines for resolving scheduling conflicts for practicing trial attorneys. These guidelines were adopted 20 June 1985. These guidelines were subsequently approved by the U.S. Court of Appeals for the Fourth Circuit and the North Carolina Supreme Court. The guidelines are as follows:

1. It shall be the duty of counsel, other than solo practitioners, to have another member of the firm reasonably well acquainted with the case to the end that, where practicable, substitution of counsel may be made in order to avoid conflicts in scheduling.
2. In resolving scheduling conflicts the following priorities should ordinarily prevail:
 - a. Appellate cases should prevail over trial cases;
 - b. The case in which the trial date has been first set (by a published Calendar, Order or Notice) should prevail and take precedence;
 - c. Criminal felony trials should prevail over civil trials;
 - d. Trials should prevail over Motion Hearings;
 - e. In resolving conflicts between the several divisions of the North Carolina General Court of Justice, the provisions of Rule 3, General Rules of Practice for the Superior and District Courts, shall control.
3. In addition to the above priorities, consideration should be given to the comparative age of the cases, their complexity, the estimated trial time, the number of attorneys and parties involved, whether the trial involves a jury, and the difficulty or ease of rescheduling.
4. It shall be the duty of the attorney, promptly upon learning of a schedule conflict, to give written notice to opposing counsel, the Clerk of Court and to the Presiding Judge, if known, stating therein the known circumstances relevant to a resolution of the conflict under guidelines.
5. The judges of the Courts involved in a scheduling conflict may confer upon the resolution.
6. Nothing in these guidelines is intended to prevent courts from voluntarily yielding a favorable scheduling position, and judges of the courts are urged to communicate with each other in an effort to lessen the impact of conflicts and continuances in all courts.

Calendaring Rules for the 24th Judicial District

NOTE: Attorneys should be familiar with the General Rules of Practice for The Superior and District Courts, which are found in Rules Volume of the North Carolina General Statutes.

Rule 1.	Authority – Effective Date.....
Rule 2.	Civil Action Cover Sheet.....
Rule 3.	Case Tracking – Ready Docket.....
Rule 4:	Pretrial Calendars – Trial Calendars.....
Rule 5:	Final Trial Calendars.....
Rule 6:	Carry-Over Cases
Rule 7:	Calendar Call, Pretrial Conferences & Memoranda.....
Rule 8:	Continuances.....
Rule 9:	Peremptory, Priority, and Remanded Cases.....
Rule 10:	[Reserved].....
Rule 11:	Non-Jury Domestic Relations Case.....
Rule 11A:	Equitable Distribution.....
Rule 12:	Motions.....
Rule 13:	Settlement of Cases.....
Rule 14:	[Reserved].....
Rule 15:	[Reserved].....
Rule 16:	Notice of Calendaring to Attorneys.....
Rule 17:	Sanctions.....
Rule 18:	Preparation of Forms.....
Rule 19:	[Reserved].....
Rule 20:	[Reserved].....

Rule 1. Authority – Effective Date

1.1 The rules are published pursuant to authority vested in the Chief District Court Judge of the 24th Judicial District by Rule 2, General Rules of Practice for the Superior and District Courts Supplemental to Rules of Civil Procedure adopted by the Supreme Court of North Carolina pursuant to N.C.G.S. 7A-34, as amended.

1.2 The rules supersede all previous civil calendar rules of the District Court Division of the 24th Judicial District from and after their effective date of 1 January 1989.

1.3 The Rules shall serve as the case management plan for calendaring of civil cases.

Rule 2: Civil Action Cover Sheet

2.1 All pleadings filed in any civil action with the Clerk of Superior Court shall be accompanied by a completed Civil Action Cover Sheet. A form for such is incorporated as a part hereof as Form CCF-2.

2.2 [Reserved]

2.3 [Reserved]

2.4 The Clerks of Superior Court in the 24th Judicial District are ordered to refuse to accept for filing any pleading not accompanied by a completed Civil Action Cover Sheet.

Rule 3: Case Tracking System – Ready Docket

3.1 The District Court Trial Division of the General Court of Justice for the 24th Judicial District establishes a system for the tracking of all civil cases.

3.2 A case shall be considered to be on the Ready Docket when:

- a. One Hundred and fifty (150) days have elapsed since the filing of the Complaint.
- b. Upon filing of a Certificate of Readiness, prior to 150 days.
- c. That a case or proceeding had been transferred by the Clerk of Superior Court.
- d. That a case is entitled to priority in hearing by statute.
- e. That all counsel of record have signed a Certificate of Readiness for trial, a form for which is incorporated as a part hereof as Form CCF-3, including all cases as to which such a certificate has been filed prior to the effective date of these rules.
- f. That a case has been remanded for trial by the Appellate Division of the General Court of Justice.

Rule 4: Discovery and Pretrial Calendars

4.1 Within ten (10) days after the publication date of a Trial Calendar, an attorney in any case thereon, as to which a Certification of Readiness has not been filed, may file with the Court a Request for Extension of Time for Trial, on a form which is made a part hereof as Form CCF-4, and shall serve all other counsel of record a copy as prescribed by Rule 5(b) of the Rules of Civil Procedure.

4.2 The Court is authorized to grant a requested extension as to which no reply is filed as required by Rule 4.1, and, which is the first request for extension filed by the party. Other requests shall be referred to the Chief District Court Judge.

Rule 5: Final Trial Calendars

5.1 The Clerks of Superior Court shall publish Final Trial Calendars not later than thirty (30) days preceding the first day of each scheduled Civil Session of the District Court Trial Division.

5.2 Counsel who desire to “add on” cases to Final Trial Calendars shall be required to file a written Motion with the Court prior to the call of the Calendar, with Notice to opposing counsel, if any, or to the other party if there is no opposing counsel. Whether or not a case may be added to the Final Trial Calendar will be in the discretion of the judge.

5.3 (Reserved)

Rule 6: Carry-over Cases

6.1 Cases calendared for trial not disposed of during the session shall be placed on a Final Trial Calendar for the next session thereafter, following peremptorily scheduled cases, according to age, and preceding cases appearing on the Final Trial Calendar for the first time, unless the Court finds it necessary to calendar such cases for some other session.

Rule 7: Calendar Call, Pretrial Conferences & Memoranda

7.1 A call of the Final Trial Calendar shall take place at 9:30 a.m. on the first day of the session on which the calendar is set for trial.

7.2 Request for Pretrial Conference shall be made at the call of the Final Trial Calendar, unless made earlier by written request, Notice or Order.

7.3 Counsel for all parties in a case appearing on a District Court Final Jury Trial Calendar shall file a pretrial memorandum not later than the call of the Final Jury Trial Calendar. The pretrial memorandum should contain the following information:

- a. A list of witnesses who may be called at the trial. If a witness will be offered as an expert, the witnesses' specific area of expertise shall be stated along with a brief statement of the witnesses' qualifications.
- b. A list identifying all exhibits which the party may offer at trial. All exhibits which can practicably be numbered should be numbered in advance, and copies photocopied and attached to the memorandum.
- c. A list of what the party contends are the issues to be submitted to the jury.

7.4 Civil cases which require a protracted pretrial conference should be brought to the attention of the Presiding Judge. Counsel shall notify the Court of the request in accord with Rule 7.2. If possible, the pretrial conference shall be scheduled before the judge who will hear the case.

7.5 When an attorney is notified to appear for the setting of a calendar, pretrial conference, Hearing a motion or for trial, he or she must, consistent with ethical requirements, appear or have a partner, associate or another attorney familiar with the case present. Unless an attorney has been excused in advance by the judge whom the matter is scheduled, and has given prior notice to his or her opponent, a case will not be continued except in the discretion of the judge.

Rule 8: Continuances

8.1 All Motions for Continuance shall be in writing, specifying with particularity the reason for the continuance request. Form CCF-8 must be filed with any request for a continuance.

8.2 After a case appears on a Final Trial Calendar, any Motion for Continuance will be heard at the calendar call, and will be granted only for cause arising after publication date of the Final Trial Calendar. Motions for cause arising after the calendar call will be heard by the Presiding Judge at the session upon convening of the Court.

Rule 9: Peremptory, Priority, and Remanded Cases

9.1 A peremptory setting may be requested within ten (10) calendar days after publication of a calendar, with Notice to all counsel and to the Clerk of Superior Court, Chief District Court Judge and the judge who is scheduled to preside.

9.2 Requests shall be in writing, specifically stating the reason(s) advanced by counsel requesting the peremptory setting.

9.3 The Court may grant a peremptory setting because a party or material witness must travel more than 200 miles by the usual highway route for the trial.

9.4 Requests for a peremptory setting for any other reason than that herein specified shall be made to the Chief District Court Judge.

9.5 If a peremptorily set case is continued, a written request for a new setting shall be made immediately, and the new date set.

9.6 Cases entitled to a priority setting under the General Statutes shall be brought to the attention of the Court in writing, with copies to all counsel of record, and shall cite the statutory authority for such.

9.7 When the case is remanded for trial by the Appellate Division, Appellant's counsel shall promptly notify the Court.

Rule 10: (Reserved)

Rule 11: Non-Jury Domestic Relations Cases

11.1 The following rules shall apply to the calendaring of all non-jury domestic relations cases.

11.2 The Clerks of Superior Court, under the direction of the Chief District Court Judge, shall be responsible for scheduling non-jury domestic relations cases.

11.3 [Reserved]

11.4 [Reserved]

11.5 When a case is settled before the publication of the calendar on which it is to appear, all counsel of record shall immediately notify the Clerk of Superior Court and the judge scheduled to preside over that session.

11.6 When a case on a published calendar is settled, counsel of record must notify the Clerk of Superior Court and the judge scheduled to preside, and state which counsel will prepare the proposed judgment and when it will be presented. If the judgment has not been filed prior to the call of the calendar at the next appropriate session, counsel who is responsible for the preparation of the judgment is to file a memorandum with the Court setting out the reason for the delay.

11.7 No Continuance Order is necessary for a case on the published calendar where Service has not been obtained.

11.8 When the parties agree to continue a case after publication of the calendar, the Continuance must be approved by the presiding judge, in the discretion of the presiding judge upon a showing of good cause. Counsel must present to the presiding judge a consent Order to

Continue to a date certain, reciting the agreement of the parties and the reason(s) for the continuance.

11.9 When the parties agree to continue a case which has already been two or more times continued, the proposed Consent Order to Continue should be signed by the parties themselves, as well as counsel of record.

11.10 If a child support or alimony pendente lite case is continued, any order of support that is thereafter entered may require payment of support from the date on which the case was to have been heard.

11.11 It is the responsibility of counsel to determine whether the opposing party has been served. If the opposing party has not been served, counsel shall so notify the Clerk not later than 4:00 p.m. on the workday before the case appears on the published calendar to assure efficient use of Court time.

11.12 Where both parties are represented by counsel, the judge may call a case for trial earlier to assure efficient use of Court time.

11A.4 At the pretrial conference, at which counsel and their clients shall be present or available, the Court will review the Affidavits, determine the need for further discovery, attempt to settle the case, determine the need for a reference, set a date for the next event (trial or further conference, ex cetera), and/or take other appropriate action.

11A.5a The judge shall set the date for all trials and no setting shall be granted on an ex parte basis.

11A.5b Each party to an equitable distribution claim shall file an Equitable Distribution Affidavit with the Court and the opposing party or counsel. The Affidavit must be filed and served not less than thirty (30) days prior to the time set for pretrial conference. The Affidavit to be filed must be identical in form to the Affidavit attached hereto as Form CCF-11A-2 or the form attached to the Memorandum (“Equitable Distribution Instructions, Rules and Forms”) dated 31 December 1982 and made a rule applicable in the 24th Judicial District by Order of the Chief District Court Judge.

11A.6 Non-compliance with Rule 11A shall result in the responsible party’s proffered testimony (whether written or oral) not being allowed into evidence by the Court, in addition to the sanction provided for in Rule 17.1, infra.

11A.7 In any equitable distribution claim, the Court may, in its discretion and pursuant to Rules 53 and 16(5) of the Rules of Civil Procedure, order a reference before proceeding further or entering final judgment. The Court may provide for an appointment of the costs of said reference and its scope as it deems to be in furtherance of the efficient administration of justice.

11A.8 With very limited exceptions solely within the Court's discretion and mentioned herein, all evidence by the party will be presented by Affidavit only. Where appropriate, cross-examination of each party/affiant by the opposing party will be allowed. This will normally not be allowed where the conflicting evidence is, or should be, contained in the opposing party's own affidavit. Limited direct or cross-examination from the stand of a party will only be allowed if the party wishes to present relevant evidence of the factors listed in N.C.G.S. §50-20(c)(6), (9), (10), or (12). Expert testimony will be taken orally.

11A.9 [Reserved]

11A.10 [Reserved]

11A.11 [Reserved]

11A.12 [Reserved]

Rule 12: Motions

12.1 All Motions filed with the Court must include a Notice in format similar to Form CCF-12.

12.2 [Reserved]

12.3 The Clerk of Superior Court, Chief District Court Judge or the Presiding District Court Judge shall schedule Motions to be heard by the Court.

12.4 Procedural motions in domestic relations cases and Motions to Withdraw as Counsel in all cases shall be treated as other civil motions. The party requesting a Motion Hearing on a procedural motion in a domestic relations case or a Motion to Withdraw as Counsel must file Form CCF-3. With respect to Motions to Withdraw as Counsel, it is the responsibility of moving counsel to provide his or her client with appropriate Notice of the Hearing, except where written consent of the client is obtained and verified.

12.5 All cases calendared will be ready for trial at any time during the Term.

12.6 [Reserved]

12.7 [Reserved]

12.8 [Reserved]

Rule 13: Settlement of Cases

13.1 When a case on any Calendar is settled, all attorneys of record must notify the Clerk of Superior Court within twenty-four (24) hours of the settlement and advise who will prepare and present the judgment and when it will be presented.

13.2 [Reserved]

Rule 14: [Reserved]

Rule 15: [Reserved]

Rule 16: Notice of Calendaring to Attorneys

16.1 Calendars will be made available to counsel in the Office of the Clerk of Superior Court at the time of publication. The availability of calendars shall constitute official Notice to attorneys.

16.2 Out-of-Town attorneys and unrepresented parties will be notified of cases appearing on the calendar(s) by mail.

Rule 17: Sanctions

17.1 Failure to comply with any section of these Rules shall subject an action to dismissal at the discretion of the judge.

Rule 18: Preparation of Forms

18.1 Attorneys shall be responsible for reproduction of forms which are required by these rules. One (1) copy shall be provided to each Office of the Clerk of Superior Court in this District, and should be copied by the attorney(s) for use by his or her firm.

18.2 Reproduction may be by any process which results in clearly legible copies of standard letter size.

Rule 19: [Reserved]

Rule 20: [Reserved]

These Rules are established pursuant to the General Rules of Practice for the Superior and District Courts, Adopted by the Supreme Court pursuant to N.C.G.S. §7A-34, and are to be applicable to the District Court of the Twenty-Fourth Judicial District to be construed and to be enforced in such manner as to avoid technical delay and to permit just and prompt consideration and determination of all matters before the Court, and are subject to amendment from time to time by the Chief District Court Judge in writing duly published.

Prepared and Delivered or Mailed to the Clerks of Superior Court in the Twenty-Fourth Judicial District on this the 23rd day of November 1988.

Robert H. Lacey, Chief District Court Judge,
Twenty-Fourth Judicial District