

**26TH JUDICIAL DISTRICT  
DISTRICT COURT DIVISION  
GENERAL CIVIL RULES**

*(Revised November 13, 2015; Effective January 1, 2016)*

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## **RULE 1: GENERAL RULES - ADMINISTRATION AND SCOPE OF THE RULES**

**1.1 Purpose and Authority:** The purpose of these rules is to institute a case management plan that will provide for the orderly, prompt, and just disposition of civil matters. They are promulgated pursuant to N.C.G.S. §1A-1, Rule 40, Rule 2, of the General Rules of Practice for the Superior and District Courts.

**1.2 Effective Date:** These rules supersede all previous civil calendar rules for the 26th Judicial District, District Court (General Civil) Division, and go into effect January 1, 2016.

**1.3 Publication:** The rules and all amendments hereafter shall be filed with the Clerk of Superior Court for Mecklenburg County, published in the Mecklenburg Bar Handbook, [www.meckbar.org](http://www.meckbar.org), and published on the State website, [www.nccourts.org](http://www.nccourts.org).

**1.4 Scope of Rules:** These rules are not complete in every detail and will not cover every situation that may arise.

(a) **Administrative Order:** Any Administrative Orders, as amended from time to time, entered by the Chief District Court judge shall take precedence over these rules.

(b) **Discretion of Trial Court Administrator's Office:** In the event that these rules do not cover a specific matter, the Trial Court Administrator or designee is authorized to act in his or her discretion, in consultation with the Chief District Court Judge or presiding judge.

**1.5 Calendaring Authority:** The calendar for the disposition of civil cases in the 26th Judicial District, District Court Division, shall be set and maintained by the Casflow Management Division of the Trial Court Administrator in accordance with these rules and under the supervision of the Chief District Court Judge. The contact information for the staff of the Casflow Management Division is available on the state website at:

<http://www.nccourts.org/County/Mecklenburg/Civil/Default.asp>

**1.6 Information Included on Pleadings:** All pleadings filed with the Court by an attorney shall indicate the name, Bar number, firm, address, telephone number, facsimile number, and email address of the signer. All pleadings filed by self-represented parties shall indicate the name, address, telephone number and email address of the signer.

## **RULE 2: READY CASES**

**2.1 Case Tracking System:** The Trial Court Administrator shall establish and maintain a case tracking system pursuant to Rule 2(c), General Rules of Practice for Superior and District Courts, and in accordance with these rules. This system shall be used to monitor the number, age, type, and procedural status of all pending cases and to provide for the calendaring of the same.

**2.2 Non-Service Cases:** In cases where service has not been perfected within ninety days, no alias or pluries summons has been issued, and VCAP has not automatically closed the case, the Caseflow Management District Civil Case Coordinator shall calendar the action on the weekly Clean-up Calendar before the Court for entry of an Order of Discontinuance or Dismissal at any time after the expiration of the ninety days.

**2.3 Cases Without an Answer:** In cases for which answer has not been filed within the specified time period and for which no extension of time has been issued, the Caseflow Management District Civil Case Coordinator shall calendar the action on the weekly Clean-up Calendar for a Default/Inquiry or case review hearing before the Court.

**2.4 Arbitration Cases:** As provided for in G.S. 7A-37.1, the 26th Judicial District has been designated as a site for statewide court-ordered non-binding arbitration. In accordance with the Rules for Court-Ordered Arbitration, all general civil actions will be reviewed to determine eligibility for the program. Cases identified as arbitration-eligible will proceed pursuant to Rule 3. Cases determined to be ineligible for arbitration will proceed pursuant to Rule 4.

**2.5 Readiness of Case to Set for Trial:** The Caseflow Management District Civil Case Coordinator shall place those cases determined to be ready for trial on trial calendars pursuant to Local Rule 4. A case shall be considered ready to set for trial when the Caseflow Management Division of the Trial Court Administrator's Office determines one or more of the following:

- (a) Service has been perfected as to all parties, and the time periods for filing answers and replies to counterclaims have expired with respect to all parties.
- (b) The case is entitled to priority in hearing by statute.
- (c) The case has been remanded for trial by the Appellate Division
- (d) The case has been transferred by the Clerk of Superior Court and meets the requirements of subsections (e) and (f) below
- (e) All discovery motions that have been timely filed and noticed for hearing have been resolved
- (f) All motions that have been timely filed regarding the adding or deleting of parties and claims as well as dispositive motions that have been timely filed have been resolved
- (g) A case is ready to set according to Rule 3.3

- (h) Actions where the sole issue is collection on account will be set for bench trial, unless specifically marked as a demand for jury trial, for a time certain not less than 120 days from the filing of the answer.
- (i) All cases excluded from the arbitration process set in accordance with Rule 2.1 will be set for trial.

**2.6 Publication of Trial Calendars:** The Caseflow Management District Civil Case Coordinator shall publish trial calendars for each term of Court for which cases are scheduled. Trial calendars shall be published approximately one month in advance of the first day of each scheduled session. The published calendars are available at:

<http://www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=MECKLENBURG>

Justice Initiatives, Inc. offers an online calendaring system to keep parties/counsel informed about calendars and status of cases appearing on calendars. Parties/attorneys may keep their cases updated with accurate information pertaining to the case including settlement, length of trial, and all other relevant information. The online interactive calendars will be available at:

<http://justiceinitiatives.org/courtcal/users/login>

**2.7 Publication of Updated Calendar:** Not later than 2:00 PM on the last business day preceding the session at which cases are calendared for hearing, the Caseflow Management District Civil Case Coordinator shall make available on the Court's website a calendar with the current status of all cases appearing on the final calendar. The website address is:

<http://www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=MECKLENBURG>

**2.8 Publication of Judge Assignments:** Judge assignments for the next week's session will be made available on the afternoon of the last business day prior to the start of the session. The assignments are available by calling the Judicial Information Line at 704-686-0365 or by visiting the Court's website at

<http://www.nccourts.org/County/Mecklenburg/Calendars.asp>

## **RULE 3: COURT ORDERED NON-BINDING ARBITRATION**

**3.1 Court Ordered Non-Binding Arbitration:** As provided in G.S. 7A-37.1, the 26<sup>th</sup> Judicial District has been designated as a site for statewide court-ordered non-binding arbitration. In accordance with the Rules for Court Ordered Arbitration, all general civil actions will be reviewed to determine eligibility for the program. Cases identified as arbitration-eligible will proceed pursuant to Rule 3. Cases determined to be ineligible for arbitration will proceed pursuant to Rule 2.

**3.2 Rules for Court Ordered Non-Binding Arbitration:** The 26th Judicial District, District Court Division, has adopted Rules for Non-binding Court Ordered Arbitration. The requirements of the Arbitration Rules run concurrently with these Civil Rules and are an integral part of the case-management plan for the District. Counsel shall be familiar with the Arbitration Rules and shall follow all requirements set forth therein. All forms, motions and orders or other issues or matters involving non-binding court ordered arbitration shall be directed to the attention of the ADR Coordinator in the Caseflow Management Division.

**3.3 Trial de Novo:** The Caseflow Management Division of the Trial Court Administrator's Office shall monitor all arbitration cases for the filing of trial de novo requests. If a request for a trial de novo is filed, the Caseflow Management District Civil Case Coordinator shall calendar the case for trial on the next available setting. The trial date assigned should be no sooner than 120 days after the filing of the last responsive pleading. The last responsive pleading is considered the answer to the complaint, or the reply to a cross claim, counterclaim or third party complaint. Counsel may request a specific session of court or expedite the hearing date by filing a Request to Set (Form CCF-2) with the Caseflow Management District Civil Case Coordinator in the Caseflow Management Office. All requests must be received prior to the publishing of the trial calendar.

**3.4 Binding Arbitration Motions:** If a case or a claim asserted in a case is subject to binding arbitration, the party seeking to have the binding arbitration shall promptly notify all other parties and the Court by submitting an order to the Chief District Court Judge to exempt the case from the court ordered non-binding arbitration track. The order must first be presented to the ADR Coordinator for processing and subsequent delivery to the Chief District Court Judge for approval. This order shall stipulate a time limit within which the parties will arrange for the binding arbitration to occur. After the binding arbitration has occurred the parties will also then set a motion before the court to confirm the arbitration award, thus closing the case.

## **RULE 4: TRIAL CALENDARS**

**4.1 Trial Date Certainty:** All cases excluded from the arbitration process set in accordance with Rule 3.1 will be set for trial. The trial date that is assigned shall be a firm date. Continuances will not be granted, even if all parties agree, unless for good cause shown (See Rule 9).

**4.2 Order of Cases Called for Trial:** The trial calendar is most typically organized as follows:

- (a) Jury, lengthy bench trials and magistrate appeal trials, with calendar call beginning at 9:00 AM the first day of the session; such cases are typically scheduled to be heard later in the session but may, on occasion, be heard the same day as calendar call;
- (b) Morning collections and magistrate appeal bench trials, with calendar call beginning at 9:30 AM on the first day of the session; such cases are typically heard from 9:30 AM until the lunch recess of that same day;
- (c) Afternoon magistrate appeal bench trials, with calendar call beginning at 1:45 PM on the first day of the session; such cases are typically heard from 1:45 PM until the evening recess of that same day.

If cases scheduled for the 9:30 AM or 1:45 PM calendar on the first day of the session cannot be heard during the allotted time because of crowded dockets, such cases may be scheduled for hearing at a later time during the session if time allows or may be continued to the next available calendar, in the discretion of the presiding judge. All parties must appear promptly for calendar call at the time that their cases are set on the first day of the session whether at 9:00 AM, 9:30 AM, or 1:45 PM. Failure to be present for calendar call at the appropriate scheduled session may result in entry of dismissal or entry of an unfavorable judgment against the absentee party.

**4.3 Failure to Prosecute:** 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 the parties themselves, if not represented by counsel) are not present or ready to proceed. All cases calendared shall be ready for trial at any time during the session. When an attorney is notified to appear before the Court, the attorney shall, consistent with ethical requirements, appear or have a partner, associate, or another attorney familiar with the case present.

**4.4 Re-Calendaring of Cases Not Reached or Continued:** To achieve a balanced docket, the Casflow Management District Civil Case Coordinator shall re-calendar cases not reached or continued by the Court to future trial sessions based upon calendar availability. It is the responsibility of counsel to contact the Casflow Management District Civil Case Coordinator to advise of any future conflicts no later than the Friday afternoon of the close of the trial session during which time the case was initially scheduled but was not reached or was continued by the Court.

**4.5 Earlier Trial Setting:** Counsel may request a specific session of Court by filing a Request to Set (Form CCF-2) with the Caseflow Management Division. All requests must be received prior the publication of the trial calendar.

**4.6 Collection on Account Setting:** Actions where the sole issue is collection on account will be set for bench trial, unless specifically marked as a demand for jury trial, for a time certain not less than 120 days from the filing of the answer.

**4.7 Order of Cases on the Docket:** Cases defined as preemptory in accordance with Rule 6 or cases having statutory priority shall appear at the top of each trial calendar. To the extent possible, the Caseflow Management District Civil Case Coordinator shall set other cases so that the oldest-numbered cases from the calendars will appear as the first cases, after those designated as preemptory or given statutory priority. Cases that were previously calendared may also be given priority.

## **RULE 5: TIME STANDARDS**

**5.1** Absent good cause, all cases filed must be tried or disposed of within the following deadlines: Civil non-jury, twelve (12) months; civil jury, eighteen (18) months; Magistrate summary ejection appeals, two (2) months.



## **RULE 6: PRIORITY, REMANDED AND PEREMPTORY CASES**

**6.1 Priority Cases:** Parties/counsel shall bring to the attention of the Caseflow Management District Civil Case Coordinator cases entitled to priority settings by statute. Notice shall be in writing, with copies to all counsel of record, and the statutory authority for such setting shall be cited.

**6.2 Remanded Cases:** When a case is remanded for trial from the Appellate Division, appellant/appellant's counsel shall promptly notify the Caseflow Management District Civil Case Coordinator, who shall assign the case for trial pursuant to Rule 4. Parties/counsel may request a specific session or expedite the hearing date by filing a Request to Set (Form CCF-2).

**6.3 Deadline for Request for Peremptory Settings:** Request for peremptory settings shall be delivered to the Caseflow Management Division within 60 days of the date the Answer is filed with the Clerk of Superior Court's office. Requests received after the 60 day deadline will be considered only for previously unknown or unforeseen reasons.

**6.4 Form and Content of Peremptory Requests:** Said requests shall be submitted in writing (Form CCF-3) to the Caseflow Management District Civil Case Coordinator, specifically stating the reason for the request, with copies to all counsel of record or unrepresented parties. If the request is due to travel distance, the motion shall state the location from which the party/witness is traveling in order to attend the trial. Other factors, as referenced below, should be addressed in the request.

**6.5 Grounds for Peremptory Settings:** Peremptory settings will be granted in the discretion of the Caseflow Management District Civil Case Coordinator, but only for good and compelling reasons. Among the reasons which may warrant a peremptory setting are:

- (a) It is impossible or impractical for a witness or litigant to appear for the trial except by air travel. In cases where litigants or witnesses live reasonably close enough to Charlotte to travel by land to the trial, the Court will not ordinarily grant peremptory settings. It will, however, give counsel sufficient advance notice of the setting of the trial to allow those persons time to arrive, provided counsel makes timely request for such notice;
- (b) The case involves numerous expert witnesses;
- (c) Severe adverse economic consequences will result from delay of the trial;
- (d) The case has been repeatedly scheduled for trial without being reached;
- (e) The case is more than 18 months of age;
- (f) Other extraordinary reasons requiring a prompt resolution of the case.

**6.6 On Court's Own Motion:** The Court may set a case peremptorily on its own motion for any reason.

**6.7 Peremptory Settings Following Continuances:** If a peremptory case is continued, a written request for a new peremptory setting shall be made to the Caseflow Management District Civil Case Coordinator.

## **RULE 7: CALENDAR CALL AND PRETRIAL MEMORANDA**

**7.1 Calendar Call and the Order of Cases:** A call of the District Court jury trial calendar will be held in the designated court at 9:00 AM on the first day of the session. Cases normally will be set for trial or hearing in the order they appear on the final calendar; however, any case can be called by a presiding judge at any time during the trial week.

**7.2 Pretrial Memorandum and Motion in Limine Deadlines:** All parties/counsel in a jury case appearing on a trial calendar must file a hard-copy Pretrial Memorandum and Motions in Limine with the Clerk of Superior Court and serve their Pretrial Memorandum and Motion in Limine upon the opposing party, with email being the preferred form of service on the opposing party, no later than the Wednesday preceding the first day of the session on which the case is set for trial. All parties/counsel shall provide a copy of their file-stamped Pretrial Memorandum and Motion in Limine either by hard copy, delivered to the 9<sup>th</sup> floor judges' suite and addressed to the attention of the presiding judge, or by email if email has been specified by the presiding judge, by the Friday preceding the first day of the session on which the case is set for trial. Failure to adhere to these deadlines may result in a party forfeiting their request for trial by jury.

**7.3 Pretrial Memorandum Content:** The Pretrial Memorandum shall contain the following information:

- (a) A list of witnesses who may be called at the trial. If a witness will be offered as an expert, the witness' specific area of expertise shall be stated along with a brief statement of the witness' qualifications.
- (b) A list identifying all exhibits that the party may offer at trial. All exhibits that can practicably be numbered shall be so numbered in accordance with the exhibit list. Copies of all exhibits that can practicably be photocopied shall be attached to the Memorandum. The opposing party shall make all other exhibits available for inspection by opposing party/counsel by the deadline for filing the Memorandum.
- (c) A list of what the party contends are the issues to be submitted to the jury along with proposed jury instructions.

**7.4 Exhibit List for Clerk:** Parties/counsel in cases appearing on a trial calendar shall provide the Courtroom Clerk a list of all exhibits with sequential numbers as listed in the Pretrial Memorandum at the beginning of the trial.

**7.5 Exhibits for Jury Publication:** Parties/counsel desiring that non-photographic exhibits be published to the jury shall provide the same number of copies as jurors unless excused from doing so by the presiding judge.

**7.6 Pretrial Motions:** Parties/counsel shall be responsible for notifying the District Civil Case Coordinator of any requests for Pretrial Motions to be added to the trial calendar to be heard by the presiding judge.

## **RULE 8: SPECIAL EJECTION SESSIONS**

**8.1 Special Summary Ejection Sessions:** In response to an increase in summary ejection magistrate appeals, special summary ejection sessions are scheduled during various days over the Thanksgiving and Christmas holidays and during statewide District Court Judges' Conference weeks, when normal court schedules are suspended. Calendars for these sessions are posted by the Friday preceding the session and notices are sent out by the Court to parties/counsel at least four weeks in advance. Calendar call is typically scheduled at 9:00 AM for all cases scheduled for the special summary ejection session. Parties/counsel are expected to arrive promptly for calendar call and be prepared for trial that same day. Failure to appear when a case is called by the presiding judge may result in dismissal or entry of an adverse judgment against the absent party. Refer to Rule 4 for details regarding Trial Calendars.

## **RULE 9: CONTINUANCES**

**9.1 Trial Slot Importance:** Trial slots are a scarce resource. Parties/counsel must have an ethical and a professional responsibility to ensure that this resource is wisely managed. Continuances will NOT be granted except upon a showing of good cause. The advance notice provided to parties/counsel by the Court is deemed as a reasonable and sufficient opportunity to accommodate the majority of conflicts.

**9.2 Timing for Requests and Objections:** Motions for continuance of trials and objections to continuances must be submitted in a timely fashion:

- (a) **Requests Should Not Be Delayed:** Parties/counsel should move for a continuance at the earliest time it is known that a continuance will be needed. Timeliness will be a major determinant in any ruling.
- (b) **Request Deadline:** Motions for continuance shall be submitted in writing on Form CCF-5A and CCF-5B to the Caseflow Management District Civil Case Coordinator no later than noon on the Wednesday proceeding the first day of the session on which the case is set for trial or hearing. The original and one copy, together with a self-addressed, postage-paid envelope, shall be submitted to the Caseflow Management District Civil Case Coordinator. If the request for continuance is for a court ordered arbitration hearing, the motion and order for continuance must be submitted to the ADR Coordinator in the Caseflow Management Division no later than 72 hours before the date and time of the scheduled arbitration.
- (c) **Requests After the Deadline:** Continuance requests related to circumstances arising after the Wednesday deadline shall also be presented to the Caseflow Management Division in writing on Form CCF-5. The Caseflow Management District Civil Case Coordinator will attempt to contact opposing counsel if his or her position is not known and a decision is required prior to the end of the specified two-day period. Once all relevant information has been received and reviewed, the Caseflow Management District Civil Case Coordinator will rule on the motion and notify moving counsel/party, who is then responsible for notifying opposing counsel/parties. Continuance requests received after the Wednesday deadline for reasons known before that time will be summarily denied.
- (d) **Objections:** Any objections shall be delivered to the Caseflow Management Division on Form CCF-6 within two days of the submission of the Motion to Continue. If an objection is not submitted to the Caseflow Management Division within the two days specified, it will be assumed that the opposing party does not object to the request.
- (e) **Timing of Rulings By Caseflow Management:** The Caseflow Management Division's staff will rule upon Motions to Continue upon the expiration of the two-day objection period or sooner if the position of the opposing party is already known. The moving party on the continuance will be responsible for noticing all parties of the continuance ruling.

**9.3 Form, Service and Content of Continuance Requests and Objections:** All Motions for Continuance and Objections shall be submitted in writing and served as follows:

**(a) Form and Service of Requests for Continuance:** Requests for continuance shall be submitted on Local Form CCF-5A. A copy of the completed motion must be served on all parties/counsel prior to submission to the Court. All Motions for Continuance of a District Court Trial must be filed with the Clerk of Superior Court, with a certificate of service, and a filed copy of the same must be sent to the District Caseflow Coordinator in the Caseflow Management Division of the Trial Court Administrator's Office. Unserved, unfiled and/or undelivered Motions for Continuance will not be considered. Faxed copies are not accepted and will not be signed.

**(b) Content of the Request for Continuance:** Continuance requests shall be detailed and include all of the reasons for which the continuance is sought along with the relevant dates of conflicts, if applicable. All continuance motions shall also include:

- The correct file number
- The correct party names
- All known reasons for which the continuance is being sought. Failure of the requesting party to include known pertinent information in the original motion is not grounds for reconsideration of the ruling made by the Caseflow Management Division's staff.
- If outstanding discovery is the reason for requesting a continuance, the moving party/attorney should indicate the dates that pending discovery was served and the dates that responses were due; certification that the party/attorney requesting the continuance has consulted with opposing parties/counsel regarding promptness in responding to the discovery request and of his/her intention to seek a continuance on this basis.
- The number of times the case has previously been scheduled for trial
- Indication that all other parties/counsel have been served with the motion, to include the manner and date of service
- If known, the position of the other parties/counsel
- When possible, proposed and mutually agreed upon trial sessions

**(c) Proposed Order:** The Motion for Continuance shall be accompanied with two copies of the proposed Order on Local Form CCF-5B, together with a self-addressed, stamped envelope.

**(d) Notice of Decision to Parties/Counsel:** If the submitting party does not include a self-addressed, postage-paid envelope, the documents will be placed in the basket in the Caseflow Management Division's Office, Suite 3420, for pick-up. The requesting party shall provide copies to the opposing parties once the approved or denied order has been returned. It is the responsibility of the parties/counsel to obtain the decision from the Caseflow Management Division and act accordingly.

**9.4 Factors for Consideration:** Motions for Continuance will only be granted for good cause. Consideration may be given to the following factors:

- (a) Age of the case
- (b) The timeliness of counsel in identifying and addressing the issues raised as grounds for continuance.
- (c) Witness unavailability, incomplete medical treatment, personal emergencies, and outstanding discovery issues will be handled on a case-by-case basis.
- (d) The Guidelines for Resolving Scheduling Conflicts as adopted by the State-Federal Judicial Council of North Carolina and Rule 3.1 of the General Rules of Practice for the Superior and District Courts will govern rulings regarding professional conflicts.
- (e) Number of previous continuances

**9.5 Presumptions with Certain Circumstances:** The lack of an objection by opposing counsel or the fact that the case has not been continued before shall not, standing alone, constitute good cause. Personal conflicts such as vacations, especially where counsel has not complied with Rule 26, non-emergency family commitments, and continuing legal education opportunities do not rise to the level of good cause. Unavailability of a peremptory setting date is not grounds for a continuance of the trial date.

**9.6 Appeals of Rulings by Caseflow Coordinator:** Appeals of the decision rendered by the Caseflow Management District Civil Case Coordinator shall be submitted to the Caseflow Management District Civil Case Coordinator for subsequent delivery to the judge presiding over the session in which the case is currently scheduled. In the event the presiding judge is unavailable, appeals shall be directed to the lead Civil District Court judge or the Chief District Judge. Opposing counsel or unrepresented parties shall be notified of the appeal by moving party/counsel prior to its delivery to the Caseflow Management District Civil Case Coordinator.

- (a) **Basis Must be the Same as Original Request:** The party requesting the appeal shall present to Caseflow Management District Civil Case Coordinator the appeal along with a copy of the original continuance motion submitted. Objections to the appeal shall also be delivered to the Caseflow Management District Civil Case Coordinator for subsequent delivery to the appropriate judge within two days of being notified. Failure of counsel to follow the established process may result in automatic denial of the motion.

- (b) Decision is Final:** The decision of the presiding civil judge, lead Civil District Court judge or Chief District Court Judge is final.
- (c) If No Decision Rendered:** If parties/counsel have not received a decision by the date the case appears on the trial calendar, parties/counsel should appear for calendar call and be prepared for trial.



## **RULE 10: MOTIONS**

**10.1 Online Calendaring for Counsel:** Justice Initiatives, Inc. offers an on-line calendaring system for the purpose of scheduling motions, hearings and updating calendar events. Counsel desiring to calendar a Motion through the on-line calendaring system must create a user account and submit requests for all motions or hearings via the on-line calendaring system at: <http://justiceinitiatives.org/courtcal/users/login>. Counsel shall file the motion, notice of hearing and any necessary monies with the Clerk of Superior Court. The requesting party shall have the following information available prior to submitting any request to schedule the motion:

- (a) Case/file number
- (b) Type of motion to be heard
- (c) Estimated length of time needed for the motion to be heard
- (d) Name of the requesting attorney or party
- (e) Dates and times the requesting party is available and, if at all possible, the availability of the other parties involved

**10.2 Calendaring for Self Represented Parties and Attorneys Not Electing to Use Online Calendaring:** Self Represented Parties and attorneys electing not to use the online calendaring option shall calendar motions by contacting the Caseflow Management Division of the Trial Court Administrator's Office via telephone or in person to receive a hearing date. The requesting party shall have the same information as above in 10.1 (a), (b), (c), (d) and (e) available prior to calling to schedule the motion.

**10.3 Notice of Hearing:** The date, time and location scheduled by counsel online or received from the Caseflow Management Division shall be cited in the Notice of Hearing. The original Notice of Hearing shall be filed with the Clerk of Superior Court and a copy provided to the Caseflow Management Division. It is the responsibility of Counsel or Self Represented parties to serve the Notice of Hearing on the opposing side. Notice of Hearing shall be served no later than two business days after the hearing date has been received and served by one of the below:

- (a) Hand-delivery
- (b) Email
- (c) Facsimile
- (d) Express delivery
- (e) Mail

**10.4 Motions Calendar:** The motions calendar is published approximately 1 month prior to the start of the session.

- (a) **Change in Calendar Format:** Caseflow Management may change the session scheduling times depending upon judicial assignments, volume and other issues in order to maintain and maximize courtroom utilization.
- (b) **Flexibility of Setting:** Once a motion hearing is set and noticed, the court will not entertain requests prior to the hearing date to hold cases open to another time in the session. However, if the parties appear at the scheduled time, the case can, in the judge's discretion, be moved to another time during the session.
- (c) **Time and Location:** The motions calendar begins on the last day of each session. Motions will be set starting at 8:45 AM in courtroom 6330. Motions that will take more than 20 minutes will be added to the jury trial calendar held at the beginning of each session and scheduled during the session as time permits.

**10.5 Dispositive Motions:** Dispositive motions that are not timely filed may only be set for hearing on the date that the case is calendared for trial.

- (a) Absent good cause, all summary judgment and other dispositive motions, except in collections cases, shall be filed no later than 20 days before the trial date and heard not less than one (1) week prior to the trial date;
- (b) All dispositive motions in collections cases should be filed and noticed for hearing 60 days prior to date set for trial. Parties/counsel will not be allowed to add dispositive motions in collections cases to any motions calendar after the final trial notice has been mailed and published.

**10.6 No Delay of Trial Date for Untimely Scheduling:** Failure of counsel to timely file a motion and secure a hearing date will not constitute good cause to continue trial and may result in a motion not being heard.

**10.7 Withdrawal and Rescheduling of Motions:** Once a motion has been noticed or the Final Calendar has been published, any party requesting removal of a motion from the calendar must submit a Withdrawal of the Motion to the Clerk of Superior Court, notify clerk via phone in 6330 and provide a copy to the Caseflow Management Division. If the motion needs to be rescheduled rather than withdrawn, the Caseflow Management Division must be contacted to schedule a new date and time for the motion. An Amended Notice of Hearing must then be filed with the Clerk of Superior Court, a copy sent to the Caseflow Management Division and serve as instructed in Rule 10.3.

**10.8 Final Motions Calendar:** The Caseflow Management Civil District Case Coordinator shall make available on the Court's website a calendar with the current cases appearing on the final motions calendar no later than noon on the last business day preceding the session at which cases are calendared for a motion hearing. The website address is:

<http://www1.aoc.state.nc.us/www/calendars/Civil.jsp?county=MECKLENBURG>

**10.9 Motions to Withdraw as Counsel:** With respect to Motions to Withdraw as Counsel, it is the responsibility of moving counsel to provide his or her client with appropriate notice of the hearing. Motions shall include the scheduled trial date or a statement that no date has been set. The Order allowing the withdrawal shall include the current mailing address for the client. In lieu of scheduling a motion to withdraw for hearing, counsel must submit a Consent Motion signed by their client along with a proposed Order to Withdraw to the presiding judge in chambers. The Consent Motion should acknowledge an understanding by the client that allowance of the Motion to Withdraw will not result in a continuance of trial or other settings. A copy of the signed and filed withdrawal order shall be delivered to the Caseflow Management Division within five business days after entry.

**10.10 Motions to Substitute Counsel:** Motion to Substitute Counsel shall be presented as a joint motion with certificate of service on all parties. A copy of the signed and filed substitution Order shall be delivered to the Caseflow Management Division within five business days after entry.

**10.11 Submission of Briefs to the Presiding Judge and the Opposing Party Prior to the Hearing:** All responses, briefs, memos, and supporting cases, or any other materials intended to be used in oral argument or submitted to the Court (“Hearing Materials”) are to be delivered to the District Court Judges’ Office, Suite 9600, to the attention of “District” Court Judge Presiding, Courtroom 6330, [date of hearing], [time of hearing] no later than two business days prior to the hearing on the Motion. Supplemental materials may not be submitted once the 48-hour deadline has passed. The following additional rules apply to this process:

- (a) **Forms of Delivery:** Acceptable forms of delivery to the presiding judge to the presiding judge include hand-delivery, express delivery, or mail. Facsimile or email may not be used without the permission of the presiding judge.
- (b) **No Filing of Briefs with the Clerk:** Pursuant to N.C.G.S. §1A-1, Rule 5(d), briefs and memoranda provided to the Court may not be filed with the Clerk unless ordered by the Court.
- (c) **Service and Delivery to the Opposing Party:** All Hearing Materials delivered to the Court in accordance with this Rule shall be delivered to the opposing party/counsel by hand-delivery, email, facsimile, express delivery or mail, with email being the preferred form of service, such that opposing parties/counsel receive the materials no later than two business days before the hearing date and no later than 48 hours prior to the hearing time. For example, if the Motion is scheduled to be heard at 10:00 AM on Monday morning, the Hearing Materials shall be delivered for receipt by the opposing party/counsel no later than 10:00 AM on the previous Thursday. In no event shall Hearing Materials be delivered to the Judge prior to delivery to opposing party/counsel.
- (d) **Purpose of Advance Delivery of Briefs:** The purpose of this Rule is to allow the judge to review briefs and other materials in advance of the hearing to

ensure that oral advocacy is meaningful and to allow counsel the same time to review the opposing party's materials in advance of the hearing.

- (e) **When Briefs Not Timely Served on the Opposing Side:** If any Hearing Materials to which this Rule applies are not served on opposing parties/counsel within the time and in the manner specified in this Rule, the Court may continue the hearing for a reasonable period of time, proceed with the hearing without considering the untimely served materials, or take such other action as justice requires.

**10.12 Motions Seeking Attorney Fees:** Counsel seeking attorneys' fees or other costs as part of a motion shall have an affidavit in support of same at the time of the hearing.

**10.13 Post-Hearing Submissions:** After the hearing, parties/counsel shall not send materials to the Judge, unless requested, before any ruling is made. In cases where a new and relevant appellate decision has been rendered, a party/counsel shall provide the opposing party/counsel and presiding Judge with a copy of the decision.

**10.14 Submission of Orders and Judgments to the Judge:** Parties/counsel shall provide the Clerk with a self-addressed, postage-paid envelope to be attached to the file by the Clerk and extra copies of the orders to be signed for return mailing. This envelope will be used to mail a copy of any Order entered by the Judge out-of-court, out-of-term and/or out-of-session as soon as it is filed. Compliance with this rule will expedite your notice of the rulings.

**10.15 Motions to Object to Claimed Exemptions:** If lengthy and if witnesses are to be called, motions will be placed at the top of the 9:00 AM jury trial calendar on the first day of the session to be scheduled by the judge sometime during that session. This applies to both Superior and District court venues. These cases will be set at the top of the calendar directly behind any peremptory settings. If the motion will take less than 20 minutes of court time, the motion may be scheduled as any other lengthy motion on the 9:00 AM Friday morning motions calendar.

**10.16 Motions Referred to Civil District Court by the Magistrate:**

- (a) Small claims court has jurisdiction over complaints and counterclaims where the monetary relief sought does not exceed the small claims threshold of \$10,000 or a lesser amount if that threshold has been lowered by the Chief District Court Judge's Order of Delegated Authority to the Magistrates; where one or more defendants live in Mecklenburg County; and in summary ejectment actions, where the plaintiff alleges that the parties have a landlord-tenant relationship.
- (b) If a plaintiff files a small claims action or defendant files a counterclaim where the pleadings on their face demonstrate that the complaint or counterclaim do not fall within the subject matter jurisdiction of small claims court, then the magistrate shall (1) dismiss the complaint or counterclaim without prejudice or (2) in the case of a complaint that falls outside the subject matter jurisdiction of small claims court, return the complaint to the Clerk of

Superior Court which may treat the case as “nonassigned” under N.C.G.S. section 7A-215, issue a summons in the manner and form provided for commencement of civil actions generally in district court and serve written notice of nonassignment to plaintiff.

- (c) Motions to dismiss pertaining to the matters described in a & b above shall be directed to the magistrate for resolution and not placed on a civil district court docket.
- (d) When a party files a motion to dismiss for lack of subject matter jurisdiction which cannot be resolved by viewing the face of the pleadings, then the assignment of the case to the magistrate shall be suspended and the clerk shall schedule the motion to dismiss to be heard by a district court judge presiding over the next Friday 9:00 AM motions calendar in civil district courtroom 6330.
- (e) If a defendant raises an objection to venue, moves for a change of venue, or objects to personal jurisdiction on the date of the scheduled trial in small claims court, then such objections are deemed to be waived. However, if a defendant files a motion raising an objection to venue, requesting a change of venue, or objecting to personal jurisdiction PRIOR TO the date set for trial, then assignment of the case to the magistrate shall be “suspended” and the clerk shall schedule the motion to be heard by a district court judge presiding over the next Friday 9:00 AM motions calendar in civil district courtroom 6330.
- (f) Rule 60 (b)(1) Motions to Set Aside a Magistrate’s Judgment alleging surprise, mistake, inadvertence or excusable neglect may be heard by the magistrate; a Rule 60 (b) Motion to set aside on any other grounds shall be scheduled on the next Friday 9:00 AM motions calendar in civil district courtroom 6330 to be heard by a district court judge.
- (g) Under no circumstance should a magistrate “transfer” an action initiated in small claims to civil district court EXCEPT THAT pursuant to 7A-223(a), if a defendant files an answer in a summary ejectment action denying plaintiff’s title to the leasehold or property in question, then the magistrate should return the case to the clerk who shall “withdraw assignment from the magistrate” and place the action on the docket of civil district court.
- (h) In summary ejectment actions, if the magistrate finds that plaintiff has failed to prove a landlord-tenant relationship exists between the parties after hearing, then the magistrate shall dismiss the case for lack of subject matter jurisdiction AND NOT return the complaint to the clerk, as district court would similarly lack subject matter jurisdiction over the matter even if a proper district court summons was issued and the case was redirected by the clerk to civil district court. If a party disagrees with the magistrate’s dismissal, that party may appeal the magistrate’s ruling to civil district court.

- (i) In the event that the Chief District Court Judge enters an Administrative Order that conflicts with any of these provisions of Rule 10.16, then the Administrative Order will govern.

**RULE 11: MOTIONS FOR TEMPORARY RESTRAINING ORDERS (“TROS”) AND/OR PRELIMINARY INJUNCTIONS AND CHAPTER 50C CIVIL NO CONTACT CASES:**

**11.1 Motion for TRO or Preliminary Injunction:**

- (a) **Hearing:** Motions for Temporary Restraining Orders shall be brought on for hearing before the judge assigned to the District Court General Civil docket for the session. If no judge is assigned to civil courtroom 6330 for that session, then such matters will be directed to the lead Civil District Court judge or any judge who regularly presides in District Court General Civil courtroom 6330. Parties should go to Judgments window in Civil District room 3725 to contact one of the clerks in 6330 to coordinate the specific date and time with the Judge.
- (b) **Notice:** Temporary Restraining Order: A party seeking a Temporary Restraining Order shall make good faith efforts to notice the other side and document same unless it clearly appears from the complaint or motion that immediate irreparable harm or injury will result to the moving party before the adverse party can be heard in opposition. Preliminary Injunction: The moving party must notice the other side prior to appearing before the judge to seek a Preliminary Injunction. See Rule 10.3 Notice of Hearing.
- (c) **Evidence:** Temporary Restraining Order: Hearings on Motions for Temporary Restraining Orders may be conducted by the judge in chambers who will review the verified complaint and or motion along with affidavits, written verified responses by opposing side and other documentary evidence. Unless the presiding judge allows, oral testimony will not be considered. Preliminary Injunction: Hearings on motions for Preliminary Injunction are formal hearings in front of a judge in open court where both sides are allowed to provide affidavits and/or oral testimony in the discretion of the presiding judge and present documentary evidence.

**11.2 Chapter 50C Civil No Contact Cases:** 50C Civil No Contact ex parte requests are scheduled every day at 8:15 AM. Trial dates for one-year 50C cases are scheduled every Tuesday at 9:00 AM and every Friday at 1:30 PM

- (a) **Ex Parte (Temporary) Request:** Must be filed in the Civil Department at the Domestic Violence window by 4:00 PM to be heard the following business day at 8:15 AM. The judges will likely rule on a request for ex parte relief based upon a review of the pleadings in chambers. The requesting party will not be heard in open court unless the judge has additional questions. A hearing in open court will be granted after the defendant has been served and noticed for trial (N.C.G.S. §50C-6(a)).
- (b) **One Year Trial Date:** A party may skip the ex parte stage and request a one-year hearing date when filing their request for a Chapter 50C No Contact Order. The one-year hearing date will be scheduled within the next 30 days.

A one-year hearing date will also be given after the ex parte stage. For granted ex parte orders, a one-year hearing date will be scheduled within 10 days. For denied ex parte orders, a hearing date will be given within 30 days.



## **RULE 12: ADMINISTRATIVE/CLEAN-UP CALENDARS**

**12.1 Location, Time and Matters For Administrative/Clean-Up Calendar:** The Administrative/Clean-Up Calendar will be held in Courtroom 6350 on Friday's at 1:00 PM. The District Court Caseflow Coordinator will call the docket. Cases on the Administrative/Clean-up Calendar are scheduled for default, perfection of service, dismissal, filing of Orders, or other appropriate disposition as the Court determines.

**12.2 Appearance Required for Administrative/Clean-Up Calendars:** Parties are required to appear unless the matter has been removed by the Caseflow Management Division following receipt of an appropriate disposition, or a party schedules a hearing to move the case forward to trial.

**12.3 Consequence for Failure to Act:** Sanctions, including dismissal of claims, may be imposed by the Court if a party fails to appear for a case scheduled on a clean-up calendar and/or if a party fails to take the action recommended in the notice for the clean-up calendar hearing.

- (a) Failure of Counsel to appear or to file defaults, delinquent orders, or judgments prior to the time the case is called will result in a recommendation for dismissal.
- (b) Cases called on the calendar in which parties and/or attorneys fail to appear and/or fail to resolve the issues identified in their hearing notice will result in a recommendation for dismissal.
- (c) The case file will be pulled and the Summary Sheet will be attached to the file and given to the judge assigned to preside in courtroom 6330 for the session when Administrative/Clean-Up Calendar is held. The Summary Sheet may contain a recommendation for the judge to dismiss the case or take other action.

**12.4 Process In Cases Where Defendants Fail to File Timely Answers:** If the answer is not filed within the allowed time, the party/counsel who filed the complaint SHALL do one of the following – (a) move for entry of default AND move for default judgment or request a trial date; (b) file and notice hearing on another dispositive motion such as judgment on the pleadings or summary judgment; or (c) obtain a trial date from the Caseflow Management Division. Where party/counsel fails to pursue options (a), (b), or (c), then case shall be scheduled on the hour (for example: 1:00 PM) and shall be placed on the Administrative/Clean-Up Calendar for a date at least 120 days from the service date. Absent good cause, this date shall not be extended. Once the answer has been filed, or once party/counsel has pursued options (a), (b), or (c), the case will be removed from the Administrative/Clean-Up Calendar.

**12.5 Process Regarding Disposition of Cases:** Cases for disposition are scheduled one minute past the hour (for example: 1:01 PM). If the appropriate disposition was already entered but not properly recorded by the Court, the party or counsel shall mail or fax a filed copy of the disposition to the Caseflow Management Division. If the appropriate disposition has not

yet been entered, the party or counsel shall take necessary steps to ensure the disposition is entered prior to the calendar call.

**12.6 Process Regarding Service Cases:** Cases for judicial review are scheduled two minutes past the hour (for example: 1:02 PM). This setting includes cases for review of service and for status. If the case appears on the calendar for status, the parties/counsel shall advise the Caseflow Management Administrator of the requested status. If service has not been perfected as stated in Local Rules 14.1, 14.2 and 14.3, the case shall be considered delinquent and may be subject to dismissal.

**12.7 Scheduling of Administrative/Clean-Up Calendar:** Cases will not be scheduled for clean-up unless they are at least 120 days old. Cases will not be removed from the calendar unless file-stamped copies of the appropriate documents are provided to the Caseflow Management District Civil Case Coordinator. These documents must be delivered to Caseflow Management the Wednesday before the start of the session in order to be removed from the calendar. Phone calls the day of the Clean-up Calendar are NOT appropriate for removal of a case from this calendar.

**12.8 Reviewing Files:** Case files may be reviewed in the Clerk of Superior Court's Office (Room 3342) via either the file or the public terminals if the parties/counsel have questions about which issues remain pending and require further disposition.

## **RULE 13: TELEPHONIC MOTION HEARINGS**

**13.1 Requirements for Telephonic Hearings:** When all parties consent, motions may be heard by telephone conference in lieu of a physical appearance, subject to prior approval of the Court. Motions for Approval of Minor Settlements or any matter involving live testimony shall not be heard by telephonic proceeding except that defendant's counsel only may appear telephonically if consented to by plaintiff and approved by the Court.

- (a) Advance notice must be given to the court of the parties consent.
- (b) Advance personal notice is to be given to the courtroom clerk by noon on Wednesday prior to the scheduled hearing.
- (c) Counsel is responsible for providing proper telephone equipment so proceeding can be accurately recorded.

**13.2 Submission on Form Request and Notice to Clerk:** In order to be heard, moving counsel shall present a completed Consent Notice of Telephonic Proceeding (Form CCF-43) to the Clerk assigned to Courtroom 6330 by noon on the Wednesday preceding the beginning of the session in which the motion is scheduled to be heard. The notices for telephonic proceeding received will be provided to that session's presiding Judge for approval. Counsel shall immediately notify the Courtroom Clerk once a conflict becomes known or if the matter is resolved prior to the scheduled time.

**13.3 Materials Submitted to Court:** All materials that the parties wish to submit to the Court shall be delivered no less than five working days prior to the telephonic motion hearing. Materials submitted after the five-day period shall not, in the discretion of the Court, be considered. Also, materials that the parties wish to submit during the course of the telephonic motion hearing shall not, in the discretion of the Court, be considered.

**13.4 Preparation of Order:** At the conclusion of the hearing, parties/counsel for the prevailing side will be directed to prepare an Order. Parties/counsel shall provide such Order to the Court prior to the end of the session.

## **RULE 14: PERFECTION OF SERVICE AND SERVICE BY PUBLICATION**

**14.1 Eight Month Deadline to Perfect Service Other than Service By Publication:** Once a Complaint is filed with the Clerk of Superior Court's Office, the parties/counsel shall be allowed a period of eight months to perfect service via means other than service by publication. If service has not been perfected after the initial eight-month period has expired, the parties/attorneys shall be required to serve the Complaint via publication as long as an affidavit is filed establishing that the parties/counsel have exercised due diligence in attempting to obtain personal service.

**14.2 Requirement to Initiate Service By Publication:** The service-by-publication process shall be initiated within 15 calendar days from the expiration of the initial eight-month period for service.

**14.3 Filing Proof of Service:** Proof of Service and any required affidavits shall be filed within 15 calendar days after service has been perfected. Proof of Service and any required affidavits must comply with N.C.G.S §1A-1, Rule 4 and §1-75.10.

**14.4 Violation of Rule 14:** Any violation of Rules 14.1, 14.2 or 14.3 will cause the case to be identified as delinquent and subject to dismissal at a clean-up calendar hearing.

## **RULE 15: DEFAULT JUDGMENTS**

**15.1 Entry of Default:** Before a motion for Default Judgment is entertained, an Entry of Default first shall have been obtained from the clerk pursuant to N.C.G.S. §1A-1, Rule 55(a). The Motion for Entry of Default shall be submitted to the Clerk of Superior Courts Office (Suite 3725) as soon as possible - at least 15 days after the expiration of the period of time to respond. If no entry of default has been filed within 45 days, and if the party/counsel has not otherwise filed another dispositive motion or obtained a trial date, then the case will be placed on a cleanup calendar pursuant to Rule 12.

**15.2 Default Judgments:** In cases where the defendant has been served, and is in default, an application for Judgment by Default may be submitted to the Clerk of Superior Court's Office (Suite 3725). Where the party/counsel has obtained an Entry of Default but has not applied for Judgment by Default within 90 days of the service date and has otherwise not filed another dispositive motion or obtained a trial date, then the case will be placed on a clean-up calendar pursuant to Rule 12.

**15.3 Mailing:** All applications submitted pursuant to Rule 15.2 shall be accompanied by a self-addressed, appropriately sized, postage-paid envelope.

**15.4 Notice to Party Represented by Attorney:** Any attorney who knows that the opposing party in litigation is represented by an attorney, either by special employment in that litigation or generally on retainer, may not submit an application pursuant to Rule 15.2 without first giving such attorney 10 days written notice of his intention to apply for a default/default judgment against such party. The 10-calendar-day notice shall be given immediately after the expiration period for filing the answer and no later than five business days after the expiration period. A violation of this rule will cause the case to be identified as delinquent and may subject the case to dismissal at the discretion of the Chief District Court Judge or presiding judge.

**15.5 Ruling on Default Judgment Motions by Judge:** Each week, the designated District Court Judge in Courtroom 6330 shall review the Default Judgment motions filed pursuant to Rule 55(b)2(b) forwarded by the Clerk's office, and shall rule on each motion as he/she deems appropriate. The designated District Court Judge in Courtroom 6330 shall cause all Default Judgments entered to be returned to the Clerk in Courtroom 6330 on the day in which they are signed. The Clerk in Courtroom 6330 shall, as soon as received from the Judges' Office, file the judgment, if entered, and return the court file to the Civil Department for further handling. If a default judgment is entered, copies, if provided, will be sent to the moving party in the self-addressed stamped envelope. If the default judgment is not granted by the judge, the judge will prepare a list of reasons why the judgment was not entered and return the motion to the moving party with the list attached in the self-addressed, stamped envelope provided.

**15.6 Non-Military Service Affidavit:** All applications submitted pursuant to Rule 15.2 shall include an affidavit stating that, as far as the plaintiff is aware, no individual defendant against whom a default/default judgment is being sought is on active military duty. Said affidavit must include a printout from the Department of Defense verifying that the listed party is not a member of the military.

## **RULE 16: SETTLEMENT OF CASES AND APPROVAL OF MINOR SETTLEMENTS**

**16.1 Action Required Following Settlement:** When a case is reported as settled prior to or after placement on a published trial calendar, all attorneys of record shall notify the Caseflow Management Division within 24 hours of the settlement. Parties/counsel shall specify to the Caseflow Management District Civil Case Coordinator as to who will prepare and present the Judgment or other dispositive documents, and when it will be presented. If the case is already on a published trial calendar, the counsel/parties shall also notify the Clerk in 6330.

**16.2 Minor Settlements:** Minor Settlements are scheduled through the Caseflow Management Division of the Trial Court Administrators Office, routinely in District Civil Court (6330) and adhere to the following procedures:

- (a) **Time and Day of Hearing:** Minor Settlements will be scheduled and will begin at 8:45 AM on each Friday's Motions Calendar. These settings are to be brief.
- (b) **Persons Present:** In hearings to approve Minor Settlements, the minor in question must attend, no exceptions.
- (c) **Document Preparations:** The hearings will begin at 8:45 AM. All documents should be signed prior to that time. Conference rooms may be made available on the 6<sup>th</sup> floor as early as 8:00 AM so that the parties and counsel are prepared to proceed when hearings begin promptly at 8:45 AM
- (d) **Consequence for Failure to Begin Timely:** Failure to be prepared to proceed at 8:45 AM may result in the approval being rescheduled.

## **RULE 17: PRESENTATION OF ORDERS AND JUDGMENTS**

**17.1 When Orders or Judgments are Delinquent:** Cases or motions scheduled for trial or hearing which are removed due to settlement, shall be considered delinquent if the Order, Judgment or Disposition is not presented to the Court for signature or filing within ten (10) working days after the case was announced as settled. Cases or Motions scheduled on trial calendars and heard by a judge or jury shall be considered delinquent if the Order, Judgment or Disposition is not presented to the Court for signature or filing within 10 working days after the hearing, unless otherwise directed by the presiding Judge

**17.2 Action on Delinquent Orders or Judgments:** The Caseflow Management District Civil Case Coordinator will identify those cases deemed to be delinquent, pursuant to Rule 17.1 or 17.2, and place these cases on the clean-up calendar or bring them to the attention of the Chief District Court Judge or presiding civil judge. Cases identified as being delinquent may be dismissed at the discretion of the Chief District Court Judge or presiding judge, or the presiding judge shall order such sanctions or impose penalties as s/he deems appropriate and are allowed by law.

**17.3 Presentation to Opposing Side First:** No Judgment or Order shall be presented to a Judge until the opposing parties/counsel has had a reasonable opportunity (no less than 24 hours) to review it and has been advised of the date when the proposed Judgment/Order will be presented for signature. "Verification of Consultation with Opposing Counsel", Form CCF-7, shall accompany the Judgment/Order.

**17.4 Signature Lines:** When preparing an Order/Judgment, the Judge's signature line and date shall not be on a separate page from the last written page of the Order/Judgment.

**17.5 Submission of Orders and Judgments to the Judge:** All Orders and/or Judgments submitted for signature shall be delivered to the mail center outside the Superior and District Court Judges' Office (Suite 9600). Counsel/parties or their designees shall log-in the provided District Court logbook the date the Order/Judgment was delivered, the case number, the case caption, the Judge's name, and the name of the counsel/party presenting the Order prior to depositing the Order in the appropriate Judge's box for signature. No order will be signed unless these procedures are followed.

**17.6 Signed Orders:** Orders that have been signed will be logged out accordingly and made available for pickup in the appropriate basket outside the Judge's Office. The party/counsel will be notified. Orders will remain in the reception area for 48 hours for pickup by counsel or their designee. At the expiration of this time period, the orders will be sent to the Civil Division of the Clerk's Office for processing. Filed copies will be mailed in a self-addressed, postage-paid envelope, if provided. Otherwise, copies will be available from the file when the file is returned to the file room, Room 3342.

## **RULE 18: BANKRUPTCY CASES**

**18.1 Authority and Procedure:** Civil actions in which one of the parties has filed a petition for relief under the United States Bankruptcy Code will be disposed of in accordance with the following authority and procedure:

- (a) 11 U.S. Code 362
- (b) 11 U.S. Code 1301
- (c) *Whitehurst v. Virginia Dare Transportation Co.*  
19 N.C. App. 352 (1973)
- (d) N.C.G.S. 1-23

**18.2 Submission of Paperwork:** Any request to discontinue a case as to one or more parties shall be submitted on and accompanied by a file-stamped copy of a Certificate of Bankruptcy Filing or Stay of Proceeding from the United States Bankruptcy Court having jurisdiction and shall apply only to the party filing a petition for relief under the United States Bankruptcy Code or to a co-debtor specifically referenced under a Chapter 13 proceeding. A copy of the bankruptcy docket report available through PACER indicating that a party in the pending State action is subject to bankruptcy provisions should also be attached.

**18.3 Closure of Case:** Upon receipt of required paperwork noted above, the Clerk of Superior Court shall administratively close the case.



## **RULE 19: NOTICE OF CALENDARING TO ATTORNEYS**

**19.1 Publication of Calendars:** Calendars will be made available to counsel through the Clerk of Superior Court and through the Internet website address for the 26th Judicial District at [www.nccourts.org](http://www.nccourts.org) at the time specified in Local Rule 4.6. The availability of calendars so published shall constitute official notice to attorneys.

**19.2 Address Responsibilities:** It shall be the responsibility of said attorneys and unrepresented parties to provide the Caseflow Management Division and Clerk of Superior Court with a current mailing address.

**19.3 Official Notice and Responsibility:** It shall be the responsibility of counsel and unrepresented parties to be aware of cases appearing on trial calendars. Paper notices are issued to parties/ attorneys as a courtesy. Failure to receive paper notices shall not be cause for a continuance of the trial date.

**RULE 20: SANCTIONS**

**20.1** Failure to comply with any section of these rules shall subject an action to dismissal or other sanctions allowed by law and deemed appropriate at the discretion of the presiding judge.

## **RULE 21: PREPARATION OF FORMS**

**21.1** Attorneys and unrepresented parties shall be responsible for reproduction of forms that are required by these rules.

**21.2** Reproduction may be any process that results in clearly legible copies of standard letter size.

## **RULE 22: PRO HAC VICE**

**22.1 Rules:** Attorney who associates with an out-of-state attorney to represent a party in a proceeding in this district and that out-of-state attorney shall adhere to N.C.G.S. §84-4.1 and North Carolina State Bar Rules 27 N.C.A.C 1H .0101 and 27 N.C.A.H. 1D .0903 and .0904. Copies of the North Carolina State Bar Rules and the required registration form are available for download at [www.ncbar.com](http://www.ncbar.com).

**22.2 Process:** The motion for Pro Hac Vice must be made by an attorney who is a resident of North Carolina and who is a member of the North Carolina Bar. The motion, proposed order, affidavit, filing fee of \$225 (or prevailing fee as set by the clerk), signed client statement and self-addressed, postage-paid envelope along with a copy of each document shall be delivered as a complete packet to the Judicial Assistant assigned to the Chief District Court Judge by mail or hand delivery. If the Chief District Court Judge approves the admission and signs the order, the entire packet will be taken to Civil Filing for processing. If the judge declines to sign the order, the local attorney who submitted the packet will be notified.

## **RULE 23: SUBMISSION OF SECURE LEAVE AND RELIGIOUS HOLIDAYS**

**23.1 Submission of Form to Court:** When submitting a Secure Leave for General Civil Court cases, the Secure Leave shall be submitted on Local Form CCF-27. The form shall be sent to the following address:

Attention: Secure Leave  
Caseflow Management Division/TCA  
832 East Fourth Street, Suite 3420  
Charlotte, NC 28202

If the Secure Leave form is hand-delivered, the form shall be taken to the above address and placed in the box marked “Secure Leave.” Only one form is required—it need not be submitted to each case coordinator in the Caseflow Management Division or to the Trial Court Administrator or the Judges’ Office.

All other elements to Rule 26 of the General Rules of Practice shall be followed by the submitting party. This rule does not apply to cases in the Criminal Court, before the Clerk of Superior Court, or involving Family Law.

**23.2 Receipt and Entry in the Database:** The leave form will be stamped as “Received” by the Caseflow Management Division. The leave will be entered for each case in the database that contains the name of the listed attorney.

### **23.3 Other Requirements:**

- (a) The submitting party shall include the original secure leave form and one copy with a self-addressed, postage-paid envelope if a return copy is desired.
- (b) The secured leave form should be submitted no sooner or no later than 90 days prior to the secured leave start date.
- (c) It is the individual attorney’s responsibility to make sure the court calendars are free of hearing or trial dates during the requested secure leave.

**23.4 Religious Holidays:** In the discretion of the presiding judge, efforts shall be made to accommodate parties and counsel in their observance of religious holidays in connection with the scheduling of cases.

## **RULE 24: PROCEDURE FOR OBTAINING AN INTERPRETER FOR CIVIL HEARINGS OR TRIALS**

**24.1** For some actions in civil district court, non-English-speaking parties are entitled to an interpreter at state expense.

**24.2** Actions where the state is responsible for funding an interpreter include Chapter 50C cases; summary ejectment actions whether filed initially in district court or filed as an appeal from a small claims judgment; all other small claims appeals to district court; and criminal and/or civil contempt matters;

**24.3** It is the responsibility of the party in need of an interpreter in qualified cases to fill out and submit an **interpreter request form** in English at least 10 days before the hearing date (or as soon as feasible in Chapter 50C cases, which are sometimes scheduled in less than 10 days). In Chapter 50C cases, the party should also notify the 6330 courtroom clerk if the party will be requesting an interpreter. The **interpreter request form** is located at <http://nccourts.org/LanguageAccess/Documents/InterpreterRequestForm.pdf>. When you select the county where the court hearing will take place, the form will be submitted by email. If the non-English speaking party is unable to submit the interpreter request timely due to a language barrier, the Court may continue the matter in the interests of justice so that an interpreter can be secured before the next hearing date.

**24.4** For civil cases that do not qualify for state-funding interpreter services or if you need an interpreter to communicate with a non-English-speaking client or witness outside of a court proceeding, you will need to hire an interpreter at your own expense. A list of Spanish certified court interpreters can be found at: <http://www.nccourts.org/LanguageAccess/Documents/SpanishForeignLanguageRegistry.pdf> For an interpreter in any other language not Spanish, you would need to contact the OLAS office at 919-890-1407 or [OLAS@nccourts.org](mailto:OLAS@nccourts.org).

**24.5** Failure to provide sufficient time to secure a qualified interpreter likely will result in a delay or postponement of the court proceeding if a qualified interpreter is not available.

**24.6** Once services are requested, if it is determined before the court date that the case will not go forward as scheduled, you must notify the local Language Access Coordinator (“LAC”) in the Mecklenburg County Trial Court Administrator’s Office so services can be cancelled in a timely manner (no less than 24 hours) to avoid unnecessary cancellation charges. Emails to notify the LAC of a request for interpreter services or to cancel interpreter services shall be directed to [Mecklenburg.Interpreter@nccourts.org](mailto:Mecklenburg.Interpreter@nccourts.org) AND [Michael.A.Cortez@nccourts.org](mailto:Michael.A.Cortez@nccourts.org).