



REPORT ON NORTH CAROLINA BUSINESS COURT

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

PREPARED BY
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
FEBRUARY 1, 2019



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 an annual report on the North Carolina Business Court. The statute specifically 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 to 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 in compliance with the legislative mandate for the period from January 1, 2018 through December 31, 2018.

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.

G.S. 7A-45.4 governs the designation of Business Court cases. The statute provides that any party may 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

In addition, the statute establishes two types of cases that must be designated as mandatory complex business cases:

- An 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
- An action described in subdivision (1), (2), (3), (4), (5), or (8) of subsection (a) of G.S. 7A-45.4 in which the amount in controversy computed in accordance with G.S. 7A-243 is at least five million dollars (\$5,000,000)

The majority of cases referred to the Business Court in calendar year 2018 involved the law governing corporations, partnerships, and limited liability companies. **Table 1** below identifies the statutory basis appearing in the parties’ Notices of Designation for cases newly designated to the Business Court in 2018 and the frequency of each type of designated dispute.

Table 1. Dispute Types Pursuant to G.S. 7A-45.4 Appearing in Parties’ Notices of Designation for Cases Designated to the Business Court in Calendar Year 2018

Material Issue	Frequency*
(a)(1) Corporations, Partnerships, LLCs	93 (66)**
(a)(2) Securities	26
(a)(3) Antitrust	13
(a)(4) Trademark	9
(a)(5) Intellectual Property	32
(a)(8) Trade Secrets	26
(a)(9) Contract Dispute over \$1 million	13
(b)(1) Contested Tax Case	2
(b)(1) Constitutional Challenge Tax Case	0
(b)(2) Controversy over \$5 million	3

* A party’s Notice of Designation may indicate more than one dispute type.

** Adjusting the new *Charlotte School of Law* cases as one consolidated case.

Once a case is designated as a complex business case under G.S. 7A-45.4 after preliminary approval by the Chief Justice, all proceedings in the action are heard before the Business Court judge to whom it has been assigned. The Chief Justice has discretion to assign other exceptional cases to the Business Court under Rule 2.1 of the General Rules of Practice and Procedure for



the Superior and District Courts. When necessary, Business Court judges may be called upon in their capacity as judges of the superior court division to handle cases or court sessions in addition to their regular Business Court caseloads.

As of December 31, 2018, there were five active Business Court judges maintaining chambers in Charlotte, Greensboro, Raleigh and Winston-Salem: Louis A. Bledsoe, III, Chief Business Court Judge (Mecklenburg County Courthouse), Gregory P. McGuire (Wake County Courthouse), Michael L. Robinson (Wake Forest University School of Law), Adam M. Conrad (Mecklenburg County Courthouse), and James L. Gale, Senior Business Court Judge (Elon University School of Law). Chief Justice Mark Martin designated Judge Gale as Senior Business Court Judge and Judge Bledsoe as Chief Business Court Judge, effective July 1, 2018.

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. The new system also provides a browser-based case management system with workflow queues and judicial tools to aid the Business Court judges, their judicial staffs, and the parties in managing cases from filing through resolution. The system streamlines judicial processes and the dissemination of filings, orders, and opinions.

Case Statistics

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

The Business Court had 324 pending cases as of December 31, 2018. After consolidation of some individually filed cases, the number of pending cases decreases to 206. Three hundred of the individually filed cases were designated as mandatory complex business cases under G.S. 7A-45.4. The Chief Justice designated 19 other cases as complex business cases and exercised his discretion under Rule 2.1 of the General Rules of Practice to assign those cases to the Business Court. The five remaining cases reached the Business Court through the consolidation of non-Business Court cases in the superior court division with cases pending in the Business Court.

Beginning with calendar year 2017, this report provides the total number of pending cases per location, as well as an adjusted total, in parentheses, showing case information when consolidated cases are counted as a single case. The report also reflects court information for “Mecklenburg A” and “Mecklenburg B” to reflect that Judge Bledsoe (Mecklenburg A) and Judge Conrad (Mecklenburg B) each maintained chambers in Mecklenburg County in 2017 and 2018.

Table 2 below represents the number of new, closed and pending cases assigned to each Business Court location for calendar years 2018, 2017, and 2016, 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 designated to the Business Court. “New Cases” include the number of new cases assigned to the Business Court in the year identified. “Closed Cases” include the number of cases closed during the year identified.

Table 2. Pending, New, and Closed Cases in Business Court by Court Location (Calendar Years 2016 - 2018)

Calendar Year	COURT	Pending Cases*	New Cases	Closed Cases
2018	Forsyth	43 (40)	32	31
2018	Guilford	137 (40)	47**	26
2018	Mecklenburg A	54 (40)	29	24
2018	Mecklenburg B	46 (44)	32	23
2018	Wake	43 (41)	33	37
2018	Statewide	324 (206)***	173	142****
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
2017	Statewide	289 (184)	203	137
2016	Forsyth	40	24	14
2016	Guilford	57	27	39
2016	Mecklenburg	53	42	55
2016	Wake	54	53	62
2016	Statewide	204	148	172

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

** 28 of these 47 new cases were consolidated into the *Charlotte School of Law* cases.

*** Includes one unassigned Robeson County case currently on appeal and previously assigned to former Business Court Judge John Jolly.

**** Includes one closed case previously assigned to former Business Court Judge John Jolly.

Average Age of Pending Cases

As of December 31, 2018, 150 of the Business Court’s 324 pending cases were subject to stay or appeal. This figure is reduced to 57 cases when the 93 pending *Charlotte School of Law* cases are counted as a single case. The average age of a case may be affected by multiple stays or appeals during the life of the case. The average age of the pending cases not subject to any present stay or appeal was 467 days, with a median age of 303 days. The average age of all pending cases was 544 days, with a median age of 409 days. The average age of cases closed in 2018 was 559 days, with a median age of 375 days.



Table 3 offers additional information on pending and active cases for calendar year 2018 by location.

Table 3. Pending, Active, New, and Closed Cases, and Average Age (Calendar Year 2018)*

LOCATION	Pending Cases	Active Cases	New Cases	Closed Cases	Average Age Pending (days)	Average Age Active (days)
Forsyth	43 (40)	36 (33)	32	31	429	343
Guilford	137 (40)	19	47**	26	564	350
Mecklenburg A	54 (40)	51 (37)	29	24	755	728
Mecklenburg B	46 (44)	35 (33)	32	23	396	353
Wake	43 (41)	33 (32)	33	37	423	363
Statewide	324 (206)***	174 (154)	173	142****	544***	467

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

** 28 of these 47 new cases were consolidated into the *Charlotte School of Law* cases.

*** Includes one unassigned Robeson County case currently on appeal and previously assigned to former Business Court Judge John Jolly.

**** Includes one closed case previously assigned to former Business Court Judge John Jolly.

Motions Pending More than Six Months

The Business Court judges issued 137 written opinions for publication on motions between January 1, 2018 and December 31, 2018, many of which addressed issues of first impression. Consequently, these written opinions regularly represent a significant percentage of the opinions reported in *North Carolina Lawyers' Weekly's* semiannual summary of most significant cases, and several widely read legal blogs often focus on the Business Court's decisions. Business Court judges also regularly prepare written, substantive orders that are not issued as written opinions for publication.

As of December 31, 2018, a total of 42 motions filed prior to July 1, 2018 remained pending in 17 cases or groups of related cases. **Table 4** below reflects, as of December 31, 2018, 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, 2018)

LOCATION	NUMBER OF MOTIONS	MOTIONS IN CASES PREVIOUSLY STAYED	CASES WITH PENDING MOTIONS
Forsyth	6	6	4
Guilford	14	12	5
Mecklenburg A	18	9	5
Mecklenburg B	1	1	1
Wake	3	3	2
Statewide	42	31	17



Thirty-one of the reported 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 2018, the Business Court judges held a total of 27 general superior court civil sessions. The judges presided over three jury trials and two bench trials in Business Court cases, and five jury trials in non-Business Court cases.

As of December 31, 2018, 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 provides a specialized forum for cases involving complex and significant business issues. Because a single Business Court judge typically oversees all aspects of the case from the time of designation through trial or other resolution, the Business Court offers efficiencies and expertise necessary for the timely resolution of complex business disputes in North Carolina.



Appendix

Appendix A

Pending Case Distribution by County (As of December 31, 2018)

Appendix B

New Cases Assigned to Business Court by County (Calendar Year 2018)



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Appendix A – Pending Cases, Distribution by County (As of December 31, 2018)

COUNTY	GUILFORD	MECKLENBURG*	WAKE	FORSYTH	TOTAL
Alamance	0	0	0	2	2
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	0	0	1	2
Burke	0	0	0	0	0
Cabarrus	0	0	0	0	0
Caldwell	0	0	0	1	1
Camden	0	0	0	0	0
Carteret	0	1	1	0	2
Caswell	0	0	0	0	0
Catawba	0	3	1	2	6
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	2	0	2
Craven	1	0	0	1	2
Cumberland	1	1	1	4	7
Currituck	0	0	0	0	0
Dare	0	0	0	0	0
Davidson	0	0	0	0	0
Davie	0	1	0	0	1
Duplin	0	0	0	0	0
Durham	2	2	4	1	9
Edgecombe	0	0	0	0	0
Forsyth	2	6	2	3	13
Franklin	0	0	0	0	0
Gaston	0	4	0	0	4
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	13	11	1	7	32
Halifax	0	0	0	0	0
Harnett	0	0	0	0	0
Haywood	0	0	0	0	0
Henderson	0	1	0	0	1
Hertford	0	0	0	0	0
Hoke	0	0	0	0	0
Hyde	0	0	0	0	0
Iredell	0	2	0	0	2
Jackson	0	1	0	0	1
Johnston	0	0	0	0	0
Jones	0	0	0	0	0
Lee	0	1	0	0	1
Lenoir	0	0	0	0	0
Lincoln	0	1	0	1	2
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	104 (11)**	38	5	9	156 (63)**
Mitchell	0	0	0	0	0
Montgomery	0	0	0	0	0
Moore	0	1	0	1	2
Nash	1	1	0	0	2
New Hanover	0	1	4	2	7
Northampton	0	0	0	0	0
Onslow	0	0	0	0	0
Orange	0	1	1	2	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	0	0	0	0	0
Pitt	0	1	0	0	1
Polk	0	0	0	0	0
Randolph	0	0	0	0	0



COUNTY	GUILFORD	MECKLENBURG*	WAKE	FORSYTH	TOTAL
Richmond	0	0	0	0	0
Robeson	0	0	1	0	1
Rockingham	0	0	0	0	0
Rowan	0	2	0	0	2
Rutherford	0	0	0	0	0
Sampson	0	0	0	0	0
Scotland	0	0	0	0	0
Stanly	0	0	0	0	0
Stokes	0	0	0	0	0
Surry	0	0	0	0	0
Swain	0	0	0	0	0
Transylvania	0	1	0	0	1
Tyrrell	0	0	0	0	0
Union	2	2	0	0	4
Vance	0	0	0	0	0
Wake	8	10	18	5	41
Warren	0	0	0	0	0
Washington	0	0	0	0	0
Watauga	0	0	0	0	0
Wayne	0	0	1	0	1
Wilkes	1	3	0	0	4
Wilson	0	1	1	0	2
Yadkin	0	1	0	0	1
Yancey	0	0	0	0	0
STATEWIDE	137 (44)**	100	43	43	324***

* Two judges operate in Mecklenburg chambers.

** When counting consolidated *Charlotte School of Law* cases as a single case

*** Includes one unassigned Robeson County case currently on appeal and previously assigned to former Business Court Judge John Jolly.



Appendix B – New Cases Assigned to Business Court by County (Calendar Year 2018)

COUNTY	CASES ASSIGNED IN 2018
Alamance	3
Alexander	0
Alleghany	0
Anson	0
Ashe	0
Avery	1
Beaufort	0
Bertie	0
Bladen	0
Brunswick	0
Buncombe	1
Burke	0
Cabarrus	0
Caldwell	1
Camden	0
Carteret	1
Caswell	0
Catawba	4
Chatham	0
Cherokee	0
Chowan	0
Clay	0
Cleveland	0
Columbus	1
Craven	1
Cumberland	4
Currituck	0
Dare	0
Davidson	0
Davie	0
Duplin	1
Durham	8
Edgecombe	0
Forsyth	3
Franklin	0

COUNTY	CASES ASSIGNED IN 2018
Gaston	1
Gates	0
Graham	0
Granville	0
Greene	0
Guilford	14
Halifax	0
Harnett	0
Haywood	0
Henderson	0
Hertford	0
Hoke	0
Hyde	0
Iredell	2
Jackson	1
Johnston	1
Jones	0
Lee	1
Lenoir	0
Lincoln	2
McDowell	0
Macon	0
Madison	0
Martin	0
Mecklenburg	65 (38)*
Mitchell	0
Montgomery	0
Moore	5
Nash	2
New Hanover	7
Northampton	0
Onslow	0
Orange	2
Pamlico	0
Pasquotank	0

COUNTY	CASES ASSIGNED IN 2018
Pender	0
Perquimans	0
Person	0
Pitt	0
Robeson	2
Rockingham	0
Rowan	2
Rutherford	0
Sampson	0
Scotland	0
Stanly	0
Stokes	0
Surry	0
Swain	0
Transylvania	0
Tyrrell	0
Union	4
Vance	0
Wake	28
Warren	0
Washington	0
Watauga	0
Wayne	1
Wilkes	2
Wilson	1
Yadkin	1
Yancey	0
STATEWIDE	173 (146)*

* When counting 28 new *Charlotte School of Law* cases as one new case.



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