

**REPORT ON ACTIVITIES
OF THE
NORTH CAROLINA BUSINESS COURT**

2006-2008

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I. INTRODUCTION

A. Overview of the Business Court Program

The North Carolina Business Court is a specialized forum of the trial court division. Cases involving complex and significant issues of corporate and commercial law are designated as such by the Chief Justice of the North Carolina Supreme Court, pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts, and assigned to a special superior court judge who oversees resolution of all matters in the case through trial.

The Business Court provides the legal community and the court system with automated resources to facilitate the efficient and economical use of judicial resources. Its electronic filing and case management systems greatly reduce the workload of document processing and case management for civil litigation. Electronic filing has been an integral component of the Business Court operations, and its expansion has resulted in a system which offers free public access via its web site (www.nbusinesscourt.net) to files, dockets and calendars; instant access to all Court opinions without the expense or delay of publication; an electronic library accessible by the Court from remote locations; and affords counsel the opportunity to use advanced courtroom equipment and technology in the course of hearings and trial, regardless of their level of expertise.

B. Expansion in Business Court Jurisdiction

The first Business Court was established in 1996 in Greensboro. With the passage of House Bill 650 in 2005, the Court's jurisdiction was expanded and two additional Business Court locations were established in Charlotte and Raleigh. Chief Business Court Judge Ben Tennille has presided over the Business Court in Greensboro since its inception. Judge Albert Diaz and Judge John Jolly serve as Special Superior Court Judges for Complex Business Cases for the Charlotte and Raleigh Business Courts, respectively.

Certain cases are now by definition designated mandatory complex business cases — those involving a material issue related to the law of corporations, securities law, antitrust law, state trademark and unfair competition law, and intellectual property law, and certain cases involving technology. There are no dollar limitations, and no waiver of jury trial is required. With the passage of recent legislation, the jurisdiction of the Business Court has been expanded to include those cases that have been removed to Business Court through a Notice of Designation and judicial review of certain tax cases originating in the Office of Administrative Hearings.

1. Notice of Designation

Effective January 1, 2006, any party to a new mandatory complex business case could have the case removed to the Business Court by filing a Notice of Designation pursuant to GS § 7A-45.4. This removal petition is accompanied by a \$200 non-refundable fee.

The Notice of Designation specifies the basis of the designation and includes a certificate on behalf of the party seeking removal that the case satisfies the criteria for a mandatory complex business case. If the removing party is the plaintiff or a third-party plaintiff, the Notice is filed contemporaneously with the filing of complaint. Where an intervening party seeks removal, the Notice is filed at the time the motion for permission to intervene is filed. Any other party seeking to remove the case must file a Notice of Designation within thirty days of receipt of service of the pleading seeking relief against that party.

Any party may file an opposition to the removal within 30 days of being served with the Notice of Designation. It is the responsibility of the Chief Business Court Judge to determine that the case should not be designated a mandatory complex business case. That decision may be appealed to the Chief Justice of the Supreme Court.

Once a case is removed, it is sent to the Chief Business Court Judge for assignment to one of the three Business Court judges. From that point, all proceedings in that action will be before the Business Court Judge to whom the case has been assigned. Business Court judges will continue to try the cases in the county in which they are filed.

In the case of complex business or commercial litigation that does not fall within one of the mandatory categories, the old procedure of application to the Senior Resident Superior Court Judge in the county of origin still applies. At the discretion of the Senior Resident Judge, such case would be recommended to the Chief Justice for complex

business or exceptional designation.

The Business Court Local Rules Committee reviewed the Local Rules following implementation of the new procedures and made recommendations for changes in the rules to the judges. The Amended Local Rules (2006) are posted on the Court's website at www.ncbusinesscourt.net.

2. Petition for Judicial Review of Certain Tax Cases

Effective January 1, 2008, in accordance with 2007 N.C. Session Law 2007-242, § 105-241.16, the Business Court also became a forum for any "taxpayer aggrieved by the final decision in a contested case commenced at the Office of Administrative Hearings." Such a taxpayer would file a petition for judicial review in the Superior Court of Wake County following the aforementioned procedures for a mandatory business case. The petitioner must subsequently pay the amount of tax, penalties, and interest stated in the Business Court judge's decision but also has further recourse to appeal a decision of the Business Court to the appellate courts.

II. STATISTICAL OVERVIEW

A. Pending and Closed Cases

Since its inception in 1996, the Business Court has been assigned 489 cases from 53 counties; 317 of those 489 cases are now closed.

The Business Court currently has a total of 173 pending cases, seven of which are on appeal and 23 are stayed. Three additional cases have settled but are kept open to enforce court-ordered administrations of settlement. Of the 173 pending cases, 100 are designated mandatory complex business, 42 are discretionary complex business cases, and 31 are exceptional cases.

76 cases were closed in 2007, while 16 cases have been closed so far in calendar year 2008.

B. Distribution of Cases

The Business Court currently has 173 pending cases originating from 35 counties. Although each judge has some cases outside his general location, a regional breakdown shows the Eastern District with 83 cases, Middle District 29, and Western District 61.

COUNTY OF ORIGIN	NUMBER OF CASES	DISTRIBUTION		
		Tennille	Diaz	Jolly
Alamance	1	1		
Brunswick	15			15
Buncombe	5	1	4	
Burke	1		1	
Caldwell	1	1		
Catawba	1	1		
Chatham	1			1
Craven	1			1
Cumberland	3		1	2
Dare	3	1	1	1
Davidson	2	1	1	
Durham	4		2	2
Forsyth	4	4		
Franklin	2			2
Gaston	10	7	3	
Guilford	15	13		2
Haywood	1		1	
Henderson	5	1	4	
Jackson	1		1	
Johnston	2			2
Lenoir	2	1		1
Lincoln	1	1		
Mecklenburg	33	9	23	1
Nash	1			1
New Hanover	8	1		7
Onslow	1	1		
Orange	2	1	1	
Pasquotank	1			1
Perquimans	1			1
Pitt	1			1
Union	2	1	1	
Vance	4			4
Wake	36	16	2	18
Watauga	1			1
Wilkes	1	1		
Total Pending Cases	173			
	Caseload per judge	63	46	64

III. BUSINESS COURT JUDGES AND DATA BY SITE

A. GREENSBORO

Judge Ben Tennille serves as Chief Business Court Judge and presides over the Business Court in Greensboro, now located in the Elon University School of Law. Established in 1996, the Greensboro Business Court was the first statewide Business Court in the nation.

The Business Court-Greensboro has 63 open cases, 5 of which are on appeal and 14 are inactive, stayed or are in the process of settling. Although the two *Microsoft* cases that were assigned to this Court in 2000 reached a settlement in 2004, they remain open because of a court-ordered administration of settlement. Thus, out of 42 active cases, the average case age is 330 days.

Seven cases have been closed in calendar year 2008 to date; 32 cases were closed last year, while 33 were closed in 2006.

The FY 2006-07 expenditures for the Business Court-Greensboro were approximately \$318,440.

The 63 pending cases are listed below.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Date Assigned</u>	<u>Case Number</u>	<u>Status</u>
Am Cmty Bank v Royal Am Co.	Union	10/10/06	06 CVS 1609 <i>Mandatory</i>	Inactive Stayed
Avesair, Inc. v. InPhonic, Inc.	Wake	6/12/06	04 CVS 10838 <i>2.1, 2.2</i>	Inactive Stayed
Azalea Garden Board v. Vanhoy	Davidson	5/31/07	06 CVS 0948 <i>2.1</i>	Active 275
B Square Enterprises, Inc. v. Crawford	Wake	8/07/07	07 CVS 010351 <i>Mandatory</i>	Active 207
Bank of Am. Corp. v. Beazer Mort. Corp.	Mecklenburg	1/30/08	08 CVS 1998 <i>Mandatory</i>	Active 31
Bank of Am. Corp. v. SR Int'l Bus. Ins. Co.	Mecklenburg	6/17/05	05 CVS 5564 <i>2.1, 2.2</i>	Inactive Settled Jan. 2008
Better Bus. Forms & Prods., Inc. v. Craver	Guilford	2/27/07	07 CVS 3030 <i>Mandatory</i>	Active 368
Bolick v. Sipe	Catawba	7/09/07	07 CVS 1400 <i>Mandatory</i>	Active 236
CIT Grp/Comm. Svcs, Inc. v. Royal Am. Corp.	Guilford	4/11/07	06 CVS 8891 <i>2.1 & 2.2.</i>	Inactive Stayed
CIT Grp/Comm. Svcs, Inc. v. Royal Cordage Corp.	Guilford	11/29/06	06 CVS 10660 <i>Mandatory</i>	Inactive Stayed
CitiCapital Tech. Fin., Inc. v. Royal Am. Co., LLC	Gaston	1/04/07	06 CVS 5547 <i>Mandatory</i>	Inactive Stayed

Cook v. Mitchell	Forsyth	11/09/07	07 CVS 7095 <i>Mandatory</i>	Active 113
Cope v. Daniel	Alamance	1/08/07	06 CVS 2620 <i>Mandatory</i>	Active 418
Covenant Equip. Corp. v. Forklift Pro, Inc.	Mecklenburg	1/15/08	07 CVS 21932 <i>Mandatory</i>	Active 46
Cox v. Mitchell	Forsyth	1/08/07	06 CVS 8371 <i>Mandatory</i>	Active 418
Crockett Capital Corp. v. Inland American Winston Hotels, Inc.	Wake	1/17/08	08 CVS 00691 <i>Mandatory</i>	Active 44
Delhaize America, Inc. v. Secretary of Revenue	Wake	1/08/08	07 CVS 020801 <i>Mandatory</i>	Active 53
Egelhof v. Szulik	Wake	12/29/04	04 CVS 11746 2.1 & 2.2	Inactive Opinion 2/04/08
Epes v. HealthSouth Corp.	Catawba (Venue Change)	6/14/07	07 CVS 6243 <i>Mandatory</i>	Inactive Consol. 07 CVS 9451
Epes v. HealthSouth Corp.	Catawba (Venue change)	9/21/07	07 CVS 4723 <i>Mandatory</i>	Active 261
Exide Techs. v. Douglas	Forsyth (Venue Change)	3/7/07	07 CVS 7558 (formerly 07 CVS 4402) <i>Mandatory</i>	Active 360
First Bank v. Royal Am. Co., LLC	Gaston	1/4/07	06 CVS5531 <i>Mandatory</i>	Inactive
Gateway Mgt. Svcs v. Advanced Lubrication Tech.	Forsyth	2/15/08	08 CVS 85 <i>Mandatory</i>	Active 14
Gen. Elec. Capital Corp. v. Royal Am. Co., LLC	Gaston	1/19/07	06 CVS 2385 <i>Mandatory</i>	Inactive
Grady R. Jolley Elec. Contractors v. Royal Am. Co., LLC	Gaston	12/12/06	06 CVS 3541 <i>Mandatory</i>	Active 431
Harco Nat'l Ins. Co. v. BDO Scidman, LLP	Wake	12/8/06	05 CVS 2299 2.1 & 2.2	Active 449
Harco Nat'l Ins. Co. v. Grant Thornton LLP	Wake	3/14/06	05 CVS 2500 2.1 & 2.2	Active 718

Heinitsh v. Wachovia Bank, N.A.	Henderson (Venue Change)	10/14/03	03-CVS-4056 [04 CVS 734] 2.1	On Appeal
Henry v. Mavens Grp. Consulting & Development	Wake	11/20/07	07 CVS 12306 <i>Mandatory</i>	Active 102
Hill v. StubHub, Inc.	Guilford	11/15/07	07 CVS 11310 <i>Mandatory</i>	Active 117
Hume v. Stevenson	Guilford	10/29/07	07 CVS10592 <i>Mandatory</i>	Active 124
J2 & Assocs. v. Rutter	Guilford	6/01/07	07 CVS 6977 <i>Mandatory</i>	Active 274
JDH Capital LLC v. Flowers	Mecklenburg	4/23/07	07 CVS 5354 <i>Mandatory</i>	Active 313
Kaplan v. OK Techs., LLC	Guilford	9/22/06	06 CVS 10500 <i>Mandatory</i>	Active 526
Land v. Land	Guilford	1/25/06	06 CVS 11688 2.1 & 2.2	Active 766
Leiber v. Arboretum Joint Venture	Mecklenburg	7/17/06	05 CVS 18751 2.1	Active 593
Levy Invs. v. James River Group, Inc.	Orange	8/31/07	07 CVS 00820 <i>Mandatory</i>	Inactive Stay 9/18/07
Loftin v. KPMG LLP	Wake	7/25/06	03 CVS 16882 2.1	Active 585
McRae v. Andrews	Lenoir	10/10/07	07 CVS 1444 <i>Mandatory</i>	Inactive
Moody v. Sears, Roebuck and Co.	New Hanover	7/14/03	02-CVS-4892 2.1 & 2.2	On Appeal 6/07
Powersport Graphics, LLC v. SB Capital 2 LLC	Wilkes	3/28/07	07 CVS 238 <i>Mandatory</i>	Active 339
Rankin v. Microsoft Corp.	Wake	8/10/00	00 CVS 4073 2.1 & 2.2	Inactive Adm Class Settlement
Regions Bank v. Royal Am Co., LLC	Mecklenburg	10/23/06	06 CVS 13184 <i>Mandatory</i>	Inactive

Ross v. Autumn House, Inc.	Caldwell	1/08/08	07 CVS 2172 <i>Mandatory</i>	Active 53
Salvatore v. Microsoft Corp.	Lincoln	9/28/00	99 CVS 1246 2.1 & 2.2	Inactive Adm Class Settlement
Schlieper v. Johnson	Guilford	2/1/07	06 CVS 13099 <i>Mandatory</i>	Active 394
Sea Ranch II, Inc. v. Sea Ranch II Homeowners Ass'n Inc.	Dare	6/12/06	06 CVS 280 <i>Mandatory</i>	Inactive
Siemens Fin. Svcs, Inc. v. V.H. Ind., Inc.	Gaston	7/09/07	07 CVS 1757 <i>Mandatory</i>	Active 236
Sirius Am. Ins. Co. v. Grant Thornton LLP	Wake	3/14/06	05 CVS 6212 2.1 & 2.2	Active 718
Springs Leasing Corp. v. Royal Cordage Corp.	Mecklenburg	2/06/07	06 CVS 22029 <i>Mandatory</i>	Active 389
State v. Custard	Wake	5/03/06	06 CVS 4622 <i>Mandatory</i>	Active 668
State v. iMergent, Inc.	Wake	5/21/07	07 CVS 7381 <i>Mandatory</i>	Active 285
State v. McClure	Wake	8/11/03	03-CVS-5617 2.1	On Appeal
State v. Philip Morris Inc.	Wake	11/05/03	99 CVS 14377 2.1	On Appeal
Teague v. Bayer AG	Buncombe	3/15/05	05 CVS 90 2.1 & 2.2	On Appeal
UPS Capital Bus. Credit v. Royal Am. Co. LLC	Gaston	10/ 23/06	06 CVS 3512 <i>Mandatory</i>	Active 495
Vernon v. Cuomo	Wake	6/12/06	06 CVS 8416 <i>Mandatory</i>	Active 628
Webb v. Royal Am. Co., LLC	Gaston	10/06/06	06 CVS 4626 <i>Mandatory</i>	Active 512
Wells Fargo Bank, NA v. Royal America Co., LLC	Wake	1/30/08	07 CVS 24448 <i>Mandatory</i>	Active 31

Wicks v. Moody	Buncombe	12/28/07	07 CVS 06038 <i>Mandatory</i>	Active 64
Women's Healthcare Assocs., P.A. v. TSI Healthcare, Inc.	Onslow	2/07/08	07 CVS 4895 <i>Mandatory</i>	Active 22
York v. York	Guilford	7/05/06	06 CVS 7867 <i>Mandatory</i>	Active 605
York v. York	Guilford	7/05/06	06 CVS 7868 <i>Mandatory</i>	Active 605

B. CHARLOTTE

Judge Albert Diaz serves as Special Superior Court Judge for Complex Business Cases for the Charlotte Business Court, located in the new Mecklenburg County courthouse.

The Business Court-Charlotte currently has 46 open cases, one of which is on appeal and four are stayed or inactive. Thus, out of 41 active cases, the average case age is 291 days.

Five cases have been closed in calendar year 2008 to date; 27 cases were closed last year, and nine in 2006.

The FY 2006-07 expenditures for the Business Court-Charlotte were approximately \$211,903.

The 46 pending cases are listed below.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Date Assigned</u>	<u>Case Number</u>	<u>Status</u>
A-1 Pavement Marking v. APMI Corp.	Union	2/20/08	07 CVS 03186 2.1 & 2.2	Active 9
Anderson v. Certified Estate Planners	Gaston	11/16/07	06 CVS 5363 2.1, 2.2	Active 106
Auten v. Certified Estate Planners	Gaston	11/16/07	06 CVS 5364 2.1, 2.2	Active 106
Battleground Vet. Hosp. v. McGeough	Mecklenburg	6/01/06	05 CVS 18918 2.1 & 2.2	Active 639
Blitz v. Agean, Inc.	Durham	1/20/06	05 CVS 441 2.1	Active 771
Bowden v. Noel	Henderson	5/14/07	07 CVS 603 <i>Mandatory</i>	Active 292

Braun v. Earthworks Lawn & Landscape, Inc.	Mecklenburg	3/06/07	07 CVS 4433 <i>Mandatory</i>	Active 361
Broad v. Certified Estate Planners	Henderson	1/25/08	06 CVS 1941 2.1 & 2.2	Active 36
Bueche v. Noel	Henderson	5/14/07	07 CVS 597 <i>Mandatory</i>	Active 292
Buncombe Co. v. Hotels.com, LP	Buncombe	2/05/07	07 CVS 00585 <i>Mandatory</i> Consol Wake 06 CVS 16256	Active 390
Burgess v. Vitola	Buncombe	10/26/07	07 CVS 4679 <i>Mandatory</i>	Active 127
Calyptix Sec. Corp. v. Nexcom Technologies, LLC	Mecklenburg	9/18/07	07 CVS 16681 <i>Mandatory</i>	Active 165
Classic Coffee Concepts, Inc. v. Anderson	Mecklenburg	5/12/06	06 CVS 2941 <i>Mandatory</i>	Inactive; Judgment entered 1/31/08 Awaiting post trial motions
Club Car, Inc. v. Dow Chem. Co.	Mecklenburg	12/12/06	06 CVS 15530 2.1 & 2.2	Active 445
Cumberland Co. v. Hotels.com	Cumberland	2/27/07	06 CVS 10630 2.1 & 2.2 Consol Wake 06 CVS 16256	Active 368
Dare Co. v. Hotels.com	Dare	2/27/07	07 CVS 56 <i>Mandatory</i> Consol Wake 06 CVS 16256	Active 368
Eglinton v. Blue Ridge Bone & Joint Clinic, P.A.	Buncombe	1/14/08	07 CVS 06055 <i>Mandatory</i>	Active 47
Energy Alternatives, Inc. v. Tropitone furn. Co., Inc.	Mecklenburg	6/1/06	06 CVS 0782 <i>Mandatory</i>	Active 639
Flihr v. Storick	Mecklenburg	3/28/07	07 CVS 1393 <i>Mandatory</i>	Active 339

Gaskin v. Proctor	Mecklenburg	6/25/07	07 CVS 9678 <i>Mandatory</i>	Active
Green v. Short	Mecklenburg	12/18/06	06 CVS 22085 <i>Mandatory</i>	Inactive; Stayed Arbitration
Greyson Ridge Dev., LLC v. Mountaineer Land Grp.	Mecklenburg	11/8/05	05 CVS 6615 2.1 & 2.2	Active 844
Hilb Rogal & Hobbs Co. v. Sellers	Mecklenburg	10.01.07	07 CVS 19339 <i>Mandatory</i>	Active 152
Integrity Fin. Svcs., LLC v. Gutierrez	Mecklenburg	8/22/07	07 CVS 16773 <i>Mandatory</i>	Active 192
Int'l Legwear Grp., Inc. v. Legassi Int'l Grp., Inc.	Burke	3/1/07	07 CVS 283 <i>Mandatory</i>	Active 366
King Fin. Grp, LLC v. Reid	Orange	4/21/06	06 CVS 7797 06 CVS 1767 <i>Mandatory</i>	Active 680
Kornegay v. Aspen Asset Group, LLC	Mecklenburg	1/19/06	04CVS 22242 2.1	Inactive Judgment entered 2/05/08; awaiting post trial motions
Latigo Invs. II, LLC v. Waddell & Reed Fin.	Mecklenburg	2/14/07	06 CVS 18666 2.1 & 2.2	Active 380
Mecklenburg County v. Hotels.com, LP	Mecklenburg	1/22/08	08 CVS 741 <i>Mandatory</i>	Active 39
Media Network, Inc. v. Long Haymes Carr, Inc.	Mecklenburg	2/3/06	05 CVS 15428 2.1 & 2.2	Active 757
Northfield Invs., Inc. v. Regions Bank	Mecklenburg	10/01/07	07 CVS 12568 <i>Mandatory</i>	Active 152
Parker v. Certified Estate Planners	Mecklenburg	11/05/07	06 CVS22773 2.1, 2.2	Active 117
Ray v. Deloitte & Touche	Mecklenburg	7/5/06	06 CVS 10418 <i>Mandatory</i>	Active 605
Regions Bank v. Regional Prop. Dev. Corp.	Mecklenburg	7/13/ 07	07 CVS 12469 <i>Mandatory</i>	Active 232

Robertshaw Controls Co. v. Moll Indus., Inc.	Davidson	2/06/08	07 CVS 01362 2.1 & 2.2	Active 23
Signalife v. Rubbermaid	Mecklenburg	11/30/07	07 CVS 1346 2.1	Inactive Ord Dism Compl 2/8/08
Smith v. Noel	Henderson	1/25/08	06 CVS 1959 2.1 & 2.2	Active 34
Thomas Cook Printing Co. v. Subtle Impressions, Inc.	Wake	8/09/07	05 CVS 11566 2.1 & 2.2	Active 205
Trussway Inc. East v. Stock Building Supply, Inc.	Mecklenburg	6/01/07	07 CVS 7963 2.1	Active 274
Wachovia Bank, N.A. v. Harbinger Cap. Partners Master Fund I, Ltd.	Mecklenburg	5/09/07	07 CVS 5097 2.1	Active 297
Wake Co. v. Hotels.com, LP	Wake	2/27/07	06 CVS 16256 2.1 & 2.2 <i>Consolidated with other Hotels.com cases</i>	Active 368
Warren v. Eli Research, Inc.	Durham	1/10/08	07 CVS 006306 <i>Mandatory</i>	Active 51
West v. Certified Estate Planners	Gaston	11/16/07	06 CVS 5362 2.1, 2.2	Active 106
Wilson v. Brown	Mecklenburg	11/05/07	07 CVS 19950 <i>Mandatory</i>	Active 117
Winn v. Wilson	Jackson	7/11/07	07 CVS 344 <i>Mandatory</i>	Active 234
Winn v. Wilson	Haywood	8/28/07	07 CVS 749 2.1 & 2.2	Active 186

C. RALEIGH

Judge John Jolly serves as Special Superior Court Judge for Complex Business Cases for the Raleigh Business Court, now located in leased space in downtown Raleigh. Prior to 2007, Judge Jolly had no official office or staff.

The Business Court-Raleigh currently has 64 open cases, 2 of which are on appeal and 5 are inactive or stayed. Thus, out of 57 active cases, the average case age is 253 days.

Six cases have been closed in calendar year 2008 to date while 17 cases were closed last year, the first year of operation.

The FY 2006-07 expenditures for the Wake County Business Court were approximately \$292,114.

The 64 pending cases are listed below.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Date Assigned</u>	<u>Case Number</u>	<u>Status</u>
Arcadius Dev. LLC v. Patton	Mecklenburg	12/04/06	06 CVS 13738 2.1, 2.2	Inactive Stayed
Brandson v. PCJ Ventures, LLC	New Hanover	5/17/06	05 CVS 4916 2.1 & 2.2	Active 654
Brosnan v. DiVenuta	Wake	12/08/06	05 CVS 14412 2.1 & 2.2	Active 448
Builder Sves Grp. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2152 2.1	Active 14
Builders Firstsource Southeast Grp. V. Super. Constr. Corp.	Brunswick	2/15/08	07 CVS 2427 2.1	Active 14
Cabaniss v. Johnson	Wake	11/28/07	06 CVS 05183 Rule 2.1,2.2	Active 94
Cannon & Taylor, LLP v. Taylor	Pitt	9/05/07	07 CVS 2632 Mandatory	Active 178
Cape Fear Realty, LLC v. Cape Fear Trading Grp.	Brunswick	6/21/07	07 CVS 1310 Mandatory	Active 254
Capps v. Blondeau	Wake	11/07/07	07 CVS 16486 Mandatory	Active 115
Castle Branch, Inc. v. Carolina Investigative Research, Inc.	Wake	1/16/08	08 CVS 690 Mandatory	Active 45
Chirico v. Hyson	Chatham	5/21/07	07 CVS 289 Mandatory	Active 285
Clark v. Alan Vester Auto Grp., Inc.	Vance	5/09/06	06 CVS 141 2.1	Active 662
Coast Mechanical Contractors, Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2401 2.1	Active 14
Coastal Sash & Door v. Super. Constr. Corp.	Brunswick	2/15/08	07 CVS 1464 2.1	Active 14

Continental Service Solutions, Inc. v. Premier Workforce Inc.	Wake	12/20/07	07 CVS 18094 <i>Mandatory</i>	Active 72
David Shaev Profit Sharing Account v. Waste Industries USA, Inc.	Wake	1/08/08	07 CVS 20453 <i>Mandatory</i>	Active 53
Edgewater Svcs., Inc. v. Epic Logistics, Inc.	Wake	4/17/06	05 CVS 1971 2.1 & 2.2	Active 684
EHP Land Co. v. Boshier	Perquimans	4/10/07	07 CVS 59 <i>Mandatory</i>	Active 326
Eleanor B. Johnson Ltd. P'ship v. Ball	Craven	1/31/07	07 CVS 190 <i>Mandatory</i>	Active 395
Essa Commercial Real Estate, Inc. v. Five Trees, LLC	Guilford	6/18/07	07 CVS 5938 <i>Mandatory</i>	Active 257
Evans v. Bernard	Pasquotank	1/19/07	06 CVS 668 <i>Mandatory</i>	Active 407
Fish Factory Assocs v. South Harbour Village Assocs.	Brunswick	10/12/07	07 CVS 1971 <i>Mandatory</i>	Active 141
Glover Constr. v. NC Constructors	Wake	7/09/07	06 CVS 1309 2.1	Active 236
Griffin Mgt. Corp v. Carolina Power & Light Co.	Wake	6/12/06	05 CVS 14428 2.1 & 2.2	Active 628
Grimmett v. Alan Vester Auto Grp.	Vance	7/17/07	07 CVS 117 2.1	Active 228
H. Burkert & Co. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2566 2.1	Active 14
Hamm v. BCBS of NC	Durham	7/6/06	05 CVS 5606 2.1	Active 604
Hargrove v. John Freeser Motors	Vance	8/03/07	06 CVS 959 2.1	Active 211
Harris v. Alan Vester Auto Grp	Vance	7/25/06	05 CVS 758 2.1	Inactive On Appeal

Health Mgmt Assocs, Inc. v. Yerby	Franklin	7/24/07	06 CVS 839 2.1 and 2.2	Active 221
Johnson v. Johnson	Wake	7/26/07	07 CVS 09631 <i>Mandatory</i>	Active 219
Kintz v. Amerlink	Nash	12/28/06	02 CVS 2041 2.1	Inactive Trial 2/08
L'Heureux Enters., Inc. v. Port City Java, Inc.	New Hanover	10/5/06	06 CVS 3367 <i>Mandatory</i>	Active 513
Marotta v. DataCraft Solutions, Inc.	Wake	7/09/07	07 CVS 10317 <i>Mandatory</i>	Active 236
Merritt v. Brown Oil Co.	Durham	6/01/07	07 CVS 03611 <i>Mandatory</i>	Active 274
Miller & Long Co., v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 1760 2.1	Active 14
Mitchell, Brewer, et al. v. Brewer	Cumberland	7/14/06	06 CVS 6091 <i>Mandatory</i>	Active 596
Mooring Capital Fund, LLC v. Comstock North Carolina, LLC	Wake	1/17/08	07 CVS 020852 <i>Mandatory</i>	Active 44
Mountain Aircraft Svcs. Acquisition, Inc. v. Marsh	Lenoir	10/08/07	07 CVS 257 2.1 & 2.2	Active 145
Murphy v. Arcadius Dev., LLC	New Hanover	10/13/06	06 CVS 2411 <i>Mandatory</i>	Inactive Stayed
Novo Nordisk Pharm. Ind., Inc. v. Carolina Power & Light Co.	Johnston	1/19/07	05 CVS 00154 2.1	Active 407
Patton v. Arcadius Invs., LLC	New Hanover	10/13/06	06 CVS 3785 <i>Mandatory</i>	Inactive Stayed
Port City Java, Inc. v. Brandson	New Hanover	4/21/06	06 CVS 0920 <i>Mandatory</i>	Active 680 Active 275
Ruth Cook Blue Living Trust v. Blue	Watauga	5/31/07	07 CVS 222 <i>Mandatory</i>	
S&W Ready Mix Concrete Co. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2157 2.1	Active 14

Viable Corp. v. South Harbour Village Assocs LLC	New Hanover	10/12/07	07 CVS 4046 <i>Mandatory</i>	Active 141
Voyager Pharm. Corp. v. Bowen	Wake	3/13/06	06 CVS 3184 <i>Mandatory</i>	Active 719
Wallcraft Constr., Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2479 <i>2.1</i>	Active 14
Woodbury of Wilmington Ltd. P'ship v. Woodbury	New Hanover	9/20/07	07 CVS 4231 <i>Mandatory</i>	Active 163

V. OPINIONS ISSUED: 2003 TO PRESENT

The Business Court is required to write opinions in non-jury matters assigned as Complex Business cases. In the exceptional cases assigned pursuant to Rule 2.1, the decision about whether to write an opinion is in the discretion of the Court. Opinions are generally written where issues are matters of first impression.

The official opinions in the cases listed below are on file in the courthouse of the county of jurisdiction. Electronically formatted copies of these opinions are also posted on the Business Court web site at www.ncbusinesscourt.net. Decisions which have been affirmed or reversed on appeal are noted.

2008

SIGNALIFE, INC. v. RUBBERMAID, INC.
2008 NCBC 3 (02/08/08)
07-CVS-1346 (Mecklenburg - Diaz)
EGELHOF v. SZULIK
2008 NCBC 2 (02/04/08)
04-CVS-11746 (Wake - Tennille)
CLASSIC COFFEE CONCEPTS, INC. v. ANDERSON
2008 NCBC 1 (01/31/08)
06-CVS-2941 (Mecklenburg - Diaz)

2007

BANK OF AMERICA CORP. v. SR INT'L BUS. INS. CO., SE
2007 NCBC 36 (12/19/07)
05-CVS-5564 (Mecklenburg - Tennille)
WAKE COUNTY v. HOTELS.COM, LP
2007 NCBC 35 (11/19/07)
06-CVS-16256 (Wake - Diaz)
BETTER BUS. FORMS & PRODS., INC. v. CRAVER
2007 NCBC 34 (11/01/07)
07-CVS-3030 (Guilford - Tennille)
BATTLEGROUND VETERINARY HOSP., P.C. v. MCGEOUGH
2007 NCBC 33 (10/19/07)
05-CVS-18918 (Mecklenburg - Diaz)
AVESAIR, INC. v. INPHONIC, INC.
2007 NCBC 32 (10/16/07)
04-CVS-10838 (Wake - Tennille)
JDH CAPITAL LLC v. FLOWERS
2007 NCBC 31 (10/12/07)
07-CVS-5354 (Mecklenburg - Tennille)
LAWRENCE v. UMLIC-FIVE CORP.
2007 NCBC 30 (09/14/07)
06-CVS-20643 (Mecklenburg - Diaz)
SCHLIEPER v. JOHNSON
2007 NCBC 29 (08/31/07)
06-CVS-13099 (Guilford - Tennille)
SONY ERICSSON MOBILE COMM'NS USA, INC. v. AGERE SYS., INC.
2007 NCBC 28 (08/27/07)
06-CVS-17673 (Wake - Jolly)
STATE v. PHILIP MORRIS USA, INC.
2007 NCBC 27 (08/17/07)
98-CVS-14377 (Wake - Tennille)
STATE ex rel. LONG v. CUSTARD
2007 NCBC 26 (08/08/07)
06-CVS-4622 (Wake - Tennille)
PERKINS v. HEALTHMARKETS, INC.
2007 NCBC 25 (07/30/07)

06-CVS-21053 (Mecklenburg - Diaz)
STATE ex rel. COOPER v. McCLURE
2007 NCBC 24 (07/19/07)
03-CVS-5617 (Wake - Tennille)
DIGITAL RECORDERS, INC. v. McFARLAND
2007 NCBC 23 (06/29/07)
07-CVS-2247 (Gaston - Diaz)
BURGESS v. AM. EXPRESS CO.
2007 NCBC 22 (06/29/07)
07-CVS-40 (Polk - Diaz)
BLITZ v. AGEAN, INC.
2007 NCBC 21 (06/25/07)
05-CVS-441 (Durham - Diaz)
LAWRENCE v. UMLIC-FIVE CORP.
2007 NCBC 20 (06/18/07)
06-CVS-20643 (Mecklenburg - Diaz)
HEINITSH v. WACHOVIA BANK
2007 NCBC 19 (06/11/07)
04-CVS-734 (Henderson - Tennille)
HEINITSH v. WACHOVIA BANK
2007 NCBC 18 (06/11/07)
04-CVS-734 (Henderson - Tennille)
LATIGO INVS. II, LLC v. WADDELL & REED FIN., INC.
2007 NCBC 17 (06/08/07)
06-CVS-18666 (Mecklenburg - Diaz)
BURGESS v. AM. EXPRESS CO.
2007 NCBC 16 (05/21/07)
07-CVS-40 (Polk - Diaz)
BURGESS v. AM. EXPRESS CO.
2007 NCBC 15 (05/21/07)
07-CVS-40 (Polk - Diaz)
MITCHELL, BREWER, RICHARDSON, ADAMS, BURGE & BOUGHMAN, PLLC v. BREWER
2007 NCBC 14 (05/08/07)
06-CVS-6091 (Cumberland - Jolly)
MOODY v. SEARS, ROEBUCK & CO.
2007 NCBC 13 (05/07/07)
(New Hanover - Tennille)
TEAGUE v. BAYER AG
2007 NCBC 12 (05/07/07)
(Buncombe - Tennille)
THAI HOLDING OF CHARLOTTE, INC. v. ARCHER DANIELS MIDLAND CO.
2007 NCBC 11 (05/07/07)
(Mecklenburg - Tennille)
CLUB CAR, INC. v. DOW CHEMICAL CO.
2007 NCBC 10 (05/03/07)
06-CVS-15530 (Mecklenburg - Diaz)
BLITZ v. XPRESS IMAGE, INC.
2007 NCBC 9 (04/13/07)
05-CVS-679 (Durham - Diaz)
GREEN v. SHORT
2007 NCBC 8 (03/09/07)
06-CVS-22085 (Mecklenburg - Diaz)
WACHOVIA CAPITAL PARTNERS, LLC v. FRANK HARVEY INV. FAMILY LTD. P'SHIP
2007 NCBC 7 (03/05/07)
05-CVS-20568 (Mecklenburg - Tennille)
PIEDMONT VENTURE PARTNERS, L.P. and PIEDMONT VENTURE PARTNERS II, L.P. by and through
WILLIAM E. RAY, Liquidator v. DELOITTE & TOUCHE, L.L.P.

2007 NCBC 6 (03/05/07)
06-CVS-10418 (Mecklenburg - Diaz)
KORNEGAY v. ASPEN ASSET GROUP, L.L.C.
2007 NCBC 5 (02/28/07)
04-CVS-22242 (Mecklenburg - Diaz)
AARP v. AM. FAMILY PREPAID LEGAL CORP.
2007 NCBC 4 (02/23/07)
06-CVS-10216 (Guilford - Diaz)
WACHOVIA INS. SERVS., INC. v. McGUIRT
2007 NCBC 3 (02/13/07)
06-CVS-13593 (Mecklenburg - Diaz)
PUCKETT v. KPMG, LLP
2007 NCBC 2 (02/13/07)
04-CVS-11289 (Mecklenburg - Diaz)
MEDIA NETWORK, INC. v. MULLEN ADVER., INC.
2007 NCBC 1 (01/19/07)
05-CVS-7255 (Mecklenburg - Diaz)

2006

WACHOVIA INS. SERVS., INC. v. McGUIRT
2006 NCBC 23 (12/19/06)
06-CVS-13593 (Mecklenburg - Diaz)
STATE v. PHILIP MORRIS USA, INC.
2006 NCBC 22 (12/04/06)
98-CVS-14377-I (Wake - Tennille)
CLASSIC COFFEE CONCEPTS, INC. v. ANDERSON
2006 NCBC 21 (12/01/06)
06-CVS-2941 (Mecklenburg - Diaz)
CNC/ACCESS, INC. v. SCRUGGS
2006 NCBC 20 (11/15/06)
04-CVS-1490 (Burke - Tennille)
PUCKETT v. KPMG, LLP
2006 NCBC 19 (11/15/06, Amended 11/16/06)
04-CVS-11289 (Mecklenburg - Diaz)
MASCARO V. MOUNTAINEER LAND GROUP, LLC
2006 NCBC 18 (11/14/06)
06-CVS-3016 (Mecklenburg - Diaz)
HEAFNER v. CITY OF GASTONIA
2006 NCBC 17 (11/14/06)
06-CVS-788 (Gaston - Diaz)

VIRKLER CO. v. CHEMICAL TECHS., LLC
2006 NCBC 16 (11/06/06)
05-CVS-19786 (Mecklenburg - Diaz)
BANK OF AM. CORP. v. SR INT'L BUS. INS. CO., LTD.
2006 NCBC 15 (11/01/06)
05-CVS-5564 (Mecklenburg - Tennille)
ANALOG DEVICES, INC. v. MICHALSKI
2006 NCBC 14 (11/01/06)
01-CVS-10614 (Guilford - Tennille)

CHEMCRAFT HOLDINGS CORP. v. SHAYBAN
2006 NCBC 13 (10/05/06)
06-CVS-5227 (Guilford - Tennille)

KORNEGAY V. ASPEN ASSET GROUP, L.L.C.
2006 NCBC 12 (09/26/06)
04-CVS-22242 (Mecklenburg - Diaz)
MALONEY V. ALLIANCE DEV. GROUP, L.L.C.
2006 NCBC 11 (09/18/06)
06-CVS-6776 (Mecklenburg - Diaz)
BLITZ V. XPRESS IMAGE, INC.
2006 NCBC 10 (08/23/06, Amended 08/25/06)
05-CVS-679 (Durham - Diaz)
ADAMS v. A.J. BALLARD TIRE & OIL CO.
01-CVS-1271 (Carteret - Tennille)
ADAMS v. BP PRODS. N. AM., INC.
03-CVS-912 (Carteret - Tennille)

BARNETT, ET AL. v. BP PRODS. N. AM., INC.
03-CVS-1124 (Carteret - Tennille)
2006 NCBC 9 (06/30/06)
WACHOVIA BANK v. DEUTSCHE BANK TRUST CO. AMERICAS
2006 NCBC 8 (6/02/06)
04-CVS-86 (Mecklenburg - Diaz)

MEDIA NETWORK, INC. v. MULLEN ADVER., INC.
2006 NCBC 7 (5/24/06)
05-CVS-7255 (Mecklenburg - Diaz)
MEDIA NETWORK, INC. v. MULLEN ADVER., INC.,
2006 NCBC 6 (4/21/06)
05-CVS-7255 (Mecklenburg - Diaz)
RAY v. DELOITTE & TOUCHE, LLP, ET AL.
2006 NCBC 5 (4/21/06)
05-CVS-15862 (Mecklenburg - Diaz)
EGELHOF v. SZULIK
2006 NCBC 4 (3/13/06)
04-CVS-11746 (Wake - Tennille)
FLICK MORTGAGE INVESTORS, INC. v. THE EPIPHANY MORTGAGE, INC.
2006 NCBC 3 (2/1/06)
04-CVS-10422 (Mecklenburg - Diaz)
BANC OF AMERICA SEC., LLC v. EVERGREEN INT'L AVIATION, INC.
2006 NCBC 2 (1/25/06)
03-CVS-9138 (Mecklenburg - Diaz)
MAURER v. SLICKEDIT, INC.
2006 NCBC 1 (2/3/05)
04-CVS-10527 (Wake - Tennille)

2005

IN RE POZEN S'HOLDERS LITIG.
2005 NCBC 7 (11/10/05)
04-CVS-1540 (Orange)
04-CVS-1542 (Orange)
STATE v. MCCLURE
2005 NCBC 6 (10/28/05)
03-CVS-005617 (Wake)
STATE v. PHILIP MORRIS
2005 NCBC 5 (10/19/05)
98-CVS-14377 (Wake)
MAURER v. SLICKEDIT, INC.
2005 NCBC 4 (8/12/05)
04-CVS-10527 (Wake)
BRANCH BANKING AND TRUST CO. v.
LIGHTHOUSE FIN. CORP.
2005 NCBC 3 (7/13/05)
04-CVS-1523 (Forsyth)
SOMPO JAPAN INS. INC. v. DELOITTE & TOUCHE
2005 NCBC 2 (6/10/05)
03-CVS-5547 (Guilford)
MAURER v. SLICKEDIT, INC.
2005 NCBC 1 (5/15/05)
04-CVS-10527 (Wake)

2004

STATE v. PHILIP MORRIS
2004 NCBC 9 (12/23/04)
98-CVS-14377 (Wake)
Reversed_SC2PA05
STATE v. MCCLURE
2004 NCBC 8 (12/14/04)
03-CVS-005617 (Wake)

CROUCH v. CROMPTON CORP.

02-CVS-4375 (New Hanover)

MORRIS v. VISA U.S.A. INC.

03-CVS-2514 (Harnett)

2004 NCBC 7 (10/26/04)

CORR SERVICES, INC. v. DAVIDSON COUNTY

2004 NCBC 6 (9/30/04)

02-CVS-739 (Davidson)

MARCOUX v. PRIM

2004 NCBC 5 (4/16/04)

04-CVS-920 (Forsyth)

SportS QUEST v. Dale Earnhardt, INC.

2004 NCBC 4 (3/12/04)

02-CVS-0140 (Iredell)

01-CVS-2200 (Iredell)

SportS QUEST, Inc. v. Dale Earnhardt, INC.

2004 NCBC 3 (2/12/04)

02-CVS-0140 (Iredell)

01-CVS-2200 (Iredell)

Alexander v. DaimlerChrysler Corp.

2004 NCBC 2 (1/30/04)

01-CVS-3390 (Wake)

Coker v. DaimlerChrysler Corp.

2004 NCBC 1 (1/6/04)

01-CVS-1264 (Rowan)

Affirmed COA04.523

Affirmed SC532A05

2003

IN RE QUINTILES TRANSNATIONAL CORP. S'HOLDERS LITIG.

2003 NCBC 11 (12/19/03)

02-CVS-5348 (Durham)

IN RE WACHOVIA S'HOLDERS LITIG.

2003 NCBC 10 (12/19/03)

01-CVS-4810 (Forsyth)

MECHANICAL SYS. & SERV., INC. v. CAROLINA AIR SOLUTIONS, L.L.C.

2003 NCBC 9 (12/3/03)

02-CVS-8572 (Guilford)

SUGGS-JACOBS v. PHYSICIANS WEIGHT LOSS CTR. OF AM., INC.

2003 NCBC 8 (11/5/2003)

00-CVS-7910 (Guilford)

Affirmed in part, reversed in part COA04-644

ADAMS v. AVENTIS, S.A.

2003 NCBC 7 (8/26/03)

01-CVS-2119 (Craven)

SUNBELT RENTALS, INC. v. HEAD & ENGQUIST EQUIPMENT, L.L.C.

2003 NCBC 6 (7/31/03)

00-CVS-10358 (Mecklenburg)

Affirmed COA04.862

SMART ONLINE, INC. v. OPENSITE TECHNOLOGIES, INC.

2003 NCBC 5 (6/14/03)

01-CVS-09604 (Wake)

SUNBELT RENTALS, INC. v. HEAD & ENGQUIST EQUIPMENT, L.L.C.

2003 NCBC 4 (5/2/03)

00-CVS-10358 (Mecklenburg)

DURHAM COCA-COLA BOTTLING CO. v. COCA-COLA BOTTLING CO. CONSOLIDATED
2003 NCBC 3 (4/28/03)
99-CVS-2459 (Durham)
PACK BROTHERS PAINT AND BODY SHOP v. NATIONWIDE MUT. INS. CO.
2003 NCBC 2 (4/1/03)
01-CVS-805 (Gaston)

**REPORT ON ACTIVITIES
OF THE
NORTH CAROLINA BUSINESS COURT**

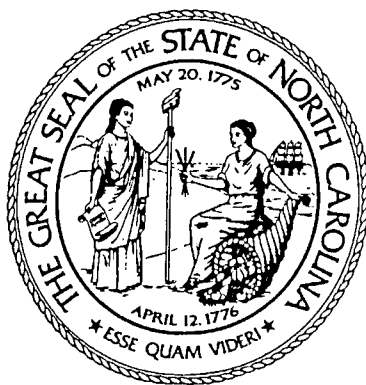
SUP NORTH CAROLINA
CLERK OF COURTS

SEP 11 2003

2002-2003

Pursuant to Session Law 2001-424, Section 22.5

April 1, 2003



Submitted to the
Chairs of the Senate and House Appropriations Committees
Chairs of the Senate and House Appropriations Subcommittees on Justice & Public Safety

By the
North Carolina Administrative Office of the Courts

**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**
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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

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

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	Judgment

00 CVS 13706

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. Keever	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	Settled

		95 CVS 9834	
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 Staton cases settled
Staton	Forsyth County	96 CVS 7140	except 1 party appealing
Staton	Forsyth County	99 CVS 2628	summary judgment
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;	Active

		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	
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	New Hanover	99 CVS 3551	Active;

Inc.		00 CVS 01487	Settlement
Troy v. Caviness		Consolidated	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

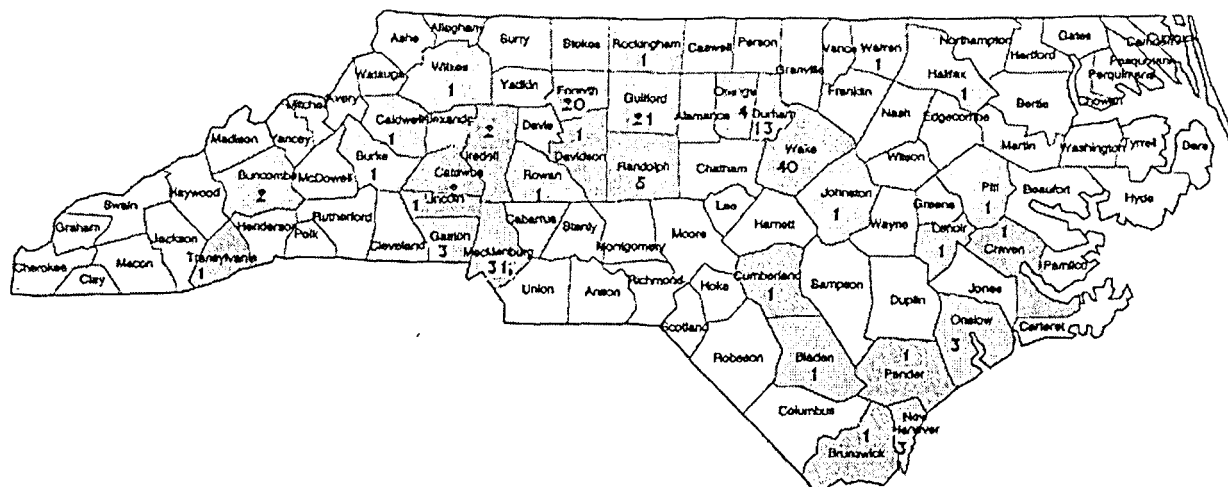
C. Venue

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.



COUNTIES OF ORIGIN FOR CASES ASSIGNED
(NUMERALS DENOTE NUMBER OF CASES)

VII. OPINIONS

The Court is required to write opinions in non-jury matters assigned as Complex Business. In the other Exceptional cases assigned pursuant to Rule 2.1, the decision about whether to write an opinion is in the discretion of the Court. Opinions are generally written where issues are matters of first impression.

A. List of Opinions

The official opinions in the cases listed below are on file in the courthouse of the county of jurisdiction. Electronically formatted copies of these opinions are also posted on the Business Court web site at www.ncbusinesscourt.net. Decisions which have been affirmed or reversed on appeal are noted.

2002 _____

LONG v. HAMMOND
2002 NCBC 5 (7/22/02)
00-CVS-7097 (Wake)

SUNBELT RENTALS, INC. v. HEAD & ENGQUIST EQUIPMENT, L.L.C..
2002 NCBC 4 (7/10/02)
00-CVS-10358 (Mecklenburg)

BAILEY v. FLUE-CURED TOBACCO COOPERATIVE STABILIZATION CORP.
2002 NCBC 3 (4/10/02)
02-CVS-448 (Wilson)

ALEXANDER v. DAIMLERCHRYSLER CORP.
2002 NCBC 2 (2/19/02)
01-CVS-3390 (Wake)

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 DONOHUE 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.

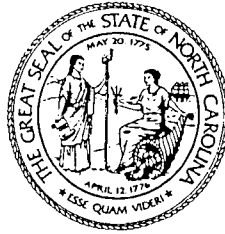
EXHIBIT A

2001 N.C. Sess. Laws 424, § 22.5,

An Act to Make Base Budget Appropriations for Current Operations of State Departments, Institutions, and Agencies, and for Other Purposes

.....

The Administrative Office of the Courts shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1 of each year 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.



SUPREME COURT
NORTH CAROLINA
SEP 11 2008

**REPORT ON ACTIVITIES
OF THE
NORTH CAROLINA BUSINESS COURT
2001 - 2002**

Pursuant to Session Law 2001-424, section 22.5

April 1, 2002

Submitted to the
Chairs of the Senate and House Appropriations Committees
Chairs of the Senate and House Appropriations Subcommittees on Justice & Public Safety

By the
NC Administrative Office of the Courts

**REPORT ON ACTIVITIES
OF THE
NORTH CAROLINA BUSINESS COURT
2001 TO 2002**

- I. Introduction**
- II. Executive Summary**
- III. Description of Business Court Program**
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- X. Replication of the Business Court Program**
- XI. Funding**

I. INTRODUCTION

Pursuant to 2001 N.C. Session 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

During the period from April 1, 2001 to present, the North Carolina Business Court has continued to expand its caseload. The Court has been involved in 155 cases assigned from 27 counties. Of eighty-four closed cases, sixty settled. Of the seventy-one cases currently being handled by the Business Court, nine are on appeal, three have reached a settlement and two are stayed. Twelve 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, and a PowerPoint presentation on the Court's capabilities can be accessed at www.ncbusinesscourt.net/ftp/ncbn.zip.

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 2001

A. Facility

The 2001 session of the General Assembly provided the funds to extend the facility lease for one additional year and the necessary funds to complete the technology pilot program.

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 2001.

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. He brings to the bench a broad background in business law and litigation.

Charles M. Sprinkle, the current law clerk, graduated from The College of Charleston with a bachelor of arts degree with honors in English. He received a law degree in 2001 from Wake Forest University School of Law, where he was Executive Editor of the Wake Forest Law Review.

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 has joined the states of Delaware, New York 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. Maryland and Michigan have just announced creation of special courts for complex business and technology cases, and California is conducting a pilot program for complex litigation courts.

A. List Of Closed Cases

The following list shows the 84 closed cases handled to date by the Business Court. Of these cases, 60 settled, five of which settled after Court Opinion; one settled during trial; and one settled after jury trial. There were 17 judgments, four of which were affirmed on appeal; one case was stayed and two cases were voluntarily dismissed.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Adams Farm v. Smith	Guilford	97 CVS 9499	Settled
Adams Outdoor Ltd . Partnership v. City of Charlotte	Mecklenburg	88 CVS 9786	Settled
Amos v. Southern Furniture Exhibit Bldg	Guilford	96 CVS 4958	Settled
Bank of America v. Golf Trust of America	Mecklenburg	01 CVS 10072	Stipulated dismissal without prejudice
Beam v. Worldway	Mecklenburg	96 CVS 469	Settled after court opinion
Beaty v. Integon Corp.	Mecklenburg	99 CVS 11540	Voluntary dismissal
Biemann and Rowell v. The Donohoe Companies	Orange	99 CVS 9132	Judgment affirmed, COA
Bd of Govnrs v. Cushman	Orange	97 CVS 1429	Settled

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Bradley v. US Packaging	Guilford	95 CVS 8986	Judgment
Byers v. Carpenter	Wake	94 CVS 04489	Settled
Carolina Custom v. Tiffany	Guilford	96 CVS-6511	Settled
Marble v. Howard Butner		97 CVS-6598	
v. Rudy Hoch		97 CVS-6998	
		99 CVS-3100	
Case Farms v. New Hope Feeds	Burke	96 CVS 309	Settled
Charlotte Copy Data v. Habbal	Mecklenburg	96 CVS 694	Judgment
ChemiMetals v. McEneny	Mecklenburg	95 CVS 10817	Settled during jury trial
Clark v. Holland	Wake	96 CVS 5829	Settled after court opinion
Coastal Physician Group v. Price Waterhouse	Durham	99 CVS 0578	Settled
Continuum Care v. Eakes Corp.	Warren	96 CVS 1465	Settled
Crowder Constr. v. Kiser	Mecklenburg	95 CVS 14097	Judgment
DCC Classics v. Robert Craig & RePac	Forsyth	97 CVS 2856	Stayed
DeJoy v. DeJoy	Guilford	99 CVS 1245	Settled
In Re Delhaize America, Inc.: Shareholders Litigation	Mecklenburg	Consolidated Civil Action 00 CVS 13706	Judgment
Dilworth Heights v. The Boulevard Co.	Mecklenburg	99 CVS 11552	Settled
DKH Corp. v. Rankin Patterson Oil Co.	Buncombe	95 CVS 2511	Settled

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Exide Corp. Branches v. Keever	Caldwell	95 CVS 978	Settled
Faulkner v. Tarheel Holdings	Lenoir	96 CVS 281	Settled
Filipowski v. High Point Bank & Trust	Guilford	97 CVS 9317	Settled
Frazier v. Beard	Catawba	94 CVS 2362	Judgment
Gaafar v. Piedmont Poultry	Wake	96 CVS 630	Settled
Giduz v. Blue Cross Blue Shield of North Carolina	Orange	97 CVS 917	Judgment
Goings v. P.M. Mattress	Randolph	92 CVS 785	Settled
Greene v. Shoemaker	Wilkes County	97 CVS 2118	Settled after court opinion
Griffin & Griffin Constr. Co. v. Carolina Tel & Tel Co.	Cumberland	99 CVS 7705	Settled
Grossman v. Carolina Drug Inc.	Guilford	95 CVS 8921 95 CVS 9834	Settled
Hafele America Co. v. Ergonomix Armdec Pty. Ltd.	Guilford	97 CVS 7426	Settled
Harbor Fin. Partners v. PCA Intl, Ltd.	Mecklenburg	98 CVS 5734	Settlement pending
Hinson v Trigon Healthcare, Inc.	Cumberland	00 CVS 4612	Settled
Igar v. Mark Mfg. Co.	Guilford	97 CVS 10198	Settled
Isasi v. FYI	Forsyth	97 CVS 6692	Jury trial
Jeffcoat v. Chicago Rawhide	Gaston	95 CVS 4176	Settled
Lab. Corp. of Am. Holdings v. WalMart Stores	Alamance	97 CVS 2373	Settled

<u>Case Name</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Far v. LaFar	Gaston	98 CVS 5006	Settled
Epides v. Glaxo Wellcome	Wake	98 CVS 12106	Settled
eseberg v. Topsail Realty, Inc.	Pender	01 CVS 85	Settled
ennon and Magruder v. ledCath, Inc.	Mecklenburg	98 CVS 14327	Settled
ong v. Abbott Labs	Mecklenburg	97 CVS 8289	Judgment
Lupton v. Blue Cross and Blue Shield of NC	Orange	98 CVS 633	Judgment affirmed, COA
Massey v. City of Charlotte	Mecklenburg	99 CVS 18764	Judgment reversed on appeal
McNett v. Indian Falls Resort	Transylvania	99 CVS 76	Settled
Melbourne-Marsh v. North Hills, Inc.	Wake	97 CVS 3212	Settled
Metric-Kvaerner of Fayetteville v. Bank of Tokyo - Mitsubishi, Ltd. v. Kvaerner Invs.	Bladen	97 CVS 743	Settled
Mid-South Marketing v. Trigon Healthcare	Cumberland	00 CVS 4612	Settled
Montrose Value Fund v. Freeman	Durham	96 CVS 1220	Settled
Moore. v. NationsBank, N.A.	Mecklenburg	99 CVS 1585	Settled
New Breed, Inc. v. DeJoy	Guilford	00 CVS 3751	Settled
Newbury & Molinare v. Broadway & Seymour	Forsyth	96 CVS 4614	Settled after jury trial
Novant v. Aetna	Mecklenburg	98 CVS 12661	Judgment

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Oberlin Capital, L.P. v. Slavin	Wake	99 CVS 03447	Judgment
Peterson v. Robertson	Forsyth	95 CVS 3518	Settled
Petty v. High Point Bank & Trust	Randolph	97 CVS 741	Settled
Pinkerton v. Elslager	Mecklenburg	98 CVS 10328	Vol dismissal with prejudice
Polo Ralph Lauren Corp. v. Gulf Ins. Co.	Guilford	00 CVS 5440	Judgment
Popkin v. Popkin	Onslow	92 CVS 2910	Settled
Reeve v. Triad Bank	Guilford	96 CVS 4695	Settled after court opinion
Roberts v. Guy, Onslow Transit	Onslow	93 CVS 1043	Settled
Robinson v. McMillen Trust	Guilford	97 CVS 9042	Settled
Royals v. Glenaco	Guilford	98 CVS 153	Settled
Royals v. Piedmont Electric Repair Co.	Guilford	97 CVS 720	Judgment affirmed, COA 99609 Cert denied
Sayer v. State Street	Guilford	96 CVS 6478	Settled
Scott v. Sokolov	Durham	96 CVS 2748	Settled after court opinion
Shelley v. Cooper	Gaston	98 CVS 1244	Settled
Smith v. NC Motor Speedway, Inc.	Mecklenburg	97 CVS 138	Judgment
Southern Furniture Hardware v. BB&T	Catawba	94 CVS 959	Settled
Springer-Eubank v. Four County Electric Membership Corp.	New Hanover	98 CVS 3194	Judgment affirmed, COA

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Thomas v. Golding Farms	Guilford	95 CVS 7323	Settled
Wachovia - Related Cases:			
First Union Corp. v. SunTrust Banks, Inc.	Mecklenburg	01 CVS 10075	Pending
Winters v. First Union Corp	Forsyth	01 CVS 5362	Pending
Harbor Finance Partners v. Balloun, Wachovia Corp	Guilford	01 CVS 8036	Pending
WestPoint Stevens, Inc. v. Panda- Rosemary Corp.	Guilford	99 CVS 9818	Judgment
Whitley v. Wallace	Rowan	96 CVS 1795	Settled
Wiggins v. Charlotte Brewing Co.	Mecklenburg	96 CVS 2537	Settled
Wilson Realty and Constr., Inc. v. Asheboro-Randolph Bd. of Realtors	Randolph	95 CVS 0482	Settled

B. List of Current Cases

The following list shows the 71 cases that are currently being handled by the Business Court. Of these cases, 57 are active; nine 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>
Alexander v. DaimlerChrysler Corp.	Wake	01 CVS 03390	Active
Bruggers v. Eastman Kodak Company	Wake	97 CVS 1278	Awaiting settlement agreement
Caraustar Industries v. Georgia-Pacific	Mecklenburg	00 CVS 12302	Stayed
Cogburn v. Electrics of Asheville	Buncombe	00 CVS 2254	Active
Dublin v. UCR	Johnston	90 CVS 0304	Class settlement being administered

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Durham Coca-Cola Bottling v. Coca-Cola Bottling Co. Consolid.	Durham	99 CVS 2459	Active
Dynamic Quest, Inc. v. Smart Online, Inc.	Guilford	01 CVS 05001	Active
Ezzell v. ABT Co., Inc	Onslow	97 CVS 167	Stayed
First Union Corp. v. Gulf Ins.	Mecklenburg	00 CVS 3558	Active
Garlock v. Hilliard	Mecklenburg	00 CVS 1018	Active
Gaynoe v. First Union Corp.	Mecklenburg	97 CVS 16536	On appeal
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	00 CVS 5828; 00 CVS 7097; 00 CVS 7694; 00 CVS 7695; 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	Active

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
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	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
Myers v. Witcher	Guilford	01 CVS 3499	Active
Pack Bros. v. Nationwide Ins.	Gaston	01 CVS 805	Active
People Unlimited Consulting, Inc. v. B & A Industries, LLC	Mecklenburg	98 CVS 16126	Active
Pitts v. American Security Ins. Company and Wachovia Bank of North America, N.A.	Pitt	96 CVS 658	On appeal
Praxair, Inc. v. Airgas, Inc.	Mecklenburg	98 CVS 8571	Active
Rankin & Huwe v. Microsoft Corp.	Wake	00 CVS 4073	Active
Roger v. Smart Online, Inc.	Wake	00 CVS 07970	Active
Ruff v. Parex Settlement	New Hanover	97 CVS 0059	Class settlement being administered
Salvatore v. Microsoft Corp.	Lincoln	99 CVS 1246	Active
Scarvey v. First Federal Savings & Loan Association of Charlotte	Mecklenburg	98 CVS 204	Active
Skirzenski v. K2, Inc.	Forsyth	00 CVS 5033	Active

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Smart Online v. Opensite Technologies	Wake	01 CVS 09604	Active
Suggs v. Physicians Weight Loss Ctr. of Am.	Guilford	00 CVS 07910	On appeal
Sunbelt Rentals v. Head & Engquist Equip.	Mecklenburg	00 CVS 10358	Active
Staton Cases	Forsyth	96 CVS 1409	On appeal
Staton	Forsyth	96 CVS 7224	On appeal
Staton	Forsyth	96 CVS 7140	On appeal
Staton	Forsyth	99 CVS 2628	On appeal
Staton	Forsyth	99 CVS 5156	On appeal
Staton	Forsyth	00 CVS 2178	On appeal
Tomlin v. Dylan Mortgage Inc.	New Hanover	99 CVS 3551	Active
In Re Wachovia Shareholders Litigation	Forsyth	01 CVS 4486	Active
Consolidated cases:	Forsyth	01 CVS 4810	Active
	Forsyth	01 CVS 4868	Active
	Forsyth	01 CVS 4748	Active
	Forsyth	01 CVS 4486	Active
	Mecklenburg	01 CVS 10641	Active
	Forsyth	01 CVS 5163	Active
	Wake	01 CVS 006893	Active
Webb Builders LLC v. Jones	Durham	01 CVS 00457	Active
Webb Builders, LLC v. Bernard	Orange	01 CVS 156	Active

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Wellington Lloyd's v. Siemens Westinghouse Corp.	Rockingham	01 CVS 1262	Active
Wilbanks v. Lab. Corp. of Am.	Alamance	00 CVS 2789	Active

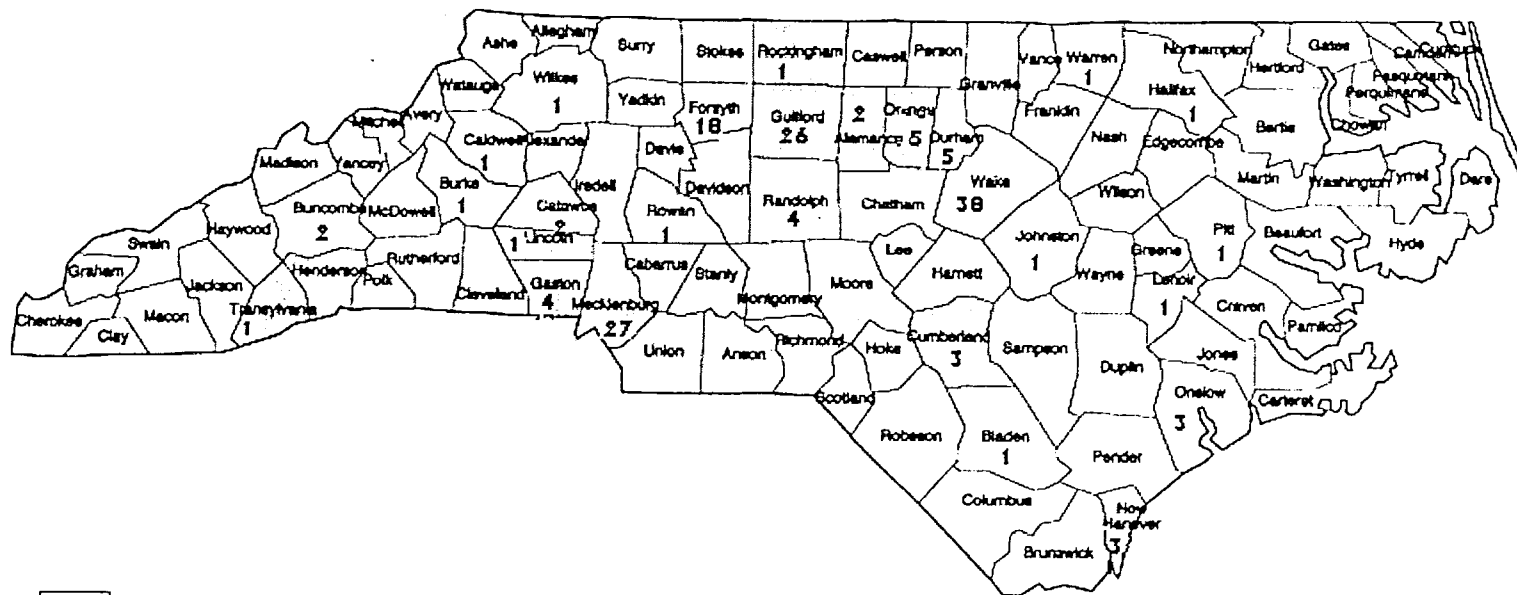
C. Venue

The following is a list of the counties in which the Business Court cases (both active and closed) originated. The list column is followed by a column designating the number of cases assigned to the Business Court from each county and a column stating 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>PERCENTAGE OF TOTAL CASES</u>
Alamance	2	1.5%
Bladen	1	.7
Buncombe	2	1.5
Burke	1	.7
Caldwell	1	.7
Catawba	2	1.5
Cumberland	3	2
Durham	5	3.5
Forsyth	18	12
Gaston	4	2.5
Guilford	26	17
Halifax	1	.7
Johnston	1	.7
Lenoir	1	.7
Lincoln	1	.7
Mecklenburg	27	18
New Hanover	3	2
Onslow	3	2
Orange	5	3.5
Pitt	1	.7
Randolph	4	2.5
Rockingham	1	.7
Rowan	1	.7
Transylvania	1	.7
Wake	38	25
Warren	1	.7
Wilkes	1	.7
Total in 25 Counties	155	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.



COUNTIES OF ORIGIN FOR CASES ASSIGNED
(NUMERALS DENOTE NUMBER OF CASES)

VII. OPINIONS

The Court is required to write opinions in non-jury matters assigned as Complex Business. In the other Exceptional cases assigned pursuant to Rule 2.1, the decision about whether to write an opinion is in the discretion of the Court. Opinions are generally written where issues are matters of first impression.

A. List of Opinions

The official opinions in the cases listed below are on file in the courthouse of the county of jurisdiction. Electronically formatted copies of these opinions are also posted on the Business Court web site at www.ncbusinesscourt.net. Decisions which have been affirmed or reversed on appeal are noted.

2002

ALEXANDER v. DAIMLERCHRYSLER CORP.

2002 NCBC 2 (2/19/02)

01-CVS-3390 (Wake)

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)

2000

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 DONOHUE COMPANIES, INC.

2000 NCBC 8 (6-5-00)

99-CVS-9132 (Guilford)

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)

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

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 (3-17-2000)
97-CVS-11278 (Wake)

SCARVEY v. FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF CHARLOTTE
2000 NCBC 2 (2-23-2000)
98-CVS-204 (Mecklenburg)

PITTS v. AMERICAN SECURITY INS. CO., et al.
2000 NCBC 1 (2-2-2000)
96-CVS-658 (Pitt)

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 COA-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)

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)

ROYALS v. PIEDMONT ELECTRIC REPAIR CO.

1999 NCBC 1 (3-3-1999)

97-CVS-720 (Guilford)

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 (3-10-1998)

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.

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 replicated the system as the best method to teach its 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. Judge Tennille is currently being consulted in the creation of a new Cybercourt in Michigan.

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.

Judge Tennille is one of eleven members of the American Bar Association's Task Force on Corporate Responsibility, charged with examining the systemic issues relating to corporate responsibility which have arisen as a result of the recent failures of public companies.

IX. PROJECTS

A. Technology Survey

The Business Court recently conducted 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 has been in the planning stage since Fall 2000. The Court, in conjunction with CX Corporation, has provided training classes during that period to over 500 people in the use of our system and has assessed problem areas to be addressed from questions broached within the class framework, in addition to specific questions submitted to our court staff and technical support staff. The survey has 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 is in now in the process of producing a training film which will demonstrate 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. It will also focus on troubleshooting, defining specific strategies to remedy common problems.

B. Training Film

This training resource will have 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. If successful, it will 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. This will be 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 will be created digitally so that it can 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 will be produced in addition to the website download.

The film will cost approximately \$20,000 to produce and will be done in conjunction with CX Corporation, the company that developed the system used for electronic filing in the Business Court. The Business Court has 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, which will be 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 will 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.

EXHIBIT A

2001 N.C. Sess. Laws 424, § 22.5,

An Act to Make Base Budget Appropriations for Current Operations of State Departments, Institutions, and Agencies, and for Other Purposes

.....

The Administrative Office of the Courts shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1 of each year 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.

**REPORT ON ACTIVITIES
OF THE
NORTH CAROLINA BUSINESS COURT
2000 TO 2001**

NORTH CAROLINA
LIBRARY
SEP 11 2000

I. Introduction

II. Executive Summary

III. Description of Business Court Program

IV. Changes in 2000

- 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

- A. Foundation for Improvement of Justice Award
- B. Rand Institute Study
- C. Other

IX. Replication of the Business Court Program

X. Funding

I. INTRODUCTION

Pursuant to Section 17.18 (b) of Session Law 1999-237 (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, 2000 to present, the North Carolina Business Court has continued to expand its case load. The Court has been involved in 129 cases assigned from 25 counties. Of sixty-six closed cases, forty-six settled. Of the sixty-three cases currently being handled by the Business Court, seven are on appeal, three have reached a settlement and two are stayed. Ten 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 and a PowerPoint presentation on the Court's capabilities can be accessed at www.ncbusinesscourt.net/ftp/ncbn.zip.

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 2000

A. Facility

The 2000 session of the General Assembly provided the funds to extend the facility lease for one additional year and the necessary funds to complete the technology pilot program. The building has recently been purchased by Lomax Construction Company, an entity that has been involved in other renovation projects in downtown Greensboro; the company has publicly stated plans for extensive improvement to the building.

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 2000.

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. He brings to the bench a broad background in business law and litigation.

Lisa Bartle, the current law clerk, graduated from Guilford College with a bachelor of science degree in accounting, followed by a master of business administration degree from Wake Forest's Babcock Graduate School of Management and a law degree from Wake Forest University School of Law in 2000.

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 has joined the states of Delaware, New York 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. Maryland and Michigan have just announced creation of special courts for complex business and technology cases, and California is conducting a pilot program for complex litigation courts.

A. List of Closed Cases

The following list shows the 66 closed cases handled to date by the Business Court. Of these cases, 52 settled, five of which settled after Court Opinion; one settled during trial; and one settled after jury trial. There were 11 judgments, three of which were affirmed on appeal; one case was stayed, one remanded, and one voluntarily dismissed.

<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 Partnership v. City of Charlotte	Mecklenburg County	88 CVS 9786	Settled
Amos v. Southern Furniture Exhibit Building	Guilford County	96 CVS 4958	Settled
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, Park and Gibson PA v. Meyers	Mecklenburg County	97 CVS 9957	Settled
Bd of Govnrns v. Cushman	Orange County	97 CVS 1429	Settled

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Bradley v. US Packaging	Guilford County	95 CVS 8986	Judgment
Byers v. Carpenter	Wake County	94 CVS 04489	Settled
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
Charlotte Copy Data v. Habbal	Mecklenburg County	96 CVS 694	Judgment
ChemiMetals v. McEncy	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
Continuum Care v. Eakes Corp.	Warren County	96 CVS 1465	Settled
Crowder Construction v. Kiser	Mecklenburg County	95 CvS 14097	Judgment
DCC Classics v. Robert Craig & RePac	Forsyth County	97 CVS 2856	Stayed
DeJoy v. DeJoy	Guilford County	99 CVS 1245	Settled
Exide Corp. Branches v. Keever	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

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Frazier v. Beard	Catawba County	94 CVS 2362	Judgment
Gaafar v. Piedmont Poultry	Wake County	96 CVS 630	Settled
Giduz v. Blue Cross Blue Shield of North Carolina	Orange County	97 CVS 917	Judgment On Appeal
Goings v. P.M. Mattress	Randolph County	92 CVS 785	Settled
Grossman v. Carolina Drug Inc.	Guilford County	95 CVS 8921 95 CVS 9834	Settled
Greene v. Shoemaker and Community BancShares, Inc.	Wilkes County	97 CVS 2118	Settled after Court Opinion
Griffin & Griffin Construction Co. v. Carolina Tel & Tel Co.	Cumberland County	99 CVS 7705	Settled
Hafele America Co. v. Ergonomix Armdec Pty. Ltd.	Guilford County	97 CVS 7426	Settled
Harbor Finance Partners v. PCA International, Ltd.	Mecklenburg County	98 CVS 5734	Settlement Pending
Igar v. Mark Mfg. Co.	Guilford County	97 CVS 10198	Settled
Jeffcoat v. Chicago Rawhide	Gaston County	95 CVS 4176	Settled
LaFar v. LaFar	Gaston County	98 CVS 5006	Settled
Lapedes v. Glaxo Wellcome	Wake County	98 CVS 12106	Settled
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 Affirmed COA

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Melbourne-Marsh v. North Hills, Inc..	Wake County	97 CVS 3212	Settled
Metric-Kvaerner of Fayetteville v. Bank of Tokyo - Mitsubishi, Ltd. v. Kvaerner Investments	Bladen County	97 CVS 743	Settled
Montrose Value Fund v. Freeman	Durham County	96 CVS 1220	Settled
Moore. v. NationsBank, N.A.	Mecklenburg County	99 CVS 1585	Settlement Pending
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
Petty v. High Point Bank & Trust	Randolph County	97 CVS 741	Settled
Popkin v. Popkin	Onslow County	92 CVS 2910	Settled
Reeve 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
Royals v. Glenaco	Guilford County	98 CVS 153	Settled
Royals v. Piedmont Electric Repair Co.	Guilford County	97 CVS 720	Judgment Affirmed COA 99609. Cert denied
Sayer v. State Street	Guilford County	96 CVS 6478	Settled
Scott v. Sokolov	Durham County	96 CVS 2748	Settled after Court Opinion

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
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	Remanded
Springer-Eubank v. Four County Electric Membership Corp.	New Hanover County	98 CVS 3194	Judgment Affirmed COA
Thomas v. Golding Farms	Guilford County	95 CVS 7323	Settled
WestPoint Stevens, Inc. v. Panda-Rosemary Corp.	Guilford County	99 CVS 9818	Judgment
Wiggins v. Charlotte Brewing Co.	Mecklenburg County	96 CVS 2537	Settled
Whitley v. Wallace	Rowan County	96 CVS 1795	Settled
Wilson Realty and Construction, Inc. v. Asheboro-Randolph Board of Realtors	Randolph County	95 CVS 0482	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, 44 are active; seven are on appeal, one of which is on appeal after jury trial; four have reached a settlement; and two are stayed. One case is awaiting decision after a non-jury trial; one is partially settled; one is in mediation; six have an ongoing jury trial and one has a jury trial pending.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Status of Case</u>
Biemann and Rowell v. The Donohoe Companies	Orange County	99 CVS 9132	On Appeal after Non-Jury Trial
Bruggers v. Eastman Kodak Company	Wake County	97 CVS 1278	Awaiting Settlement Agreement

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Status of Case</u>
Caraustar Industries v. Georgia-Pacific	Mecklenburg County	00 CVS 12302	Active
Cogburn v. Electrics of Asheville	Buncombe County	00 CVS 2254	Active
Dilworth Heights v. The Boulevard Co.	Mecklenburg County	99 CVS 11552	Active
DKH Corp. v. Rankin Patterson Oil Co.	Buncombe County	95 CVS 2511	On Appeal
Dublin v. UCR	Johnston County	90 CVS 0304	Stayed
Ezzell v. ABT Co., Inc	Onslow County	97 CVS 167	Stayed
First Union Corp. v. Gulf Ins.	Mecklenburg County	00 CVS 3558	Active
Garlock v. Hilliard	Mecklenburg County	00 CVS 1018	Active
Gaynoe v. First Union Corp.	Mcklenburg County	00 CVS 1018	On Appeal
Hinson v. Trigon Healthcare	Cumberland County	00 CVS 4612	Active
In Re Delhaize America	Mecklenburg County	00 CVS 13706	Active
Isasi v. FYI	Forsyth County	97 CVS 6692	On Appeal after Jury Trial
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 7097; 00 CVS 7694; 00 CVS 7695; 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;	Active

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Status of Case</u>
<i>Continued</i>		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	
Massey v. City of Charlotte	Mecklenburg County	99CVS 18764	On Appeal
McNett v. Indian Falls Resort	Transylvania County	99 CVS 76	Awaiting Final Order of Settlement
Novant v. Aetna	Mecklenburg County	98 CVS 12661	Active
Oberlin Capital, LP v. Slavin	Wake County	99 CVS 03447	Active
People Unlimited Consulting, Inc. v. B & A Industries, LLC	Mecklenburg County	98 CVS 16126	Active
Peterson v. Robertson	Forsyth County	95 CVS 3518	Active
Pinkerton v. Elslager	Mecklenburg County	98 CVS 10328	Awaiting Order of Dismissal
Pitts v. American Security Ins. Company and Wachovia Bank of North America, N.A.	Pitt County	96 CVS 658	On Appeal
Polo Ralph Lauren Corp. v. Gulf Ins. Co.	Guilford County	00 CVS 5440	Active
Praxair, Inc. v. Airgas, Inc.,	Mecklenburg County	98 CVS 8571	Active
Rankin & Huwe v. Microsoft Corp.	Wake County	00 CVS 4073	Active

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Status of Case</u>
Ruff v. Parex Settlement.	New Hanover County	97 CVS 0059	Settlement Pending
Salvatore v. Microsoft Corp.	Lincoln County	99 CVS 1246	Active
Scarvey v. First Federal Savings & Loan Association of Charlotte	Mecklenburg County	98 CVS 204	On Appeal
Sunbelt Rentals v. Head & Engquist Equip.	Mecklenburg County	00 CVS 10358	Active
Staton Cases	Forsyth County	96 CVS 1409	Trial ongoing
Staton	Forsyth County	96 CVS 7224	Trial ongoing
Staton	Forsyth County	96 CVS 7140	Trial ongoing
Staton	Forsyth County	99 CVS 2628	Trial ongoing
Staton	Forsyth County	99 CVS 5156	Trial ongoing
Staton	Forsyth County	00 CVS 2178	Trial ongoing
Tomlin v. Dylan Mortgage Inc.	New Hanover	99 CVS 3551	Active

C. Venue

The following is a list of the counties in which the Business Court cases (both active and closed) originated. The list column is followed by column designating the number of cases assigned to the Business Court from each county and a column stating 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>PERCENTAGE OF TOTAL CASES</u>
Bladen	1	1%
Buncombe	2	2%
Burke	1	1%
Caldwell	1	1%
Catawba	2	2%
Cumberland	1	1%
Durham	3	2%
Forsyth	10	7%
Gaston	3	2%
Guilford	21	16%
Halifax	1	1%
Johnston	1	1%
Lenoir	1	1%
Lincoln	1	1%
Mecklenburg	26	19%
New Hanover	3	2%
Onslow	3	2%
Orange	4	3%
Pitt	1	1%
Randolph	4	3%
Rowan	1	1%
Transylvania	1	1%
Wake	35	27%
Warren	1	1%
Wilkes	1	1%
Total in 25 Counties	129	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.

VII. OPINIONS

The Court is required to write opinions in non-jury matters assigned as Complex Business. In the other Exceptional cases assigned pursuant to Rule 2.1, the decision about whether to write an opinion is in the discretion of the Court. Opinions are generally written where issues are matters of first impression.

A. List of Opinions

The official opinions in the cases listed below are on file in the courthouse of the county of jurisdiction. Electronically formatted copies of these opinions are also posted on the Business Court web site at www.ncbusinesscourt.net. Decisions which have been affirmed or reversed on appeal are noted.

2001

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)

2000

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 DONOHUE COMPANIES, INC.

2000 NCBC 8 (6-5-00)

99-CVS-9132 (Guilford)

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)

MASSEY v. CITY OF CHARLOTTE

2000 NCBC 5 (4-17-00)

99-CVS-18764 (Mecklenburg)

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 (3-17-2000)

97-CVS-11278 (Wake)

SCARVEY v. FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF CHARLOTTE

2000 NCBC 2 (2-23-2000)

98-CVS-204 (Mecklenburg)

PITTS v. AMERICAN SECURITY INS. CO., et al.

2000 NCBC 1 (2-2-2000)

96-CVS-658 (Pitt)

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 COA-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)

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)

ROYALS v. PIEDMONT ELECTRIC REPAIR CO.
1999 NCBC 1 (3-3-1999)
97-CVS-720 (Guilford)

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 (3-10-1998)
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)

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.

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 replicated the system as the best method to teach its students about the courtroom of the future.

Other counties in North Carolina have patterned courtrooms after the Business Court, and the N.C. Supreme Court is currently considering adoption of its electronic filing system.

The program has spawned pilot projects for Internet-based case management systems.

The Court has sustained enthusiastic support from the North Carolina Bar Association. Over 400 people have been trained in our courtroom on the use of the system.

IX. REPLICATION

From conception, 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 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.

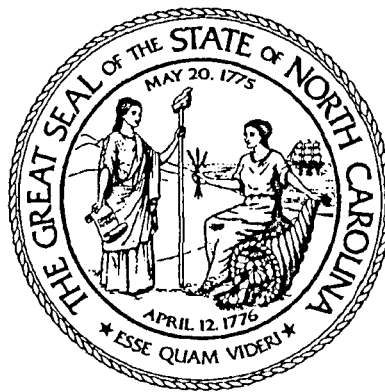
The only obstacle is the cost involved in purchasing the equipment and software and adapting the same for the particular court where it will be used. The software, while developed in conjunction with the Court, belongs to the developer. As with all new technologies, training is critical. We are developing a film, to be posted on the website, which provides instruction on preparing documents for e-filing, e-filing, and use of the courtroom equipment.

X. 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.

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REPORT ON THE ACTIVITIES OF THE NORTH CAROLINA BUSINESS COURT



Judge Thomas W. Ross
Director
North Carolina Administrative Office of the Courts

April 1, 2000

**REPORT ON ACTIVITIES
OF THE
NORTH CAROLINA BUSINESS COURT
1996 TO 2000**

- I. Introduction**
- II. Executive Summary**
- III. Origin**
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 - C. Uses of Technology by Other Courts**
- VIII. Funding History**
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I: INTRODUCTION

Pursuant to Section 17.18 (b) of Session Law 1999-237 (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 five years since its inception, and most particularly during the past year, the business court in North Carolina has undergone dramatic changes. The Court has been involved in eighty-two cases assigned from twenty-two counties. Of forty-six closed cases, thirty-nine settled. Of the thirty-six cases currently being handled by the Business Court, nine are on appeal, four have reached a settlement and three are stayed. Ten of the active cases are class action suits involving numerous class members and common, often complex, issues.

This report will review the legislative origin and development of the business court concept and the history of its operation in North Carolina. Central to an understanding of the Business Court is an explanation of the assignment of cases to the Court, clarification of the terms "complex business" and "exceptional" and a detailed explication of benefits which the creation of the Business Court offers to the state superior court system. The description of the current facility includes the staff and the acquisition of court and office equipment and furnishings, both of which were important to the development of a progressive court technology pilot program.

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. Origin

The North Carolina Commission on Business Laws and the Economy (the "Commission") was established by Governor Hunt in April 1994 and charged with recommending "any needed changes in existing statutes and regulations which affect the operation of businesses in North Carolina." With particular focus given to Chapter 55 of the North Carolina General Statutes, the Commission was to recommend any needed new statutes, rules, and regulations designed to assure that North Carolina offers a legal environment providing the flexibility and support to allow businesses to operate successfully in this state and to attract businesses to locate and incorporate here.

The goals for the establishment of a business court for this state, set forth in a report issued by the Commission in January 1995, are several. First is the creation of a specialized court where complex business cases can be managed outside the current rotation system. Second is development of a court similar to the Delaware Chancery Court in which expertise in corporate law issues can be advanced. Third is a forum in which complex business cases can be tried expeditiously. Fourth is a trial court that produces opinions on corporate and business law issues in order to create a body of case law for guidance on those issues.

To meet those specifications, the Commission recommended that the North Carolina Supreme Court amend the Rules of Practice for the Superior and District Courts rather than initiate these changes through the legislative process. Accordingly, Rule 2.1 was amended to allow the Chief Justice to designate certain cases as complex business cases, and Rule 2.2 was adopted to allow the Chief Justice to designate one or more special superior court judges to hear those special cases. Any judge so designated would be known as a Special Superior Court Judge for Complex Business Cases and would be required to write opinions in designated cases.

The Rule did not define a "complex business case" and left it to trial level judges to recommend cases to the Chief Justice for designation as complex business. In any case assigned as a complex business case, the judge is required by rule to write an opinion. The Commission recommended that the Governor appoint at least one expert in corporate law to be designated by the Chief Justice to hear complex business cases. In the fall of 1995, the legislature appropriated the funds for an additional special superior court judge for a five-year term. In January of 1996, Governor Hunt appointed Ben F. Tennille as a Special Superior Court Judge and Chief Justice Mitchell designated him as North Carolina's first Special Superior Court Judge for Complex Business Cases.

The Legislature was asked only to approve funding for the addition of another Special Superior Court Judge. No legislation was enacted to create a court separate from the Superior Court.

During the 1996 and 1997 sessions of the General Assembly, no additional funding was provided for the Business Court. Judge Tennille worked from a home office for a time, then was temporarily supplied with an office in the Guilford County Courthouse in High Point. The absence of staff and permanent facilities made it difficult to take on a large number of cases requiring a written opinion, so the caseload fluctuated between too heavy and too light. The lack of a clear jurisdiction or definition of a "complex business case" also contributed to the fluctuating caseload. Many of the cases assigned to the Business Court have been assigned as regular Rule 2.1 "exceptional" cases, not as complex business cases. The 1997 and 1998 legislative sessions appropriated funds for secretarial help, but no arrangements were made for facilities, furniture or equipment for a judge or staff.

Thus, for the first three years of the Court's existence, the Court operated without a permanent home or staff. During this period Judge Tennille realized the necessity for and benefit which could be derived from the use of technology by the Business Court. Funds were raised from private foundations to pay for equipment; the lack of facilities and staff, however, made realization of the project impossible.

Changes in 1999

A. Facility

A temporary solution for housing the facility was funded by the Joseph M. Bryan Foundation, a private foundation. The North Carolina Business Court took occupancy of the second floor of 200 South Elm Street in Greensboro on March 5, 1999. The foundation provided funding for the Business Court's first year lease for 3,800 square feet of office space and

courtroom space in the Meyer's Building, originally a department store that was a familiar landmark in downtown Greensboro. This structure most recently housed the U.S. Bankruptcy Court for the Middle District of North Carolina. The layout of this space and its previous function as a courtroom and judge's chambers offered the distinct advantage of substantial savings in renovation costs as well as a strategic location in close proximity to the Guilford County Courthouse.

In addition to the courtroom, the space includes three offices, a jury/library/conference room and a copy room/break room. The equipment and furnishings for the office work area and the courtroom have been purchased, as well as most of the technological equipment for the courtroom. Private foundations paid for the furnishings for this space. Grants from a number of foundations, including the North Carolina Bar Association, have supported technology in the facility. The Administrative Office of the Courts' Purchasing and Information Services departments have also provided commendable support for the purchase and installation of equipment and library materials. Details of expenditures and sources of funds are provided later in this report.

The 1999 session of the General Assembly provided the funds to extend the facility lease for one additional year and the necessary funds to complete the technology pilot program.

B. Judge and Staff

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. He brings to the bench a broad background in business law and litigation.

The Administrative Office of the Courts has classified the two staff positions approved by the General Assembly such that the Business Court has an administrative assistant and a position for a law clerk, called a business court coordinator. Both positions have been filled, and both staff members are proving to be valuable assets for the docket management and research essential to the fulfillment of the Court's purposes.

Sabra Engelbrecht, the current law clerk, graduated from the University of Kansas with a bachelor's degree in psychology, followed by a law degree from Wake Forest University School of Law in 1999. She has been published ("The Importance of Clarifying North Carolina's Corporate Practice of Medicine Doctrine," *Wake Forest Law Review*) and also served as a senior editor of the *Review*.

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.

C. Technology Pilot Program

Once office space and a dedicated courtroom became available, the Business Court embarked upon a pilot project to explore the uses of advanced technology to create a paperless court. This project is described in detail in Section VII below.

V. How Cases Get Assigned

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.

Definition of a Complex Business Case

The Supreme Court purposefully chose not to define the term “complex business case” in Rule 2.1. It believed the absence of a definition would allow litigants to seek designation with respect to any business issue that they believed required special judicial expertise in business matters. It also provided the court with the flexibility to respond to requests that might not have been anticipated when the rule was amended.

Both the Commission and the Supreme Court contemplated that cases involving significant issues under certain chapters of the North Carolina General Statutes would be designated as complex business. Those chapters include:

Chapter 55 Business Corporation Act
Chapter 55B Professional Corporations

Chapter 57C Limited Liability Companies
Chapter 59 Partnerships
Chapter 78A Securities Act
Chapter 78B Tender Offer Disclosure Act
Chapter 78C Investment Advisors Act

One of the key factors in assessing whether or not a case should be designated as complex business is whether the outcome will have implications for business and industry beyond the conflicts of the parties to the litigation. If a written decision on disposition of the case would provide predictability for others in the same business or industry in making their business decisions, the case will more likely be considered for designation.

There are also other procedural indicators of complex business cases. Such cases may be time sensitive, paper intensive or laden with discovery disputes. They may have complex legal and evidentiary issues, multiple parties and jurisdictions, and have a significant impact on the parties' business, whether it be from a monetary or a corporate governance standpoint.

Benefits

Case Management. One of the key benefits to designation of a case or cases as complex business is the assignment of the litigation to one judge for handling of all pretrial matters, including motions and discovery. Since the judge who handled pretrial motions will also try the case, the possibility of conflicting decisions on substantive and evidentiary matters is greatly reduced. The most significant improvement in the management of complex business cases should occur at the pretrial stage.

North Carolina's Constitution requires that its superior court judges rotate within a division. While this rotation has numerous salutary effects, it can have debilitating effects in complex business cases. It often results in the parties having to reeducate a new judge on every motion. Different judges hear different stages of the litigation, and the potential for conflicting rulings exists. Judge shopping may also occur. It is difficult to get motions which need prompt attention calendared for hearing. Civil matters sometimes lose their priority to criminal cases on both the motion and trial calendars. Since terms of superior court generally last only one to two weeks, it is often difficult to find a judge who can take four to five weeks to try a complicated business case. Judges who do accept exceptional cases under Rule 2.1 still have to fit those cases into their existing rotation.

Many of the case management difficulties cited above are eliminated by assigning complex business cases to one judge who is not in a rotation, but handles only civil cases and controls the calendaring of the cases on his or her docket.

Case management by one judge also provides more effective use of mediation and other alternative dispute resolution tools. Having greater knowledge and understanding of the case can result in better choices in the timing and method of ADR in each case. It can also facilitate the use of expert neutrals.

Similarly, case management can result in more certainty in the setting of cases for trial and a shorter wait for a trial date. Since most cases still settle just before trial, shortening the pretrial phase and getting the case on the trial calendar can result in a more efficient and less costly disposition of cases.

Speed and flexibility. In many complex business cases, particularly those involving change in ownership or corporate governance issues, preliminary injunctive relief is a critical issue. Often decisions need to be rendered before specific times such as shareholder meetings. Having a judge available to hear such cases on short notice is a significant benefit to the parties. In many cases a business simply needs an answer to an issue so it can make a decision and move on with the operation of the company. The speed and flexibility provided by the establishment of a business court helps to meet those needs.

Specialization. Because a business court judge will hear only complex business cases, he will develop proficiency in handling both the substantive law and the case management issues that arise in complex cases. Much as in the Delaware Chancery Court, each judge will acquire the level of expertise in dealing with complex cases that come with specialization, which in turn will lead to greater efficiency and predictability.

Predictability. The creation of a larger body of case law by requiring opinions at the trial court level should result in greater predictability for business and the bar.

The Difference Between Complex Business Cases under Rule 2.1 and Summary Procedures for Significant Commercial Disputes under Rule 23.1

At the same time it amended Rule 2.1 and added Rule 2.2 to the General Rules of Practice, the Supreme Court also added new Rule 23.1 to the Rules of Practice. The rules exist separate and apart from each other and should not be read together. Summary Procedures can be used outside the Business Court and a case can be designated complex business without invocation of summary procedures.

The Commission on Business Laws and the Economy recommended that the State establish a summary procedure through which North Carolina citizens and business entities could more efficiently resolve significant commercial disputes. The Commission recommended that the availability of such a summary procedure be limited to civil actions in Superior Court where: 1) at least \$500,000 is in controversy, 2) at least one party is a North Carolina citizen or corporation, and 3) all parties consent to the summary proceeding. As a part of the consent, the parties agree to waive punitive damages and a jury trial. It is an alternative procedure used only with the consent of all parties.

Rule 23.1 provides in pertinent part:

- (a) The senior resident superior court judge of any superior court district, or a presiding judge unless prohibited by local rule may, upon joint motion or consent of all parties, order Summary Procedures for A Significant Commercial Dispute ("Summary Procedures") in any case within the subject matter jurisdiction of the superior court that does not include a claim for personal, physical or mental injury

where 1) the amount in controversy exceeds \$500,000, 2) at least one party is a North Carolina citizen, corporation or business entity (or a subsidiary of such corporation or business entity) or has its principal place of business in North Carolina; and 3) all parties agree to forego any claim of punitive damages and waive the right to a jury trial. The motion or consent for summary procedures must be filed with the court on or before the time the answer or other responsive pleading is due.

Once Summary Procedures are invoked, significant restrictions apply to filing times, pleadings allowed, motions allowed, discovery and trial. It is an alternative fast track that can result in a trial on briefs and affidavits if the parties so choose.

Similar procedures have been in place and available for use in Delaware for over five years and have yet to be utilized to any significant extent.

Summary

In creating a business court, North Carolina has joined the states of Delaware, New York 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.

A. List Of Closed Cases

The following list shows the 46 closed cases handled to date by the Business Court. Of these cases, 39 settled: five settled after Court Opinion; one settled during trial; and one settled after jury trial. There were six judgments and one voluntary dismissal.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Adams Outdoor Limited Partnership et al. v. The City of Charlotte, et al.	Mecklenburg County	88 CVS 9786	Settled
Amos v. Southern Furniture Exhibit Building	Guilford County	96 CVS 4958	Settled
Beam v. Worldway	Mecklenburg County	96 CVS 469	Settled after Court Opinion

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
James Allen Beaty, et al. v. Integon Corporation and Integon National Insurance Company	Mecklenburg County	99 CVS 11540	Voluntary Dismissal
Bell, Setzer, Park and Gibson PA v. James D. Meyers	Mecklenburg County	97 CVS 9957	Settled
Board of Governors v. Cushman	Orange County	97 CVS 1429	Settled
Bradley v. US Packaging	Guilford County	95 CVS 8986	Judgment
Byers v. Carpenter	Wake County	94 CVS 04489	Settled
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
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
Crowder Construction v. Kiser	Mecklenburg County	95 CvS 14097	Judgment
Continuum Care v. Eakes Corp.	Warren County	96 CVS 1465	Settled
Exide Corporation Branches v. Keever	Caldwell County	95 CVS 978	Settled
Faulkner v. Tarheel Holdings	Lenoir County	96 CVS 281	Settled

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Filipowski v. High Point Bank & Trust	Guilford County	97 CVS 9317	Settled
Frazier v. Beard	Catawba County	94 CVS 2362	Judgment
Gaafar v. Piedmont Poultry	Wake County	96 CVS 630	Settled
Goings v. P.M. Mattress	Randolph County	92 CVS 785	Settled
Greene, et al. v. Shoemaker, et al. and Community BancShares, Inc.	Wilkes County	97 CVS 2118	Settled after Court Opinion
Hafele America Co. v. Ergonomix Armdec Pty. Ltd., et al.	Guilford County	97 CVS 7426	Settled
Jeffcoat v. Chicago Rawhide	Gaston County	95 CVS 4176	Settled
Lapedes, et al. v. Glaxo Wellcome	Wake County	98 CVS 12106	Settled
Long, et al. v. Abbott Labs, et al.	Mecklenburg County	97 CVS 8289	Settled
Melbourne-Marsh v. North Hills, Inc., et al.	Wake County	97 CVS 3212	Settled
Metric-Kvaerner Fayetteville, et al. v. Bank of Tokyo - Mitsubishi, Ltd., et al. v. Kvaerner Investments	Bladen County	97 CVS 743	Settled
Molinare, et al. v. Broadway & Seymour, et al.	Forsyth County	96 CVS 4614	Settled after Jury Trial
Montrose Value Fund v. Freeman	Durham County	96 CVS 1220	Settled
Petty v. High Point Bank & Trust	Randolph County	97 CVS 741	Settled

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Disposition</u>
Popkin v. Popkin	Onslow County	92 CVS 2910	Settled
Reeve v. Triad Bank	Guilford County	96 CVS 4695	Settled after Court Opinion
Roberts, Thomas v. Guy, Onslow Transit	Onslow County	93 CVS 1043	Settled
Robinson v. McMillen Trust et al.	Guilford County	97 CVS 9042	Settled
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, et al.	Gaston County	98 CVS 1244	Settled
Smith v. NC Motor Speedway, Inc., et al.	Mecklenburg County	97 CVS 138	Judgment
Springer-Eubank , et al. v. Four County Electric Membership Corp., et al.	New Hanover County	98 CVS 3194	Judgment
Thomas v. Golding Farms	Guilford County	95 CVS 7323	Settled
Wiggins v. Charlotte Brewing Co.	Mecklenburg County	96 CVS 2537	Settled
Whitley v. Wallace	Rowan County	96 CVS 1795	Settled

B. List of Current Cases

The following list shows the 36 cases that are currently being handled by the Business Court. Of these cases, sixteen are active; nine are on appeal, two of which are on appeal after jury trial; four have reached a settlement; and three are stayed. In addition, one case is awaiting decision after a non-jury trial; one is partially settled; one is in mediation; and one has a jury trial pending.

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Status of Case</u>
Biemann and Rowell v. The Donohoe Companies	Orange County	99 CVS 9132	Non-Jury Trial Decision Pending
Bruggers, et al. v. Eastman Kodak Company, et al.	Wake County	97 CVS 1278	Partially Settled
Coastal Physician Group, Inc. v. Price Waterhouse LLP, et al. See also Scott v. Sokolov (closed file)	Durham County	99 CVS 00578	In Mediation
DCC Classics v. Robert Craig & RePac	Forsyth County	97 CVS 2856	Stayed
Dominick DeJoy, Jr. v. Louis DeJoy and Michael DeJoy	Guilford County	99 CVS 12425	Active
DKH Corporation v. Rankin Patterson Oil Company, Inc.	Buncombe County	95 CVS 2511	On Appeal
Dublin v. UCR	Johnston County	90 CVS 0304	Stayed
Ezzell, et al. v. ABT Co., Inc., et al.	Onslow County	97 CVS 167	Stayed
Giduz v. Blue Cross Blue Shield of North Carolina	Orange County	97 CVS 917	On Appeal
Grossman v. Carolina Drug Inc.	Guilford County	95 CVS 8921 95 CVS 9834	Active
Harbor Finance Partners v. PCA International, Ltd.	Mecklenburg County	98 CVS 5734	Settlement Pending
Igar v. Mark Mfg. Corp., et al.	Guilford County	97 CVS 10198	Active
Isasi v. FYI	Forsyth County	97 CVS 6692	On Appeal after Jury Trial

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Status of Case</u>
LaFar, et al. v. LaFar, et al.	Gaston County	98 CVS 5006	Settlement Pending
Lennon and Magruder v. MedCath Incorporated	Mecklenburg County	98 CVS 14327	Active
Lupton, et al. v. Blue Cross and Blue Shield of North Carolina	Orange County	98 CVS 633	On Appeal
Massey, et al. v. City of Charlotte, et al.	Mecklenburg County	99CVS 18764	Active
Moore, et al. v. NationsBank, N.A.	Mecklenburg County	99 CVS 1585	Settlement Pending
Oberlin Capital, L.P. v. Edward W. Slavin, et al.	Wake County	99 CVS 03447	Active
People Unlimited Consulting, Inc. v. B & A Industries, LLC, et al. Scott Russell v. Janis Love and Claire Russell	Mecklenburg County	98 CVS 16126	Active
Peterson v. Robertson	Forsyth County	95 CVS 3518	On Appeal
Pitts, et al. v. American Security Ins. Company and Wachovia Bank of North America, N.A.	Pitt County	96 CVS 658	On Appeal
Praxair, Inc. v. Airgas, Inc., et al.	Mecklenburg County	98 CVS 8571	Active
Royals, et al. v. Piedmont Electric Repair Co., et al.	Guilford County	97 CVS 137	On Appeal
Ruff, et al. v. Parex, et al.	New Hanover County	97 CVS 0059	Settlement Pending
Scarvey v. First Federal Savings & Loan Association of Charlotte	Mecklenburg County	98 CVS 204	Active

<u>Name of Case</u>	<u>County of Origin</u>	<u>Case Number</u>	<u>Status of Case</u>
Southern Furniture Hardware v. BBT	Catawba County	94 CVS 959	On Appeal after Jury Trial
Philip A.R. Staton v. Jerri Russell, et al.	Forsyth County	96 CVS 1409	Active
Ingeborg Staton, et al. v. Centura Bank, et al.	Forsyth County	96 CVS 7224	Active
Piedmont Institute of Pain Management v. Poyner & Spruill	Forsyth County	96 CVS 7140	Active
Ingeborg Staton, et al. v. PIPM	Forsyth County	99 CVS 2628	Active
Ingeborg Staton, et al. v. Centura Bank, et al.	Forsyth County	99 CVS 5156	Active
Tomlin, et al. v. Dylan Mortgage Incorporated, et al.	New Hanover	99 CVS 3551	Active
WestPoint Stevens, Inc., et al. v. Panda-Rosemary Corporation, et al.	Halifax County	98 CVS 569	On Appeal
Wilson Realty v. Asheboro- Randolph Board of Realtors, Inc, et al.	Randolph County	95 CVS 0482	Jury Trial Pending

C. Venue

The following is a list of the counties in which the Business Court cases (both active and closed) originated. The list column is followed by column designating the number of cases assigned to the Business Court from each county and a column stating 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>PERCENTAGE OF TOTAL CASES</u>
Bladen	1	1%
Buncombe	1	1%
Burke	1	1%
Caldwell	1	1%
Catawba	2	3%
Durham	3	4%
Forsyth	8	10%
Gaston	3	4%
Guilford	18	22%
Halifax	1	1%
Johnston	1	1%
Lenoir	1	1%
Mecklenburg	17	21%
New Hanover	3	4%
Onslow	3	4%
Orange	4	5%
Pitt	1	1%
Randolph	4	5%
Rowan	1	1%
Wake	6	7%
Warren	1	1%
Wilkes	1	1%
Total in 22 Counties	82	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.

VI. Opinions

The Court is required to write opinions in non-jury matters assigned as Complex Business. In the other Exceptional cases assigned pursuant to Rule 2.1, the decision about whether to write an opinion is in the discretion of the Court. Opinions are generally written where issues are matters of first impression.

A. List of Opinions

The official opinions in the cases listed below are on file in the courthouse of the county of jurisdiction. Electronically formatted copies of these opinions are also posted on the Business Court web site at www.ncbusinesscourt.net. Decisions which have been affirmed or reversed on appeal are noted.

2000

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

SCARVEY v. FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF CHARLOTTE
2000 NCBC 2 (2-23-2000)
98-CVS-204 (Mecklenburg)

PITTS v. AMERICAN SECURITY INS. CO., et al.
2000 NCBC 1 (2-2-2000)
96-CVS-658 (Pitt)

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)

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)

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)

ROYALS v. PIEDMONT ELECTRIC REPAIR CO.
1999 NCBC 1 (3-3-1999)
97-CVS-720 (Guilford)

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 (3-10-1998)
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.

VI. DEVELOPMENT OF TECHNOLOGY

Please visit the Business Court web site at www.ncbusinesscourt.net

Paperless Court and E-Filing

The development of court technology for electronic filing has been an integral part of the Business Court’s plan of operation. The technology issues are inextricably intertwined in the facilities issue. Grants from a number of foundations, including the North Carolina Bar Association, have helped to support technology in the facility. Substantial funds and effort have been expended in establishing a paperless court and courtroom.

The technology project was designed to achieve the following goals:

- **Create an electronic filing system that eliminates paper filings with the court.**

This filing system will serve as a test system for other courts and for other government agencies, proving that business can safely and securely use electronic means of filing rather than create paper. Electronic filing is far more cost efficient for the sender and receiver. It speeds the filing process, particularly in the court system. It eliminates the need for people to handle paper and should prove to be less error prone than manual filing.

The electronic filing system does not currently eliminate the obligation to file a paper copy with the clerk of court in the county of origin. However, the system does have the capacity of charging/collecting a filing fee, which would obviate the need for paper filing.

The core system currently allows a pleading to be filed electronically via the Internet at the attorney’s office, processes the filing to the court case management system, electronically files the document for archive, and places the filing on the

Court's docket in a matter of a few minutes. This procedure immediately posts this information for review of docket, filing and calendar information to the Court's web page without any programming or web page design skills required. The Court makes a selection on the case management module, and the motion is on the calendar for a hearing.

Courtroom presentation and videoconferencing

- **Create a courtroom of the future in which all pleadings and exhibits are available on monitors in the courtroom.** The courtroom is wired for video conferencing, allowing attorneys or their clients who wish to participate in hearings from remote locations to do so by video conference. When all parties do not consent, the Court decides in each individual case whether the circumstances permit and warrant testimony by videoconference. Participants at remote locations have the ability to communicate with lawyers via the internet while the hearing is in progress. Attorneys will not need to bring any equipment to the courtroom. Everything they need is already in the courtroom and can even be preprogrammed before trial or hearing. Touch screen technology in the courtroom eliminates the need for any extensive knowledge of the use of computers. Briefs and other documents may be hyperlinked, providing quick access for both the Court and the attorneys.
- **Create an internet accessible compilation of all Court opinions.** All of the Court's opinions are accessible on the Court web site. See our web site at www.ncbusinesscourt.net/opinions.

In addition, the Business Court technology provides:

- Public access to the court file over the internet. See Exhibit B attached for sample screens of the Business Court docket.
- The potential elimination of paper records on appeal.
- An electronic library accessible by the court from remote locations.
- A faster, more efficient, more economical court system.
- Easy instant access to all Court opinions without the delay or expense involved in publication.
- Internet access to the Court calendar. See Exhibit C attached for a sample screen of the Court calendar.

Specific elements covered by the project include electronic filing, trial court administration, exhibit technology and remote access to public information. In addition to the many benefits of automation, the Business Court's open architecture design will reduce the training cost usually associated with using multiple technologies as well as reduce hardware and software costs for all future enhancements of the system by eliminating additional support equipment, additional software, training and electrical requirements.

The system currently has the following features:

- video display and control from up to 8 video sources;
- document display for any OLE object associated file;
- graphics display;
- sound control;
- direct link to case files;
- touch-screen interface;
- touch-screen interface with pen for witness;
- remote connection for both parties allowing connection of third party video and computer devices supplied by law firms such as computers, VCR, and overhead projectors with video output;
- network interface for defense and plaintiff notebook computer interface to courtroom resources;
- Internet real-time broadcast for up to 254 users (hardware is the restriction) that can be used for court reporting and a variety of other innovations;
- jury introduction and instruction module providing the orientation program for the jury (under development); and
- Judge's toolbar which allows the judge and/or clerk a split screen environment with access to court resources without interrupting the view of the courtroom or task being performed during the hearing.

Uses of technology by other courts

The independent project manager contracted by the AOC is coordinating delivery and implementation of both hardware and software. The project manager has worked closely with the Purchasing Department and Information Services Division of the AOC to ensure compliance with state purchasing guidelines and compatibility with equipment used in other parts of the court system.

The Business Court is a national forerunner in the implementation of 'state of the art' computer technology, providing the legal community and the court system with automated resources that will promote more efficient and economical judicial management of litigation. The Court is pioneering the use of automation concepts that will greatly reduce the load of document processing and case management for civil litigation and will continue to serve our state's interests as we enter into the new century. 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.

At least three counties are planning high tech courtrooms patterned after the Business Court model. A fourth county is modifying the Business Court case management software to manage civil cases electronically and provide attorneys with Internet access to calendars. The National Judicial College plans to install the Business Court e-filing system as a model for other states, and the Wake Forest University Law School will also train its students in its use.

Use of the courtroom and its technology is not limited to the Business Court. Any judge can use both the courtroom and electronic filing for complex cases. The courtroom has been used for arbitration, presentations to law school classes and to undergraduate business classes, electronic filing training classes for attorneys and legal staff, a paralegal association meeting on electronic filing, Inn of Court and various superior court judges' committee meetings.

VIII. Funding Since Inception

Sources

Technology

3 Private Foundations	\$105,000
State Appropriated Funds	<u>\$45,000</u>
	\$150,000

Equipment

State Appropriated Funds	\$30,000
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Library

State Appropriated Funds	\$10,000
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Rent for Facility

Joseph M. Bryan Foundation	\$37,800
State Appropriation (3/01/2000 - 2/28/2001)	<u>\$52,000</u>
	\$89,800

Furniture for Facility

Joseph M. Bryan Foundation	\$33,000
----------------------------	----------

Current Budget and Status

All funds will be expended by June 30, 2000.

IX. Conclusion

The business court concept has been well received by the North Carolina Bar and the business community. The Business Court has substantially met its goals of providing effective case management for complex business cases and developing and publishing a body of case law dealing with business issues.

Through its use of technology, the North Carolina Business Court has become a model for other business courts across the country. The technology created in the Business Court has generated other programs and innovative uses of technology in other parts of our court system. It has provided a laboratory to test the technology systems that will prove critical to the efficient operation of the courts of North Carolina in the future.

EXHIBIT A

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-237
HOUSE BILL 168

AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND
CAPITAL IMPROVEMENTS OF STATE DEPARTMENTS, INSTITUTIONS,
AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

INTRODUCTION

Section 1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

TITLE OF ACT

Section 1.1. This act shall be known as "The Current Operations and Capital Improvements Appropriations Act of 1999."

PART II. CURRENT OPERATIONS/GENERAL FUND

Section 2. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the biennium ending June 30, 2001, according to the following schedule:

	1999-2000	2000-2001
General Assembly	\$ 34,980,575	\$ 39,518,408
Office of the Governor:		
01. Office of the Governor	5,263,364	5,282,172
02. Office of State Budget and Management	4,146,118	4,247,782
03. Office of State Planning	2,147,099	2,147,099
04. Special Appropriations	5,655,000	3,080,000
Office of Lieutenant Governor	640,485	640,485
Department of Secretary of State	6,688,118	6,455,933

- (1) Temporarily assign an assistant district attorney from another district, after consultation with the district attorney thereof, to assist in the prosecution of cases in the requesting district; or
- (2) Authorize the temporary appointment, by the requesting district attorney, of a qualified attorney to assist the requesting district attorney; attorney; or
- (3) Enter into contracts with local governments for the provision of services by the State pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

The Director of the Administrative Office of the Courts may provide this assistance only upon a showing by the requesting district attorney, supported by facts, that:

- (1) Criminal cases have accumulated on the dockets of the superior or district courts of the district beyond the capacity of the district attorney and the district attorney's full-time assistants to keep the dockets reasonably current; or
- (2) The overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

The length of service and compensation of such any temporary appointee or the terms of any contract entered into with local governments shall be fixed by Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Section 17.17.(b) Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-212.1. Resources to protect the public.

Subject to the requirements of G.S. 7A-64, a county may appropriate funds under contract with the State for the provision of services for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving threats to public safety. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Section 17.17.(c) Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-289.1. Resources to protect the public.

Subject to the requirements of G.S. 7A-64, a city may appropriate funds under contract with the State for the provision of services for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving threats to public safety. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Plyler, Perdue, Odom
BUSINESS COURT

Section 17.18.(a) The Administrative Office of the Courts shall ensure that the North Carolina Business Court is available to hold court sessions in judicial districts throughout the State when to do so would be more convenient to the parties to actions before the court.

Section 17.18.(b) The Administrative Office of the Courts shall 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 by April 1 of each year 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.

Requested by: Representatives Culpepper, Kinney, McCrary, Easterling, Hardaway, Redwine, Senators Jordan, Lee, Plyler, Perdue, Odom

DIVIDE SUPERIOR COURT DISTRICT 19B INTO A SET OF DISTRICTS

Section 17.19.(a) G.S. 7A-41(a), as amended by Section 17.12 of this act, reads as rewritten:

"(a) The counties of the State are organized into judicial divisions and superior court districts, and each superior court district has the counties, and the number of regular resident superior court judges set forth in the following table, and for districts of less than a whole county, as set out in subsection (b) of this section:

Judicial Division	Superior Court District	Counties	No. of Resident Judges
First	1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	2
	2	Beaufort, Hyde, Martin, Tyrrell, Washington	1
	3A	Pitt	2
	3B	Carteret, Craven, Pamlico	2
	4A	Duplin, Jones, Sampson	1
	4B	Onslow	1
	5	New Hanover, Pender	3
	6A	Halifax	1
	6B	Bertie, Hertford, Northampton	1
	7A	Nash	1
	7B	(part of Wilson, part of Edgecombe, see subsection (b))	1
	7C	(part of Wilson, part of Edgecombe, see subsection (b))	1
	8A	Lenoir and Greene	1
	8B	Wayne	1
Second	9	Franklin, Granville,	2

EXHIBIT B

The North Carolina Business Court | Active Cases

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Case	County	Plaintiff	Defendant
TESTCASE	Guilford	cxPlaintiff	cxDefendant
99CVS9818	Guilford	WestPoint Stevens, Inc. et. al.	Panda-Rosemary Corporation, et. al.
99CVS9132	Guilford	Biemann and Rowell	The Donohoe Companies
99CVS5156	Forsyth	Ingeborg Staton, et al.	Centura Bank, et al.
99CVS3551	New Hanover	Tomlin, et al.	Dylan Mortgage Incorporated, et al.
99CVS3447	Wake	Oberlin Capital, L.P.	Slavin, et al.
99CVS3100	Guilford	Carolina Custom	Tiffany Marble v. Howard Butner v. Rudy Hoch
99CVS2628	Forsyth	Ingeborg Staton, et. al.	Piedmont Institute of Pain Management
99CVS18764	Mecklenburg	Bethanie C. Massey, et al.	City of Charlotte, et al.
99CVS12425	Guilford	Dominick DeJoy, Jr.	Louis DeJoy and Michael DeJoy

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Case	County	Plaintiff	Defendant
97CVS8289	Mecklenburg	Long	Abbott Laboratories, et al.
97CVS6692	Forsyth	Isasi	FYI
97CVS2856	Forsyth	DCC Classics	Robert Craig & RePac
97CVS167	Onslow	Ezzell, et al.	ABT Co., Inc., et al.
97CVS137	Guilford	Royals, et al.	Piedmont Electric Repair Company, et al.
97CVS1278	Wake	Bruggers, Karen, D.D.S.	Eastman Kodak Company, et al.
97CVS10198	Guilford	Igar	Mark Mfg. Corp et al.
97CVS0059	New Hanover	Ruff, et al.	Parex, et al.
96CVS7224	Forsyth	Ingeborg Staton, et. al.	Centura Bank, et. al.
96CVS7140	Forsyth	Piedmont Institute of Pain Management	Poyner & Spruill

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12	13	14	15	16	17	18
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April, 2000

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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May, 2000

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28	29	30	31			

June, 2000

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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July, 2000

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August, 2000

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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27	28	29	30	31		

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