



Legal and Legislative
Services Division

Peter E. Powell
Legal and Legislative Administrator

PO Box 2448, Raleigh, NC 27602
T 919 890-1300 F 919 890-1914

MEMORANDUM

DATE: June 28, 2011
TO: Clerks of Superior Court
FROM: Amy L. Funderburk, Associate Counsel
RE: Revisions to Cover Sheet Requirements

Background

In 1996, The Supreme Court of North Carolina, pursuant to the authority established in G.S. 7A-34, adopted an amendment to Rule 5 of the General Rules of Practice. The amended rule required the filing of cover sheets. In 2001, the General Assembly enacted G.S. 7A-34.1, allowing parties to provide specific information on the face of filings instead of filing a coversheet. Effective July 1, 2011, G.S. 7A-34.1 is repealed. After this date, the majority of filings coming to your office must include a coversheet, regardless of whether or not the filing includes the applicable VCAP codes in its caption.

There are limited exceptions to the cover sheet requirement; the limited exceptions are listed in the attached document and include small claims actions, voluntary support agreements, simple orders of paternity and pro se domestic violence filings using AOC forms. If there is not an exception listed in the attached directions, a cover sheet is required.

Procedures effective July 1, 2011

Effective July 1, 2011, Rule 5 of the General Rules of Practice for the Superior and District Courts is applicable and controlling as to coversheets. Rule 5(b) states:

All papers filed in civil actions, special proceedings and estates shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts. The Clerk of Superior Court shall not reject the filing of any paper that does not include the required cover sheet. Instead, the clerk shall file the paper, notify the filing party of the omission and grant the filing party a reasonable time not to exceed five (5) days within which to file the required cover sheet. Until such time as the party files the required cover sheet, the court shall take no further action other than dismissal in the case.

For each filing made in your office, including orders, the filer must provide a completed coversheet. For the use of litigants, the AOC has provided the following coversheets:

1. General Civil Action Cover Sheet

2. Domestic Civil Action Cover Sheet
3. Motion Cover Sheet
4. Court Action Cover Sheet
5. Estates Action Cover Sheet
6. Special Proceedings Action Cover Sheet

A description of the cover sheets, written when VCAP was implemented and cover sheets were first required, is attached for your use.

What should a Clerk do if they are given a filing without a cover sheet?

Clerks, as record keepers, should not refuse or reject a filing due to the failure of the filing party to provide a cover sheet. You should file the paper, notify the filing party of the coversheet requirement and grant the filing party up to five days to provide your office with a coversheet for filing. Until the filing party files the coversheet, no action other than dismissal can be taken on the filing. For example, if the filing party fails to provide a cover sheet where one is required, their filing may not be calendared for hearing until they do so.

Benefits and Uses of Cover Sheets

Cover sheets will provide clarity to Clerks when determining what issues are to be entered into VCAP and exactly what issues are to be closed out in VCAP. Once the cover sheet is completed by an attorney or party, your staff can rely on the cover sheet, rather than the content of the pleading or order itself, when entering information.

Your staff should now be able to enter case data without having to take the time to decipher every document filed in your office. This should result in complete, accurate, and timely case information being entered into VCAP, more timely closing of issues, and result in better tracking of data.

The cover sheets have been modified to address the new motions fee. We added the most common motions to the motions cover sheet, and also the domestic and general civil actions cover sheets. This gives the filer various ways to notify your office that a motion is being filed and allows your office to properly charge the appropriate fee. If the motion is listed on the domestic or general civil actions cover sheet, the filer does not have to include a motions cover sheet. Or, if the filer lists the motion on the motions cover sheet the filer does not have to list the motion on the domestic or general civil actions cover sheet.

If you have any questions or need further information please contact me by calling 919-890-1302 or by email at amy.l.funderburk@aoc.nccourts.org.

**ADMINISTRATIVE OFFICE OF THE COURTS
CIVIL CASE PROCESSING SYSTEM
COVER SHEET INSTRUCTIONS**

September 1996

GENERAL NOTE: You need not provide a party's social security number or an attorney's tax identification number when completing the cover sheets. However, at the conclusion of a case, you must provide the clerk's office with the social security number or tax identification number of any party or attorney that desires to receive a check through the court system.

I. GENERAL CIVIL ACTION COVER SHEET

General Notes:

- use for civil actions other than domestic, estates and special proceedings
- use to initiate a lawsuit (e.g., complaint) and to file initial responses (e.g., answer, Rule 12 motion in lieu of answer); accordingly, check the appropriate box at the top right of the form to indicate whether the pleading is an initial filing or a subsequent response
- the General Civil Action Cover sheet is not required for small claims filings

Top Portion of Form:

- provide plaintiffs' names and defendants' names
- provide the name, bar number and other requested information for the attorney who is filing the pleading; a pro se party should provide his or her address and telephone number
- for each defendant listed, check the appropriate box to indicate whether you are submitting a summons for that defendant
- if you need additional room to list plaintiffs, defendants or third-party defendants, use the back side of the form
- please indicate on the back side of the form the plaintiffs against whom you are asserting a counterclaim or the defendants against whom you are asserting a cross claim

Middle Portion of Form:

- check the appropriate box(es)

Bottom Portion of Form:

- in the section to the left, check the appropriate box(es) to indicate the type(s) of pleading(s) you are filing; if your pleading type is not listed, check the "Other" box and provide a brief, written explanation of the pleading you are filing
 - in the section to the right, check the appropriate box(es) to indicate the claim(s) for relief asserted in the pleading(s) you are filing; if your claim is not listed, check the "Other" box and provide a brief, written explanation of the claim you are asserting (note: you need not include on the cover sheet routine claims for costs and attorney fees)
 - please sign the cover sheet, date it, and attach it as the first page of the pleading you are filing
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II. DOMESTIC CIVIL ACTION COVER SHEET

General Notes:

- use for domestic actions
- use to initiate a lawsuit (e.g., complaint) and to file initial responses (e.g., answer, Rule 12 motion in lieu of answer); accordingly, check the appropriate box at the top right of the form to indicate whether the pleading is an initial filing or a subsequent response
- the Domestic Civil Action Cover Sheet is not required for voluntary support agreements, simple orders of paternity and pro se domestic violence filings using form AOC-CV-303

Top Portion of Form:

- provide plaintiffs' names and defendants' names
- provide the name, bar number and other requested information for the attorney who is filing the pleading; a pro se party should provide his or her address and telephone number
- for each defendant listed, check the appropriate box to indicate whether you are submitting a summons for that defendant
- if you need additional room to list plaintiffs or defendants, use the back side of the form
- please indicate on the back side of the form the plaintiffs against whom you are asserting a counterclaim

Middle Portion of Form:

- check the appropriate box

Bottom Portion of Form:

- in the section to the left, check the appropriate box(es) to indicate the type(s) of pleading(s) you are filing; if your pleading type is not listed, check the "Other" box and provide a brief, written explanation of the pleading you are filing
- in the section to the right, check the appropriate box(es) to indicate the claim(s) for relief asserted in the pleading(s) you are filing; if your claim is not listed, check the "Other" box and provide a brief, written explanation of the claim you are asserting (note: you need not include on the cover sheet routine claims for costs and attorney fees)
- please sign the cover sheet, date it, and attach it as the first page of the pleading you are filing

III. MOTION COVER SHEET

General Notes:

- use for written motions (note: if you are filing a Rule 12 motion in lieu of an answer, use the General Civil Action Cover Sheet or Domestic Civil Action Cover Sheet)

Top Portion of Form:

- provide the name of the first party on each side of the case
- provide the name, bar number and other requested information for the attorney who is filing the motion; a pro se party should provide his or her address and telephone number

Bottom Portion of Form:

- in the far left column, provide the four-character code that corresponds to the type of motion you are asserting; the motion types and corresponding codes are listed alphabetically on the back side of the form (note: if you are asserting a motion that is not listed on the back side of the form, use the code "OTHR" and provide a brief, written explanation of the motion in the far left column)
- in the middle column, provide the name(s) of the party(ies) by whom the motion is being asserted; if, for example, all of the defendants are asserting the motion, check the "All" box and write or type "defendants" beside the word "All"

- in the far right column, provide the name(s) of the party(ies) against whom the motion is being asserted; if, for example, you are asserting the motion against all of the plaintiffs, check the “All” box and write or type “plaintiffs” beside the word “All”
- please sign the cover sheet, date it, and attach it as the first page of the motion

IV. COURT ACTION COVER SHEET

General Notes:

- use when filing a formal order after the court has taken some action on a claim for relief or motion
- also use if you are filing a voluntary dismissal

Top Portion of Form:

- provide the name of the first party on each side of the case
- if the court’s action completed the litigation, check the “Yes” box; if all or part of the action remains pending, check the “No” box

Bottom Portion of Form:

- in the far left column, provide the four-character code that corresponds to the type of motion or claim for relief on which the court took action; the types of motions and claims for relief and their corresponding codes are listed alphabetically on the back side of the form (note: if the motion or claim for relief on which the court took action is not listed on the back side of the form, use the code “OTHR” and provide a brief, written explanation of the motion or claim for relief in the far left column)
- in the column second from the left, provide the date on which the motion was filed or the date on which the pleading containing the claim for relief was filed
- in the “By” column, provide the name(s) of the party(ies) by whom the motion or claim for relief was asserted; if, for example, all of the defendants asserted the motion or claim for relief, check the “All” box and write or type “defendants” beside the word “All”
- in the “Against” column, provide the name(s) of the party(ies) against whom the motion or claim for relief was asserted; if, for example, the motion or claim for relief was asserted against all of the plaintiffs, check the “All” box and write or type “plaintiffs” beside the word “All”
- in the “Action” column, provide the two-character code that corresponds to the action taken on the motion or claim for relief; the action types and their corresponding codes are listed on the back side of the form in the bottom left hand corner
- in the far right column, provide the date on which the order is filed with the clerk of court
- please sign the cover sheet, date it, and attach it as the first page of the order

V. ESTATES ACTION COVER SHEET

General Notes:

- use for estates filings
- the Estates Action Cover Sheet is not required for “open and shut” matters (e.g., a surviving spouse’s year’s allowance, for which an AOC form already exists)

Top Portion of Form:

- provide the name of the decedent, minor or incompetent whose estate is at issue
- provide the minor’s date of birth or the decedent’s date of death
- provide the name(s) of the fiduciary(ies)
- provide the names of the potential beneficiaries; if you need additional room to list potential beneficiaries, use the back side of the form
- provide the name, bar number and other requested information for the attorney who is filing the document; a pro se party should provide his or her address and telephone number

Bottom Portion of Form:

- check the appropriate box(es) to indicate the type(s) of document(s) you are filing; if your document type is not listed, check the "Other" box and provide a brief, written explanation of the document you are filing
 - please sign the cover sheet, date it, and attach it as the first page of the document you are filing
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VI. SPECIAL PROCEEDINGS ACTION COVER SHEET

General Notes:

- use for special proceedings filings

Top Portion of Form:

- provide petitioners' names and respondents' names
- provide the name, bar number and other requested information for the attorney who is filing the pleading; a pro se party should provide his or her address and telephone number
- for each respondent listed, check the appropriate box to indicate whether you are submitting a summons for that respondent
- if you need additional room to list petitioners or respondents, use the back side of the form

Bottom Portion of Form:

- check the appropriate box(es) to indicate the type(s) of pleading(s) you are filing; if your pleading type is not listed, check the "Other" box and provide a brief, written explanation of the pleading you are filing
 - please sign the cover sheet, date it, and attach it as the first page of the pleading you are filing
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