

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

**BERTIE COUNTY
HALIFAX COUNTY
HERTFORD COUNTY
NORTHAMPTON COUNTY**

**DISTRICT COURT DIVISION
SIXTH JUDICIAL DISTRICT**

17A034

ADMINISTRATIVE ORDER - Local Rules and Procedures for Non-Binding Arbitration

PURSUANT TO Rule 40(a) of the North Carolina Rules of Civil Procedure and Rule 2 of the General Rules of Practice for the Superior and District Courts, the attached rules governing Non-Binding Court Ordered Arbitration Procedures in the Sixth Judicial District, General Civil District Court Division, are hereby adopted effective for all civil cases pending or filed after July 1, 2017.

Entered, this the 30th day of June, 2017.

Brenda G. Branch

The Honorable Brenda G. Branch
Chief District Court Judge, Presiding
Sixth Judicial District

**LOCAL RULES AND PROCEDURES FOR NON-BINDING ARBITRATION
WITHIN THE SIXTH JUDICIAL DISTRICT**

Mandatory Arbitration. Effective July 1, 2017, all cases filed in Bertie, Halifax, Hertford, and Northampton Counties which are subject to arbitration as defined by the Supreme Court Rules, or as designated by the Chief District Court Judge, shall be directed to mandatory court-ordered arbitration. All general civil actions will be reviewed at the time of filing by the Clerk of Superior Court to determine eligibility for court-ordered arbitration in accordance with N.C.G.S. 7A-37.1.

Cases filed prior to July 1, 2017, may be arbitrated upon request to the Arbitration Coordinator and mutual consent of all parties involved. Cases arbitration-eligible will be appropriately identified in VCAP and will proceed through the arbitration process pursuant to the North Carolina Rules (<http://www.nccourts.org/Citizens/CPrograms/Arbitration/Default.asp>). Parties will be noticed by Form AOC-CV-800, Notice of Case Selection for Arbitration. It is the responsibility of said parties to provide the Clerk of Superior Court with a current mailing address.

Scheduling of Arbitration Hearing. After the expiration of 20 calendar days from the date of the Notice of Case Selection for Arbitration, the Arbitration Coordinator shall mail the parties or their counsel of record, a Notice of Arbitration Hearing. The Arbitration Coordinator shall notify the parties that an arbitrator has been chosen and a hearing has been scheduled within 60 days of the last responsive pleading. Form AOC-CV-801 will serve as notice to the parties and will include the assigned date, time, and location for the arbitration hearing, and will provide the name of the assigned arbitrator to preside over the case.

At least 10 days before the date set for hearing, the parties shall exchange: (1) list of witnesses they expect to testify; (2) copies of documents or exhibits they expect to offer into evidence; and (3) a brief statement of issues and their contentions on the Pre-Arbitration Submission Form which shall be mailed to the opposing party only.

Failure to adhere to the information exchange requirements may result in exclusion of the proffered evidence. Pleadings, other filings, and exchanged discovery, which have been received by all parties at least (10) days prior to the Arbitration Hearing date, do not also need to be included in the pre-arbitration submission.

The Arbitration Coordinator shall publish an Arbitration Calendar for each term of Court for which cases are scheduled. Calendars shall be made available to counsel and parties through the Arbitration Coordinator.

Continuances. Arbitration hearings may be continued if a written motion is filed at least seven (7) working days prior to the arbitration hearing, and there is a showing of good cause.

Scheduling conflicts will not be grounds for continuance. All motions must be accompanied by an order and will be submitted to a District Court Judge for consideration. The requesting party shall notify the opposing party of the motion.

Information regarding whether opposing counsel objects to the Motion or whether the case has been previously continued may be included in a Motion to Continue, but the lack of an objection by opposing counsel/party or the fact that the case has not been continued before shall not alone constitute good cause for the continuation of the arbitration hearing.

A District Court Judge will rule on Motions to Continue. It shall be the responsibility of the Arbitration Coordinator to inform all parties of the outcome of the proposed motion, along with the new date and time for the arbitration hearing if applicable.

Appeals of the decision rendered by the District Court Judge shall be submitted to the Arbitration Coordinator for subsequent delivery to the Chief District Court Judge. Opposing counsel or unrepresented parties shall be notified of the appeal prior to its delivery to the Arbitration Coordinator.

Objections to the appeal shall also be delivered, within two days of being notified of the appeal, to the Arbitration Coordinator for subsequent delivery to the Chief District Court Judge. Failure of counsel to follow the established process may result in automatic denial of the motion and/or the imposition of sanctions. The decision of the Chief District Court Judge is final.

Settlement. Any settlement reached prior to the scheduled arbitration hearing date should be reported immediately to the Arbitration Coordinator. A dismissal or consent judgment must be filed not later than 24 hours prior to the scheduled date in order for the case to be removed from the docket. If a dismissal or consent judgment is not entered, all parties should appear at the arbitration hearing and have their settlement entered as the award of the arbitrator.

Removal. If prior to the setting of an arbitration hearing, all parties notify the Arbitration Coordinator that the case is inappropriate for arbitration, and the Coordinator agrees, then the case may be removed. Once a case is set for an arbitration hearing, no case may be removed from arbitration except by the Arbitration Coordinator or upon motion to the Chief District Court Judge in writing. Cases scheduled for hearing, which are removed due to settlement or ruling of dispositive motion, shall be considered delinquent if the Order, Judgment or Disposition is not presented to the Court for signature and filing within 10 working days after the case was announced as settled.

Other Filings. All forms, motions, and orders must be sent to the Clerk of Superior Court unless otherwise specified. Some faxed copies may not be accepted. Additional mailings to opposing parties shall be made by the requesting party. If the matter is one in which only the Chief District Court Judge may rule upon, a copy must be sent to the Arbitration Coordinator for processing and subsequent submission by the Arbitration Coordinator to the Chief District Court Judge.

If an opposing party chooses to file a written objection to any motion, the objection shall be served on opposing party or counsel prior to being delivered to the Clerk of Superior Court and Arbitration Coordinator.

Conducting Arbitration Hearings. All arbitration hearings shall be conducted within one hour and in accordance with the Supreme Court rules by a certified arbitrator. Arbitrators are local attorneys who are members in good standing with the North Carolina State Bar who have practiced for five years with two years specifically in North Carolina, and have completed the training course and other requirements approved by the Administrative Office of the Courts.

Beginning in 2003, a fee of \$100 plus mileage was imposed by the General Assembly to reimburse the State for the cost of providing the arbitrator. The Arbitration Coordinator shall divide the fee equally among the parties and provide each counsel or unrepresented party a copy of the Assessment Fee Form AOC-CV-805 prior to the hearing. The assessment fee shall be paid to the Clerk of Superior Court promptly before the arbitration hearing.

Attendance. If a party fails to appear, the arbitrator may proceed to hear the evidence of the parties present and make an award. Any party failing to appear may file a Motion for Rehearing within thirty (30) days of the award filing date to the Chief District Court Judge. However, no rehearing shall be granted except for reasons set forth in Rule 60 of the North Carolina Rules of Civil Procedure.

Award and Appeal. Within three days of the arbitration hearing, the arbitrator shall issue an award using Form AOC-CV-802. The parties shall have thirty (30) days from issuance of the award to file a request for a trial de novo, Form AOC-CV-803, with the Clerk of Superior Court.

If a request for trial de novo is filed, the Clerk in Halifax County or the Arbitration Coordinator in Bertie, Hertford, and Northampton Counties shall calendar the case for trial no sooner than 120 days after the filing of the last responsive pleading, or from the date the trial de novo is filed if no responsive pleading. A party may request a specific session of court, or expedite the hearing date, by submitting a calendar request to the Clerk or Arbitration Coordinator.

If no request for trial de novo is made within 30 days, then a District Court Judge or Clerk shall enter judgment in accordance with the arbitrator's award. In the event a party requests a trial de novo, Form AOC-CV-803, the first party making such request shall pay \$100.00 to perfect his/her request for trial de novo. That fee may be returned only if the case is tried to verdict and the Trial Judge finds requesting party's position improved and orders the return of the \$100.00 fee.