



# REPORT ON NORTH CAROLINA BUSINESS COURT

G.S. 7A-343(8a)

PREPARED BY  
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS  
FEBRUARY 1, 2018



**About the North Carolina Judicial Branch**

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

**About the North Carolina Administrative Office of the Courts**

The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

## Introduction

N.C.G.S. 7A-343(8a) requires the Director of the North Carolina Administrative Office of the Courts (“NCAOC”) to submit a report on the activities of the North Carolina Business Court. Specifically, the statute provides as follows:

(8a) Prepare and submit a semiannual report on the activities of each North Carolina Business Court site to the Chief Justice, the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety, the chairs of the of the Joint Legislative Oversight Committee on Justice and Public Safety, and all other members of the General Assembly on February 1 and August 1. The report shall include the following information for each Business Court site:

- a. The number of new, closed, and pending cases for the previous three years.
- b. The average age of pending cases.
- c. The number of motions pending over six months after being filed.
- d. The number of cases in which bench trials have been concluded for over six months without entry of judgment, including any accompanying explanation provided by the Business Court.

The August 1 report shall include an accounting of all business court activities for the previous fiscal year, including the itemized annual expenditures.

NCAOC submits this report for the period from January 1, 2017 through December 31, 2017.

## An Overview of the North Carolina Business Court

The North Carolina Business Court is an administrative division of the North Carolina General Court of Justice designed to provide a specialized forum for cases involving complex business and technical issues.

Cases are most often referred to the Business Court through the statutory designation process provided by G.S. 7A-45. Other cases may be designated by the Chief Justice upon request by a senior resident superior court judge pursuant to General Rule of Practice for Superior and District Courts 2.1 (“Rule 2.1”). G.S. 7A-45 provides that any party may, but is generally not required to, designate as a mandatory complex business case an action that involves a material issue related to the following types of disputes:

- Disputes involving the law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, and limited liability companies
- Disputes involving securities
- Disputes involving antitrust law
- Disputes involving trademark law
- Disputes involving the ownership, use, licensing, lease, installation, or performance of intellectual property, including computer software, software applications, information



technology and systems, data and data security, pharmaceuticals, biotechnology products, and bioscience technologies

- Disputes involving trade secrets
- Contract disputes in which specified statutory conditions are met.

G.S. 7A-45.4 further provides that designation of cases involving material disputes of several of these subject categories becomes mandatory when the amount in controversy is at least five million dollars (\$5,000,000) as computed in accordance with G.S. 7A-243. The designation also is mandatory for any action involving a material issue related to tax law that has been the subject of a contested tax case for which judicial review is requested under G.S. 105-241.16, or a civil action under G.S. 105-241.17 containing a constitutional challenge to a tax statute.

The majority of cases referred to the Business Court in calendar year 2017 involved corporate law. **Table 1** below identifies the statutory basis appearing in the parties’ Notices of Designation for cases newly assigned to Business Court in 2017 and the frequency of each material issue.

**Table 1. Material Issues Pursuant to G.S. 7A-45.4 Appearing in Parties’ Notices of Designation for Cases Assigned in Calendar Year 2017**

Material Issue	Frequency*
(a)(1) Corporations	139 (73)**
(a)(2) Securities	19
(a)(3) Antitrust	4
(a)(4) Trademark	13
(a)(5) Intellectual Property	28
(a)(8) Trade Secrets	18
(a)(9) Contract Dispute	15
(b)(1) Contested Tax Case	4
(b)(1) Constitutional Challenge Tax Case	0
(b)(2) Controversy over \$5 million	11

\* A party’s Notice of Designation may indicate more than one material issue.

\*\* Adjusting and counting the 67 newly designated *Charlotte School of Law Cases* as one new case.

Once a case is designated as a complex business case under G.S. 7A-45.4 upon approval by the Chief Justice, all proceedings in the action are heard before the special superior court judge for complex business cases (“business court judge”) to whom it has been assigned by the chief business court judge. The Chief Justice has discretion to assign other exceptional cases to the Business Court under Rule 2.1. Special superior court judges are commissioned and have the same authority as other judges of the General Court of Justice, Superior Court Division. Accordingly, business court judges are often assigned to regular civil court sessions in addition to handling their caseload of designated complex business cases.

As of December 31, 2017, the Business Court included five active business court judges that maintained chambers in four localities. Appendix A details the number of pending cases during





2017 for each location by county of origin, while Appendix B details the county of origin of all new cases assigned to the Business Court during 2017.

Chief Judge James L. Gale serves as a senior business court judge pursuant to G.S. 7A-52(a1), maintaining chambers at the Elon University School of Law in Greensboro. Each of the other four members of the court are special superior court judges for complex litigation appointed pursuant to G.S. 7A-45.3. Hon. Louis A. Bledsoe, III, and Hon. Adam M. Conrad, maintain chambers at the Mecklenburg County Courthouse in Charlotte; Hon. Gregory P. McGuire maintains chambers at the Wake County Courthouse in Raleigh; and Hon. Michael L. Robinson maintains chambers at the Wake Forest University School of Law in Winston-Salem. While these judges maintain chambers at these locations, cases designated as complex business cases and assigned to the Business Court maintain venue in the county of origin, and each of the five judges regularly travels to the respective counties of venue.

An early leader in electronic filing since 1996, the North Carolina Business Court launched a new Web-based filing system in June 2017 that provides much improved functionality and features for attorneys, filers, and judicial staff. The interface delivers a modern and user-friendly experience, features new search capabilities, and provides public access to case information online. Additionally, the new system provides a browser-based case management system with workflow queues and judicial tools to manage cases, parties, and events through the complete life cycle of a case. It streamlines judicial processes and the dissemination of filings, orders, and opinions.

Effective January 1, 2017, the Business Court implemented new local rules approved by the North Carolina Supreme Court. These rules represent some of the most comprehensive case management and electronic filing rules in the United States, and resulted from the combined efforts over the course of several months of a drafting committee of 64 attorneys chosen to represent a cross-section of business litigators with members diverse in geographic location, practice emphasis, size of practice, gender, age, and race.

## **Case Statistics**

### *The Number of New, Closed and Pending Cases for the Previous Three Years*

The Business Court had 289 cases pending as of December 31, 2017. Of those, 263 cases were assigned to the court as mandatory complex business cases designated pursuant to G.S. 7A-45.4. The Chief Justice designated 20 additional cases as complex business cases and assigned them to the Business Court pursuant to his discretion under Rule 2.1. Six additional cases resulted from the consolidation of other pending cases.

This report includes a modification in how statistics are reported for pending cases. Earlier reports expressed a group of consolidated cases as a single pending case, even though that reported case was the lead case for multiple cases not individually reported and which remained pending on the civil docket. Examples include multiple cases by students of Charlotte School of Law, multiple cases arising from the closing of a single medical practice, or multiple class actions arising from a contested merger transaction. This report implements a process of reporting the total number of



pending cases per location, as well as a number in parenthesis which represents the total number of cases when consolidated cases are counted as a single case. While G.S. 7A-343 (8A) requests a report by location for years beginning in 2017, this report includes “Mecklenburg A” and “Mecklenburg B” to reflect that two judges reside in Mecklenburg County as of 2017.

**Table 2** below represents the number of new, closed and pending cases for calendar years 2017, 2016 and 2015, as of December 31 of the respective calendar year. For purposes of this report, “Pending Cases” includes all cases without regard to the year in which the case was first assigned to the Business Court. “New Cases” include the number of new cases assigned to the Business Court in the particular year being reported. “Closed Cases” include the number of cases closed during the respective calendar year.

**Table 2. Pending, New, and Closed Cases in Business Court by Court Location (Calendar Years 2015 - 2017)**

Calendar Year	COURT	Pending Cases*	New Cases	Closed Cases
2017	Forsyth	43 (37)	31	31
2017	Guilford	115 (34)	76**	19
2017	Mecklenburg A	50 (37)	24	24
2017	Mecklenburg B	36	33	21
2017	Wake	45 (40)	39	42
<b>2017</b>	<b>Statewide</b>	<b>289 (184)</b>	<b>203</b>	<b>137</b>
2016	Forsyth	40	24	14
2016	Guilford	57	27	39
2016	Mecklenburg	53	42	55
2016	Wake	54	53	62
<b>2016</b>	<b>Statewide</b>	<b>204</b>	<b>148</b>	<b>172</b>
2015	Guilford	82	42	44
2015	Mecklenburg	80	55	46
2015	Wake	69	44	52
<b>2015</b>	<b>Statewide</b>	<b>231</b>	<b>141</b>	<b>142</b>

\* Parenthetical figures represent when a consolidated group of cases is counted as one case.

\*\* 67 of these 76 new cases were consolidated into the *Charlotte School of Law Cases*.

### Average Age of Pending Cases

As of December 31, 2017, 39 of the Business Court’s 289 pending cases were subject to stay or appeal, which increases the overall average time to disposition for all cases. The average age of the pending cases not subject to any present stay or appeal was 386 days, with a median age of 191 days. The average age of all pending cases was 474 days, with a median age of 270 days. The duration of a case may be affected by multiple stays or appeals throughout the life of the case. The average age of cases closed in 2017 was 464 days, with a median age of 309 days.



**Table 3** offers additional information on pending and active cases for calendar year 2017 by location.

**Table 3. Pending, Active, New, and Closed Cases, and Average Age (Calendar Year 2017)\***

LOCATION	Pending Cases	Active Cases	New Cases	Closed Cases	Average Age Pending (days)	Average Age Active (days)
Forsyth	43 (37)	38 (32)	31	31	336	339
Guilford	115 (34)	101 (24)	76**	19	470	344
Mecklenburg A	50 (37)	44 (31)	24	24	654	595
Mecklenburg B	36	33	33	21	313	312
Wake	43 (40)	33 (31)	39	42	357	287
Wake/Jolly***	2	1	0	0	3528	2868
<b>Statewide</b>	<b>289 (186)</b>	<b>250 (152)</b>	<b>203</b>	<b>137</b>	<b>474</b>	<b>386</b>

\* Parenthetical figures represent when a consolidated group of cases is counted as one case.

\*\* 67 of these 76 new cases were consolidated into the *Charlotte School of Law Cases*.

\*\*\* Judge Jolly, with former chambers in Wake County, has now fully retired at the time of submitting this report, and the two reported cases have been resolved at the trial court level, were dismissed, and are the subject of pending appeals.

**Motions Pending More than Six Months**

The business court judges issued 113 written opinions for publication on motions between January 1, 2017 and December 31, 2017, many of which addressed issues of first impression.

Consequently, these written opinions regularly represent a significant percentage of the opinions represented in the semiannual summary of most significant cases in *Lawyers' Weekly*, and several widely read legal blogs often focus on the court's decisions. Business court judges also regularly prepare written orders that are not issued as written opinions for publication.

As of December 31, 2017, a total of 62 motions filed prior to July 1, 2017 remained pending in 17 cases. **Table 4** below illustrates, as of December 31, 2017, the number of motions pending more than six months by location.

**Table 4. Motions Pending More than Six Months by Court Location (As of December 31, 2017)**

LOCATION	NUMBER OF MOTIONS	MOTIONS IN CASES PREVIOUSLY STAYED	CASES WITH PENDING MOTIONS
Forsyth	16	16	3
Guilford	29	23	10
Mecklenburg A	13	13	2
Mecklenburg B	2	0	1
Wake	2	2	1
<b>Statewide</b>	<b>62</b>	<b>54</b>	<b>17</b>



Fifty-four of those motions were in cases that had been formally stayed at some stage because of appeal, bankruptcy, or other reason; or informally stayed because of reported settlement, extended or supplemental briefing schedules prior to hearing oral argument; or other reasons associated with case management. In addition, Business Court motions are subject to a briefing schedule that must be completed before a motion is ready to be heard, and in many instances, a motion is not ready to be heard and ruled upon with the required written opinion within six months of filing. In several instances, the complexity of the issues and the number of counsel involved makes it difficult to schedule a hearing within six months of a motion's filing.

#### *Bench Trials with No Entry of Judgment after Six Months*

During calendar year 2017, the Business Court judges held a total of 18 general superior court civil sessions. They heard three jury trials and one bench trial in Business Court cases, and five jury trials in non-Business Court cases.

As of December 31, 2017, the Business Court had no cases in which entry of judgment in a bench trial was pending for more than six months.

### **Summary**

The North Carolina Business Court continues to provide a specialized forum for cases involving complex and significant business issues. Because one judge typically oversees all aspects of the case from the time of designation trial or other resolution, the court offers efficiencies and expertise necessary for resolution of complex issues. The Judicial Branch looks forward to working with the General Assembly and the business community to identify ways to improve efficiencies in the way complex business cases are handled in North Carolina.





# Appendix

## **Appendix A – Pending Case Distribution by County (Calendar Year 2017)**

## **Appendix B – New Cases Assigned to Business Court by County (Calendar Year 2017)**



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## Appendix A – Pending Cases, Distribution by County (Calendar Year 2017)

COUNTY	GUILFORD	MECKLENBURG	WAKE	FORSYTH	TOTAL
Alamance	0	0	0	0	0
Alexander	0	0	0	0	0
Alleghany	0	0	0	0	0
Anson	0	1	0	0	1
Ashe	0	0	0	0	0
Avery	0	0	0	0	0
Beaufort	0	0	0	0	0
Bertie	0	0	0	0	0
Bladen	0	0	0	0	0
Brunswick	1	0	0	0	1
Buncombe	1	1	0	2	4
Burke	0	0	0	0	0
Cabarrus	0	1	0	0	1
Caldwell	0	1	0	0	1
Camden	0	0	0	0	0
Carteret	0	0	1	0	1
Caswell	0	0	0	0	0
Catawba	0	3	1	3	7
Chatham	0	0	0	0	0
Cherokee	0	0	0	0	0
Chowan	0	0	0	0	0
Clay	0	0	0	0	0
Cleveland	0	1	0	0	1
Columbus	0	0	1	0	1
Craven	1	0	0	0	1
Cumberland	1	0	0	3	4
Currituck	0	0	0	0	0
Dare	0	0	1	0	1
Davidson	2	0	0	0	2
Davie	0	1	0	0	1
Duplin	0	0	0	0	0
Durham	2	0	2	2	6
Edgecombe	0	0	0	0	0
Forsyth	8	7	0	8	23
Franklin	2	0	0	0	2
Gaston	0	3	0	0	3
Gates	0	0	0	0	0



COUNTY	GUILFORD	MECKLENBURG	WAKE	FORSYTH	TOTAL
Graham	0	0	0	0	0
Granville	0	0	0	0	0
Greene	0	0	0	0	0
Guilford	11	9	1	5	26
Halifax	0	0	0	0	0
Harnett	1	0	0	0	1
Haywood	0	0	0	0	0
Henderson	0	1	0	1	2
Hertford	0	0	0	0	0
Hoke	0	0	0	0	0
Hyde	0	0	0	0	0
Iredell	0	1	0	3	4
Jackson	0	0	0	0	0
Johnston	2	0	0	0	2
Jones	0	0	0	0	0
Lee	0	0	0	0	0
Lenoir	0	0	1	0	1
Lincoln	0	0	0	0	0
McDowell	0	0	0	0	0
Macon	0	0	0	0	0
Madison	0	0	0	0	0
Martin	0	0	0	0	0
Mecklenburg	74	38	4	8	124
Mitchell	0	0	0	0	0
Montgomery	0	0	0	0	0
Moore	1	0	0	0	1
Nash	0	0	0	0	0
New Hanover	0	1	4	1	6
Northampton	0	0	0	0	0
Onslow	0	0	0	0	0
Orange	0	0	1	3	4
Pamlico	0	0	0	0	0
Pasquotank	0	0	0	0	0
Pender	0	0	0	1	1
Perquimans	0	0	0	0	0
Person	2	0	1	0	3
Pitt	0	1	0	0	1
Polk	0	0	0	0	0



COUNTY	GUILFORD	MECKLENBURG	WAKE	FORSYTH	TOTAL
Randolph	0	0	0	0	0
Richmond	0	0	0	0	0
Robeson	0	0	0	1	1
Rockingham	0	0	0	0	0
Rowan	0	1	0	0	1
Rutherford	0	0	0	0	0
Sampson	0	0	0	1	1
Scotland	0	0	0	0	0
Stanly	0	0	0	0	0
Stokes	0	0	0	0	0
Surry	1	0	0	0	1
Swain	0	0	0	0	0
Transylvania	0	1	0	0	1
Tyrrell	0	0	0	0	0
Union	0	0	0	0	0
Vance	1	0	0	0	1
Wake	4	11	22	3	40
Warren	0	0	0	0	0
Washington	0	0	0	0	0
Watauga	0	0	0	0	0
Wayne	0	0	3	0	3
Wilkes	0	2	0	0	2
Wilson	0	1	0	0	1
Yadkin	0	0	0	0	0
Yancey	0	0	0	0	0
<b>STATEWIDE</b>	<b>115 (34)</b>	<b>86 (73)</b>	<b>43 (40)</b>	<b>45 (39)</b>	<b>289 (186)</b>

\* Two judges operate in the Mecklenburg chambers.

\*\* Parenthetical figures represent when a consolidated group of cases is counted as one case.





## Appendix B – New Cases Assigned to Business Court by County (Calendar Year 2017)

COUNTY	CASES ASSIGNED IN 2017
Alamance	0
Alexander	0
Alleghany	0
Anson	1
Ashe	0
Avery	0
Beaufort	0
Bertie	0
Bladen	0
Brunswick	0
Buncombe	2
Burke	0
Cabarrus	3
Caldwell	1
Camden	0
Carteret	0
Caswell	0
Catawba	3
Chatham	0
Cherokee	0
Chowan	0
Clay	0
Cleveland	0
Columbus	0
Craven	0
Cumberland	1
Currituck	0
Dare	1
Davidson	0
Davie	0
Duplin	0
Durham	4
Edgecombe	0
Forsyth	10
Franklin	0

COUNTY	CASES ASSIGNED IN 2017
Gaston	1
Gates	0
Graham	0
Granville	0
Greene	0
Guilford	17
Halifax	0
Harnett	0
Haywood	0
Henderson	1
Hertford	0
Hoke	0
Hyde	0
Iredell	1
Jackson	0
Johnston	0
Jones	0
Lee	1
Lenoir	1
Lincoln	0
McDowell	0
Macon	0
Madison	0
Martin	0
Mecklenburg	102 (36)*
Mitchell	0
Montgomery	0
Moore	0
Nash	0
New Hanover	5
Northampton	0
Onslow	2
Orange	4
Pamlico	0
Pasquotank	0

COUNTY	CASES ASSIGNED IN 2017
Pender	2
Perquimans	0
Person	2
Pitt	1
Rockingham	0
Rowan	1
Rutherford	0
Sampson	1
Scotland	0
Stanly	0
Stokes	0
Surry	0
Swain	0
Transylvania	1
Tyrrell	0
Union	0
Vance	0
Wake	34
Warren	0
Washington	0
Watauga	0
Wayne	0
Wilkes	0
Wilson	0
Yadkin	0
Yancey	0
<b>STATEWIDE</b>	<b>203 (137)*</b>

*\* Denotes consolidation of 67 Charlotte School of Law cases as one new case.*



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