

**NORTH CAROLINA
SUPERIOR COURT JUDICIAL DISTRICT 25A**

**ORDER
Civil Case Management Plan**

Pursuant to the provisions of Rule 2 of the General Rules of Practice for the Superior Court, IT IS ORDERED that the following local rules are adopted for Judicial District 25A, effective September 1, 2003. The following references apply: "TCC": Trial Court Coordinator; "N.C.R.C.P.": North Carolina Rules of Civil Procedure; "Rules of Practice": General Rules Of Practice For The Superior And District Courts.

1. **Ready Calendar.**
The Trial Court Coordinator in Judicial District 25A shall maintain a Ready Calendar of civil cases pending in each county. Five months after the filing of a complaint, the TCC shall place each case on the Ready Calendar, unless the time is extended for good cause by written order of the Senior Resident Judge.
2. **Administrative Scheduling Sessions.**
At designated times, the Senior Resident Judge will conduct an Administrative Scheduling Session for each case pending on the Ready Calendar, and will, in cooperation with the Bar of each county, assign the case to a specific session of the Court. Upon notification to appear for the Administrative Scheduling Session, an attorney must, consistent with ethical requirements, appear at the Administrative Scheduling Session, or have present a partner, associate or another attorney familiar with the case, unless excused in advanced with prior notice to the opponent.
3. **Certificate of Readiness.**
In addition to the maintenance of the Ready Calendar, an attorney for a party may file a certificate of readiness at any time requesting that the case be placed on the trial calendar.
4. **Peremptory Settings.**
A request for peremptory setting for cases involving extraordinary reasons must be made in writing to the Senior Resident Judge.
5. **Re-scheduling Cases Not Reached.**
Cases scheduled for trial not reached at a session shall be re-scheduled as additional cases for trial at another regularly scheduled session before the Administrative Scheduling Session if feasible considering the availability of counsel, parties and witnesses. Re-scheduled cases have no priority over scheduled cases. For good cause shown, the TCC may remove a case from re-scheduling. When an Administrative Scheduling Session occurs before the next trial session, cases not reached at a prior session shall be re-scheduled at the Administrative Scheduling Session.

If a case is scheduled for trial, but attorneys announce that it is settled prior to the session or at the opening of the session, and no voluntary dismissal nor memorandum of judgment is filed during the session in which it is set, then the case will appear on the calendar of the next trial session of court after sixty (60) days, or the next administrative session, whichever occurs first.

If the case has not been dismissed by that time, the case shall be considered for trial, or, in the discretion of the Court, the presiding judge or the Senior Resident Superior Court Judge may take such other administrative action as appears appropriate to give the case prompt disposition, including dismissal pursuant to Rule 41.

6. Motions Practice.

Movant's counsel shall notify the TCC of desired dates for hearing motions. Pending motions shall be scheduled for hearing by the TCC in the order of receipt of notification. Notice of hearing shall be filed and served as provided in Rule 6 (d) of the N.C.R.C.P. The number of motions scheduled for a session shall be based on the nature of the motions filed, the anticipated time required for hearings, and the time available for hearing of motions at each particular session.

Pending pre-trial motions may be scheduled at the administrative scheduling session. Counsel who intend to file pre-trial motions in cases being scheduled for trial shall inform the Court at the administrative scheduling session.

A copy of any briefs or memoranda in support or opposition of pre-trial motions shall be delivered to the Hearing Judge at least five days before the hearing of the motion. For the purpose of this five-day requirement only, service shall mean personal delivery, facsimile transmission, or other means such that the Hearing Judge actually receives the brief or memoranda within the required time. A Hearing Judge shall not be obliged to consider briefs or memoranda not received as required by this Rule.

7. Preliminary Injunction Hearings

The evidence in a preliminary injunction hearing shall be presented in the form of affidavits in support of or in opposition to the injunction. The presentation of testimony from witnesses will be received only in exceptional circumstances, or when the party offering the witnesses' testimony has been unable to obtain an affidavit from the witnesses in advance of the hearing.

8. Motions for Summary Judgment.

Motions for Summary Judgment must be scheduled and heard prior to the week of trial.

9. Settlement Notification.

Upon the settlement of a case on the printed trial calendar, attorneys of record must notify the TCC within twenty-four (24) hours of the settlement and advise who will prepare and present a judgment or dismissal, and do so immediately.

10. Continuances.

Upon the calendaring of a case on the final trial calendar, such case will not be continued except for compelling reasons addressed to the Senior Resident Judge before the session, or the Presiding Judge during the session.

11. Will Caveats.

Cases involving caveats to Wills shall be ordered into the mediation process within 60 days of filing, and will not be placed on a trial calendar until a mediated settlement conference is conducted or the matter has been removed from mediation by order of the Court. It shall be the responsibility of the attorney for the Caveator(s) to notify the TCC of the filing of the case and the names and addresses of all parties or attorneys to whom notices should be sent.

12. Mediation Management.

The TCC is assigned the responsibility of managing and enforcing the mediation process.

13. Inquiries.

Inquiries concerning the civil calendar shall be addressed to Virginia Robinson, TCC, P.O. Box 796, Morganton, NC, telephone (929) 432-2826, fax number (828) 433-4035, e-mail address Virginia.R.Robinson@nccourts.org.

14. Pre-Trial Conferences, Orders.

Pre-trial orders as provided by Rule 7 of the General Rules of Practice are encouraged. The Senior Resident Superior Court Judge may require a pre-trial conference for any case in which such conference appears appropriate. The Court may conduct pre-trial conferences when necessary. In addition to the subjects set out in Rule 7 and the Sample Form, Counsel should determine if the parties will stipulate to a unanimous verdict of any number less than twelve, in the event jurors become ill or otherwise unable to continue to serve subsequent to the beginning of trial.

15. Procedure Rules when the Superior Court acts as an Appellate Court.

In those cases in which the Superior court is called upon to act as an appellate court, the following rules of procedure shall be followed in District 25A:

- (a) Upon filing of a Petition for Review, the Petitioner shall have thirty days in which to serve a proposed Record on Appeal upon opposing counsel.
- (b) Opposing Counsel shall have twenty days from the date of service to serve Petitioner with an alternative Record on Appeal, or object to the form or content of the Petitioner's Proposed Record on Appeal.
- (c) Counsel will undertake to resolve disputes as to the content of the Record on Appeal. The TCC will be kept informed of the status of the Record on Appeal.
- (d) Upon settling of the Record on Appeal, all Counsel shall sign an attached certificate of settlement of the Record. It shall then be filed with the Clerk of Court of the County in which the action is filed, and a copy for the presiding judge delivered to the TCC by the Petitioner.

- (e) Petitioner shall have twenty days from the filing of the Record on Appeal to file and serve any brief or memoranda. A copy for the presiding judge will be delivered to the TCC.
- (f) Opposing party shall have twenty days from the service of the last Petitioner's brief or memoranda to file responsive brief or memoranda with a copy for the presiding judge to the TCC. If Petitioner does not file a brief within the time allowed in (e) above, opposing party shall file a brief at any time after twenty days from the filing of the Record on Appeal.
- (g) Failure of Petitioner to file a brief within the time required will be deemed abandonment of the Petition, and the Senior Resident Judge shall dismiss the Petition.
- (h) The Appeal shall be placed on the next Administrative Scheduling Session docket more than sixty days from the date of the filing of the Petition, for scheduling of the final hearing.
- (i) All deadlines set by these rules may be modified by the Senior Resident Judge upon motion by any party, after opportunity has been given to opposing counsel to be heard.

16. Appeals from the Clerk of Court and Division of Motor Vehicles.

Appeals from Division of Motor Vehicles for hearing on revocation of driving privileges pursuant to G.S. 20-16.2(d) or 20-25 shall appear on the docket at the first Administrative Scheduling Session more than 60 days after the date of filing of the Petition in Superior Court. Appeals from any proceeding originally heard by the Clerk of Court shall appear on the docket at the first Administrative Scheduling Session more than 60 days after the date of filing of the appeal in Superior Court.

This the 23rd day of June, 2006.

/Beverly T. Beal
BEVERLY T. BEAL
Senior Resident Superior Court Judge
Judicial District 25A