

# **CIVIL CALENDAR AND CASE MANAGEMENT RULES FOR THE FOURTH JUDICIAL DISTRICT DISTRICT COURT DIVISION**

## **I. GENERAL RULES:**

1.1 The purpose of these rules is to establish calendaring and case management procedures in the District Court Division of the Fourth Judicial District which is comprised of Onslow, Jones, Duplin and Sampson Counties, and to facilitate the orderly, prompt and just disposition of civil matters. They are adopted in compliance with Rule 40(a), North Carolina Rules of Civil Procedure and Rule 2(a), General Rules of Practice for Superior and District Courts. They are applicable to all civil sessions of District Court in the Fourth Judicial District and supersede any previous calendar rules.

1.2 The calendar for the disposition of civil cases shall be set by the Trial Court Administrator's (TCA) Office in accordance with these rules and under the supervision of the Chief District Court Judge.

1.2 The TCA shall maintain a case tracking system which shall monitor the number age, type and procedural status of all pending cases and shall provide for their calendaring. It shall be the goal of the Court to dispose of 90% of all civil district cases within 1 year of the filing date; 90% of all civil domestic cases should be disposed of within 6 months of the filing date.

## **II. Scheduling Cases for Trial**

### ***Civil District Court***

2.1 Any party requesting to have a case placed on a trial calendar shall submit a case calendaring request form to the TCA office no later than five weeks before the start of the trial session. The calendar request shall contain the following information: file number, case name, type of trial, estimated time for hearing, request for jury, any special circumstances, the requesting party's name and address (if pro se or out-of-town attorney), opposing party's name and address (if pro se or out-of-town attorney). A calendar request form is attached. Parties may use their own form, but it must be substantially the same.

2.2 The Trial Court Administrator shall place a case on the final trial calendar if:

- a) a case has been transferred to the District Court Division on appeal from the Magistrate's small claims court or by order from the Magistrate presiding over small claims court;
- b) the case has been remanded for trial by the Appellate Division;
- c) the case is entitled to a priority hearing by statute and the attorney has notified the Trial Court Administrator of the entitlement in writing and cited the statutory authority for a priority setting; or

- d) the Presiding District Court Judge directs that the case be calendared for a specific session.

2.3 The Trial Court Administrator may reschedule at another session of civil district court any case for trial after it has been continued or reported ready for trial at a court session and not reached.

2.4 The TCA will prepare a final calendar of all cases scheduled for trial for each civil session four weeks prior to the beginning of the session and distribute it to the presiding judge, all attorneys and pro se parties with cases on the particular calendar.

2.5 At the discretion of the Chief District Court Judge, an administrative review of the district court civil docket may be conducted to insure prompt disposition of cases. All attorneys with cases on the administrative calendar will be present for the review. Any case in which neither party is present will be dismissed by the Chief District Court Judge unless the judge has authorized the parties' absence. All cases calendared for trial at the administrative session will appear at the top of the calendar on their assigned court dates. Continuances for these cases will only be granted by the presiding judge. If the attorneys are not prepared to try the cases which were set for trial during the administrative review, the case will be placed on inactive status.

2.6 The Chief District Court Judge and the Trial Court Administrator shall have the authority to calendar motions or trials in order to insure full court utilization and to effectuate timely case management. This will include, but is not limited to, review and removal motions which will be set by the Trial Court Administrator when it appears that from a review of the court file, the case has not had any activity within the last 6 months.

2.7 Any party requesting to have a motion heard shall submit a calendaring request form to the Trial Court Administrator's office no later than 10 days before the start of the requested session in order to be included on the motion calendar. The request shall contain the type of motion(s) to be heard in addition to the information laid out in Rule 2.1. All motions requested less than 10 days prior to the session may be added to the bottom of the motion calendar by the clerk.

2.8 The motion calendar shall be published and distributed one week before the beginning of the session. When there is a holiday preventing the publication of the motion calendar the calendar will be published and distributed on the next business day following the holiday.

### ***Domestic Court (Onslow County only)***

2.9 Any party desiring to place a domestic case on a trial or motion calendar for a regular one- or two-week session of domestic court shall submit a stamp-filed copy of a calendaring request to the Trial Court Administrator's office. The cases will be placed on the calendar in the order they are stamp-filed. Cases not stamp-filed will be calendared in the order received by the Trial Court Administrator. Domestic cases may be placed on sessions designated as either general civil or domestic courts. When the requested date is a general civil session, the domestic cases will be placed at the end of the civil district court calendar.

2.10 Any party may place a motion on any Tuesday domestic short matters session. These sessions are for the calendaring of short domestic matters which will take no longer than one hour to hear. The judge will give priority to temporary child

support cases and post-separation support hearings which can be done by affidavits and limited testimony.

2.11 The party requesting the hearing date shall give notice of the hearing date to the opposing party in accordance with the Rules of Civil Procedure.

2.12 Cases which are estimated to exceed two hours shall be placed on the trial calendar and not on the motions calendar.

2.13 The cases will be placed on the trial calendar in the order in which they are received. The presiding judge will set the order of trial during calendar call for that session. All cases listed on the calendar will be expected to be ready for trial at any time during the term. Parties with cases that are set on a back-up or stand-by status will be given as much advanced notice as possible by the Trial Court Administrator's office when it seems the case will be reached. The presiding judge will have one day of peremptory settings available for emergency purposes, per week of court. The requesting party must make his or her request directly to the presiding judge (see Rule 3.4).

2.14 Uncontested Divorce calendars will be published the Monday before the session. Domestic short matters calendars will be published the Thursday before the session. Calendars will be distributed to the attorneys who have cases listed on the calendar.

### **III. Priority Settings, Remanded Cases, Special Sessions and Preempt Settings**

3.1 Counsel with cases entitled to priority setting by statute should notify the TCA 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.

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

3.3 The attorneys must notify the Trial Court Administrator's office of any cases requiring an out-of-county judge, the reason for the request, issues involved, length of trial and any other pertinent information. The Trial Court Administrator will work with the Chief District Court Judge to arrange for a hearing.

3.4 In order to have a case set peremptorily the requesting party must first check the peremptory status report posted on the door of the Trial Court Administrator's office. The moving party must then meet with the judge assigned to the requested session, agree on a date and time, set up a pretrial conference, and have judge initial a completed peremptory slip (sample attached). When the opposing party is not in agreement with the setting, the moving party should make a motion to the court for a preempt setting. The party will bring the peremptory slip to the Trial Court Administrator's office at which time it will be calendared as a pre-empt case if there is still time available. A pretrial conference shall be scheduled for each case calendared peremptorily.

#### **IV. Continuances**

4.1 Cases calendared for trial which are under one year old may be continued by the Trial Court Administrator if both parties concur.

4.2 Unrepresented parties and out-of-town attorneys requesting a continuance should write to the Trial Court Administrator with a copy to the opposing party. If no reply is received from the opposing party by the Trial Court Administrator's Office ten days prior to the session, the case will be continued.

4.3 All other continuance requests must be submitted to the presiding judge for ruling.

#### **V. Attorney Appearances & Conflicts**

5.1 Attorneys and unrepresented parties of record shall appear at the times properly noticed for a calendar call, a trial, a conference, a hearing, or an administrative session. If attorneys have conflicts with another Court, they should report in writing (with copies to appropriate parties) regarding the conflict in advance of the trial date so that the conflict may be resolved.

5.2 If needed, counsel of record should make available to the Court someone in their office to try any cases that may be scheduled on a particular week of court in this judicial district. 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 and ready to proceed. All cases calendared shall be ready for trial at any time during the session.

#### **VI. Orders and Judgments**

6.1 When a case that appears on a published calendar is settled, the attorneys of record must notify the TCA 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.

6.2 All orders or judgments from motion hearings, trials, or settlement agreements shall be filed with the Clerk of Superior Court within 30 days of their disposition or reported settlement.

6.3 If an order or judgment is not filed within 30 days of disposition, the case will be calendared on the same judges next available session for an entry of judgment or other appropriate action.

#### **VII Docket Review and Administrative Dispositions**

7.1 The TCA 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 Chief District Court Judge. All dismissals will be without prejudice for those cases in which there is:

- a. bankruptcy
- b. a defendant making payments
- c. service not made and time expired
- d. domestic relations cases inactive for one year

In cases where an answer or other responsive pleadings have not been filed and it is clear the defendant has failed to plead, the Trial Court Administrator shall consult with the plaintiff's attorney to determine why no entry of default and/or default judgment has yet been obtained. If no action is taken by counsel, the Trial Court Administrator shall dispose of the case.

7.2 Cases will be removed by orders prepared by the clerks or the TCA upon review of the file and after consultation with counsel, if necessary. The orders will be signed by the Chief District Court Judge, or his designate, and filed with the clerk with copies to counsel.

7.3 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 forward to the TCA.

7.4 The Chief District Court Judge may take appropriate dispositional action to clear the docket of inactive cases.

7.5 The TCA and Clerk of Superior Court may, as necessary, set supplemental calendars during administrative weeks, during other scheduled non-jury terms, or with motion calendars for the purpose of judicial review of case status where cases appear to be delinquent in some respect or have been continued for reasons such as extended discovery, or for complex cases. The Presiding Judge may dispose of pending motions, and conduct discovery or pre-trial conferences.

## **IX. Compliance**

9.1 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 Chief District Court Judge.

9.2 Nothing in these rules shall be construed to divest the Chief District Court Judge or the presiding judge of the authority to insure full court utilization.