



REPORT ON NORTH CAROLINA BUSINESS COURT

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

REPORT PREPARED BY
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
AUGUST 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 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 June 30, 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)

Once a case is designated as a complex business case under G.S. 7A-45.4 after 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. When necessary, business court judges may be called upon in their capacity as special superior court judges to handle cases or court sessions in addition to the regular business court caseload.

As of June 30, 2018, there were five active business court judges maintaining chambers in Charlotte, Greensboro, Raleigh and Winston-Salem. The Honorable James L. Gale, senior business court judge, served as chief business court judge maintaining chambers at the Elon University School of Law. The four special superior court judges for complex litigation included Louis A. Bledsoe III and Adam M. Conrad, maintaining chambers at the Mecklenburg County Courthouse; Gregory P. McGuire, maintaining chambers at the Wake County Courthouse; and Michael L. Robinson, maintaining chambers at the Wake Forest University School of Law in Winston-Salem. Effective July 1, 2018, Chief Justice Mark Martin designated Judge Gale as a senior business court judge and named Judge Bledsoe as chief business court judge.

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.



CASE STATISTICS

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

The Business Court had 347 cases pending as of June 30, 2018, comprising 215 cases when adjusting and counting a consolidated group of cases as one case. Of those, 322 cases were assigned to the court as mandatory complex business cases designated pursuant to G.S. 7A-45.4. The Chief Justice designated seven cases as complex business cases and 14 cases as exceptional cases pursuant to his discretion under Rule 2.1 of the General Rules of Practice for the Superior and District Courts. Four cases resulted from the consolidation of other pending cases.

Table 1 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 each of the counties where the Business Court maintains chambers. For purposes of this report, “Pending Cases” include 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. The “Mecklenburg A” and “Mecklenburg B” designations reflect the two judges that maintain chambers in Mecklenburg County as of 2017.

Table 1. Pending Cases, New Cases, Closed Cases and Average Age of Business Court Cases by County (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
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
2015	Guilford	82	42	44
2015	Mecklenburg	80	55	46
2015	Wake	69	44	52
2015	Statewide	231	141	142

* 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 June 30, 2018, 149 of the Business Court's 347 pending cases were subject to stay or appeal on that date. The average age of the pending cases not subject to any present stay or appeal was 474 days, with a median age of 318 days. The average age of all pending cases was 500 days, with a median age of 291 days. The duration of a case may be affected by multiple stays or appeals throughout the life of the case.

Motions Pending More than Six Months

As of June 30, 2018, a total of 33 motions filed prior to January 1, 2018 remained pending in 11 cases. Table 2 below illustrates, as of June 30, 2018, the number of motions pending more than six months by location.

**Table 2. Motions Pending More than Six Months by Court Location
(As of June 30, 2018)**

LOCATION	NUMBER OF MOTIONS	MOTIONS IN CASES PREVIOUSLY STAYED	CASES WITH PENDING MOTIONS
Forsyth	7	7	2
Guilford	24	18	7
Mecklenburg A	2	2	2
Mecklenburg B	0	0	0
Wake	0	0	0
Statewide	33	27	11

Twenty-seven of the motions pending more than six months were in cases that had been formally or informally stayed at some stage because of appeal, bankruptcy, 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. The Business Court issued 64 written opinions on motions between January 1, 2018 and June 30, 2018, many involving issues of first impression.

Bench Trials with No Entry of Judgment after Six Months

As of June 30, 2018, the Business Court had no cases in which entry of judgment in a bench trial was pending for more than six months.



EXPENDITURES

Expenditures for the Business Court for FY 2017-2018 were \$2,317,798. The table below sets forth those expenditures by county.

Table 3. Business Court Expenditures for FY 2017-2018 by County

COURT LOCATION	EXPENDITURES
Mecklenburg	\$913,082
Guilford	\$325,947
Wake	\$492,210
Forsyth	\$586,559
Statewide	\$2,317,798

SUMMARY

The North Carolina Business Court provides a specialized forum for cases involving complex business and technical issues. As of June 30, 2018, five judges were responsible for the court's 347 pending cases. The Business Court remains continuously focused on increased efficiency and timely disposition of cases.



North Carolina Administrative Office of the Courts

P.O. Box 2448

Raleigh, NC 27602

www.nccourts.org

919 890 1000

