

# Case Management: The Art of the Pretrial Conference and Hearing

Hon. Paul C. Ridgeway, Senior Resident Superior Court Judge,  
Tenth Judicial District (Wake County)

Hon. Matthew T. Houston, Special Superior Court Judge  
for Complex Business Cases (Business Court – Raleigh)

---

---

---

---

---

---

---

1

## Effective Case Management



Requires more than  
showing up to trial



**Begins with a practical  
and realistic case  
management order**

Judge input is expected in  
Rule 2.1 cases, medical  
malpractice cases, and other  
assigned cases (e.g., Business  
Court, Wake County Rule 2.2  
cases, etc.)

Input might be more limited  
for standard, unassigned cases

- Consult with your TCA's  
office
- Request to be involved



**Involvement at the  
beginning ensures  
more efficient and  
effective pretrial  
proceedings at the end**

---

---

---

---

---

---

---

2

## Why does good case management matter?



**Expedites case proceedings**

Allows the Court to handle more cases  
Helps facilitate a prompt resolution



**Cost management**

Lowers administrative costs for the court system  
Minimizes redundant or unreasonable costs of  
litigation for the parties



**Promotes effective decisions by  
the Court, parties, and counsel**

Too much time on one case necessarily takes  
away from other cases  
The effects of efficient decisions are cumulative

---

---

---

---

---

---

---

3

The Judge's Role:

Best Practices for Case Management Orders in Assigned Cases

- Enter CMOs early to set expectations
- Prepare and provide counsel with a preferred CMO template with:
  - presumptive discovery limits
  - judge-specific preferences
- Be willing to confer directly with counsel
  - Direct email communication helps maximize efficiency
  - CMO provisions help set expectations and ethical guidelines
- Request that attorneys provide notice of secured leave directly to the Court (in addition to the TCA's/Clerk's Offices) to allow the Court to promptly address scheduling conflicts

---

---

---

---

---

---

---

4

What Rules Govern Pretrial Proceedings?

N.C. R. Civ P. 16

Rule 7 of the General Rules of Practice

Local Rules (e.g., Wake County Local Rule 6)

---

---

---

---

---

---

---

5

Terminology

Case Management Conference

Case Management Hearing

Pretrial Conference

Pretrial Hearing

---

---

---

---

---

---

---

6

## N.C. R. Civ. P. 16(a)

**Rule 16. Pre-trial procedure; formulating issues.**

(a) In any action, the court may in its discretion direct the attorneys for the parties to appear before the court for a conference to consider

- (1) The simplification and formulation of the issues;
- (2) The necessity or desirability of amendments to the pleadings;
- (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (4) The limitation of the number of expert witnesses;
- (5) The advisability or necessity of a reference of the case, either in whole or in part;
- (6) Matters of which the court is to be asked to take judicial notice;
- (7) Such other matters as may aid in the disposition of the action.

If a conference is held, the judge shall make an order which recites the action taken at the conference, any amendments allowed to the pleadings, and any agreements made by the parties as to any of the matters considered, and which may limit the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. If any issue for trial as stated in the order is not raised by the pleadings in accordance with the provisions of Rule 8, upon motion of any party, the order shall require amendment of the pleadings.

...

---

---

---

---

---

---

---

---

---

---

7

## N.C. R. Civ. P. 16(a)

Rule 16(a) gives judges broad discretion to hold conferences to confer about issues that might arise over the course of litigation (i.e., it is not necessary to wait until immediately before trial)

If the conference takes place, the rule requires an Order:

- "recit[ing] the action taken at the conference," and
- reflecting any permitted amendments; and
- documenting parties' agreements about limits on the scope of proceedings/trial.

---

---

---

---

---

---

---

---

---

---

8

## Rule 7 of the General Rules of Practice

**Rule 7. Pre-Trial Procedure (See Rule 16)**

There shall be a pre-trial conference in every civil case, unless counsel for all parties stipulate in writing to the contrary and the court approves the stipulation. Upon its own motion or upon request of any party, the court may dispense with or limit the scope of the pre-trial conference or order.

In uncontested divorce, default, and magistrate cases and magistrate appeals, a pre-trial conference or order is not required.

A party who has not requested a pre-trial conference may not move for a continuance on the ground that it has not been held.

At least twenty-one days prior to trial date, the plaintiff's attorney shall arrange a pre-trial conference with the defendant's attorney to be held not later than seven days before trial date. 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 or other judge holding court in the district (or district court judge with respect to district court cases) who shall make an appropriate order. The defense attorney may initiate pre-trial under the same rules applicable to plaintiff's attorney.

The pre-trial order shall be in substance as shown on the attached sample form. [\[Form 2 – Next Slide\]](#)

---

---

---

---

---

---

---

---

---

---

9



[illegible][illegible]

---

---

---

---

---

---

Local Rules:  
Wake  
County Local  
Rule 6

6.0 PRE-TRIAL ORDERS, PRE-TRIAL CONFERENCES AND EXHIBITS

6.1 **Pre-Trial Orders** Proposed pre-trial orders are due to the Trial Court Administrator's Office no later than 5:00 p.m. on the Friday prior to the session of court in which the case is calendared for trial. The pre-trial order shall be in substance as shown on the sample form set out in the General Rules of Practice for the Superior and District courts. The pre-trial order shall include a list of the witnesses expected to be called at trial, a list of exhibits, and a list of the issues the parties request be submitted to the jury.

6.2 **Pre-Trial Conference** Any party, or the Court on its own motion, may request a pre-trial conference to address matters relating to final trial preparation or settlement of a case. Any party requesting a conference with the presiding judge pursuant to Rule 7 of the General Rules of Practice must send a written request to the Trial Court Administrator no later than 15 days before the date the case is scheduled for trial. At the time of or immediately following the pre-trial conference, unless otherwise ordered or agreed, it shall be the duty of the plaintiff to prepare the final proposed pre-trial order to be signed by all counsel.

6.3 **Exhibits** Exhibits shall be pre-marked with appropriate stickers with sequential numbers. A list of all exhibits in sequential order shall be provided to the courtroom clerk at the beginning of the trial. If publication of hard copies to the jury is intended, counsel are encouraged to provide a sufficient number of copies of exhibits for use by the jury.

---

---

---

---

---

---

---

---

Buncombe  
County Local  
Rule 11 →

Cumberland  
County Local  
Rule 7 →

**Rule 11. PRE-TRIAL CONFERENCES**

The Trial Court Administrator may schedule a pre-trial conference with either the Senior Resident Superior Court Judge or Presiding Judge prior to the week of trial. In addition, an attorney for any party may request of the Trial Court Administrator that a pre-trial conference be scheduled. When practicable, the Pre-trial conference will be conducted by the Judge presiding at the trial.

**RULE 7. PRE-TRIAL CONFERENCES**

7.1 There shall be a pre-trial conference and order in every civil case. The purpose of the conference is to define and narrow the issues for trial and explore carefully the prospects of settlement.

7.2 The pre-trial conference shall be held by the parties at least twenty-one (21) days prior to the trial date and a pre-trial order prepared and signed by all attorneys of record shall be filed with the Clerk of Superior Court. A copy of the pre-trial order shall be presented to the Trial Court Administrator no later than Wednesday proceeding the session on which the case is set for trial.

7.3 The pre-trial order shall substantially conform to Rule 7, General Rules of Practice for Superior and District Court.

7.4 Failure to comply with these provisions may result in the Presiding Judge, in his/her discretion, entering an order to exclude certain evidence, an order of dismissal, or order such other sanctions deemed appropriate and allowed by law.

---

---

---

---


---

---

---


---

### The Judge's Role: Setting the Final Pretrial Hearing



#### Timing Requirements

Variation among counties: weeks before trial, a week before trial, and even the morning of trial.



#### Discretionary Tips

The presiding judge has discretion on whether there is a pre-trial conference and when it is held. The benefit of holding an earlier conference is that it ensures all pretrial motions are adequately resolved, which will save everyone's time at the start of trial.

---

---

---

---

---


---

---

---

### The Judge's Role:


## Suggestions for the Final Pretrial Hearing




Suggested Default:

Set a pretrial hearing at least the week before trial

E.g., Thursday or Friday before trial



Require counsel to address exhibits (and marking exhibits) in advance



Encourage compromises about how to handle exhibit binders and publishing exhibits to the jury

- E.g., The Court should not have to constantly ask whether there is an objection to publication

---

---

---

---

---

---

---

19

### The Judge's Role:

## Pretrial Filing and Hearing Deadlines

- **Best Practice:** Have a deadline to have motions filed and heard:
  - Standard evidentiary motions in limine
  - Expert motions in limine
  - Dispositive motions
- **Deadlines for Dispositive Motions**
  - Many counties have local rules requiring that dispositive motions be filed – and heard – at least 30 days before trial.
  - *Consider* whether you will hear late-filed motions, particularly if they are otherwise likely to resolve the case without the need for a trial
- **Deadlines for Motions in Limine**
  - Counsel often agree on much (if not all) of the evidence/arguments to be excluded – anecdotally, more than 80% is common
  - Set an early deadline to give counsel an opportunity to review the objection. *Otherwise*, they will:
    - not address the issues in advance; or
    - exchange objections or know that they (likely) agree on many of the matters to be excluded
  - Last-minute motions in limine often result in a heated hearing where only one or two issues are in dispute

---

---

---

---

---

---

---

20

### The Judge's Role:

## Respecting the Jury's Time

- **Avoid Last-Minute Efforts to Work in Dispositive Motions or Motions in Limine**
  - Counsel and the Court should respect the jury's time.
- **How Do We Respect the Jury's Time?**
  - *Don't wait* until the morning of trial, with prospective jurors incoming (or having arrived, to have pretrial hearings
    - Some counties bring in jurors later in the day/week
    - This does not resolve 6-8 hours of pretrial motions
  - *Consider:* Juror pay is \$12 for one day, \$20 for days 2-5, and \$40 daily thereafter
    - Each day sitting in a trial resolving a dispute that could/should be resolved outside of court is a full day's pay that each juror is losing
  - Be cognizant of jurors' time
  - Ensure the attorneys and parties know of the time being devoted by jurors

---

---

---

---

---

---

---

21

## The Judge's Role: Pretrial Settlement Discussions

How involved should the Court be in settlement discussions at the pretrial hearing?

- Know yourself
- Know the record
- Know the attorneys and parties

• There are two primary lines of thought →

### Strongly Encourage Settlement

- **Thought:** Use pretrial conference as an opportunity to facilitate a settlement
- Are the parties interested in settlement?
- Do they simply want their day in Court?
- Is there a significant risk to either party that it seems the parties haven't discussed?

### Take a Hands-Off Approach

- **Thought:** Give the parties their day in court promptly, without "pushing" settlement.
- The Court's role is not to force a settlement.
- Parties have mediated, with months/years to discuss settlement
- Is anyone indicating a desire to discuss settlement?

---

---

---

---

---

---

---

---

22

## The Judge's Role: Imposing Trial Time Limits as Part of the Pretrial Process

### Jury Selection/ Voor Dire

- Some judges impose time limits during voir dire
- **Example:** Allocate X hours to each side before passing the panel
- Decreasing amount of time for each successive turn (2 hours → 1 hour → 30 minutes)

### In-Trial Evidentiary Presentation

- Trial "shot clocks" have become increasingly popular
- **Example:** Each side receives 15 or 20 hours "on the clock" for the duration of the trial.
- On a smaller scale, such limitations might be imposed on a witness-by-witness basis

### Trial (Overall)

- Parties' estimates of time are often inaccurate
- The Court may limit trial to the estimated length, with each side receiving exactly half of the time
- 1 full trial day = ~5.5 hours (330 minutes)
- 5 full trial days = ~27.5 hours (1650 minutes)
- **Example:** For a five-day trial, each side receives 13.5 hours/750 minutes of court time, with the clerk keeping time

---

---

---

---

---

---

---

---

23

## The Judge's Role: Efficiently Address Other Issues at Pretrial Hearings



Resolution of objections to deposition videos in advance

Example: de bene esse depositions  
The Court might require the parties to highlight and color code a transcript of the deposition, identifying the objection in one color, the language of issue in another, etc.



Pretrial order to be presented at the pretrial conference

---

---

---

---

---

---

---

---

24



BETTER IDEAS/PRACTICES?  
QUESTIONS?

---

---

---

---

---

---

---