



**JUDICIAL DISTRICT 19B
RANDOLPH COUNTY**

**RULES OF CIVIL DISTRICT COURT
(19B R. CIV. D. C.)**

EFFECTIVE JANUARY 1, 2023

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RULE 1 – GENERAL

- 1.1 Purpose. In accordance with and subject to the provisions of N.C. Gen. Stat. § 7A-146 and Rule 2 of the General Rules of Practice for the Superior and District Courts, these administrative and procedural rules shall constitute the Case Management Plan for the calendaring and hearing of civil cases in the District (non-Family) Court of the 19B Judicial District of the State of North Carolina. These Rules complement and are in addition to and not in lieu of the North Carolina Rules of Civil Procedure, the North Carolina Rules of Evidence, and the General Rules of Practice for the Superior and District Courts.
- 1.2 Application. These Rules shall be construed to avoid technical or unnecessary delay and to promote the ends of justice.
- 1.3 Compliance. Self-represented parties (*pro se* parties) and attorneys shall comply with these Rules. Failure to comply substantially with these Rules subject the delinquent party or attorney to sanctions as set forth hereinbelow.
- 1.4 Citation. These Rules and all amendments shall be filed with the Clerk of Superior Court in Judicial District 19B and the Administrative Office of the Courts. These Rules may be cited accordingly as Judicial District 19B Rules of Civil District Court (19B R. Civ. D. C.).
- 1.5 Availability. The District Court Judges Staff shall make available a current copy of these Rules and associated forms to each member of the Bar of Judicial District 19B and other attorneys and the public upon request.
- 1.6 Forms. Except where specifically required herein, self-represented parties and attorneys may use either the forms provided or a form of their own which substantially complies with the specified form.
- 1.7 Ex Parte Communications. Parties and attorneys shall not communicate *ex parte* with a Judge except:
 - a. in the course of official proceedings;
 - b. in writing, if a copy of the writing is furnished simultaneously to the other party;
 - c. orally, upon adequate notice to opposing party; or
 - d. as otherwise permitted by law.

Before any *ex parte* communication concerning a case between a party or an attorney and a Judge, the party or attorney first shall inform the Judge of any other party or attorney who may be involved in the case, or in a case in another court which may have overlying issues.
- 1.8 Notice of Appearance. An attorney shall file a Notice of Appearance with the Clerk of Superior Court immediately after agreeing to represent a party in a District Court matter and shall serve a copy upon all opposing self-represented parties and counsel of record. An attorney who files a lawsuit for a Plaintiff or who timely files an Answer or other responsive pleading for a Defendant need not file a separate Notice of

Appearance. If the case is on a published calendar, the attorney immediately shall notify the District Court Court Manager who shall ensure the calendar is updated to reflect the counsel of record. If a party adds or changes attorneys, new counsel shall comply as hereinabove set forth.

- 1.9 Change of Contact Information. All parties and attorneys shall keep the Randolph County Clerk of Superior Court informed of any changes in his/her contact information, including current mailing address, during the pendency of any matter involving the party or attorney.
- 1.10 Notice of Other Actions. Self-represented parties and attorneys shall notify the Court of any other action that may affect a pending case including bankruptcy and other civil or criminal matters in this or other districts.

RULE 2 – CASE TRACKING

- 2.1 Case Tracking System. The Chief District Court Judge shall establish and maintain a case tracking system pursuant to Rule 2(c) of the General Rules of Practice for the Superior and District Courts. The District Court Court Manager (CM), under the supervision of the Chief District Court Judge, shall maintain the case tracking system.
- 2.2 Initial Calendaring. Upon the filing of a new case in Civil District (non-Family) Court, the CM shall ensure the case is calendared hearing on the first Civil District Court session occurring 180 days after the date of filing. The purpose of this Rule is to ensure the timely administration of justice by having all cases filed in Civil District (non-Family) Court heard and heard timely. This Rule shall not prevent a party or attorney from calendaring the matter for hearing prior to the initial calendaring date.
- 2.3 Sessions of Civil District Court. When practicable, two sessions of Civil District Court shall be scheduled each month. The schedules for District Court civil sessions shall be posted in the District Court Judges Office. The schedules also shall be posted on the NC Courts website.
- 2.4 Managing Cases. The CM shall monitor the pending Civil District Court docket and manage the cases so all issues can be resolved expeditiously. Attorneys shall cooperate in assisting the CM in identifying the issues to be heard in cases in which they are involved.
- 2.5 Attorneys to Subscribe Attorneys with cases in this judicial district shall subscribe to receive Civil District calendars directly via electronic mail. All attorneys are deemed to have notice of every calendar published on the website.

RULE 3 – GENERAL CALENDARING

- 3.1 Notice. The moving party or attorney shall give notice to the opposing party or attorney of the date, time, and place of hearing events. The moving party shall file all notices with the Clerk's Office. If a court time is changed, a revised Notice of Hearing shall be served and filed by the party requesting the change. Copies of all Calendar

Requests shall be provided to the CM. Attorneys and parties are encouraged to use the Local Form provided.

- 3.2 Notice Not Required on Parties in Default. Pursuant to N.C. Gen. Stat. § 1A-1, Rule 5, no service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief shall be served in the manner provided for service of summons in Rule 4.
- 3.3 Noticing and Calendaring Motions for Hearing. All Motions shall include a Notice of Hearing and Calendar Request setting the matter to be heard. Failure to calendar a Motion subjects the Motion to being dismissed for failure to prosecute. Failure to file and serve a Notice of Hearing and Calendar Request with a Motion subjects the Motion to being dismissed for failure to comply with these Rules. Copies of all Calendar Requests shall be provided to the CM. Parties and attorneys are encouraged to use the Local Form provided.
- 3.4 Service by Publication. Unless otherwise required by statute, a Motion and Order to Publish shall not be required pursuant to N.C. Gen. Stat. § 1A-1, Rule 4(j1); however, an affidavit shall be filed showing the publication and mailing in accordance with the requirements of N.C. Gen. Stat. § 1-75.10(a)(2), the circumstances warranting the use of service by publication, and information, if any, regarding the location of the party served.
- 3.5 Peremptory Hearings. Requests for a peremptory setting shall be submitted in writing to the CM as a Motion for Peremptory Setting with a copy sent to the opposing party or attorney. The Chief District Court Judge shall review and approve or deny the request for a peremptory setting. Parties and attorneys are encouraged to use the Local Form provided.
- 3.6 Continuances. A request for a continuance shall be submitted as a Motion to Continue directly to the CM with service upon the opposing party. Attorneys and parties are encouraged to use the Local Form provided. Any District Court Judge may review the Motion to Continue out of session or may schedule a hearing thereon. The Judge may review and grant or deny the continuance. No party or attorney is excused from Court until a Judge has signed a Continuance Order. If the Judge grants the continuance, the CM shall notify the parties, ensure the matter is calendared for a new date, file the Order, and send copies to all parties with the new date noted.

Oral requests to continue are allowed if they are made on the record in open Court as soon as practicable after the need for a continuance is known.

- 3.7 Continuances by Stipulation. If the parties agree a continuance should be granted, the parties shall file a Stipulation of Continuance and submit it and a draft Order directly to the CM. Any District Court Judge may review the Stipulation of Continuance out of session or may schedule a hearing thereon. The Judge may review and grant or deny the continuance. No party or attorney is excused from Court until a Judge has signed a Continuance Order. If the Judge grants the continuance, the CM shall notify the parties, ensure the matter is calendared for a new date, file the Order, and send copies to all parties with the new date noted.

- 3.8 Good Cause. A continuance may be granted for good cause. Extensions approved by the Clerk are not automatically considered good cause for a continuance.
- 3.9 Continuances to a Date Certain. All continuances shall be to a date certain, and no matters shall be continued “off calendar” or with “no date set.” The CM shall assist parties and attorneys in providing future available Court dates.
- 3.10 Dispositive Motions. Dispositive motions shall be calendared for a session of Court occurring prior to the hearing on the merits of the case. Dispositive motions shall not be calendared by attorneys for hearing on the same date as the hearing on the merits of the case. If a dispositive motion is calendared for hearing on the same date as the hearing on the merits, the motion shall be deemed waived, and a trial shall proceed on the merits.
- 3.11 Withdrawal of Motions. If a movant wants to withdraw a filed and calendared Motion prior to hearing, the movant shall file a Withdrawal of Motion and the matter shall be removed from the motions calendar.
- 3.12 Consolidated Cases. When cases have been consolidated for trial, they shall be regarded as one case for calendaring purposes and shall appear under the oldest case number. A copy of the Order consolidating the cases for trial shall be filed in all applicable court files, and all pleadings or documents filed thereafter shall be captioned with the oldest file number only.
- 3.13 Required Court Appearances. All self-represented parties and attorneys shall be present and ready to proceed when a case is called for hearing or trial. Self-represented parties and attorneys promptly shall notify the Court of any known conflicts with a scheduled court event. If the attorneys or parties are not present and ready to proceed and have failed to notify the court of any emergency or conflict which would preclude the attorney or party from being present, the Court may impose sanctions for failure to comply with these Rules, including dismissing the case for failure to appear and prosecute the matter.
- 3.14 Settlement of Contested Issues. If the parties reach a resolution of the relevant issues prior to the time of hearing, the parties and attorneys may, as follows:
- a. Appear as scheduled and read the terms of the agreement into the record. The presiding District Court Judge shall direct an appropriate Order be prepared, signed, and filed;
 - b. Appear as scheduled and enter into a Memorandum of Judgment/Order in open Court signed by the parties, their attorneys, and the presiding Judge. The presiding District Court Judge shall direct an appropriate final Order be prepared, signed, and filed; or
 - c. Submit an appropriate Order signed by the parties, with appropriate notary acknowledgements, and signed by the attorneys, to any District Court Judge and filed prior to the time of court.
- 3.15 Inactive Cases. If a case is made inactive, a party may file a Motion to Reinstate to schedule a hearing to determine whether the case should be reopened. If the case is reopened, the presiding Judge shall set the next Court event on a date certain.

- 3.16 Remanded Cases. When a case is remanded by the Appellate Division, Appellant or Appellant's counsel promptly shall notify the CM. The CM shall ensure the case is calendared for a pre-trial conference during the immediate next session of Civil District Court. At said pre-trial conference hearing, the parties or their attorneys shall notify the Court of any matters which need to be calendared for hearing prior to a final hearing on the merits. Such matters shall be set for a date certain for hearing and a trial date for a hearing on the merits of the case shall be set.

RULE 4 – CASES APPEALED FROM SMALL CLAIMS COURT

- 4.1 Calendaring. Cases appealed from Small Claims Court shall be calendared for trial during the next practicable session of Civil District Court.
- 4.2 Failure of Appellant to Appear. If the party appealing the judgment of the Magistrate in Small Claims Court fails to appear, the appeal shall be dismissed, and the judgment of the magistrate shall be affirmed pursuant to N. C. Gen. Stat. § 7A-228(c).
- 4.3 Mandatory Continuances for Certain Filings. Pursuant to N. C. Gen. Stat. § 42-34(a), if the case has not been continued previously in District Court, the Court shall continue the case for an appropriate period of time if any party (i) initiates discovery, (ii) files a motion to allow further pleadings pursuant to N. C. Gen. Stat. §§ 7A-220 or -229, or (iii) files a Motion for Summary Judgment pursuant to Rule 56 of the Rules of Civil Procedure. In the case of a Motion pursuant to Rule 56, the Court shall continue the case to ensure the opposing party has had ten (10) days' notice prior to the hearing on the Motion.

RULE 5 – JURY TRIALS

- 5.1 Requests for Jury Trials. Requests for a jury trial shall be made in accordance with N.C. Gen. Stat. § 1A-1, Rule 38. Failure to so request a jury trial shall constitute a waiver. A request for a jury trial shall be filed not later than thirty (30) days prior to the next jury session. A request for a jury trial filed less than thirty (30) days prior to the jury session shall be calendared for the subsequent jury session.
- 5.2 Withdrawal of Demand. A demand for trial by jury may not be withdrawn without the consent of the parties who have pleaded or otherwise appear in the action pursuant to N.C. Gen. Stat. § 1A-1, Rules 38 and 39.
- 5.3 Jury Trial Sessions. The Chief District Court Judge shall schedule a week-long jury session of Civil District Court not less than approximately every six (6) months, consisting of a spring jury session and a fall jury session.
- 5.4 Calendar Call for Jury Trial Session. A calendar call for each jury session shall occur at 2:00 p.m. during the non-jury Civil District Court session immediately preceding the jury session.
- 5.5 Pre-Trial Conference and Orders. At least twenty-one days prior to the calendar call date, the Plaintiff's attorney shall arrange a pre-trial conference with the Defendant's attorney. At such conference a Pre-Trial Order shall be prepared and signed by the

attorneys. If, after due diligence, Plaintiff's attorney cannot arrange a conference with Defendant's attorney, he may apply to the presiding Judge who shall make an appropriate Order. The Defendant's attorney may initiate a pre-trial conference under the same rules applicable to the Plaintiff's attorney. Self-represented parties shall initiate a pre-trial conference under the same rules applicable to attorneys. The Pre-Trial Order shall be in a form which substantially complies with that in the General Rules of Practice for the Superior and District Courts. A party or attorney who has not requested a pre-trial conference may not move for a continuance on the ground it has not been held.

- 5.6 Pre-Trial Orders and Proposed Jury Instructions. Self-represented parties and attorneys shall present their final Pre-Trial Order and proposed Jury Instructions at the jury session calendar call. Failure to present a Pre-Trial Order and proposed Jury Instructions constitutes a material violation of these Rules, the sanction for which is the waiver of the demand for a jury trial and the scheduling of the matter at the next session of non-jury Civil District Court.
- 5.7 Jury Trial Continuances. No continuance shall be granted except upon application to the court. A continuance may be granted only for good cause shown and upon such terms and conditions as justice may require, pursuant to N.C. Gen. Stat. § 1A-1, Rule 40.

RULE 6 –ORDERS AND JUDGMENTS

- 6.1 Timely Orders and Judgments. All proposed Orders or Judgments shall be submitted to the court within 30 days of the ruling by the Judge. The party preparing the proposed Judgment or Order shall provide a copy of the proposed document to the opposing party three days (six if by mail) prior to submitting the document to the Judge. The CM shall ensure the case is calendared for the next Civil District Court Session after 30 days for any case with an Order due.
- 6.2 Self-Represented Plaintiff in Absolute Divorce. A Self-represented Plaintiff in an action for Absolute Divorce shall provide the presiding Judge with at least one fully completed Judgment or Order for Absolute Divorce ready for the Judge to sign. The Plaintiff may use a form provided in the "North Carolina Divorce Packet," a local form, or a form of the Plaintiff's own creation which substantially complies with the requirements of a Judgment or Order for Absolute Divorce.
- 6.3 Delinquent Orders and Judgments. Parties delinquent in submitting proposed Orders and Judgments shall be identified to the Chief District Court Judge or the presiding District Court Judge and sanctions or penalties may be imposed as deemed appropriate and as allowed by law.
- 6.4 Rulings. In any case where a Judge reserves ruling, the Judge shall render a ruling within thirty (30) days from the date of the hearing or trial. The ruling shall be communicated to the parties and/or attorneys in writing with instructions on who is to draft the final Order or Judgment.
- 6.5 Mootness. When a Judgment or Order is entered which renders moot issues not

addressed in the Order, the Clerk shall close the moot issues administratively. Orders or Judgments resolving all pending issues shall close any request for “such other and further relief” or similar requests for unspecified additional relief.

RULE 7 – SANCTIONS

- 7.1 Failure to Comply. Failure to comply with North Carolina Rules of Civil Procedure, the General Rules of Practice for the Superior and District Courts, or these Rules may subject the parties and/or their attorneys to such sanctions as allowed by law and deemed appropriate by the presiding Judge. The sanctions may include, but are not limited to:
- a. dismissal by the Court of all or any part of any claim for relief or pleading;
 - b. disallowance of evidence and/or testimony;
 - c. payment of a fine;
 - d. payment of the reasonable cost incurred by a party due to the other party’s non-compliance with these Rules;
 - e. payment of the opposing party’s reasonable attorney’s fees;
 - f. any other sanction specified in N.C. Gen. Stat. § 1A-1, Rule 37; or
 - g. any other sanction allowed by law.