



REPORT ON NORTH CAROLINA BUSINESS COURT

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

REPORT PREPARED BY
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
FEBRUARY 1, 2022



About the North Carolina Judicial Branch

The mission of the North Carolina Judicial Branch is to protect and preserve the rights and liberties of all the people as guaranteed by the Constitutions and laws of the United States and North Carolina by providing a fair, independent and accessible forum for the just, timely and economical resolution of their legal affairs.

About the North Carolina Administrative Office of the Courts

The mission of the North Carolina Administrative Office of the Courts is to provide services to help North Carolina's unified court system operate more efficiently and effectively, taking into account each courthouse's diverse needs, caseloads, and available resources.

INTRODUCTION

N.C.G.S. 7A-343(8a) requires the Director of the North Carolina Administrative Office of the Courts (“NCAOC”) to submit an annual report on the North Carolina Business Court. The statute specifically provides as follows:

(8a) Prepare and submit an annual report on the activities of each North Carolina business court site to the Chief Justice, the chairs of the House of Representatives Appropriations Committee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety, the chairs of the of the Joint Legislative Oversight Committee on Justice and Public Safety, and to all other members of the General Assembly on February 1. The report shall include the following information for each business court site:

- a. The number of new, closed, and pending cases for the previous three years.
- b. The average age of pending cases.
- c. The number of motions pending over six months after being filed.
- d. The number of cases in which bench trials have been concluded for over six months without entry of judgment, including any accompanying explanation provided by the Business Court.

The report shall include an accounting of all business court activities for the previous fiscal year, including the itemized annual expenditures.

NCAOC submits this report in compliance with the legislative mandate for the period from January 1, 2021 through December 31, 2021.

AN OVERVIEW OF THE NORTH CAROLINA BUSINESS COURT

The North Carolina Business Court is an administrative division of the North Carolina General Court of Justice designed to provide a specialized forum for cases involving complex business issues.

G.S. 7A-45.4 governs the designation of Business Court cases. The statute provides that any party may designate as a mandatory complex business case an action that involves a material issue related to the following types of disputes:

- Disputes involving the law governing corporations, except charitable and religious organizations qualified under G.S. 55A-1-40(4) on the grounds of religious purpose, partnerships, and limited liability companies
- Disputes involving securities
- Disputes involving antitrust law
- Disputes involving trademark law



- Disputes involving the ownership, use, licensing, lease, installation, or performance of intellectual property, including computer software, software applications, information technology and systems, data and data security, pharmaceuticals, biotechnology products, and bioscience technologies
- Disputes involving trade secrets
- Contract disputes in which specified statutory conditions are met

In addition, the statute establishes three types of cases that must be designated as mandatory complex business cases:

- An action involving a material issue related to tax law that has been the subject of a contested tax case for which judicial review is requested under G.S. 105-241.16, or a civil action under G.S. 105-241.17 containing a constitutional challenge to a tax statute
- An action described in subdivision (1), (2), (3), (4), (5), or (8) of subsection (a) of G.S. 7A-45.4 in which the amount in controversy computed in accordance with G.S. 7A-243 is at least five million dollars (\$5,000,000)
- An action in which a general receiver is sought to be appointed pursuant to [G.S. 1-507.24](#) for a debtor that is not an individual business debtor as defined in [G.S. 1-507.20](#) and has assets having a fair market value of not less than five million dollars (\$5,000,000), if the party making the designation is either (i) the debtor or (ii) one or more creditors or creditors' duly authorized representatives that assert a claim or claims against the debtor exceeding, in the aggregate, twenty-five thousand dollars (\$25,000) that in each case is not contingent as to liability and is not the subject of a bona fide dispute as to liability or amount. Any creditor or creditor's duly authorized representative that is not a party to the action may join in the notice of designation with the same effect as if such joining creditor or creditor's representative were a party.

Most cases referred to the Business Court in calendar year 2021 involved the law governing corporations, partnerships, and limited liability companies. **Table 1** below identifies the statutory basis appearing in the parties' Notices of Designation for cases newly designated to the Business Court in 2021 and the frequency of each type of designated dispute.



Table 1. Dispute Types Pursuant to G.S. 7A-45.4 Appearing in Parties' Notices of Designation for Cases Designated to the Business Court in Calendar Year 2021

Material Issue	Frequency*
(a)(1) Corporations, Partnerships, LLCs	48
(a)(2) Securities	9
(a)(3) Antitrust	3
(a)(4) Trademark	7
(a)(5) Intellectual Property	13
(a)(8) Trade Secrets	12
(a)(9) Contract Dispute over \$1 million	10
(b)(1) Contested Tax Case	4
(b)(1) Constitutional Challenge Tax Case	0
(b)(2) Controversy over \$5 million	6
(b)(4) General Receiver	3

**A party's Notice of Designation may indicate more than one dispute type.*

Once a case is designated as a complex business case under G.S. 7A-45.4 after preliminary approval by the Chief Justice, all proceedings in the action are heard before the Business Court judge to whom it has been assigned. The Chief Justice has discretion to assign other exceptional cases to the Business Court under Rule 2.1 of the General Rules of Practice and Procedure for the Superior and District Courts. When necessary, Business Court judges may be called upon in their capacity as judges of the superior court division to handle cases or court sessions in addition to their regular Business Court caseloads.

As of December 31, 2021, there were five active Business Court judges maintaining chambers in Charlotte, Greensboro, Raleigh and Winston-Salem: Louis A. Bledsoe, III, Chief Business Court Judge (Mecklenburg County Courthouse), Michael L. Robinson (Wake Forest University School of Law), Adam M. Conrad (Mecklenburg County Courthouse), Julianna Theall Earp (Elon University School of Law), and Mark A. Davis (Wake County Courthouse).

An early leader in electronic filing since 1996, the North Carolina Business Court launched a web-based filing system in June 2017 that provides improved functionality and features for attorneys, filers, and judicial staff. The interface delivers a modern and user-friendly experience, features new search capabilities, and provides public access to case information online. The new system also provides a browser-based case management system with workflow queues and judicial tools to aid the Business Court judges, their judicial staffs, and the parties in managing cases from filing through resolution. The system streamlines judicial processes and the dissemination of filings, orders, and opinions.



Case Statistics

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

There were 192 cases pending in the Business Court as of December 31, 2021 (178 when counting a consolidated group of cases as one case). Of those 192 cases, 171 were assigned to the Business Court as mandatory complex business cases designated pursuant to G.S. 7A-45.4. The Chief Justice designated 9 cases as complex business cases and 12 cases as exceptional cases in the Chief Justice's discretion under Rule 2.1 of the General Rules of Practice for the Superior and District Courts.

Table 2 represents the number of new, closed, and pending cases in the Business Court as of December 31 in 2021, 2020, and 2019 in the counties in which the Business Court maintains chambers. For purposes of this report, "Pending Cases" include all cases, without regard to the year in which the case was first designated to the Business Court. "New Cases" include all cases designated to the Business Court in the year reported. "Closed Cases" include all cases closed during each year. The "Mecklenburg A" and "Mecklenburg B" designations reflect that two judges have maintained chambers in Mecklenburg County since January 1, 2017.

Table 2. Pending, New, and Closed Cases in Business Court by Court Location (Calendar Years 2019 - 2021)

Calendar Year	COURT	Pending Cases*	New Cases	Closed Cases
2021	Forsyth	37 (36)	21	34
2021	Guilford	29	19	25
2021	Mecklenburg A	49 (36)	20	18
2021	Mecklenburg B	38	22	32 (31)
2021	Wake	39	21	25
2021	Statewide	192 (178)	103	134 (133)
2020	Forsyth	48 (47)	28	33 (32)
2020	Guilford	18	16	105 (12) [¶]
2020	Mecklenburg A	55 (42)	27	20
2020	Mecklenburg B	46 (45)	29	24
2020	Wake	45	31	32 (31)
2020	Statewide	212 (197)	131	214 (119)
2019	Forsyth	52 (50)	26	31
2019	Guilford	115 (22)	8	32
2019	Mecklenburg A	47 (33)	27	20
2019	Mecklenburg B	41 (40)	23	29
2019	Wake	45 (44)	26	24
2019	Statewide	300 (189)	110	136

* Parenthetical figures represent when a consolidated group of cases is counted as one case.

¶ 94 cases were closed in the Charlotte School of Law litigation.



Average Age of Pending Cases

As of December 31, 2021, 27 of the Business Court's 192 pending cases were subject to stay, appeal, or alternative dispute resolution. The average age of pending cases not subject to stay, appeal, or alternative dispute resolution ("active cases") was 776 days, with a median age of 431 days. The average age of all pending cases was 836 days, with a median age of 545 days. The duration of a case may be affected by multiple stays or appeals throughout the life of the case.

Table 3 offers additional information for pending and active cases during calendar year 2021 by location.

Table 3. Pending, Active, New, and Closed Cases, and Average Age (Calendar Year 2021)*

LOCATION	Pending Cases	Active Cases	New Cases	Closed Cases	Average Age Pending (days)	Average Age Active (days)
Forsyth	37 (36)	30	21	34	769	660
Guilford	29	28	19	25	582	600
Mecklenburg A	49 (36)	44 (31)	20	18	1,178	1,159
Mecklenburg B	38	32	22	32 (31)	866	754
Wake	39	31	21	25	629	527
Statewide	192 (178)	165 (152)	103	134 (133)	836	776

*Parenthetical figures represent when a consolidated group of cases is counted as one case.

Motions Pending More than Six Months

As of December 31, 2021, a total of 33 motions filed prior to July 1, 2021 remained pending in 16 cases or groups of related cases. **Table 4** below reflects, as of December 31, 2021, the number of motions pending more than six months by location.

Table 4. Motions Pending More than Six Months by Court Location (as of December 31, 2021)

LOCATION	NUMBER OF MOTIONS	MOTIONS IN CASES PREVIOUSLY STAYED	CASES WITH PENDING MOTIONS
Forsyth	15	12	4
Guilford	10	10	5
Mecklenburg A	1	0	1
Mecklenburg B	5	3	4
Wake	2	2	2
Statewide	33	27	16

Twenty-seven of the motions pending more than six months were in cases that had been formally or informally stayed at some stage because of appeal, bankruptcy, reported settlement, extended or supplemental briefing schedules prior to hearing oral argument, or other reasons associated with case management. Business Court motions are subject to a



briefing schedule that must be completed before a motion is ready to be heard, and in many instances, a motion is not ready to be heard and ruled upon with the required written opinion within six months of filing. In several instances, the complexity of the issues and the number of counsel involved make it difficult to schedule a hearing within six months of a motion's filing. Two of the motions pending more than six months were in cases in which briefing, hearing, or other activity bearing on the motion had been delayed by the COVID-19 pandemic.

In 2021, the Business Court issued 83 written opinions on motions and other matters, many involving issues of first impression. Consequently, these written opinions regularly represent a significant percentage of the opinions reported in *North Carolina Lawyers' Weekly's* semiannual summary of most significant cases, and several widely read legal blogs often focus on the Business Court's decisions. Business Court judges also regularly prepare written, substantive orders that are not issued as written opinions for publication, some of which appear on the Court's website as "Orders of Significance."

Bench Trials with No Entry of Judgment after Six Months

During calendar year 2021, a Business Court judge held five general superior court civil sessions. In Business Court cases, while no trials were conducted, the judges presided over 235 motions and 210 conferences.

As of December 31, 2021, the Business Court had no case in which entry of judgment in a bench trial was pending for more than six months.

EXPENDITURES

Expenditures for the Business Court for FY 2020-2021 were \$XX. The table below sets forth those expenditures by county.

Table 5. Business Court Expenditures for FY 2020-2021 by County

Court Location	Expenditures
Guilford	285,971
Forsyth	524,025
Mecklenburg	932,961
Wake	461,868
Statewide	\$2,204,825

SUMMARY

The North Carolina Business Court provides a specialized forum for cases involving complex and significant business issues. Because a single Business Court judge typically oversees all aspects of the case from the time of designation through trial or other resolution, the Business Court offers efficiencies and expertise necessary for the timely resolution of complex business disputes in North Carolina.



Appendix

Appendix A

Pending Case Distribution by County (As of December 31, 2021)

Appendix B

New Cases Assigned to Business Court by County (Calendar Year 2021)



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Appendix A – Pending Cases, Distribution by County (As of December 31, 2021)

COUNTY	GUILFORD	MECKLENBURG*	WAKE	FORSYTH	TOTAL
Alamance	0	0	0	0	0
Alexander	0	0	0	0	0
Alleghany	0	0	0	0	0
Anson	0	0	0	0	0
Ashe	0	0	0	0	0
Avery	0	0	0	0	0
Beaufort	0	0	1	0	1
Bertie	0	0	0	0	0
Bladen	0	0	0	0	0
Brunswick	0	1	1	0	2
Buncombe	0	3	0	1	4
Burke	0	0	0	1	1
Cabarrus	0	1	1	1	3
Caldwell	0	0	0	0	0
Camden	0	0	0	0	0
Carteret	0	1	0	0	1
Caswell	0	0	0	0	0
Catawba	2	2	0	1	5
Chatham	0	0	0	0	0
Cherokee	0	0	0	0	0
Chowan	0	0	0	0	0
Clay	0	0	0	0	0
Cleveland	0	1	0	0	1
Columbus	0	0	1	0	1
Craven	0	0	0	0	0
Cumberland	0	1	0	3	4
Currituck	0	0	0	0	0
Dare	0	0	0	0	0
Davidson	0	0	1	0	1
Davie	0	0	1	0	1
Duplin	0	0	0	0	0
Durham	1	4	1	0	6
Edgecombe	0	0	0	0	0
Forsyth	2	6	0	3	11
Franklin	0	0	0	0	0
Gaston	0	3	0	0	3
Gates	0	0	0	0	0



COUNTY	GUILFORD	MECKLENBURG*	WAKE	FORSYTH	TOTAL
Graham	0	0	0	1	1
Granville	0	0	1	0	1
Greene	0	0	1	0	1
Guilford	5	7	2	1	15
Halifax	1	0	0	0	1
Harnett	0	0	1	0	1
Haywood	0	0	0	0	0
Henderson	0	1	1	0	2
Hertford	0	0	0	0	0
Hoke	0	0	0	0	0
Hyde	0	0	0	0	0
Iredell	1	2	1	1	5
Jackson	0	0	0	0	0
Johnston	0	0	0	0	0
Jones	0	0	0	0	0
Lee	0	0	0	1	1
Lenoir	0	0	1	0	1
Lincoln	0	0	0	1	1
McDowell	0	0	0	0	0
Macon	0	0	0	0	0
Madison	0	0	0	0	0
Martin	0	0	0	0	0
Mecklenburg	6	32	1	12	51
Mitchell	0	0	0	0	0
Montgomery	0	0	0	0	0
Moore	0	0	0	0	0
Nash	0	0	0	0	0
New Hanover	2	1	2	0	5
Northampton	0	0	0	0	0
Onslow	0	0	1	2	3
Orange	0	0	1	1	2
Pamlico	0	0	0	0	0
Pasquotank	0	0	0	0	0
Pender	0	0	0	0	0
Perquimans	0	0	0	0	0
Person	1	0	0	0	1
Pitt	0	1	1	0	2
Polk	0	1	0	0	1
Randolph	0	0	0	0	0



COUNTY	GUILFORD	MECKLENBURG*	WAKE	FORSYTH	TOTAL
Richmond	0	0	0	0	0
Robeson	0	0	1	1	2
Rockingham	0	0	0	0	0
Rowan	0	0	0	0	0
Rutherford	0	0	0	0	0
Sampson	0	0	0	0	0
Scotland	0	0	0	0	0
Stanly	0	0	0	0	0
Stokes	0	0	0	0	0
Surry	0	0	0	0	0
Swain	0	0	0	0	0
Transylvania	0	0	0	0	0
Tyrrell	0	0	0	0	0
Union	0	0	0	1	1
Vance	0	0	0	0	0
Wake	7	15	17	5	44
Warren	0	0	0	0	0
Washington	0	0	0	0	0
Watauga	0	0	0	0	0
Wayne	0	1	0	0	1
Wilkes	1	3	0	0	4
Wilson	0	0	0	0	0
Yadkin	0	0	0	0	0
Yancey	0	0	0	0	0
STATEWIDE	29	87	39	37	192

* Two judges operate in Mecklenburg chambers.



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Appendix B – New Cases Assigned to Business Court by County (Calendar Year 2021)

COUNTY	CASES ASSIGNED IN 2021
Beaufort	1
Buncombe	1
Burke	2
Cabarrus	5
Catawba	4
Columbus	1
Durham	5
Forsyth	2
Gaston	1
Graham	1
Granville	1

COUNTY	CASES ASSIGNED IN 2021
Guilford	6
Halifax	1
Harnett	1
Henderson	1
Iredell	3
Lee	2
Lenoir	1
Mecklenburg	24
New Hanover	1
Onslow	3

COUNTY	CASES ASSIGNED IN 2021
Orange	2
Pamlico	1
Pitt	1
Polk	1
Robeson	1
Union	2
Wake	27
Wayne	1
STATEWIDE	103



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