

## 19-D JUDICIAL DISTRICT - MOORE COUNTY

### **COURT RULES AND CASE MANAGEMENT PLAN FOR CIVIL SUPERIOR COURT**

(Effective – January 1, 2007)

In accordance with and subject to the provisions of Rule 40(a) of the North Carolina Rules of Civil Procedure and Rule 2 of the General Rules of Practice for the Superior Court, the following administrative and procedural rules shall constitute the Case Management Plan for Moore County for Civil Superior Court cases in 19-D Judicial District of the State of North Carolina. The purpose of these rules is to provide for the orderly, just and prompt disposition of matters to be heard in the Superior Court. They shall be at all times construed and enforced in such a manner as to reduce delay and insure fairness. **These rules are in addition to, not in lieu of, the General Rules of Practice for the Superior Court.** These rules shall become effective January 1, 2007.

#### **LOCAL RULE 1.1 - CIVIL CASE TRACKING SYSTEM**

The Trial Court Coordinator, under the supervision of the Senior Resident Superior Court Judge, shall keep a case tracking system. In general, each civil case shall be considered "ready for trial" five months after the complaint is filed.

#### **LOCAL RULE 1.2 – INITIAL TRIAL SETTING AND MEDIATION**

The Trial Court Coordinator for the Senior Resident Superior Court Judge shall set a **trial date** for a term of Civil Superior Court no earlier than 210 days from the filing of the complaint and shall place the matter into mediation within 60 days of the filing of responsive pleadings by issuance of an Order for Mediated Settlement Conference. All cases, not otherwise exempted by the North Carolina Supreme Court, are ordered to mediated settlement conference. The trial date and demand for jury trial or non-jury trial will be shown on the Order for Mediated Settlement Conference. The Trial Court Coordinator shall file-stamp the Order for Mediated Settlement Conference in the office of the Clerk of Superior Court and return copies of said order to all attorneys of record and/or to all known unrepresented parties.

The Trial Court Coordinator shall appoint a mediator to mediate the case if the parties fail to agree upon the selection of a mediator or **if the parties fail to notify** the Trial Court Coordinator of their selection of mediator within twenty-one (21) days after the Order for Mediated Settlement Conference is issued.

If the Trial Court Coordinator appoints a mediator and thereafter, the parties wish to substitute another mediator, the parties must submit an Order for Substitution of Court Appointed Mediator to the Trial Court Coordinator. Furthermore, the parties must pay any cost(s) incurred by the original court appointed mediator, including administrative fees, unless waived by the mediator.

### **LOCAL RULE 1.3 – COURT APPOINTED MEDIATORS**

Mediators certified by the North Carolina Dispute Resolution Commission who desire to be on the court appointed mediator list should notify the Trial Court Coordinator, in writing, of their availability for court appointments. Mediators accepting court appointments **shall personally obtain all case related information from the official court file.** The office of the Senior Resident Superior Court Judge does not currently have the resources to assist court appointed mediators with this task.

The office of the Senior Resident Superior Court Judge shall keep an alphabetized court appointed mediator list to be used in making appointments. Mediators who no longer desire to serve as court appointed mediators and wish to be removed from the court appointed list should notify the Trial Court Coordinator, in writing, of such request.

### **LOCAL RULE 1.4 – EXTENSIONS TO COMPLETE MEDIATION ORDERS**

All proposed Orders to Extend Completion of Mediation shall be submitted by the mediator to the Trial Court Coordinator by US mail or hand-delivery. Mediation extensions **will not** be allowed past the scheduled trial date.

Upon ruling, the Trial Court Coordinator, will file-stamp the Order to Extend Completion of Mediation in the office of the Clerk of Superior Court and will send copies of the order to the mediator and to all attorneys of record and known unrepresented parties. It is important to note that if an extension of mediation is granted, the new mediation deadline will appear on the order and will serve as the **only notice** of the new mediation deadline.

### **LOCAL RULE 1.5 - PUBLICATION OF COURT CALENDARS**

Approximately four (4) weeks prior to each session of court, an initial court calendar will be published by the Trial Court Coordinator.

Distribution of court calendars to attorneys and to the presiding judge shall be by posting on the web at [WWW.NCCOURTS.ORG](http://WWW.NCCOURTS.ORG). Distribution to each known unrepresented party of record may be by US mail by the Trial Court Coordinator. Any attorney who notifies the Trial Court Coordinator, in writing, that he/she does not have Internet access may receive a printed calendar from the Trial Court Coordinator.

An updated court calendar, reflecting any changes on the final calendar including any add-on motions, will be posted on the web 5-10 days before the first day of the court session.

**All court calendars are published based upon information entered by the office of the Moore County Clerk of Superior Court Civil Division and the Trial Court Coordinator. IF ANY INFORMATION ON A PUBLISHED COURT CALENDAR APPEARS TO BE**

**INACCURATE IT IS ESSENTIAL THAT THE TRIAL COURT COORDINATOR BE NOTIFIED WITH CORRECTIONS.**

**LOCAL RULE 1.6 - CALENDARING CIVIL MOTIONS**

In the discretion of the Senior Resident Superior Court Judge, motions may be calendared for regularly scheduled jury sessions of Civil Superior Court and regularly scheduled sessions of Non-Jury Administrative Civil Superior Court. Jury sessions of Civil Superior Court commence at 10:00 A.M. on the first day of the term. Non-jury administrative terms commence at 9:30 A.M.

All requests for calendaring such motions shall be made using the Moore County Superior Civil Court Motion Calendar Request form (a sample of which is attached to the local rules for Judicial District 19-D Moore County and may be copied for your convenience). The original said request is to be filed in the office of the Clerk of Superior Court and a copy sent by US mail or facsimile to the Trial Court Coordinator. The Moore County Superior Civil Court Motion Calendar Request form must be **COMPLETED IN ITS ENTIRETY** including the specific term requested, the estimated time needed to hear the motion and indication of service on all opposing parties.

Motions will be heard after calendar call or as directed by the presiding judge. Any motion not heard, must be recalendared, pursuant to the local rules. If a presiding judge continues a motion to another term of court, the parties are not required to recalendar the matter but must notify the Trial Court Coordinator of the new court date.

Add-on motions may be added to the final edition of a specific calendar and will be placed on the calendar following previously calendared motions. Local Rule 1.5 addresses the deadline for add-on motions to be submitted for inclusion on the final calendar.

Failure to comply with the rules governing the calendaring of motions/add-on motions may result in the motion **NOT BEING CALENDARED FOR HEARING.**

**ATTORNEYS AND/OR PARTIES SEEKING A SCHEDULE OF JURY AND NON-JURY TERMS OF CIVIL SUPERIOR COURT FOR JUDICIAL DISTRICT 19-D MOORE COUNTY ARE DIRECTED TO THE MASTER CALENDAR OF SUPERIOR COURTS OF NORTH CAROLINA AT [WWW.NCCOURTS.ORG](http://WWW.NCCOURTS.ORG). IT IS NOT NECESSARY TO CONTACT THE TRIAL COURT COORDINATOR FOR A SCHEDULE OF TERMS OF COURT.**

**LOCAL RULE 1.7 - MOTIONS FOR CONTINUANCE OF CIVIL CASES**

Prior to the opening of court for the session in which the case is calendared, all applications for continuance shall be made to the Senior Resident Superior Court Judge or his designee no later than 12:00 noon on the Friday preceding the term of court.

Following the opening of court for the session in which the case is calendared, any application for continuance shall be made to the presiding judge of the court in which the case is calendared.

All applications for continuance shall be by written motion made on form AOC-CV-221 from the Administrative Office of the Courts and may be downloaded from [WWW.NCCOURTS.ORG](http://WWW.NCCOURTS.ORG).

A copy of the completed form AOC-CV-221 shall be distributed to all counsel of record and/or unrepresented parties prior to the presentation of the motion to the appropriate judicial official. Distribution of the motion may be by US mail, facsimile or hand-delivery. If the motion is made less than five (5) business days prior to the session of court for which the matter is calendared, the motion must be faxed or hand-delivered to opposing counsel. Distribution by means of attorney boxes located in the courthouse facility will not be deemed adequate service on opposing counsel.

The office of the Senior Resident Superior Court Judge **will not rule** on any application for a continuance until a written response from all parties is transmitted to the Trial Court Coordinator by US mail, facsimile or hand-delivery.

**Continuance requests are presumptively disfavored.** When compelling reasons for continuance are presented which would affect the fundamental fairness of the trial process or when a continuance clearly is in the interest of justice, a continuance may be granted in the exercise of judicial discretion to further the best interest of the fair administration of justice.

In addition to other factors, the appropriate judicial official shall consider the following when deciding whether to grant or deny a motion for continuance:

- **the age of the case;**
- the status of the trial calendar for the week;
- the order in which the case appears on the trial calendar, including whether the case is peremptorily scheduled;
- the number of previous continuances;
- the extent to which counsel had input into the scheduling of the trial date;
- the due diligence of counsel in promptly filing a motion for continuance as soon as practicable;
- **whether the reason for continuance is a short-lived event which could resolve prior to the scheduled trial date;**
- the length of the continuance requested, if applicable;
- the position of opposing counsel;
- whether the parties themselves consent to the continuance;
- present or future inconvenience or unavailability of witnesses/parties; and
- any other matter that promotes the ends of justice.

**Reasons that shall not be considered valid bases for allowing a continuance motion include first time scheduling of the case for trial, potential conflicting scheduling of other trials in other courts and whether counsel of record has received payment.**

When a determination is made, the Trial Court Coordinator will file-stamp form AOC-CV-221 in the office of the Clerk of Superior Court and send copies of the order to all attorneys/known unrepresented parties. It is important to note that if a continuance is granted, the new trial date will appear on the order and will serve as the **only notice** of the new trial date until the trial calendar is published.

### **LOCAL RULE 1.8 - NOTICES OF SETTLEMENT OF CIVIL CASES AND RESOLUTION OF MOTIONS**

In the event that a motion is considered complied with or in any event it does not need to be heard and the movant wishes to have said motion removed from the court calendar, a **WRITTEN NOTICE OF WITHDRAWAL OF MOTION** must be filed in the office of Clerk of Superior Court prior to the session with a copy sent to the Trial Court Coordinator by US mail, facsimile or hand-delivery and to all opposing attorneys/unrepresented parties.

When a case on any trial calendar has been settled, all attorneys of record shall notify the Trial Court Coordinator for the Senior Resident Superior Court Judge **within 24 hours** of the settlement and advise as to who will be responsible for the preparation of the judgment or other necessary closing documents. This judgment must be prepared and filed within 30 days of the date of settlement or the case will be considered for trial and placed on a future trial calendar by the Trial Court Coordinator.

### **LOCAL RULE 1.9 – PRETRIAL CONFERENCES AND ORDERS IN CIVIL CASES**

There may be a pretrial conference in every civil case at which time a pretrial order will be submitted to the presiding judge. Upon its own motion or upon the request of any party, the court may dispense with or limit the scope of the pretrial conference.

### **LOCAL RULE 1.10 - PRESENCE OF ATTORNEYS AT CIVIL CALENDAR CALL**

Attorneys must, consistent with ethical requirements, appear or have a partner, associate or another attorney familiar with the case appear for him/her at the call of the calendar at 10:00 A.M. (9:30 A.M. for administrative court), on the first day of the session and thereafter, as directed by the presiding judge. Unless an attorney has been excused in advance by the presiding judge or his/her designee and has given prior notice to his/her opponent, a case will not be continued due to the attorney's absence.

### **LOCAL RULE 1.11 – SECURED LEAVE PERIODS FOR ATTORNEYS**

Attorneys must comply with Rule 26 of the General Rules of Practice for the Superior and District Courts governing secured leave.

### **LOCAL RULE 1.12 - NON-JURY TRIAL CASES**

Non-jury trial cases shall be calendared in chronological order following the motion/add-on motion calendar but are subject to trial at any time during the session in the discretion of the presiding judge. Non-jury trial cases shall be calendared for Non-Jury Administrative Civil Superior terms of court unless otherwise ordered by the Senior Resident Superior Court Judge.

Any non-jury case on the trial calendar not reached for trial, during a term of court, will be rescheduled for a future term of court by the Trial Court Coordinator. It shall be the responsibility of the attorneys and unrepresented parties to monitor their new trial date. A published court calendar will be the only notification of the trial date.

### **LOCAL RULE 1.13 - JURY TRIAL CASES**

The jury will report at 1:30 P.M. on the first day of each jury session and jury trials will begin at 2:00 P.M. on that day **unless otherwise ordered by the presiding judge or the Senior Resident Superior Court Judge.**

Any jury case on the trial calendar not reached for trial, during a term of court, will be rescheduled for a future term of court by the Trial Court Coordinator. It shall be the responsibility of the attorneys and unrepresented parties to monitor their new trial date. A published court calendar will be the only notification of the trial date.

### **LOCAL RULE 1.14 – NON-JURY ADMINISTRATIVE COURT**

Non-Jury Administrative Civil Superior Court will be for the disposition of motions and non-jury trials. Court shall open at 9:30 A.M. on the **third working day** of a scheduled administrative term of Superior Court. Moore County Non-Jury Administrative Civil Superior Court is generally scheduled for every workweek that includes a State holiday. The State holiday schedule can be viewed at [WWW.NCCOURTS.ORG](http://WWW.NCCOURTS.ORG).

### **LOCAL RULE 1.15 – DISCOVERY SCHEDULING ORDERS**

All proposed Orders for Discovery Scheduling in medical malpractice cases shall be submitted to the office of the Senior Resident Superior Court Judge for approval.

A copy of this Case Management Plan for Judicial District 19-D Moore County shall remain available at all times within the office of the Moore County Clerk of Superior Court.

A copy of this Case Management Plan for Judicial District 19-D Moore County shall be presented to each presiding judge in the Civil Superior Court of Judicial District 19-D Moore County by the Trial Court Coordinator or her designee.

These rules effective the 1<sup>st</sup> day of January , 2007.

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James M. Webb  
Senior Resident Superior Court Judge  
19-D Judicial District  
PO Drawer 1957  
Carthage, North Carolina 28327-1957  
Telephone: (910) 947-3009  
Facsimile: (910) 947-3015

**MOORE COUNTY SUPERIOR CIVIL COURT MOTION CALENDAR  
REQUEST FORM**

FILE # \_\_\_\_\_ JURY OR NON-JURY

TYPE OF MOTION:

\_\_\_\_\_ TERM  
PLAINTIFF(S), BEGINNING: \_\_\_\_\_, 200 .

VS.

ESTIMATED TIME:

\_\_\_\_\_      DAYS      HRS.      MIN.  
DEFENDANT(S).

***ATTORNEY Certification of Readiness: REQUEST TO CALENDAR MOTION:***  
***I hereby certify that I am prepared to ATTEND the SESSION for the above-calendared  
MOTION and that I have served those listed below with a copy of this request.***  
***This \_\_\_\_ day of \_\_\_\_\_, 200 .***  
\_\_\_\_\_  
Attorney for (Plaintiff/Defendant/Third-Party Plaintiff/Third-Party Defendant/Unnamed Defendant) **YOU MUST CIRCLE ONE!**

**ORIGINAL TO THE MOORE COUNTY CLERK OF COURT**

**COPY TO:** (Must show service on pro-se parties/opposing counsel!)

1. Gloria Overcash, Trial Court Coordinator. ***Fax to Ms. Overcash: @ (910) 947-3015  
and/or mail: PO Drawer 1957, Carthage, NC 28327-1957***

2. \_\_\_\_\_ Attorney for \_\_\_\_\_

3. \_\_\_\_\_ Attorney for \_\_\_\_\_

Pro Se: \_\_\_\_\_ (name/address)