

**CIVIL CALENDAR RULES  
SIX-B JUDICIAL DISTRICT**

**BERTIES, HERTFORD & NORTHAMPTON COUNTIES**

**EFFECTIVE MAY, 1989**

## JUDICIAL DISTRICT SIX-B

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**JUDICIAL DISTRICT SIX-B  
CIVIL SUPERIOR COURT  
CIVIL CALENDAR RULES**

**Rule 1: Authority – Effective Date - General**

**1.1** The purpose of these rules is to provide for the orderly, just, and prompt disposition of civil matters to be heard in the Superior Court.

**1.2** These rules are published pursuant to authority vested in the Resident Judge of the Six-B Judicial District by Rule 2, General Rules of Practice for the Superior and District Courts Supplemental to the Rules of the Civil Procedure Adopted by the Supreme Court of North Carolina Pursuant to G.S. 7A-34.

**1.3** These Rules supersede all previous civil calendar rules of the Superior Court of the District from and after their effective date of May 1, 1989.

**1.4** These rules shall serve as the case management plan for the calendaring of civil cases.

**1.5** Calendars for the disposition of civil cases in the Superior Court shall be sent by the Trial Court Administrator in accordance with these rules. Until this District has Trial Court Administrator, the Judicial Secretary shall act as Trial Court Administrator, shall have the authority thereof, and shall assume the duties and responsibilities set out herein. It is recognized that these rules are not complete in every detail and may not cover all situations which may arise. In the event the rules do not cover a specific point which may arise, the Trial Court Administrator is authorized to act in her best discretion, subject to consultation with the Resident Judge or the Judge Presiding.

**1.6** A copy of these rules shall be mailed to each member of the Bar of the Six-B Judicial District and other attorneys practicing in the superior Courts of the Six-B Judicial District. The Trial Court Administrator and each Clerk's office will maintain a supply of printed calendars rules, Civil Action Cover Sheets (CCF-1) Trial Calendar Request (CCF-2), Motion for Continuance, Extension of Time, and Order (CCF-4), Request for Peremptory Settings (CCF-5), Notice of Motion (CCF-6) and any other form subsequently specified for use in this District. Said forms shall be furnished to attorneys upon request. Attorneys also may reproduce the forms which are required by these rules by any process which results in clearly legible copies.

**1.7** Request to have cases or motions set or continued shall be in writing and a copy of said request be sent to each attorney of record. If any party is unrepresented by an attorney, a copy of said request shall be sent to the unrepresented party, provided that the party's address can be reasonably ascertained.

## **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 complete civil action cover sheet, which the Clerk thereafter shall forward to the Trial Court Administrator. A form for such is incorporated as part hereof as form CCF-1

**2.2** The Clerk of Superior Court should forward a cover sheet (CCF-1) to the Trial Court Administrator for any case appealed to the Superior Court in accordance with N.C.G.S. 1-272.

**2.3** The Clerk of Superior Court shall forward a cover sheet (CCF-1) to the Trial Court Administrator for any case transferred to the Superior Court civil issue docket for the determination of issues of law or fact in accordance with N.C.G.S. 1-273.

## **Rule 3: Motions and Non-Jury Matters**

**3.1** Except for motion returnable at a specific time, motions and non-jury matters shall be calendared by the Trial Court Administrator at the next civil or mixed session of Superior Court. If the circumstances permit, motions and non-jury matters may be calendared out of term by the Trial Court Administrator after conferring with counsel.

**3.2** The Trial Court Administrator shall maintain a list of cases which have motions pending and shall periodically reset those cases to insure the prompt determination of question and questions raised by the motions. For all motions not included as a part of the Civil Action Cover Sheet (CCF-1), a Notice of Motion (CCF-6) shall be filed with each motion in the office of the Clerk of Superior Court for motions and non-jury matters only.

## **Rule 4: Ready Docket**

**4.1** A case shall be considered to be on the Ready Docket when the Trial Court Administrator determines:

- (a) In order than condemnation activities, that 150 days have elapsed since the filing of the complaint.
- (b) As to condemnation actions, that the case is ready for trial under rule 11.
- (c) That a case or proceeding has been transferred by the Clerk to the Superior Court.
- (d) That a case is entitled to priority in hearing by statute.
- (e) That all counsel of record have signed a Trial Calendar Request (CCF-2) or a certificate of readiness for trial, including all cases in 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.

**4.2** The Trial Court Administrator shall place cases from the Ready Docket on the Tentative Trial Calendars pursuant to Rule 5.

## **Rule 5: Tentative Trial Calendar**

**5.1** The Trial Court Administrator shall prepare Tentative Trial Calendars.

**5.2** The Trial Court Administrator may obtain information necessary for this purpose by forwarding to the attorneys involved in a Civil Information Sheet (CCF-7) for each case, which shall be completed and returned to her by each attorney within 10 days. If additional information thereafter is needed, the Resident Judge may schedule pre-trial conferences for this purpose.

**5.3** The Trial Court Administrator shall calendar at least ten (10) of the oldest-numbered cases for each session and this shall constitute the tentative calendar. Copies of the tentative calendar shall be mailed by the clerk to all counsel of record to the cases appearing on the tentative calendar.

**5.4** The following procedure will be followed whenever possible for each six-month term that includes at least two (2) civil or available mixed terms. By November 1, of each year, the Trial Court Administrator shall publish a tentative trial calendar of cases from the Ready Docket for the six-month period beginning on January 1, of the following year. By May 1, of each year, the Trial Court Administrator shall publish a tentative trial calendar of the cases from the Ready Docket for the six-month period beginning on July 1 of that year. Unless there is a preemptory or priority setting, the Trial Court Administrator shall set as the first case on the tentative trial calendar for the Monday of the first week of the six-month term the oldest numbered case being set for trial, shall set the next oldest case as the first case for Monday of the next week, and shall set the next succeeding older cases as the first case on the trial calendars for the succeeding Mondays. When all sessions have a first-case setting, then the second and later cases for each week shall be calendared in a like manner. The purpose of such setting is to insure that the oldest cases during a six-month calendar term appear first for trial, in order of age, unless a preemptory or priority setting has been given by the Resident Judge.

**5.5** The following procedure will be followed whenever possible for each six-month term that includes only one civil or available mixed term. Unless there is a preemptory or priority setting, the Trial Court Administrator shall publish a tentative trial calendar of cases from the Ready Docket in numerical order at least nine (9) weeks before the beginning of the session.

**5.6** Any party desiring to have any other matter heard may file with the Trial Court Administrator, with a copy to opposing counsel, a calendar request on form CCF-2. The request shall be made at least seven (7) weeks before the beginning of the session at which the setting is requested. If any party objects to the setting of the case, he/she must file an objection on form CCF-3 at least five (5) weeks before the beginning of said session. A party who desires to file a comply to the objection must do so on form CCF-4 within five (5) days of the filing of the form CCF-3.

**5.7** A written request must be made before the six-month tentative calendar is published that a case be or not be calendared at a particular session. Such request must state the reason therefore and, in accordance with Rule 1.7, a copy thereof must be sent to each attorney of record and unrepresented party. If a party objects to the request, he/she must promptly file a written objection and state therein the reason for his position.

**5.8** Counsel shall notify the Trial Court Administrator within twenty-four (24) hours of the settlement of any case on the tentative trial calendars. At that time, counsel also shall advise who will prepare the judgment and when it will be presented.

## **Rule 6: Final Trial Calendars**

**6.1** A final trial calendar shall be prepared and published by the Trial Court Administrator no later than four (4) weeks prior to the beginning of the sessions. The final trial calendar shall include all cases on the tentative trial calendars that have not been continued, cases that have been added pursuant to a trial calendar request, and carry-over cases in accordance with Rule 6.5. A copy of the final calendar shall be mailed by the Clerk to counsel of record in the cases appearing on the calendar, to any party who is unrepresented by an attorney and whose address appears in the case file, and to the Judge who is scheduled to preside at that session.

**6.2** When cases have been consolidated for trial or hearing, such cases shall be regarded as one case for calendaring purposes and shall take the number of the oldest case in the group. Counsel should note this information on the calendar request.

**6.3** Cases for trial may not be added to the final calendar after it is published except by the Presiding Judge, or by the Trial Court Administrator with the consent of all counsel. Motions may be added to the final trial calendar by the Trial Court Administrator in accordance with Rule 3.1 and 3.2, except that no motion filed within ten (10) days of the beginning of a session may be added for hearing without the consent of all counsel and unrepresented parties.

**6.4** Counsel shall notify the Trial Court Administrator twenty-four (24) hours of the settlement of any case on the final trial calendar. At that time, counsel also shall advise who will appear for the judgment and when it will be presented.

**6.5** If a case is not reached during the session for which it is calendared, or if it is continued from the tentative or final calendar for cause, then, upon request, the case will be calendared at the subsequent session. It also may be added to a subsequent session by the Trial Court Administrator without request. In either event, it will be placed on the final calendar in its numerical order following any peremptorily scheduled cases.

**6.6** The Trial Court Administrator will divide the cases on the final calendar and schedule such number for trial each day of the session as will best provide for an orderly disposition of the cases on the calendar.

**6.7** The cases on the final calendar will be called in order that they appear on the calendar unless otherwise ordered by the Presiding Judge. Cases not reached on the day set will be called when reached any day thereafter.

**6.8** Except with consent of counsel, the cases on the final calendar will not be called for trial before the day upon which the case is set on the final calendar.

## **Rule 7: Priority Cases**

**7.1** Precedence in all civil trials shall be given to actions entitled thereto by any statute.

**7.2** Request for peremptory settings shall be made in writing to the Trial Court Administrator utilizing form CCF-5, Request for Peremptory Settings. When appropriate, the peremptory settings will be made by the Resident Judge.

**7.3** The Trial Court Administrator shall maintain a list of all cases which have been requested to be set for trial for any one week. Special sessions shall be secured as appropriate.

**7.4** If any attorney determines that a cause should have first setting at the session because of special reasons or problems, said attorneys should request that the case not be set for trial until such time as it would appear as the first case for trial during the week in which it is subsequently set.

## **Rule 8: Continuances**

**8.1** A request for a continuance of a case must be filed with the Trial Court Administrator on Form CCF-3. The reason for the request for continuance must be clearly stated. The position of the case on the trial calendar alone will not necessarily be considered as a valid reason for the requested continuance. Any engagement in another court as a reason for continuance must state at least the case number and court in which the other case is pending, the date and when the calendar in the other court was published.

## **Rule 9: Pre-Trial Orders**

**9.1** There must be a pre-trial conference in every civil case in accordance with Rule 7, *General Rules of Practice for the Superior and District Courts*.

**9.2** In order to facilitate the setting of the final calendar, counsel for all parties having cases on the tentative calendar are requested to hold their pre-trial conferences and file a proposed final pre-trial order before the publishing of the final calendar.

## **Rule 10: Clean-Up Calendars**

**10.1** “Clean-up” calendars will be held as deemed necessary by the Resident Judge.

**10.2** On a clean-up calendar, there will be placed cases which in the opinion of the Trial Court Administrator or the Resident Judge, might be a proper subject of inquiry as to their status. It shall be determined whether any impediment to immediate trial exists, and if it does, when it will be resolved. The Judge shall enter his findings and actions in a written order and provide the Trial Court Administrator with a copy.

## **Rule 11: Condemnation Actions**

**11.1** Condemnation actions brought under Article 9 of Chapter 136 of the General Statutes shall be presumed to ready for trial 100 days after answer has been filed, unless the Trial Court Administrator is otherwise notified, or unless commissioners are appointed pursuant to G.S. 136-109 prior to that time. Counsel for property owners in such actions shall provide the Trial Court Administrator with written notice of the request for appointment of commissioners.

**11.2** Condemnation actions brought under Chapter 40 of the General Statutes shall be presumed to be ready for trial upon transfer by the Clerk to the Superior Court or upon entry of appeal from a commissioner’s report. The Clerk shall give the Trial Court Administrator written notice of any such transfer, and shall forward to her a copy of the appeal from the commissioner’s report.

## **Rule 12: Bankruptcy Cases**

**12.1** Civil actions in which one of the parties is adjudicated bankrupt will be disposed of in accordance with the following authority and procedure:

- (a) Rule 401 of the Federal Bankruptcy Act.
- (b) 11 US Code 362.
- (c) 11 US Code 1301.
- (d) Whitehurst v. Virginia Dare Transport Co., 19 N.C. App. 352 (1973).
- (e) N.C.G.S. 1-23.

**12.2** Any request to continue, hold, or in any other way delay disposition of a case due to bankruptcy of one of the parties must be accompanied by certificate of the bankruptcy filing of stay of proceeding from the United States Court having jurisdiction.

**12.3** The Trial Court Administrator will refer the case to the appropriate Judge for execution of an injunction pursuant to the above authority.

**Rule 13: Sanctions**

**13.1** Failure to comply with any sections of these Rules shall be sufficient grounds to deny any request made by said party and, furthermore, shall subject an action to dismissal in the discretion of the Presiding Judge. In lieu of the dismissal, the Presiding Judge may take whatever other action he deems appropriate under the circumstances.

BY ORDER \_\_\_\_\_

Cy. A. Grant, Sr.  
Resident Superior Court Judge

Dated: May 1, 1989

Effective: May 1, 1989