

**REPORT ON ACTIVITIES
OF THE
NORTH CAROLINA BUSINESS COURT
2002 TO 2003**

- I. Introduction**
- II. Executive Summary**
- III. Description of Business Court Program**
- IV. Changes in 2002**
 - A. Facility**
 - B. Staff**
- V. Benefits of Business Court Technology**
- VI. Case Load**
 - A. List of Closed Cases**
 - B. List of Active Cases**
 - C. Venue**
- VII. Opinions**
 - A. List of Opinions**
 - B. Appellate Review**
 - C. Precedential Value**
- VIII. Achievements**
- IX. Projects**
 - A. Technology Survey**
 - B. Training Film**
- X. Replication of the Business Court Program**
- XI. Funding**

I. INTRODUCTION

Pursuant to 2001 N.C. Sess. Laws 424, § 22.5 (see Exhibit A attached), the following is a report to the Chairs of the Senate and House Appropriations Committees and the Chairs of the Senate and House Appropriations Subcommittees on Justice and Public Safety on the activities of the North Carolina Business Court, including the number of cases heard by the Court and the number of court sessions held outside of Superior Court District 18.

II. EXECUTIVE SUMMARY

Summary Statement:

During the period from April 1, 2002 to present, the North Carolina Business Court has continued to expand its caseload. The Court has been involved in 179 cases assigned from 33 counties. Of 116 closed cases, 73 settled. Of the 63 cases currently being handled by the Business Court, five are on appeal, three have reached a settlement and two are stayed. Seventeen of the active cases are class action suits involving numerous class members and common, often complex, issues.

This report will describe the Business Court program, identify problems addressed by its innovative use of technology and cite achievements attained during the past year. It will also identify the current and potential beneficiaries of the Business Court and its technology and demonstrate how elements of this system could be replicated in other districts that could benefit from specialized courts for complex litigation.

To illustrate the number and scope of Business Court cases, the report includes lists of closed and current cases with counties of origin and disposition or status, a State map depicting counties from which Business Court cases have been assigned, and a list of opinions issued by the Court. The Business Court's use of technology, including the development of a paperless court through the electronic filing of documents, enhanced courtroom presentation equipment, videoconferencing capability, and public access to the Court calendar, docket, case file, and Court opinions via the Internet, are all detailed in the following pages.

III. DESCRIPTION OF THE BUSINESS COURT PROGRAM

Established in 1996, the North Carolina Business Court is a national forerunner in the establishment of specialized courts for complex litigation and the implementation of "state of the art" computer technology. It provides the legal community and the court system with automated resources that will promote faster, more efficient and more economical judicial management of litigation. The Court is pioneering the use of automation concepts that greatly reduce the load of document processing and case management for civil litigation. The use and design of the programs in this facility are tailored to provide an ongoing research arena for the technology needed in the courts of North Carolina and other jurisdictions. The Court's website is found at www.ncbusinesscourt.net.

The development of court technology for electronic filing has been an integral part of the Business Court's plan of operation, and its expansion has resulted in a system which offers free public access to Court files, docket and calendar over the Internet, instant access to all Court opinions without the expense or delay of publication, an electronic library accessible by the Court from remote locations, and advantages to counsel afforded not only by electronic filing but also through the opportunity to use advanced courtroom equipment and technology during the course of hearings and trial. The Business Court is the first court to seamlessly integrate electronic filing and advanced courtroom technology, permitting use of electronically filed documents and exhibits in the courtroom.

Employment of this technology releases court staff to perform higher value added work and eliminates positions devoted to handling paper. For judges, it permits incorporation of new tools that facilitate efficient and economical use of judicial resources; jury instruction tools and file portability are two examples.

The system is also uniquely designed to level the playing field for use of technology in the courtroom. By providing an easy to use touch-screen system to operate all equipment and common formats for document entry, the system insures that all parties have equal access to the technology regardless of their resources.

IV. CHANGES IN 2002

A. Facility

There have been no changes to the Court's physical facilities.

B. Judge and Staff

The Business Court judge and staff have remained the same with the exception of a new law clerk who began work in August 2002.

Judge Tennille graduated from the University of North Carolina School of Law with honors in 1971. He was a member of the North Carolina Law Review and Order of the Coif. He was in private law practice from 1971 until 1985 with a major North Carolina law firm, gaining experience in both business law and litigation. In 1985 he joined the in house legal department of a Fortune 500 company as Associate General Counsel and Assistant Secretary and managed the litigation for that company for eight years. He served that company in a business capacity for two years, specializing in human resources, and attended executive education programs at the University of North Carolina and the University of Michigan business schools. As an adjunct professor at Wake Forest University School of Law, he has taught an advanced course on corporate governance for the last three years.

Judge Tennille is presently serving as the only judge on an 11-member American Bar Association panel charged with examining the framework of laws and regulations and ethical principles governing the roles of lawyers, executive officers and directors. The goal of this Task Force on Corporate Responsibility is to design a system of checks and balances to enhance public trust in corporate integrity and responsibility. The panel held hearings during Fall 2002 and will submit a final report to the ABA in April 2003. In addition, he is serving as chair of the Business and Commercial Courts Committee of the National Conference of State Trial Judges, a newly formed committee which will provide a forum for the exchange of information, best practices and technology developments among judges who are presently sitting on, planning to organize, or simply interested in the concept of, courts or divisions of courts dedicated to the trial of business and commercial cases. This committee will also coordinate with other ABA committees such as the committee on business courts of the Business Law Section.

Kimberly L. Wierzel, the current law clerk, graduated from the University of Maryland Europe with a bachelor of science degree in business. She received a law degree in 2002 from the

University of North Carolina School of Law, where she was Institute Editor of the North Carolina Banking Institute (Banking Journal).

Julie Holmes is serving as the administrative assistant to the North Carolina Business Court. She has a bachelor's degree with a double major in English and French from Furman University and received paralegal certification with emphasis on corporate law from the National Center of Paralegal Training, an A.B.A.-approved program in Atlanta, Georgia.

V. BENEFITS OF BUSINESS COURT TECHNOLOGY

All segments of the court system benefit from the use of technology within the business court program. The Clerk's office is run far more efficiently and economically by elimination of the necessity to handle paper. Clerks can do more value added work. Storage costs are reduced. Case management is simplified, and access to valuable statistical data is available at the click of a mouse.

Lawyers and their clients save significantly in duplicating, service and storage costs. Time required in the litigation process is shortened and communication between the Court and counsel is expedited. Videoconferencing can substantially reduce expenses. Lawyers may access the Court twenty-four hours a day, seven days a week.

Judges benefit from a broad range of tools, including advanced research capabilities, file portability, quick prep for jury instructions, videoconferencing and case management capabilities, online communication between courtroom and clerk's office, and generation of frequently used forms.

Clients have their costs reduced because both lawyers and courts are operating more efficiently.

Jurors profit from the use of the advanced courtroom technology, which speeds trials and provides communication tools for making more effective presentations.

The public is the biggest beneficiary. Court costs are reduced, and the public has constant free access to court files without going to the courthouse.

VI. CASE LOAD

Procedure

Under Rule 2.1, the Chief Justice may designate any case [or group of cases] as complex business. The Rule provides that a senior resident superior court judge, chief district court judge, or presiding superior court judge may *ex mero motu*, or on motion of a party, recommend to the Chief Justice that a case or cases be designated as complex business. Thus, the procedure for initial designation as complex business does not differ from the procedure for having cases designated as exceptional. However, once a case is designated as complex business, it is automatically assigned to a Special Superior Court Judge for Complex Business Cases. In this respect the procedure differs from previous practice for exceptional cases in that heretofore the parties had generally agreed upon a superior court judge to hear the case as exceptional and secured his or her prior agreement to handle the case. That flexibility is not available with the complex business designation. Also, the Special Superior Court Judge for Complex Business

Cases must write an opinion upon final disposition of the case. Once a case is designated as complex business, it stays with the business court for all purposes, including trial.

All cases will be tried in the county in which the case is filed unless venue is changed by agreement of the parties or in accordance with the General Statutes and Rules of Civil Procedure. Pretrial matters may be handled out of the county or district. The process for appeals from a decision of the Special Superior Court Judge for Complex Business Cases does not differ from appeals from other superior court orders and judgments.

In creating a business court, North Carolina joins the states of Delaware, New York, Maryland, Connecticut, Massachusetts, Pennsylvania, California, Louisiana and Illinois in recognizing the need for specialization in complex business litigation. The American Bar Association has recommended that all states adopt some form of business court. The great burden placed upon state and federal judges by increasing criminal caseloads, combined with a growing need for fast answers in complex business disputes in today's rapidly moving commercial and technological environment, make such courts a necessity. North Carolina has taken a leading role in development of the business court concept. Michigan has announced creation of special courts for complex business and technology cases. The states of Colorado, Georgia, Kentucky, Minnesota, Nevada and New Jersey are considering the creation of specialized courts for business and/or complex litigation as well.

A. List Of Closed Cases

The following list shows the 116 closed cases handled to date by the Business Court. Of these cases, 73 settled: five settled after Court Opinion; one settled during trial; and one settled after jury trial. There were 24 judgments, five of which were affirmed on appeal; and one affirmed in part, reversed in part and remanded per curium; 16 cases were voluntarily dismissed. Three cases were removed to Federal Court.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Adams Farm v. Smith	Guilford County	97 CVS 9499	Settled
Adams Outdoor Ltd Partner - ship v. City of Charlotte	Mecklenburg County	88 CVS 9786	Settled
Allegacy Fed. v. Virtual Branch Technologies v. Real-Time Data Mgt. Svcs, Inc. and XP Sys. Corp.	Forsyth County	02 CVS 1416	Judgment/ Voluntary Dismissal
Amos v. Southern Furniture Exhibit Bldg	Guilford County	96 CVS 4958	Settled
Bank of America v. Golf Trust of America	Mecklenburg	01 CVS 10072	Voluntary Dismissal
Beam v. Worldway	Mecklenburg County	96 CVS 469	Settled after Court Opinion

Beaty v. Integon Corp.	Mecklenburg County	99 CVS 11540	Vol. Dismissal
Bell, Setzer v. Myers	Mecklenburg County	97 CVS 9957	Settled
Biemann and Rowell v. The Donohoe Companies	Orange County	99 CVS 9132	Judgment aff'd Ct App. Awaiting hearing on mot. for costs
Bd. of Governors v. Cushman	Orange County	97 CVS 1429	Settled
Bradley v. US Packaging	Guilford County	95 CVS 8986	Judgment
Bruggers v. Eastman Kodak Co.	Wake County	97 CVS 1278	Settled
Byers v. Carpenter	Wake County	94 CVS 04489	Settled
Bryan v. Sprint International Communications Corp.	Guilford County	02 CVS 3915	Removed to Fed. Ct.
Carolina Custom v. Tiffany Marble v. Howard Butner v. Rudy Hoch	Guilford County	96 CVS-6511 97 CVS-6598 97 CVS-6998 99 CVS-3100	Settled
Case Farms v. New Hope Feeds	Burke County	96 CVS 309	Settled
Caraustar Industries v. Georgia-Pacific	Mecklenburg County	00 CVS 12302	Voluntary Dismissal
Charlotte Copy Data v. Habbal	Mecklenburg County	96 CVS 694	Judgment
ChemiMetals v. McEneny	Mecklenburg County	95 CVS 10817	Settled during Jury Trial
Clark v. Holland	Wake County	96 CVS 5829	Settled after Court Opinion
Coastal Physician Group v. Price Waterhouse	Durham County	99 CVS 0578	Settled
Cogburn v. Elec. of Asheville	Buncombe County	00 CVS 2254	Settled

Continuum Care v. Eakes Corp.	Warren County	96 CVS 1465	Settled
Crowder Constr. v. Kiser	Mecklenburg County	95 CvS 14097	Judgment
DeJoy v. DeJoy	Guilford County	99 CVS 1245	Settled
In Re Delhaize America, Inc.: Shareholders Litigation	Mecklenburg County	Consolidated Civil Action 00 CVS 13706	Judgment
Dilworth Heights v. The Boulevard Co.	Mecklenburg County	99 CVS 11552	Settled
DKH Corp. v. Rankin Patterson Oil Co.	Buncombe County	95 CVS 2511	Settled
Dublin v. UCR	Johnston County	90 CVS 2254	Settled
Dynamic Quest, Inc. v. Smart Online, Inc.	Guilford County	01 CVS 05001	Voluntary Dismissal
Exide Corp. Branches v. Kever	Caldwell County	95 CVS 978	Settled
Faulkner v. Tarheel Holdings	Lenoir County	96 CVS 281	Settled
Filipowski v. High Point Bank & Trust	Guilford County	97 CVS 9317	Settled
First Union Corp. v. Gulf Ins.	Mecklenburg County	00 CVS 3558	Settled
Frazier v. Beard	Catawba County	94 CVS 2362	Judgment
Gaafar v. Piedmont Poultry	Wake County	96 CVS 630	Settled
Garlock v. Hilliard	Mecklenburg County	00 CVS 1018	Settled
Gaynoe v. First Union Corp.	Mecklenburg County	97 CVS 16536	Judgment Ct. App. aff'd PDR denied
Giduz v. Blue Cross Blue Shield of North Carolina	Orange County	97 CVS 917	Judgment
Goings v. P.M. Mattress	Randolph County	92 CVS 785	Settled

Grant v. Am. Telephone and Telegraph Co.	Guilford County	02 CVS 4066	Removed to Fed. Ct.
Greene v. Shoemaker	Wilkes County	97 CVS 2118	Settled after Court Opinion
Griffin & Griffin Constr. Co. v. Carolina Tel & Tel Co.	Cumberland County	99 CVS 7705	Settled
Grossman v. Carolina Drug Inc.	Guilford County	95 CVS 8921 95 CVS 9834	Settled
Hafele America Co. v. Ergonomix Armdec Pty. Ltd.	Guilford County	97 CVS 7426	Settled
Harbor Fin. Partners v. PCA Intl, Ltd.	Mecklenburg County	98 CVS 5734	Settlement Pending
Hinson v Trigon Healthcare, Inc.	Cumberland County	00 CVS 4612	Settled
Igar v. Mark Mfg. Co.	Guilford County	97 CVS 10198	Settled
Isasi v. FYI	Forsyth County	97 CVS 6692	Settled
Jeffcoat v. Chicago Rawhide	Gaston County	95 CVS 4176	Settled
Lab. Corp. of Am. Holdings v. WalMart Stores	Alamance County	97 CVS 2373	Settled
Ladd Exterior Wall Systems, Inc. v. Coronado Labs., Inc.	Randolph County	01 CVS 349	Removed to Fed. Ct.
LaFar v. LaFar	Gaston County	98 CVS 5006	Settled
Lapedes v. Glaxo Wellcome	Wake County	98 CVS 12106	Settled
Leeseberg v. Topsail Realty, Inc.	Pender County	01 CVS 85	Voluntary Dismissal
Lennon and Magruder v. MedCath, Inc.	Mecklenburg County	98 CVS 14327	Settled
Long v. Abbott Labs	Mecklenburg County	97 CVS 8289	Judgment
Lupton v. Blue Cross and Blue Shield of NC	Orange County	98 CVS 633	Judgment Aff'd Ct. App.
Massey v. City of Charlotte	Mecklenburg County	99 CVS 18764	Judgment Rev'd on Appeal

McNett v. Indian Falls Resort	Transylvania County	99 CVS 76	Settled
Melbourne-Marsh v. North Hills, Inc.	Wake County	97 CVS 3212	Settled
Metric-Kvaerner of Fayetteville v. Bank of Tokyo - Mitsubishi, Ltd. v. Kvaerner Invs.	Bladen County	97 CVS 743	Settled
Mid-South Marketing v. Trigon Healthcare	Cumberland County	00 CVS 4612	Settled
Montrose Value Fund v. Freeman	Durham County	96 CVS 1220	Settled
Moore. v. NationsBank, N.A.	Mecklenburg County	99 CVS 1585	Settled
Myers v. Witcher	Guilford County	01 CVS 3499	Settled
New Breed, Inc. v. DeJoy	Guilford County	00 CVS 3751	Settled
Newbury & Molinare v. Broadway & Seymour	Forsyth County	96 CVS 4614	Settled after Jury Trial
Novant v. Aetna	Mecklenburg County	98 CVS 12661	Judgment
Oberlin Capital, L.P. v. Slavin	Wake County	99 CVS 03447	Judgment
Peterson v. Robertson	Forsyth County	95 CVS 3518	Settled
Petty v. High Point Bank & Trust	Randolph County	97 CVS 741	Settled
Pinkerton's v. Elslager	Mecklenburg County	98 CVS 10328	Voluntary Dismissal
Pitts v. Am. Security Ins. Co.	Pitt County	96 CVS 658	Judgment Ct. App. aff'd in part, rev'd in part (per curium); remanded
Polo Ralph Lauren Corp. v. Gulf Ins. Co.	Guilford County	00 CVS 5440	Judgment
Popkin v. Popkin	Onslow County	92 CVS 2910	Settled

Praxair v. Airgas	Mecklenburg County	98 CVS 8571	Voluntary Dismissal
Reeve & Associates v. Triad Bank	Guilford County	96 CVS 4695	Settled after Court Opinion
Roberts v. Guy, Onslow Transit	Onslow County	93 CVS 1043	Settled
Robinson v. McMillen Trust	Guilford County	97 CVS 9042	Settled
Roger v. Smart Online, Inc.	Wake	00 CVS 07970	Voluntary Dismissal
Royals v. Glenaco	Guilford County	98 CVS 153	Settled
Royals v. Piedmont Electric Repair Co.	Guilford County	97 CVS 720	Judgment Aff'd Ct. App. Cert denied
Sayer v. State Street	Guilford County	96 CVS 6478	Settled
Scott v. Sokolov	Durham County	96 CVS 2748	Settled after Court Opinion
Shelley v. Cooper	Gaston County	98 CVS 1244	Settled
Smith v. NC Motor Speedway, Inc.	Mecklenburg County	97 CVS 138	Judgment
Southern Furniture Hardware v. BB&T	Catawba County	94 CVS 959	Settled
Springer-Eubank v. Four County Electric Membership Corp.	New Hanover County	98 CVS 3194	Judgment Ct. App. aff'd
Thomas v. Golding Farms	Guilford County	95 CVS 7323	Settled
Staton Cases	Forsyth County	96 CVS 1409	Settled
Staton	Forsyth County	96 CVS 7224	All <i>Staton</i> cases settled except 1 party appealing summary judgment
Staton	Forsyth County	96 CVS 7140	
Staton	Forsyth County	99 CVS 2628	

Staton	Forsyth County	99 CVS 5156	
Staton	Forsyth County	00 CVS 2178	
Wachovia - Related Cases:			
First Union Corp. v. SunTrust Banks, Inc.	Mecklenburg County	01 CVS 10075	Judgment
Winters v. First Union Corp	Forsyth County	01 CVS 5362	Judgment
Hoepner v. Wachovia Corp.	Forsyth County	01 CVS 5106	Dismissal
In Re Wachovia Shareholders Litigation Consolidated cases:	Forsyth County	01 CVS 4486	Voluntary Dismissal
	Forsyth	01 CVS 4810	
	Forsyth	01 CVS 4868	
	Forsyth	01 CVS 4748	
	Forsyth	01 CVS 4486	
	Mecklenburg	01 CVS 10641	
	Forsyth	01 CVS 5163	
	Wake	01 CVS 6893	
Warner v. MCI WorldCom	Guilford County	02 CVS 448	Removed to Fed. Ct.
Wellington Lloyd's v. Siemens Westinghouse Corp.	Rockingham County	01 CVS 1262	Voluntary Dismissal
Westpoint Stevens, Inc. v. Panda-Rosemary Corp.	Halifax County	98 CVS 569	Judgment
Wiggins v. Charlotte Brewing Company	Mecklenburg County	96 CVS 2437	Settled
Wilson Realty and Constr., Inc. v. Asheboro-Randolph Bd. of Realtors	Randolph County	95 CVS 0482	Settled
Whitley v. Wallace	Rowan County	96 CVS 1795	Settled

B. List of Current Cases

The following list shows the 63 cases that are currently being handled by the Business Court. Of these cases, 53 are active; five are on appeal, three have reached a settlement; and two are stayed.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Adams v. Aventis	Craven County	01 CVS 2119	Active
Action Performance Cos., Inc v. Sports Quest, Inc.	Iredell County	01 CVS 2200	Active Cons. Under 01 CVS 0140
Alexander v. DaimlerChrysler Corp.	Wake County	01 CVS 03390	On Appeal
Anderson v. Gillings	Durham County	02 CVS 5349	Active Consolid .In Re Quintiles
Bailey v. Flue Cured Tobacco Coop. Stabilization	Wilson	02 CVS 448	On Appeal
Bennett v. Potts	Forsyth County	02 CVS 1895	Active
Breakwater Partners, L.P. v. Gillings	Durham County	02 CVS 5355	Active Consolid. In Re Quintiles
Corr Svcs., Inc. v. Davidson County	Davidson County	99 CVS 2459	02 CVS 739
DCC Compact Classics v. Robert Craig & RePac	Forsyth County	97 CVS 2856	Stayed
Durham Coca-Cola Bottling v. Coca-Cola Bottling Co. Consolid.	Durham County	99 CVS 2459	Active
Ezzell v. ABT Co., Inc	Onslow County	97 CVS 167	Stayed
Harbor Finance Partners v. Balloun, Wachovia Corp	Guilford County	01 CVS 8036	Active

James E. Long, Commissioner of Insurance of NC and Liquidator of International Workers' Health Guild and Welfare Trust Fund v. Defendants whose file numbers are referenced in case numbers in corresponding third column	Wake County	00 CVS 5828; 00 CVS 7694; 00 CVS 7696; 00 CVS 7697; 00 CVS 8441; 00 CVS 10862; 00 CVS 11706; 00 CVS 13848; 01 CVS 165; 01 CVS 1843; 01 CVS 168; 01 CVS 169; 01 CVS 170; 01 CVS 171; 01 CVS 172; 01 CVS 1842; 01 CVS 1843; 01 CVS 1970; 01 CVS 2135; 01 CVS 2136; 01 CVS 2137; 01 CVS 2138; 01 CVS 2579; 01 CVS 2580; 01 CVS 2581	Active
Long v. Clair Hammond	Wake County	00 CVS 7097	On Appeal
Jetty Tuttle Body Shop, Inc. v. Nationwide Mut. Ins.	Randolph County	02 CVS 875	Active
Lewis v. Quintiles Transnational Corp.	Durham County	02 CVS 5369	Active Consolid. In Re Quintiles
Marsh Harbour Marina, Inc. v. Marsh Harbour Resorts	Brunswick County	01 CVS 225	Active Mediator Apptd July Trial Date
Mechanical Sys. and Svcs., Inc. v. Carolina Air Solutions, L.L.C.	Mecklenburg County	02 CVS 8572	Active
Miller v. Gillings	Durham County	02 CVS 5370	Active Consolid. In Re Quintiles

Pack Bros. v. Nationwide Ins.	Gaston County	01 CVS 805	Trial Completed Judgment Entry Pending
People Unlimited Consulting, Inc. v. B & A Industries, LLC	Mecklenburg County	98 CVS 16126	On Appeal
In Re Quintiles Transnational Corp. Shareholders Litigation	Durham County	02 CVS 5348, 5355,5348,5369, 5370,5376,5377	Active 7 Cases Consolid:
Rankin & Huwe v. Microsoft Corp.	Wake County	00 CVS 4073	Active
Ruff v. Parex Settlement.	New Hanover County	97 CVS 0059	Class Settlement Being Administered
Salvatore v. Microsoft Corp.	Lincoln County	99 CVS 1246	Active
Scarvey v. First Fed. S& L Ass'n of Charlotte	Mecklenburg County	98 CVS 204	On Appeal
Shab v. Gillings	Durham County	02 CVS 5376	Active Consolid. In Re Quintiles
Skirzenski v. K2, Inc.	Forsyth County	00 CVS 5033	Active In Mediation
Smart Online v. Opensite Technologies	Wake County	01 CVS 09604	Active
Southern Research v. Melton	Guilford County	02 CVS 1458	Active Settlement Pending
Sports Quest, Inc. v. Dale Earnhardt, Inc.	Iredell County	02 CVS 0140	Active; Consolid. with 01 CVS 2200
State of N.C. v. IWG Health and Welfare Trust Fund	Wake County	99 CVS 2896	Active
Suggs v. Physicians Weight Loss Ctr. Of Am.	Guilford County	00 CVS 07910	Active

Sunbelt Rentals v. Head & Engquist Equip.	Mecklenburg County	00 CVS 10358	Trial 8/02 Awaiting Final Opinion
Swetye v. Gillings	Durham County	02 CVS 5348	Active Consolid. In Re Quintiles
Steiner v. Gillings	Durham County	02 CVS 5377	Active Consolid. In Re Quintiles
Tomlin v. Dylan Mortgage Inc. Troy v. Caviness	New Hanover	99 CVS 3551 00 CVS 01487 Consolidated	Active; Settlement Pending
Webb Builders LLC v. Jones	Durham County	01 CVS 00457	Active
Webb Builders, LLC v. Bernard	Orange County	01 CVS 156	Active
Wilbanks v. Lab Corp of Am	Alamance County	00 CVS 2789	Stayed

C. Venue

The following is a list of the counties in which both active and closed Business Court originated, the number of cases assigned to the Business Court from each county and the percentage of total Business Court cases originating from each county. See also the map on the following page.

<u>COUNTY</u>	<u>NUMBER OF CASES</u>	<u>% OF TOTAL CASES</u>
Alamance	2	1.1%
Bladen	1	.6%
Brunswick	1	.6%
Buncombe	2	1.1%
Burke	1	.6%
Caldwell	1	.6%
Catawba	2	1.1%
Craven	1	.6%
Cumberland	3	1.7%
Davidson	1	.6%
Durham	13	7.2%
Forsyth	20	11%
Gaston	4	2.2%
Guilford	26	14.5%
Halifax	1	.6%
Iredell	2	1.1%
Johnston	1	.6%
Lenoir	1	.6%
Lincoln	1	.6%
Mecklenburg	31	17%
New Hanover	3	1.7%
Onslow	3	1.7%
Orange	5	2.8%
Pender	1	.6%
Pitt	1	.6%
Randolph	5	2.8%
Rockingham	1	.6%
Rowan	1	.6%
Transylvania	1	.6%
Wake	40	22.3%
Warren	1	.6%
Wilkes	1	.6%
Wilson	1	.6%
Total in 33 Counties	179	100 %

Every case is tried in the county in which it was originally filed unless counsel request change of venue. No jury trial has been moved to Guilford County; only three non-jury cases have been transferred to Guilford County, each due to its own unique set of circumstances.

Hearings and other pretrial matters are held where facilities are available and are scheduled for the convenience of the Court and the parties. The Court frequently encounters difficulty obtaining courtroom space in major metropolitan areas on short notice.

TOMLIN v. DYLAN MORTGAGE, INC.
2002 NCBC 1 (2/1/02)
99-CVS-3551 (New Hanover)

2001

GARLOCK v. HILLIARD
2001 NCBC 10 (11/14/01)
01-CVS-01018 (Mecklenburg)

FIRST UNION CORP. v. SUNTRUST BANKS, INC.
2001 NCBC 09 (Amended 08/10/01)
01-CVS-10075 (Mecklenburg)
01-CVS-4486 (Forsyth)
01-CVS-8036 (Guilford)

FIRST UNION CORP. v. SUNTRUST BANKS, INC.
2001 NCBC 09 (07/20/01)
01-CVS-10075 (Mecklenburg)
01-CVS-4486 (Forsyth)
01-CVS-8036 (Guilford)

WINTERS v. FIRST UNION CORP.
2001 NCBC 08 (07/13/01)
01-CVS-5362 (Forsyth)

FIRST UNION CORP. v. SUNTRUST BANKS, INC.
2001 NCBC 07 (06/26/01)
01-CVS-10075 (Mecklenburg)

HOEPNER v. WACHOVIA CORP.
2001 NCBC 06 (06/14/01)
01-CVS-005106 (Forsyth)

PHILIP A.R. STATON, ET AL. v. JERRI RUSSELL, ET AL.
2001 NCBC 05 (05/31/01)
96-CVS-1409 (Forsyth)
96-CVS-7224 (Forsyth)
96-CVS-7140 (Forsyth)
99-CVS-5156 (Forsyth)
99-CVS-2628 (Forsyth)
00-CVS-2178 (Forsyth)

NOVANT HEALTH, INC., ET AL. v. AETNA U.S. HEALTHCARE OF THE CAROLINAS, INC.
2001 NCBC 04 (03/08/01)
98-CVS-12661 (Mecklenburg)

POLO RALPH LAUREN CORP. v. GULF INS. CO.
2001 NCBC 03 (01/31/01)
00-CVS-5440 (Guilford)

CARAUSTAR INDUS., INC. v. GEORGIA PACIFIC, INC.
2001 NCBC 02 (01-26-01)
00-CVS-12302 (Mecklenburg)

GAYNOE v. FIRST UNION DIRECT BANK, N.A.,
2001 NCBC 01 (01-18-01)
97-CVS-16536 (Mecklenburg)
Affirmed COA01-1171
PDR denied 2/27/03

GARLOCK v. HILLIARD
2000 NCBC 11 (8-22-00)
00-CVS-1018 (Mecklenburg)

PRAXAIR, INC. v. AIRGAS, INC.
2000 NCBC 10 (8-14-2000)
98-CVS-008571 (Mecklenburg)

TOMLIN v. DYLAN MORTGAGE INC.
2000 NCBC 9 (6-12-00)
99-CVS-3551 (New Hanover)

BIEMANN AND ROWELL CO. v. THE DONOHOE COMPANIES, INC.
2000 NCBC 8 (6-5-00)
99-CVS-9132 (Guilford)
Affirmed COA00-1177

IN RE STUCCO ATTORNEY FEES PETITIONS
2000 NCBC 7 (5-17-00)
96-CVS-5900 (New Hanover)
96-CVS-5901 (New Hanover)
96-CVS-5902 (New Hanover)
96-CVS-5903 (New Hanover)
96-CVS-5904 (New Hanover)
96-CVS-5905 (New Hanover)

OBERLIN CAPITAL, LP v. SLAVIN, et al.
2000 NCBC 6 (4-28-00)
99-CVS-03447 (Wake)
Affirmed in part, reversed in part COA00-1111

MASSEY v. CITY OF CHARLOTTE
2000 NCBC 5 (4-17-00)
99-CVS-18764 (Mecklenburg)
Reversed COA00-905

MASSEY v. CITY OF CHARLOTTE
2000 NCBC 4 (4-17-00)
99-CVS-18764 (Mecklenburg)

BRUGGERS v. EASTMAN KODAK CO., et al.
2000 NCBC 3 (3-17-00)
97-CVS-11278 (Wake)

SCARVEY v. FIRST FEDERAL SAVINGS AND LOAN ASSN OF CHARLOTTE
2000 NCBC 2 (2-23-00)
98-CVS-204 (Mecklenburg)
Affirmed in part, reversed in part, remanded COA00-806

PITTS v. AMERICAN SECURITY INS. CO., et al.
2000 NCBC 1 (2-2-00)
96-CVS-658 (Pitt)
Reversed in part, vacated in part, remanded COA00-703
Affirmed per curiam, no precedential value 369PA01

1999

WESTPOINT STEVENS, INC. v PANDA-ROSEMARY CORP.
1999 NCBC 11 (12-16-1999)
99-CVS-9818 (Guilford)

LONG v. ABBOTT LABORATORIES, et al.
1999 NCBC 10 (7-30-1999)
97-CVS-8289 (Mecklenburg)

PRAXAIR, INC. v. AIRGAS, INC., et al.
1999 NCBC 9 (10-20-1999)
98-CVS-03194 (New Hanover)

SPRINGER-EUBANK CO., et al. v. FOUR COUNTY ELEC. MEMBERSHIP CORP.
1999 NCBC 8 (10-20-1999)
98-CVS-8571 (Mecklenburg)
Affirmed COA00-326

IN RE SENERGY AND THORO CLASS ACTION SETTLEMENT
1999 NCBC 7 (7-14-1999)
96-CVS-5900 (New Hanover)

RUFF v. PAREX, INC.
1999 NCBC 6 (6-17-1999)
96-CVS-0059 (New Hanover)

PRAXAIR, INC. v. AIRGAS, INC.
1999 NCBC 5 (6-1-1999)
98-CVS-8571 (Mecklenburg)

LUPTON v. BLUE CROSS AND BLUE SHIELD
1999 NCBC 4 (6-14-1999)
98-CVS-633 (Orange)
Affirmed COA99-1138

LUPTON v. BLUE CROSS AND BLUE SHIELD
GIDUZ v. BLUE CROSS AND BLUE SHIELD
1999 NCBC 3 (6-14-1999)
98-CVS-663 (Orange)

ANDREA PETERSON v. M.G. "PAT" ROBERTSON
1999 NCBC 2 (5-25-1999)
95-CVS-3518 (Forsyth)
Reversed COA99-1199

ROYALS v. PIEDMONT ELECTRIC REPAIR CO.
1999 NCBC 1 (3-3-1999)
97-CVS-720 (Guilford)
Affirmed COA99-609
Cert. Denied No. 243P00

1998

GREENE v. SHOEMAKER
1998 NCBC 4 (10-24-1998)
97-CVS-2118 (Wilkes)

BRADLEY V. U.S. PACKAGING, INC., et al.
1998 NCBC 3 (4-9-1998)
95 CVS 8986 (Guilford)
Affirmed COA98-1268

CROWDER CONSTR. CO. v. KISER
1998 NCBC 2 (3-10-1998)
95-CVS-14097 (Mecklenburg)
Affirmed COA98-949

BYERS V. R.E. CARPENTER, JR., et al.
1998 NCBC 1 (1-30-98)
94 CVS 04889 (Wake)

1997

SMITH v. N.C. MOTOR SPEEDWAY
1997 NCBC 5 (11-12-1997)
97-CVS-9961 (Mecklenburg)
Affirmed COA98-81

CHARLOTTE COPY DATA, INC. v. HABBAL
1997 NCBC 4 (11-11-1997)
96-CVS-694 (Mecklenburg)

BEAM v. WORLDWAY CORP.
1997 NCBC 3 (10-23-1997)
96-CVS-469 (Gaston)

REEVE & ASSOCS. INC. v. UCB
1997 NCBC 2 (10-6-1997)
96-CVS-4695 (Guilford)

WILSON REALTY & CONSTR., INC. v. ASHEBORO-RANDOLPH BOARD OF REALTORS
1997 NCBC 1 (9-30-1997)
95-CVS-482 (Randolph)
Remanded COA 98-1061

1996

SCOTT v. SOKOLOV
1996 NCBC 2 (12-2-1996)
96-CVS-2748 (Durham)

FRAZIER v. BEARD
1996 NCBC 1 (10-24-1996)
94-CVS-2362 (Catawba)
Affirmed COA97-387

B. APPELLATE REVIEW

Currently, decisions of the Business Court are reviewed in the same manner as any other decision in the Superior Court. However, to accomplish the goal of providing more efficient and timely resolution of business disputes, it may be appropriate to consider implementing a similar "fast track" appellate procedure. To have an expedited lower court procedure followed by a one-

to two-year wait for the appellate ruling defeats the goal of trying to establish a system for handling corporate disputes equivalent to the Delaware court system.

C. PRECEDENTIAL VALUE

The opinions written in Business Court cases have not been published except electronically. Even if published, they have no value as precedent because neither the Supreme Court nor the General Assembly has enacted a rule or statute dealing with the issue.

VIII. ACHIEVEMENTS

On September 30, 2000, the Business Court was the recipient of one of nine achievement awards which the Foundation for the Improvement of Justice, Inc. presented nationwide in the Year 2000 to encourage improvement in our systems of justice.

In June 2000, the Court was selected for detailed study by the Rand Institute for Civil Justice. The Rand Institute can provide an objective assessment of the advantages of the Business Court technology program. Contact Mr. Nicholas Pace for further information: nickpace@rand.org; 310 393-0411.

The National Judicial College has sent representatives to the Court and has asked Judge Tennille to demonstrate the technology at seminars.

Judges from Belarus, Ukraine and South Korea have visited the Court to learn about its technology.

The Japanese government has included the Business Court technology in its study of the potential for creating a paperless court system in Japan.

Wake Forest University Law School and Campbell University Law School have replicated the system as the best method to teach their students about the courtroom of the future.

Other counties in North Carolina have patterned courtrooms after the Business Court.

The program has spawned pilot projects for Internet-based case management systems in other states as well as within North Carolina.

The high tech courtroom has been replicated by the Conference of District Attorneys for training purposes and is being replicated in several counties.

The Court has sustained enthusiastic support from the North Carolina Bar Association. Over 500 people have been trained in our courtroom on the use of the system, and many more have received instruction from our online Court technology video and tutorial. See "Training Film" below, Section IX. B.

As one of eleven members of the American Bar Association's Task Force on Corporate Responsibility, during the past year Judge Tennille has worked to examine and report on the

systemic issues relating to corporate responsibility which have arisen as a result of the recent failures of public companies.

In addition, Judge Tennille is serving as chair of the Business and Commercial Courts Committee of the National Conference of State Trial Judges, a newly formed committee which will provide a forum for the exchange of information, best practices and technology developments among judges who are presently sitting on, planning to organize, or simply interested in the concept of, courts or divisions of courts dedicated to the trial of business and commercial cases. This committee will also coordinate with other ABA committees such as the committee on business courts of the Business Law Section.

IX. PROJECTS

A. Technology Survey

In February 2002 the Business Court completed a survey of lawyers and their staff who had used the technology and e-filing systems available from the Business Court. Training was identified as the most critical need to facilitate use of technology in the courts. It was also clear from the survey that the training needed to be basic and accessible to a wide audience including secretaries and legal assistants. Although the Business Court has long provided free training classes, it is difficult and expensive for lawyers and their staff members to attend.

The Business Court survey—designed to measure levels of general computer familiarity and expertise, identify any problems users have with our system, elicit feedback on system benefits and determine specific training needs—resulted in a catalog of specific information to guide the creation of a training tool and user resource. Replete with percentages, charts, graphs and textual summaries, the survey results may be viewed on the court's website at www.ncbusinesscourt.net.

The project had been in the planning stage since Fall 2000. The survey clearly identified what lawyers and legal staffs believe the Court can do to facilitate full use of and satisfaction with our current electronic filing and court technology systems. As a result of the survey findings, the Business Court has produced a training film which demonstrates the use of features such as document and calendar access and downloading, docket search, preparation of documents for e-filing and hyperlinks, videoconferencing, and how to use a visual presenter and other courtroom equipment. The film also focuses on troubleshooting—defining specific strategies to remedy common problems.

B. Training Film

Completed in May 2002, this training resource has a broad application, facilitating the use of technology in the court system and providing the legal community the skills necessary to effectively use electronic filing. Electronic filing is spreading to other courts as well, and other courts are installing high tech presentation equipment with increasing frequency.

The value of this project will be determined by the use of the training resource. In addition to actual downloading from or reference to the training resource on the website, replication of the

training resource by other government entities will provide an indication of its value. It can be a model for training resources for other states and for other branches of government.

This training resource will reach a broad audience in a very cost effective way. The Business Court has operated as a technology laboratory for the court system. The film is one more tool which will make it easier to use technology both in the court system and other branches of government such as the office of the Secretary of State. The training film was created digitally so that it could be placed on the websites of the Business Court, the North Carolina Bar Association and the Administrative Office of the Courts, where it may be viewed and downloaded at no charge. Video and CD ROM versions were produced in addition to the website download.

The film cost approximately \$20,000 to produce and was done in conjunction with CX Corporation, the company that developed the system used for electronic filing in the Business Court. The Business Court received endowment awards in the amount of \$20,000 from the North Carolina Bar Association Foundation and three other private foundations.

X. REPLICATION

From inception, the Business Court has been designed so that it could be easily replicated by other states interested in specialized courts for complex litigation. Use of the technology and the web page were meant to encourage others to use the developments and learn from our experience. For example, the North Carolina Bar Association assisted the court in drafting a comprehensive set of local rules which are posted on the website for others to use. Those rules govern not only complex litigation but also the challenges created by use of the emerging technologies. Any court adopting the new technologies will benefit from the work that has already gone into the local rules.

The technology used by the Court can be adopted as individual components or as a whole. For example, the courtroom package could be used first and electronic filing added later. The calendaring and clerk programs are easily adaptable for other courts. The basic e-filing system can be converted for use by other government agencies such as utilities commissions, departments of insurance and the secretaries of state.

The only obstacle is the cost involved in purchasing the equipment and software and adapting the same for the particular court where it will be used. The software, while developed in conjunction with the Court, belongs to the developer. As with all new technologies, training is critical.

Electronic filing is spreading to other courts, and other courts are installing high tech presentation equipment with increasing frequency; the Court's training film, now posted on the website, will help to provide instruction on preparing documents for e-filing and use of the courtroom equipment. Since at least five counties have plans to create high tech courtrooms similar to the one started in the Business Court, the film will also reduce costs of training in connection with the use of courtroom equipment. It is be a useful training aid for practitioners in every county that adopts new courtroom presentation technology.

XI. FUNDING

The Business Court does not have a separate operating budget. It is a part of the General Court of Justice, Superior Court Division, for the State of North Carolina. As such, the State provides salary and benefits for the judge, a law clerk and an administrative assistant. Expenses of maintaining the existing equipment are paid by the State. Original funding for development of the technology totaled \$150,000, of which \$105,000 was provided by private foundations and \$45,000 by the State. The original funding is completely exhausted. There are no ongoing operating funds available for improvement or expansion of the technology.