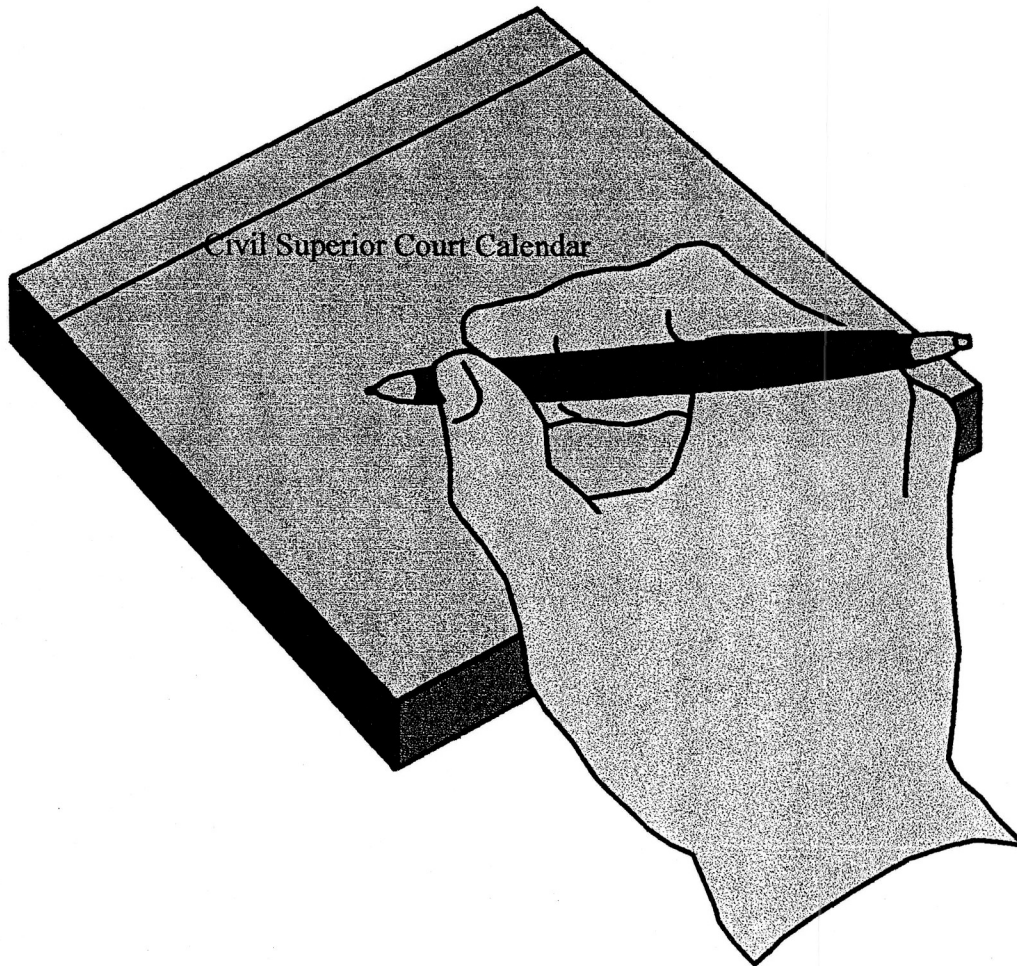


# Managing Civil Calendars



## MANAGING CIVIL CALENDARS

THREE STYLES: NORMAL, LAID BACK, RAMBO

### I. Normal

#### A. Arrive at Courthouse around 9:30 A.M. on Monday

1. Tell Deputy Sheriff who greets you to take your robe to the judge's chamber and your bag to behind the bench.
2. Walk to the clerk of court's office to meet and talk with the clerk and the courtroom clerk.

#### B. Arrive at the judge's chamber at 9:45 A.M.

1. Visit the restroom before the crowd arrives, check hair in mirror.
2. Casually look over the civil calendar.
3. Mentally note the names of the attorneys.
4. Accept with pleasure the bailiff's cup of coffee, remember his name (on nametag).
5. Make sure that the bailiff knows your name.

#### C. Arrive in courtroom at 10:00 A.M.

1. Stand proudly as court is opened, never move to sit down until the bailiff has stopped speaking.
  - a. Remember that you are standing in honor of the attorneys and litigants as they are standing in honor of you and the court.
  - b. Your demeanor should be firm but pleasant, after all, no one thinks you are in error yet.
2. Call the motion calendar after you determine that no jurors are present.
  - a. Find out the type of motion and expected length of argument.
  - b. Set the order of hearing motions.
    - i. Hear shorter motions first.

- ii. Hear discovery motions last, give those attorneys time to talk and work out their differences.
    - c. Do not forget the "add-on" page of motions, it's always somewhere.
  - 3. Call the trial calendar.
    - a. Set the order of trials.
    - b. Save a 1 day non-jury trial or an administrative appeal for the end of the week.
  - 4. Be sure to designate the time that you wish to conduct the pretrial conference with the attorneys in the first case for trial.
  - 5. After 3 and 4 above, begin hearing motions.
  - 6. Rule on motions as you hear them.
    - a. Designate in open court who will draft the order.
    - b. Have the attorneys stipulate and consent in open court to the signing of the order out-of-county, out-of-session.
  - 7. If you are absolutely lost, you may reserve ruling.
    - a. Do not let the argument get too cold.
    - b. Do not worry, you still have a 50 percent chance of being correct even if you do not understand.
    - c. If you still feel inadequate, ask both sides to present proposed orders, read them, and rule (or follow your best hunch).
  - 8. After hearing motions, conduct the pretrial conference for the first trial.
  - 9. In all events, stop for lunch.
- D. Usually the jury reports at 2:00 or 2:30 P.M. on Monday.
- 1. Call the roll of jurors (the courtroom clerk).

2. The judge must determine the qualifications of prospective jurors under N.C.G.S. §9-3.
  - a. Resident of the county
  - b. Not served as a juror the preceding two years
  - c. Eighteen (18) years of age or over
  - d. Physically and mentally competent  
(Caution: Americans with Disabilities Act)
    - i. Ask if anyone feels that he is incapable of serving.
    - ii. Almost all infirm will ask you to excuse them.
  - e. U.S. citizen
  - f. Not a convicted felon (unless citizenship rights restored)
3. Any person summoned as a juror who is 65 years or older may request an exemption.
  - a. See procedure in N.C.G.S. §9-6.1
  - b. If procedure in statute not followed by juror, exempt him yourself as trial judge if he requests an exemption.
    - i. He has more time to waste than you.
    - ii. If he does not want to serve as juror he will be late for court or go to sleep in the jury box.
4. Before you ask for any other requests for jury excuses
  - a. Read to the jury N.C.G.S. § 9-6(a). The General Assembly hereby declares the public policy of this State to be that jury service is the solemn obligation of all qualified citizens, and that excuses from the discharge of this responsibility should be granted only for reasons of compelling personal hardship or because requiring service would be contrary to the public welfare, health, or safety.

- b. Tell the jury that if their jury duty is deferred they may sit on a two week murder trial.
- 5. The clerk swears (or affirms) the jury
- 6. Orient the jury (some counties have a filmstrip).
  - a. Explain jury selection, opening statements, presentation of evidence, the duty of each juror to assess the credibility of each witness, the burden of proof in civil cases, the meaning of "issues", jury argument, judge's instructions on the law, selection of a foreperson, jury deliberations, announcing the unanimous verdict in open court.
  - b. Explain the court schedule, time court starts and stops.
    - i. morning and afternoon breaks
    - ii. Duties of jurors during breaks (See N.C.G.S. §15A-1236(a) Admonitions to jurors). Instead of saying "form no opinion as to guilt or innocence", you could say, "form no opinion as to the issues in controversy."
  - c. Thank jurors in advance for their service and attention.
- 7. Give the jury a recess and finish the pretrial conference.
  - a. Rule 16, N.C.R.C.P.
  - b. Be sure that exhibits and witness lists have been exchanged.
  - c. Rule on motions in limine, allocate peremptory challenges among multiple defendants unless they mutually agree.
  - d. Give parties time to have one final full and frank discussion of settlement possibilities.

- e. Read to the lawyers your proposed orientation statement to the jury concerning the case.
    - i. They can alert you to parties who have been dismissed.
    - ii. They can alert you to a mistake before the jury hears it from you.
  - f. Be sure that you have stipulations of facts in writing (including ages).
  - g. Get Rule ~~40~~ waiver of unanimous verdict of 12 to avoid selecting an alternate juror.
  - h. Sign pretrial order after all attorneys have signed.
8. Put twelve jurors in the box, select a jury.
9. As the jury is being selected, review the pleadings.
- a. List specific contentions.
  - b. Write pattern jury charge numbers beside specific contentions.
  - c. Check mortality tables if relevant.
  - d. Continuously monitor for Batson problems.
  - e. Keep up with peremptory challenges (8 each side).
  - f. If you take a recess, remember who is addressing the jury when you return from the recess.
10. Before the clerk impanels the jury, be certain that she knows the correct case style.
- a. Do not mention the names of parties who have been dismissed when impaneling the jury.
  - b. Alert clerk to any substitution of parties (she may be reading from the original complaint).
11. Opening statements by attorneys

- a. Have them recorded by the court reporter
  - i. Attorneys make admissions they may later "forget".
  - ii. Recordation shortens most opening statements to direct previews of evidence.
  - iii. Usually attorneys do not violate your rulings on motions in limine when they are being recorded.
- b. Do not allow a final argument during opening statements.

12. Presentation of evidence

- a. Keep your mind in the case.
  - i. Write down the name of each witness
  - ii. Take notes of key evidence
  - iii. Be prepared to rule on objections.
  - iv. Write down the time and day each time a new witness is called, this helps the court reporter if it is necessary to read back evidence later.
- b. If a juror nods off, call a 30 second stretch break.

13. At the end of each day, after the jury has been excused, ask the attorneys if they have anything further for the court (such as witness problems, blackboards, podium) before you take the evening recess.

14. Open court on time each morning.

- a. Give the jury a "good morning."
- b. Remember where you are in the trial.

E. If the case settles

- 1. Always have the next case ready to start or have the attorneys on telephone standby.

2. Have some method in place to have jurors present within a reasonable period of time.
  3. Conduct a thorough pretrial conference before starting the next trial.
    - a. Once the first case settles, other cases will settle with alarming rapidity.
    - b. Be firm in your intent to call the next case for trial.
  4. Never put a jury in the box before the attorneys arrive.
  5. If you start jury selection without a party present, you are on thin ice.
    - a. Put in the record how much notice the missing party was given.
    - b. Put in the record any stipulation of counsel that jury selection can begin without the presence of a party.
  6. If a party has failed to appear throughout the week but has notice, that party waives right to trial by jury.
- F. Do not start a civil trial that you do not have time to complete if you are assigned to a different county the next week and AOC has no judge to take your place.



## II. Laid Back

- A. Arrive at courthouse at 10:00 A.M. and immediately ask for coffee
- B. Arrive at judge's chamber at 10:10 A.M.
- C. Arrive at courtroom when you get there.
  1. Act surprised when bailiff opens court with the wrong judge's name, or with no judge mentioned.
  2. Call the motion calendar.
    - a. Do not listen to the attorneys.
    - b. Announce that you will hear motions in the order that they are printed on the calendar.
    - c. Disregard any "add-on" page of motions.
  3. Tell the lawyers that you will call the trial calendar "later."
  4. From the bench ask the bailiff to get some ham sandwiches, doughnuts and coffee.
  5. Take a 30 minute break.
  6. Hear motions, reserve all rulings.
  7. Set all returns on TRO's before some other judge, and do not give that judge advance notice.
- D. Continue all trials, go home, and leave all the work for someone else.

### III. Rambo

- A. Arrive at courthouse at 8:00 A.M. on Monday.
  1. When the Deputy Sheriff finds you later, ask him to conduct an explosives search in your courtroom.
  2. Stand by the clerk's office door and wait for the first employe to arrive and let you in.
- B. Obtain files for all civil trials from the clerk's office, take them to the judge's chamber, devour the files.
  1. Form an opinion as to an appropriate settlement of each case.
  2. Get on the telephone and demand the status of settlement discussions on each case from the attorneys.
  3. Refuse all requests for continuances.
- C. Call motion calendar at 10:00 A.M.
  1. Immediately put all attorneys with discovery motions in your custody in the jury room.
  2. Tell them that they cannot leave the jury room until their differences are resolved.
  3. Rule on motions after hearing five minutes from each side.
  4. Spend the rest of the morning hearing a non-jury trial and/or strong-arming settlements at pretrial conferences.
  5. Do not eat lunch.
- D. Swear in jury, orient jury, put twelve jurors in the box.
- E. Press the lawyers to settle every case.
- F. Smile when you leave the courthouse (you will be the only person who is satisfied).