

Rules for Civil Superior Court, Judicial District 15B

These local rules are to be read in conjunction with, and supplemental to, the General Rules of Superior and District Courts adopted by the North Carolina Supreme Court, the Guidelines of Resolving Scheduling Conflicts, the Rules of Civil Procedure, the Constitution of the United States, the Constitution and Statutes of North Carolina.

[Note: References to other rules are not exhaustive.]

Rule 6. Discovery

(see NC General Rule 8; NC Civil Procedure Rule 26-37)

- 6.1 Purpose of Rules: These rules are intended to supplement the North Carolina Rules of Civil Procedure. They are based upon the premise that discovery can be costly and inefficient if it is conducted (or resisted) without a clear set of goals or a carefully reasoned plan. The objective of these Rules is to (i) eliminate unnecessary effort and expense, (ii) reduce the opportunities for misusing the discovery process, and (iii) encourage a cooperative rather than adversarial approach to discovery.
- 6.2 Filing and Preservation of Discovery: Discovery materials, including but not limited to, deposition notices; expert designations; interrogatories; requests for production; requests for admission; requests for documents; and answers and responses thereto, are not to be filed unless ordered by the Court. All such papers must be served on all other counsel and on all parties not represented by counsel. The party taking a deposition or obtaining any material through discovery is responsible for its preservation and delivery to the Court if needed or so ordered.
- 6.3 Numbering Discovery Procedures: Each time a particular discovery procedure is used, it shall be sequentially numbered (e.g. First Set of Interrogatories," "Second Set of Interrogatories," etc.) so it will be distinguishable from a prior procedure.
- 6.4 Presumptive Limits on Discovery Procedures: Subject to an order modifying discovery procedures for good cause shown, the Court expects discovery in cases to be completed as expeditiously as possible. Unless the time is extended by a Resident or Presiding Judge, the pendency of discovery will not be allowed to delay trial, or any other proceeding before the Court, after 6 months have elapsed from the filing of the last responsive pleading. Presumptively, subject to stipulation of the parties or order of the Court for good cause shown, interrogatories (including sub-parts) and requests for admission are limited to fifty (50) in number by each party. Depositions are presumptively limited to twelve (12) depositions each (not including depositions of testifying experts) by the plaintiffs, by the defendants, and

by any third-party defendants. Each deposition is presumptively limited to six (6) hours of time on the record in any given day unless a different duration is consented to by the witness and all parties or otherwise ordered by the Court.

6.5 Simultaneous Electronic or Digital Service of Discovery:

6.5.1 In addition to service of a paper copy of written discovery (interrogatories, requests for production, and requests for admission), the requesting party shall simultaneously serve a digitally preserved copy of the discovery request (e.g. on CD) or shall send such a copy of same as an email attachment to the counsel or party to whom the discovery is directed. All electronic documents shall be submitted in a generally accepted word processing format. Neither digital nor electronic service is required for other parties to the litigation who are not expected to respond to the particular set(s) of discovery being served.

6.5.2 With the consent of all parties, or upon order of the Court in its discretion, discovery requests and responses may be exchanged solely by electronic means.

6.5.3 All documents served electronically shall include a certificate of service indicating the date the documents were mailed or emailed.

6.5.4 The service date is based upon the date indicated in the certificate of service and is calculated the same as if served by U.S. Mail.

6.5.5 This Rule is intended to simplify and reduce the cost of providing discovery responses and is not intended to be punitive. Therefore, any party who in good faith is unable to comply with its provisions shall not be compelled to do so.

6.6 Production of Documents: Unless the parties otherwise agree, or the Court otherwise orders:

6.6.1 A party who produces documents for inspection shall produce them as they are kept in the usual course of business (or as received by the party) or shall organize and label them to correspond with the categories in the request;

6.6.2 If a request does not specify the form or forms for producing electronically stored information, a responding party must produce the information in a form or forms in which it is ordinarily maintained or in a form or forms that are reasonably usable; and

6.6.3 A party need not produce the same electronically stored information in more than one form.

6.7 Depositions: The Court expects counsel to conduct discovery in good faith and to cooperate and be courteous with each other in all phases of the discovery process. Depositions shall be conducted in accordance with the following guidelines:

- 6.7.1 Counsel shall not make objections or statements which might suggest an answer to a witness. When making objections, counsel should briefly and succinctly state the basis of the objection and nothing more.
 - 6.7.2 Deposing counsel shall provide to counsel for the witness and counsel for all parties present, upon request, a copy of all documents shown to the witness during the deposition. The copy may be provided either before the deposition begins or contemporaneously with the showing of each document to the witness.
 - 6.7.3 If a deponent or other party impedes or delays the examination, the Court may allow additional time beyond the presumptive deposition duration noted in Rule 6.4, if needed for a fair examination. If the Court finds that an impediment, delay, or other conduct has frustrated the fair examination of the deponent, it may impose upon the person(s) responsible an appropriate sanction, including reasonable cost and attorney's fees incurred as a result thereof.
- 6.8 Motions and Objections Relating to Electronic Discovery: Prior to filing motions and objections relating to discovery of information stored electronically, the parties shall discuss the possibility of shifting costs for electronic discovery, the use of Rule 30(b)(6) depositions of information technology personnel, and informal means of resolving disputes regarding technology and electronically stored information.