

CASE LAW ON LOCAL RULES

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Forman & Zuckerman, P.A., v. Schupak, 38 N.C. App. 17 (1978)

The trial court did not err in hearing a motion even though the calendar request was filed late under the local rules.

Administrative agencies are required to follow their rules because those rules often combine substantive and procedural rights. The same principle does not apply, however, to court rules on promoting the effective administration of justice.

The trial judge should be given wide discretion in the application of local rules so long as proper regard is given to the purpose of the rule.

Lomax v. Shaw, 101 N.C. App. 560 (1991)

The trial court did not err in dismissing the defendant's answer to a dram shop lawsuit as a sanction for violation of a local rule. The parties had presented a consent judgment to the judge, but then had failed to file it in violation of a local rule requiring that such judgments be executed promptly.

A trial court's inherent authority to impose sanctions for failure to comply with its rules applies to local rules as well as statewide rules.

McDonald v. Taylor, 106 N.C. App. 18 (1992)

Although local rules said that financial affidavits "shall be filed" at least ten days before the hearing in child support cases, it was still within the trial court's discretion whether to grant a continuance to the plaintiff when the defendant did not comply with the rule. Under the local rule the penalty for failure to file the affidavit clearly was discretionary.

Young v. Young, 133 N.C. App. 332 (1999)

The court upheld the enforcement of a local rule applicable to equitable distribution cases. The rule required the parties to exchange lists of property to be divided, and provided that the failure of one party to object to the other's characterization of the property as either marital or separate property within a specified period of time amounted to an admission and stipulation.

Pinney v. State Farm Mutual Insurance Company, 146 N.C. App. 248 (2001)

The trial court did not err in hearing a motion even though it was not timely filed under the local rules.

The trial court has wide discretion in applying local rules and the trial judge's decision will be reversed only upon a showing of abuse of discretion.

In the Matter of J.S., 182 N.C. App. 79 (2007)

The court held that a local rule on discovery of documents from the Department of Social Services in child abuse cases, giving the parent only ten days in which to review the documents, did not contradict the provisions of GS 7B-700 on discovery in juvenile cases, even though the statute required good cause for restricting discovery and the local rule imposed a blanket ten-day limitation on viewing documents. Given the wide discretion allowed in application of local rules, the trial judge did not err in applying the local rule to this case and denying the parent's request for a continuance based on the inadequacy of the time to review documents.

A concurring opinion concluded, however, that the local rule was invalid because it summarily bypassed the requirement under GS 7B-700 that the court's restriction on discovery be based on a showing of good cause. Also, the local rule stated that it was entered under the chief district judge's authority in GS 7A-146 to arrange schedules, assign judges, set calendars, etc. The concurring opinion concluded that such a rule was not within the scope of the authority given by that statute and that, even if the local rule might be permitted under Rule 2 of the General Rules of Practice or Rule 40 of the Rules of Civil Procedure it could not be upheld in this case because the rule expressly stated that it was based on the authority of GS 7A-146.

In the Matter of T.M., 187 N.C. App. 694 (2007)

The court upheld the admission of medical records in a child abuse and neglect case based on a local rule which provided that such records would be admitted if no objection were made within ten days of notification of their availability. The parent had not objected within the ten days but objected at trial based on the failure to establish a proper foundation. The Court of Appeals, noting that the local rule "was not intended to be an evidentiary rule" but instead was "designed to promote the efficient administration of justice," did not address directly whether the local rule conflicted with the rules of evidence. The court, rather, discussed the admissibility under the rules of evidence and the requirement that admission of improper evidence does not necessitate reversal on appeal unless prejudice is shown. The court concluded that the parent had not shown prejudice.

Mitchell v. Mitchell (now Norwich), 199 N.C. App. 392 (2009)

The trial court did not err in conducting a custody hearing even though the local family court rules required a pretrial conference and custody mediation before such a hearing could be

scheduled. The Court of Appeals reiterated that trial courts have wide discretion in application of their local rules and noted that the local rules allowed for the waiver of the pretrial conference and mediation. The appellate court also found that the judge's decision to waive those requirements served the purpose of the family court rules to have disputes resolved in a timely manner and to have a single judge hear all matters affecting the same family (the judge was about to rotate out of family court).

Griffith v. North Carolina Department of Correction, 709 S.E.2d 412 (N.C. Ct. App. 2011)

It was proper for the trial court coordinator to grant motions to continue when the local rules designated the coordinator as the appropriate judicial official who "shall rule upon all continuance requests."

Although the plaintiff was not given the full time to respond to a motion for continuance as provided in the local rules for motions served by mail, the plaintiff could show no prejudice from the local rule violation as he appeared at the motions hearing on the rescheduled date and was prepared.

In re Baker Investigation, 727 S.E.2d 316 (N.C. Ct. App. 2012)

An administrative order of the senior resident superior court judge on the procedure for sealing warrants did not limit the discretion of the trial court in entering orders on sealing warrants in individual cases. The administrative order provided for automatic expiration of a sealing order in 30 days unless the state moved to extend the period of sealing. Here the state did not make such a motion before the 30 days expired. The unsealing of the warrants was consistent with the administrative order, even though the original sealing orders in the case said the documents were to remain sealed "until further order of the Court." The trial judge who unsealed the warrants properly applied the administrative order in holding that the original sealing orders expired in 30 days when the state did not request an extension.

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