

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 9th 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.

State of North Carolina
General Court of Justice
26th Judicial District

District Court Division
Case Number: «Case_Number»
Mecklenburg County

Notices are sent to Mecklenburg County attorneys as a courtesy. The primary method of notice is by publication
Calendars are available on the Internet @
www.nccourts.org

Attendance at Calendar Call is Required.

Courtroom 6330,

832 E. Fourth St., Charlotte, NC 28202

Presiding judge to be announced.

Date of Trial: «NJ_Date»; «NJ_Time»

Date of Notice: June 6, 2018

Addressee:

«Attorney_Full_Address»

Trial Note:

«NJ_Calendar_Notes»

Cases Name

Plaintiff

«Plaintiff_1_Name»

-vs-

Defendant

«Defendant_1_Name»

Pretrial Memorandums are due for all cases that request a jury trial by the Wednesday before the session begins.

This is a Two Sided Form

Instructions for Jury trials are on the back of this notice.

You are hereby notified that this case has been set for trial on the above date. You must be present at the exact time listed for this calendar call. FAILURE TO APPEAR AT EXACTLY THE TIME INDICATED MAY RESULT IN YOUR CASE BEING DISMISSED BY THE COURT. Please note your case may be called for trial at any time during this trial session. **REPORT AT THE TIME INDICATED.**

- If a continuance is requested, use Local Form CCF5-A and CCF5-B. File stamp CCF5-A the request for continuance. The service on the opposing side must be done a full seven days prior to the listed calendar call date. Then submit, no later than noon on the Wednesday before trial calendar call one file stamped motion for continuance form CCF-5A, two copies of the partially completed CCF5-B order for continuance and a self-addressed stamped envelope to the Caseflow Management Office in Suite 3420 (if you know the position of the opposing side state it on the CCF5-A continuance motion). Orders for continuance will not be considered after the noon Wednesday deadline unless an emergency situation is documented when the late request for continuance is submitted.
- If a case is reported settled on the Thursday or Friday before calendar call the party or the attorney must report this at calendar call or deliver to Caseflow Management a legible file stamped dispositive document.
- Any cases listed on a published calendar are subject to dismissal for failure to prosecute if, at the time it is called for the trial, the attorneys (or the parties themselves, if not represented by counsel) are not present or ready to proceed. If the plaintiff and his/her counsel fails to appear their case may be subject to dismissal. If the defendant fails to appear, a judgment based on the case file information may be entered against the defendant.
- If a party is unrepresented when this notice is received and retains counsel before the trial date, it is the responsibility of the party to give a copy of that notice to his/her counsel.
- **Attention!** If English is not your first language you may have the right to an interpreter paid for by the State of North Carolina. The state will provide an interpreter to you in these types of cases: cases heard by a magistrate (including Summary Ejectment, Money Owed and district court appeals of these cases). If you need a language interpreter, you must submit a request at least 10 days before the court hearing. You can find and fill out the interpreter request form at: <http://nccourts.org/LanguageAccess/Documents/InterpreterRequestForm.pdf>. When you select Mecklenburg County, where the court hearing will take place, the form will be submitted by email. Please note that the form must be completed in English. If you do not have a lawyer and need help filling out the interpreter request form, please contact the Community Support Coordinator, Jessica Davis, at 704-686-0268.

Trial Preparation

This information is designed to help you prepare for trial. By the time you receive this notice your case will have already been designated either a bench or jury trial by the filed pleadings.

1. *Do I need a lawyer?* All parties, have the right to represent themselves, without the assistance of a lawyer, which is called pro se or (self-represented).
2. *A bench trial* is a trial before a judge without a jury. The judge alone decides the outcome of the case.
3. *In a jury trial*, a jury of 12 men and women are chosen by the parties. The jury, not the judge, decides the outcome of the trial.

Jury Trial Requested

If your case has been designated a jury trial, all parties/attorneys **MUST** do “ALL” of the following. Failure of all parties to complete these requirements may forfeit your right to a jury trial and forfeit your right to produce evidence and witnesses.

- a. All parties and attorneys must be prepared to ask the potential jurors questions to determine which juror to select for service.
- b. All parties and attorneys must file a Pre-Trial Memorandum. This Pre-Trial Memorandum must be filed with the Clerk of the Superior Court in Room 3725 in the Courthouse by the Wednesday prior to the date listed on the trial notice. A copy must also be served on the opposing side and a copy must be delivered to the presiding judge for your session. Bring a copy of the Pre-Trial Memorandum with you when you report to calendar call. The pre-trial memorandum must contain the following:
 - i. List of potential witnesses
 - ii. List of exhibits to be presented
 - iii. List of issues to be presented to the jury (issues are the questions the jury will answer to determine the case result).
 - iv. List of specific jury instructions. This is the law that you want the judge to read to the jury as the instructions they will use as a basis to make their decision.
- c. Jury trials are held during the week. This requires parties to be on stand-by each day of the session week their case is scheduled for trial and to be ready to come to court when their case is called.

Bench Trial, Trial by Judge

If your case has been designated bench trial, you **DO NOT** have to submit any of the above paperwork. Bring with you all your evidence and/or witnesses that you believe will prove your case.

www.nccourts.org is a website for information on North Carolina Courts and the Local Rules for Mecklenburg County.

This notice does not constitute legal advice. You have a right to an attorney. You may find out how to contact an attorney by calling The Mecklenburg County Bar Association’s Lawyer’s Referral Service at 704.375.8624 Ext. 114.

This notice was sent by 1st Class Mail.
The Trial Court Administrator’s Office, The Caseflow Management Division
832 East Fourth St. Suite 3420, Charlotte, NC 28202
Lynette Richter, Phone 704-686-0188, Fax 704-686-0310, Email: Lynette.G.Richter@NCcourts.org
Rev: 11/1/2017

Welcome

You are sitting in courtroom 6330, which is the civil division of Mecklenburg County District Court. We are here today to select 12 among you to try a case involving a motor vehicle accident, which took place on Monroe Road, in Charlotte North Carolina, on or about January 3, 2017.

On behalf of myself, court personnel, parties and lawyers, we thank you for taking time out of your busy lives. We know you all have other things you could be doing right now, but all of us are entitled, by Constitution or Statute, to a trial by jury on certain legal issues; your presence here today will enable the parties in this case to exercise that right. I ask you to give the same level of attention to this case as you would want your fellow citizens to give if you were a party in this action.

I now want to introduce you to the courtroom personnel --

My name is Becky Thorne Tin; I am a District Court Judge (on bench since election in 2002); in addition to presiding in this civil courtroom, i have also presided in Family Court, Domestic Violence Civil and Domestic Violence Criminal Court, and Child Support Enforcement; in these other courtrooms, I am the judge and the jury; I rule on objections and decide the outcome of each case; but in this courtroom, I get to delegate some of my decision-making responsibilities to people like you when the parties elect to have jury trials.

Sitting to my left is my courtroom clerk, Melissa Beio, who is one of the best clerks in the courthouse. She is efficient, keeps up with exhibits, swears people in, keeps track of who is in the jury, records the proceedings and is in charge of all court files...all technical duties required to run a courtroom.

Our Sheriff's Deputy is Deputy Mcmillan, who is in charge of security, of managing you all and making sure you get to where you are supposed to be. If you have any problems, bring it to his attention and he will make sure the right people are informed.

The case that will be tried by 12 of you is captioned:

Lytonja Romona Jones, Plaintiff v Gabriela Soria, Defendant.

Plaintiff claims defendant driver was negligent in causing the accident and that the accident caused her to suffer injury.

Defendant denies that she was negligent in causing the accident and further alleges that the plaintiff was negligent and should be barred from recovery. This is why we have called you all here today to assist in resolving this dispute.

I will now introduce you to the parties, their attorneys, and name the other witnesses who are expected to testify. Please listen carefully and if you know any of the people involved in this case, be sure to let the attorneys know when you take a seat in the jury box. It may affect your ability to serve as a juror in this matter.

First, I will ask Plaintiff, Lytonja Romona Jones, to stand and face the jury pool; alongside her is her attorney, Timothy A. Sheriff. Mr. Sheriff practices with the firm of Crumley Roberts LLP, here in Charlotte.

Next, I will ask Defendant, Gabriela Soria, to stand and face the jury pool; alongside her is her counsel of record Melissa Monroe; Ms. Monroe is with the law firm of Bolster, Rogers and McKeown, also here in Charlotte.

The witnesses who may testify, other than the parties that I just introduced, include the following:

--Eric Batchatis, who is a Doctor of Chiropractic Medicine with Nova Chiropractic Center, in Charlotte, NC;

--CMPD Officer, Michael Gibbons

Again, if you know any of the parties, their attorneys or any witness who may be testifying, please tell us if you are called to the jury box. Such a relationship may impact your ability to serve in this particular case.

Voir dire

We are now getting ready to begin voir dire, a legal term, whereby 12 of you will be called to the jury box, and lawyers will ask you questions.

These questions are not meant to be intrusive; if you feel uncomfortable answering a question, feel free to voice your concern.

The purpose is to make sure each side believes they have the most objective jury as possible, given the facts and allegations in the case.

Each side is given what we call **8 peremptory challenges;** this means that each lawyer can ask up to 8 of you to be removed from the jury, without giving any reason.

Don't take offense if you are asked to leave by one of the lawyers. In another case, and given another set of facts, that same lawyer would likely want you to remain.

Some of you also may be **excused for cause...**that happens in situations where there is some fairly obvious reason why you would not be an appropriate juror for this case. For example, if you are a close friend of one of the parties.

To the others in the audience, listen up during the questioning. In the event that you are called up to the jury box to replace someone who has been removed, the lawyers may simply ask you if you have any response to the questions they have already asked in order to speed the process up.

The clerk is now going to call 12 of you up to the jury box. When your name is called, please hand your pink sheet to the deputy and fill up the seats, starting with the back row first.

Madame Clerk, please call 12 people up to the jury box.

Jury selection:

--Mr. Sheriff, you may proceed with your questions...

--Ms. Monroe, you may proceed with your questions...

Are you all satisfied with the jury? Mr. Sheriff? Ms. Monroe?

Jury selection completed.

Madame Clerk, will you please impanel the jury.

Stages of trial

I will now explain to you what will happen during this trial. Trial will begin with each party/attorney making an **opening statement** – the opening statements are summaries of what each lawyer hopes the evidence will show during trial....but the opening statements are **not** evidence.

The lawyers/parties will then proceed with their **presentation of evidence. The evidence presented during this trial is what you, the jury, should consider when you begin deliberations on your verdict, at the close of trial** – The plaintiff will present its witnesses and other evidence first; the defendant will then cross examine plaintiff's witnesses; the defendant will then present evidence, if defendant so chooses. You are only to consider the evidence when you begin deliberating upon this case.

Evidence includes

- Sworn witness testimony on the stand
- ***evidence can also include a video tape or transcript of sworn witness testimony, taken prior to trial, in what is called a deposition
- evidence may also include answers given by a party, under oath, prior to trial, in what is called interrogatories or requests for admission
- evidence may also include tangible things such as
 - Charts,
 - Pictures
 - written documents
 - contracts

- emails
- medical records

- letters and other such documents

Evidence does not include the questions asked by lawyers during trial **or objections** made by lawyers.

I want to talk a bit more about **objections**: The lawyers in this case may object to allowing a witness to answer a particular question or they may object to allowing an exhibit to be introduced during this trial.

Once an objection is made, I will determine whether to sustain or overrule the objection, based upon NC Law and Rules of Evidence.

If I sustain the objection, that means the witness will not answer the question...or... the document will not be entered into evidence, for your consideration. **Do not speculate** as to what the answer may have been or what the document may have been. Put it out of your mind.

If I overrule the objection, that means the witness will answer the question or the document will be entered into evidence. The shorthand version is:

sustain = ignore and do not speculate as to what answer or exhibit is being excluded

overrule = pay attention to the answer or exhibit.

Do not hold objections against the attorneys either way...they are simply doing their jobs for their clients.

Side bar...or jury break...if I need to discuss objections with the lawyers, we may take a **side bar**; if discussion is very lengthy, we may ask for you all to take a break, so that we can take care of the issues out of your presence.

Closing arguments

At the close of evidence...the lawyers will each present a closing argument. Like the opening arguments, closings are not evidence...it is each

side's contention of what they hope you will find that the evidence has shown.

It is **your decision only**, not the lawyers, as to what the facts are in this case and what the outcome should be.

Instructions

Following the closing arguments, I will then instruct you, regarding the issues you are being asked to address, based upon the evidence you have heard. I will instruct you as to the law to apply in answering these issues.

You will then recess to the jury room, select a foreperson, and for the **first time** begin deliberating amongst yourselves about the case, until you reach a unanimous verdict.

My work on the computer is related to this trial; I do not want you to think my attention is elsewhere...it is not...most of the time, I am working on jury instructions...

Recess instruction–

We are going to let you go to lunch, but before you go I will read you an instruction on recesses...listen very carefully; these instructions are orders of the court and if you violate these orders, you could be held in contempt, up to 30 days in jail.

During this recess and any other recess, it is your duty to carefully observe these rules:

-- you should not talk with each other about the case;

-- you should not talk with anyone else about the case or allow anyone to talk about the case in your presence.

-- Do not talk to any attorney, party or witness in this case. If anyone should try to communicate with you about the case or if any witness, party or attorney tries to communicate with you about anything, let the deputy know and I will take care of it.

-- You may talk about the case with each other only at the end of the trial, after I've given you the instructions and you've gone back to the jury room and selected your foreperson with the verdict sheet. At that time, you shall begin discussing the case.

-- Do not form or express an opinion about the outcome of the case until you retire and you begin your deliberations.

-- Do not talk with anyone about this case other than your fellow jurors and only after you have formally begun deliberations. This prohibition on talking about the case extends to your family members. --

-- You are also prohibited from conducting any independent research about this case; you are not to investigate the scene of the accident or look on the internet to conduct your own research; things of that sort.

Begin trial:

After evidence has been presented, give these instructions to jury immediately preceding closing arguments

All of the evidence is in and it is now time for the lawyers to make their closing arguments to you;

Listen carefully to the closing arguments of the lawyers, but render your verdict solely upon your memory of the evidence presented to you.

These closing arguments are important summaries of what the lawyers for each side believe the evidence has shown; but you are to depend upon your recollection of the evidence presented, and not what the lawyers say about the evidence, in rendering your verdict.

At the conclusion of the closing statements, I will instruct you about each claim and defense that you are to consider, and I will provide you with detailed instructions about the relevant North Carolina Laws to guide you in considering the evidence. I will then hand out a verdict sheet, that consists of several questions or issues for you to answer. Your answers, which must be unanimous, will represent the verdict in this case.

After closing argument conclude, the judge should read the charge to the jury (charge is separate from this jury script).

When jury comes in with the verdict:

Bring the jury in and ask:

Who is the foreperson? Would you please stand?

Has the jury reached a verdict?

Have you signed and dated the verdict sheet?

Would you hand the verdict sheet to the bailiff?

(judge to review and see if complete and accurate?)

Hand verdict sheet to clerk and say: Madame Clerk, please take the verdict.

Ladies and gentlemen please stand. The jury has answered the issues as follows:

Issue 1

Issue 2

I want each of you to raise your right hand if the reading by the clerk represents your verdict?

Anything from the plaintiff or the defendant? (if they ask for jury to be polled...then)

Madame clerk, please poll the jury.

Judge to address jury at close of case.

I want to thank you all for your service in this case. I will meet with you briefly in the jury room to answer any questions that you may have. It is possible that one side or both will contact you to ask you questions about the verdict or your deliberations. Please feel free to decline to answer questions or to answer questions; it is your choice.

FAILURE OF JURY TO REACH VERDICT.

Members of the jury, I am going to ask you to resume your deliberations in an attempt to return a verdict. I have already instructed you that your verdict must be unanimous--that is, each of you must agree on the verdict.¹ I shall give you these additional instructions:

First, it is your duty to consult with one another and to deliberate with a view to reaching an agreement, if it can be done without violence to individual judgment.²

Second, each of you must decide the case for yourself, but only after an impartial consideration of the evidence with your fellow jurors.³

Third, in the course of your deliberations, you should not hesitate to reexamine your own views and change your opinion if you become convinced it is erroneous. On the other hand, you should not hesitate to hold to your own views and opinions if you remain convinced they are correct.⁴

Fourth, none of you should surrender an honest conviction as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.⁵

Please be mindful that I am in no way trying to force or coerce you to reach a verdict. I recognize the fact that there are sometimes reasons why jurors cannot agree. Through these additional instructions I have just given

¹Different instructions must be given where the parties have stipulated a stated majority verdict under N.C.G.S. § 1A-1, Rule 48.

²Compare N.C.G.S. § 15A-1235(b)(1).

³Compare N.C.G.S. § 15A-1235(b)(2).

⁴Compare N.C.G.S. § 15A-1235(b)(3).

⁵Compare N.C.G.S. § 15A-1235(b)(4).

FAILURE OF JURY TO REACH VERDICT. (Continued.)

you, I merely want to emphasize that it is your duty to do whatever you can to reason the matter over together as reasonable people and to reconcile your differences, if such is possible without the surrender of conscientious convictions, and to reach a verdict.⁶

I will now let you resume your deliberations.⁷

⁶State v. Williams, 288 N.C. 680, 693-696 (1975).

⁷This instruction does not mention that a mistrial will probably necessitate the selection of another jury to hear the case and evidence again, or that more time of the court will be spent in the retrial of the case. Although such language was approved in such cases as State v. Williams, 288 N.C. 680, 698-696 (1975) and State v. Dial, 38 N.C. App. 529, 532-533 (1978), the later case of State v. Lamb, 44 N.C. App. 251 (1979) holds that deadlocked criminal juries are to be instructed in accordance with N.C.G.S. § 15A-1235 after July 1, 1978. Since N.C.G.S. § 15A-1235 does not mention wasted jury and judicial resources which might occur as the result of mistrials, it may be error to so charge in criminal cases, c.f., State v. Alston, 294 N.C. 577 (1978). Whether the same rule will obtain in civil cases is an open question. This instruction, however, takes the conservative approach and follows State v. Lamb and N.C.G.S. § 15A-1235.

Rule 68. Offer of judgment and disclaimer.

(a) Offer of judgment. – At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property or to the effect specified in his offer, with costs then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof and thereupon the clerk shall enter judgment. An offer not accepted within 10 days after its service shall be deemed withdrawn and evidence of the offer is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the offeree is not more favorable than the offer, the offeree must pay the costs incurred after the making of the offer. The fact that an offer is made but not accepted does not preclude a subsequent offer.

(b) Conditional offer of judgment for damages. – A party defending against a claim arising in contract or quasi contract may, with his responsive pleading, serve upon the claimant an offer in writing that if he fails in his defense, the damages shall be assessed at a specified sum; and if the claimant signifies his acceptance thereof in writing within 20 days of the service of such offer, and on the trial prevails, his damages shall be assessed accordingly. If the claimant does not accept the offer, he must prove his damages as if the offer had not been made. If the damages assessed in the claimant's favor do not exceed the sum stated in the offer, the party defending shall recover the costs in respect to the question of damages. (1967, c. 954, s. 1.)

NCGS § 6-21.1. Allowance of counsel fees as part of costs in certain cases.

(a) In any personal injury or property damage suit, or suit against an insurance company under a policy issued by the defendant insurance company in which the insured or beneficiary is the plaintiff, instituted in a court of record, upon findings by the court (i) that there was an unwarranted refusal by the defendant to negotiate or pay the claim which constitutes the basis of such suit, (ii) that the amount of damages recovered is twenty-five thousand dollars (\$25,000) or less, and (iii) that the amount of damages recovered exceeded the highest offer made by the defendant no later than 90 days before the commencement of trial, the presiding judge may, in the judge's discretion, allow a reasonable attorneys' fees to the duly licensed attorneys representing the litigant obtaining a judgment for damages in said suit, said attorneys' fees to be taxed as a part of the court costs. The attorneys' fees so awarded shall not exceed ten thousand dollars (\$10,000).

(b) When the presiding judge determines that an award of attorneys' fees is to be made under this statute, the judge shall issue a written order including findings of fact detailing the factual basis for the finding of an unwarranted refusal to negotiate or pay the claim, and setting forth the amount of the highest offer made 90 days or more before the commencement of trial, and the amount of damages recovered, as well as the factual basis and amount of any such attorneys' fees to be awarded. (1959, c. 688; 1963, c. 1193; 1967, c. 927; 1969, c. 786; 1979, c. 401; 1985 (Reg. Sess., 1986), c. 976; 2011-283, s. 3.1; 2011-317, s. 1.1; 2013-159, s. 5.)

Performance review of District Courts In North Carolina

33 responses

1. Do you have any criticisms or concerns regarding the efficiency of Civil District (non-domestic) trials at the District Court level?

32 responses

No
(6)

no
(3)

Many

DSS cases in Alleghany County get continued due to out of town conflicts with one of the only attorneys on the appointed list; due to the limited number of court dates, many things get continued far longer out than they should be because of that. However, there are only two attorneys on the court appointed list (I'm the other one), so it's difficult to change that.

Why

no probable cause hearings? Why don't the asst DA have any discretion with cases they are supposed to be handling?

Cases

move much to slowly before being assigned for arbitration and the arbitrators are often unclear as to their role with certain procedures, such as the applicability of fees awards at the arbitration level

rulings
delayed

Very
slow and inefficient

Not
many jury trials in D/C in 1st District.

Most
District Court judges in the first judicial district are completely unfamiliar
with jury selection and other jury related issues

Do
not do civil. Just criminal

Yes.

Yes

Yes. The
trial court administrator's office is largely unwilling to make reasonable
accommodations for unforeseen circumstances. On one such prior occasion, the
court, sua sponte, cancelled a hearing on a motion for summary judgment. The
TCA could not schedule another hearing prior to trial but also refused to
continue the trial date. Ultimately, this forced my client to enter into an
unfavorable settlement agreement.

No.

I wish
Orange County District Court would convene promptly at its 9 a.m. scheduled
start time. Delays in judges arriving is inefficient, wastes time, and makes it
difficult to plan your schedule - you don't know when you'll start, so even on a
short matter, you can't reasonably predict when you'll be done. Also, a 9 a.m.
start time lets us get more done in one day.

I
think our district does a good job of handling as efficiently as may be done
under the circumstances, but am concerned that it takes so long to get enough
cases together for a jury calendar. Not really sure how the judges/court can
really help that, but it does tend to lead to stretching cases to get them into
superior court (where the numbers are also down).

Yes.
I work in a busy, high volume district. Judges often do not hold defense
attorneys accountable for showing up on time, or being available throughout the
session once they've held a case "open" or "for trial" to actually start the
trial. Additionally, there is no penalty for holding a case "for trial" in
order to get a continuance when it cannot be reached (likely because the lawyer
cannot be found in time).

It
would save time if there was more scheduling of trial times.

yes

I do
not handle any

no,
the judges attempt to get cases up for trial to go on schedule.

No
trials on Monday and Friday make it difficult to get cases tried.

The District

Court calendar is overloaded, and non-domestic civil trials seem to suffer the most adverse effects. Generally, trials that may last longer than 1.5 days are difficult to have heard. Mondays are generally reserved for evictions and Magistrate appeals; Tuesday and Friday mornings are reserved for 50(b) hearings. Thus, the only full "trial days" are Wednesday and Thursday. Not sure there is a solution, but with the heavy docket it is becoming a real issue.

Judges

have little to no experience or knowledge. Oftentimes they come straight from the DA's office with no workable civil knowledge at all. Or they were lousy attorneys and got on the bench and their lack of knowledge is clear. Many are unprofessional when dealing with attorneys or the public.

My
experience is almost all in Superior Court so I cannot really offer an opinion here.

2. What is your experience regarding the efficiency and management of civil jury trials at the District Court level?

32 responses

none
(2)

N/A
(2)

Never
had one

Very
little

It
is inefficient

I
have not done a district jury case

Very
poor

Limited.
We don't conduct many jury trials in 1st district.

Mandatory
arbitration in automobile wreck cases involving insurance companies is a
complete waste of time as the insurance company seems to always appeal from any
decision requiring it to pay money

My
experience is that its very efficient.

There
is no structure for case management and no deadlines to keep the process moving
along like there is in Federal Court under FRCP Rule 26(f).

So
few jury trials result in Judges have some struggle in dealing efficiently with
Juries.

Our
district does not have enough judges and therefore court time to be efficient in
both hearings and time to complete orders and rulings.

It
could be better.

No
experience

None.

I think if
anything they really are almost overly efficient. I do really like having the
pre-trial calendar at least a month out, as that gives everyone a much better
idea of where they stand.

No
knowledge

our
district court administrator is top notch

Not
enough experience in District Ct. Jury trials to give an opinion.

very
good

horrible

Good

I do
not handle any

Judges,
specifically Judge Tin is incredibly efficient and works hard to keep attorneys
on task

Good
except as noted above.

Handled
efficiently

Cases
move swiftly to arbitration and then to trial - maybe too swiftly. Often, if
discovery is outstanding, a party does not have sufficient time to pursue a
Motion to Compel prior to the matter being set for trial. As for actual trials,
no complaints - I think all of our judges do an effective job moving cases
through trial.

Since
they are so rare, these usually go okay except when a judge with little to no
jury experience at all has to preside. They do not know the rules of evidence
or how to communicate effectively with the jury.

See#
1

3. Do you have any criticisms or concerns regarding the average time necessary from the date of filing to the jury trial at the District Court level?

31 responses

No
(3)

no
(2)

not
applicable

takes
too long to get on docket

It
is to long

it
has improved

It
takes waaaay too long.

Takes
a very long time to get a jury trial scheduled in 1st district.

Personally,
I think its too fast.

N/A

Yes.

So few
District Court Sessions can cause serious delays in moving cases

Too
long

Not
necessarily, other than the TCA should be willing to consider extending trial
dates where additional time is necessary for discovery, motions, etc.

No
experience

No.

None

I am
concerned about the time, but again, do not really know how that can be managed
any better. You cannot pull jury pools for a calendar with 1-3 cases. That
would strike me as being rather inefficient with judicial resources.

No
knowledge

Not
in the 30th District except perhaps in the smallest of the counties where there
is very little court.

Yes.
There are not enough jury trial sessions, and some cases languish
years.

yes

I do not
handle any

Sometimes
they are placed on the trial calendar less than a month after nonbinding
arbitration, which leaves little time for depositions and completing
discovery

No.

See
response to #2.

That
is fine.

See
#1

4. Do you have any criticisms or concerns regarding the Local Rules of any particular district as they pertain to the administration and efficiency of jury trials at the District Court level?

30 responses

No
(7)

no
(3)

N/A
(2)

NO
(2)

not
applicable

they
probably don't do 2 a year in my county

Some
of the Districts have strange local rules that are not normal or
helpful.

Local
rules for both jury and non jury trials not undated in 1st district in very long
time.

Yes.

No.

No. Our
attorney driven system for calendaring of motions and trials is the most
efficient, since attorneys know best when the case needs to be on the calendar
for something.

Not
for any where I practice.

yes

I do
not handle any

no.

No.

No I do
not

Due
to the swift nature in which cases move forward, it would be nice if we could
relax the rules regarding dispositive motions not being heard within 30 days of
trial.

The
ones I have dealt with are fine.

See
#1

5. Do you have an opinions, criticisms or concerns regarding the necessity or lack of necessity of the Non-Binding Arbitration Program at the District Court level?

32 responses

No
(2)

not
applicable

no

it is
not needed.

See
above to answer #1

not
used it

It
generally is a waste of time.

NBA
should be used more. We have mandatory mediation in custody matters but in other D/C cases, it is not used enough

I
believe that it is a waste of time

Not
much chance for input on date that arbitration is selected and very hard to change.

It
works well as conveyed by civil attorneys

Yes.
There should be mandatory mediation as there is in Superior Court. The dollar amount in controversy should have no bearing on whether or not the case is mediated.

It
would be VERY helpful to have such a program in our District

No
opinion

I
believe that if it is going to be mandatory then the parties should not have to
incur the additional expense.

No
experience

I
think it is a good idea. I have used this in other districts, and I think it is
helpful in getting cases resolved.

It
is inefficient and a waste of time, because it too often results in having to
try the case twice. It should be an optional program.

As
a rule the cases I handle have basically a universal standing order to go
through arbitration. Some cases it is really a good opportunity to get

N/A

It has
out-lived it's usefulness. Based on my experience, the percentage of cases that
are appealed for trial de novo is 100%. In addition, I feel that there are
cases selected for arbitration that are inappropriate for 1 hour arbitration;
the cases are more complex and/or required more testimony than can be handled in
the one hour time frame. There is no flexibility for recognizing this factor.

No
experience.

The
arbitrations are very successful in our district.

yeah

Probably a
waist of time.

Typically
the awards are significantly higher than jury verdicts, so clients don't take
much stock in them.

It
is mostly a waste of time. The quality of decisions is inconsistent and seems to
be geared more toward the Plaintiffs side of things. Perhaps if more defense
attorneys would sign up to serve there would be more balance.

n/a

I think this

is a good program - but, many of the arbitrators could use a refresher on actually applying the law (if not the rules of evidence) at these hearings. Many attorneys see the process as ineffective, in that they go into the process knowing certain arbitrators are going to ignore application of the law - which can result in a Plaintiff or Defendant not taking a real look at the issue in his/her case should he/she proceed to trial.

This

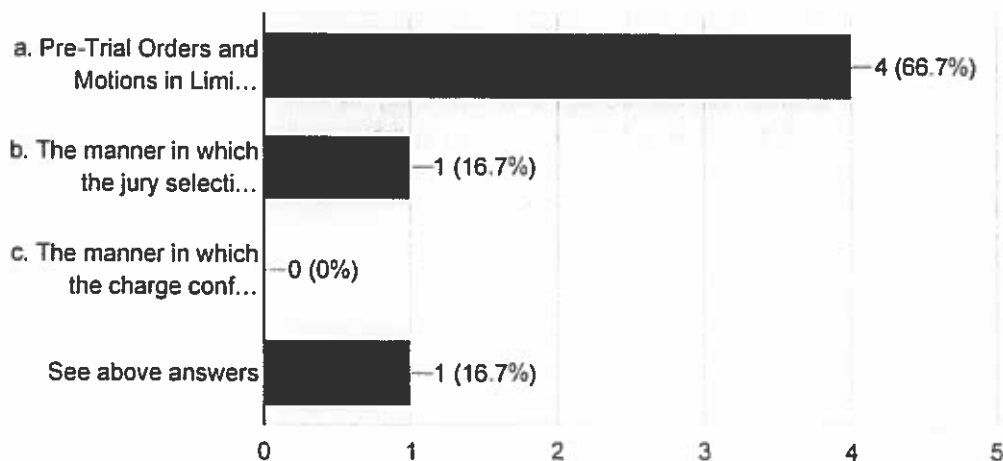
is an excellent method to resolve cases. The only criticism would be some sort of criteria for lawyers appointed as arbitrators. Some CLE or something to be sure they are aware of local rules and ways to address the issues that come up in cases.

I

truly believe it is ineffective. The parties who benefit from it most are the Arbitrators. I think it is MUCH more preferable to have mediation. Indeed, it may be the single biggest reason I try to stay out of District Court.

6. Are there any specific concerns, criticisms or suggestions regarding any of the specific components of a jury trial as administered or presided over by the Court? For example, any questions or concerns regarding any of the following:

6 responses



Please explain:

13 responses

No
(2)

not
applicable

no

They
are seldom heard pre trial.

None

I
believe peremptory strikes should be made outside the presence of the jury and
counsel should be permitted to voir dire the entire venire as opposed to only
those individuals seated in the jury box.

No.

none

No
concerns

no
criticism

Can
we clear up the requirements for Pre-Trial Orders in a jury trial setting?
Maybe the attorneys submit a "list" or proposed instructions and then bring the
actual instructions in Word format ready for presentation to the Court at the
start of trial. Currently, I do not think the Order is clear as to what
actually needs to be submitted prior to trial.

Again,
see #1.

7. Are there any criticisms and/or suggestions regarding the time in which jury trials should begin? That is, should the trials begin on the first day of the term (Monday) and at a time when jurors are generally summoned for corresponding Superior Court terms?

25 responses

no
(3)

No
(2)

None
(2)

not
applicable

YEs
they should start Monday

Trials
should begin with conference on the morning of the first day of the term and
proceed to selection of the jury as soon thereafter as possible

yes

Should
start on Monday

N/A

no
opinion

It
is difficult to plan for a trial when it is scheduled to start on a monday but
is not first on the docket. I would rather see trials scheduled mid week so
that counsel and the parties can plan to start on the day the case is set for
trial.

No.
Yes.

probably
Tuesday works best, since most district court jury trials are shorter. though

starting one on Monday gives a better chance at making sure two trials per week are possible, should the numbers merit.

No
criticism

No
criticism

Monday
at 2:00 makes the most sense so pretrial issues are resolved in the morning.

if the
calendar is full, starting on Monday may assist in getting more cases tried
without pushing them to the next calendar

Yes.
See response to number 1 above.

I
don't think it matters, so long as it is consistent. If the parties know that
jury trials will always start on Tuesday at 2:00 PM (or whatever time), it would
help immensely with scheduling. If possible, maybe the TCA posts any
alterations in that timing in the final Trial Calendar the Friday prior to the
session.

Nobody
wants to be there first thing Monday. Mondays at 2 would be a good starting
time. Or even Tuesdays 1st thing if there are motions to be heard Monday.
Nothing worse than people having to be there at 12:30 or 1 and then they sit
around all day.

That
would seem to be most efficient.

8. Do you have any suggested improvements for the way in which civil jury matters are managed at the District Court level?

23 responses

No
(4)

not
applicable

no

We
need more judges and more sessions of court.

The
introduction of a condensed DSO would help

have
not done dist jury trials

Not
really.

N\A

no
opinion

see
above

None

No.

District
Court judges are often unfamiliar with civil cases that fall outside of family law and criminal law. Jury trials are rare in those civil cases outside those two areas. I believe it would be helpful to have training updates regarding jury instructions, particularly pertaining to measures of damages, and on other issues pertaining to verdicts / judgments

More
sessions.

I
do not handle any

Not really
other than as noted above. I like the efficiency in which Judge Tin has created with the rules regarding providing jury instructions and pre-trial submissions.

Provide
less help to attorneys that are not following the Rules of Evidence, Civil Procedure, etc.

See
above

See
1 and #5 above.

9. Is there any particular judicial district that you point to as a "model" in terms of Civil District jury trial? If so, which districts and why?

19 responses

No
(4)

no
(3)

not
applicable

None
that I know of

N/A

Federal
court

No

No.

I think our
19-C does a pretty good job.

Not
that I know of.

no.

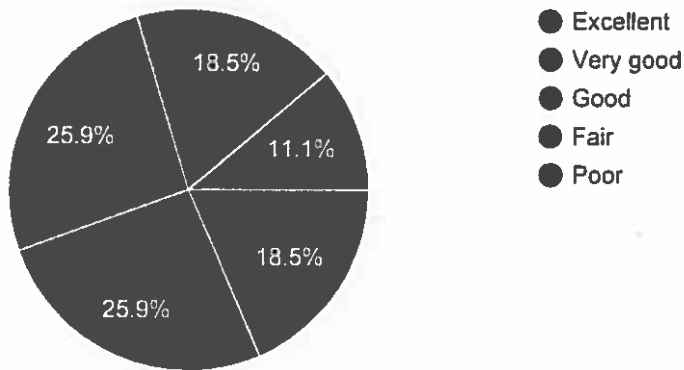
Despite
some of the difficulties mentioned above, I think Mecklenburg has the best
practices in place vs other counties - especially in light of the heavy docket.
However, some other counties do have more full "trial days" devoted the each
session.

Don't
know

Not
to my knowledge

10. What is your opinion regarding the knowledge, experience and ability of the District Court Bench regarding the administration and conduct of jury trials?

27 responses



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