



NORTH CAROLINA  
ADMINISTRATIVE OFFICE  
*of the* COURTS

Office of the Director

Judge John W. Smith  
Director

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February 26, 2010

The Honorable Charles Albertson  
The Honorable Linda Garrou  
The Honorable A. B. Swindell  
The Honorable Charlie S. Dannelly  
Co-chairs, Senate Appropriations/Base Budget Committee

The Honorable Eleanor Kinnaird  
The Honorable John Snow  
Co-chairs, Senate Appropriations Subcommittee on Justice and Public Safety

The Honorable Mickey Michaux  
Senior Chairman, House Appropriations Committee  
The Honorable Alma Adams  
The Honorable Martha Alexander  
The Honorable James Crawford  
The Honorable R. Phillip Haire  
The Honorable Maggie Jeffus  
The Honorable Joe Tolson  
The Honorable Douglas Yongue  
Co-chairs, House Appropriations Committee

The Honorable Alice Bordsen  
The Honorable Jimmy Love  
Co-chairs, House Appropriations Subcommittee on Justice and Public Safety

North Carolina General Assembly  
State Legislative Building  
Raleigh, North Carolina 27601

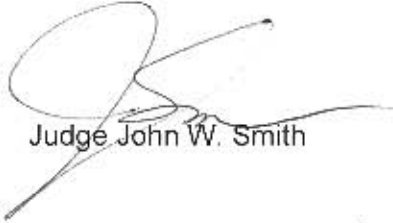
Dear Representatives and Senators:

Enclosed please find a report from the Administrative Office of the Courts on the activities of the North Carolina Business Court, pursuant to Senate Bill 202, Session Law 2009-451, section 15.4. A copy of this session law is attached.

This report provides the number of new, pending and closed cases, the average age of pending cases, and annual expenditures for the prior fiscal year for the three Business Courts currently operating in Guilford, Mecklenburg, and Wake Counties.

If you have any questions, please do not hesitate to contact Julie Holmes of the North Carolina Business Court at (336) 334-5252 or [jholmes@ncbusinesscourt.net](mailto:jholmes@ncbusinesscourt.net).

Respectfully Yours,



Judge John W. Smith

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**  
**SESSION LAW 2007-323**  
**HOUSE BILL 1473**

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

**REPORT ON BUSINESS COURTS**

**SECTION 14.7.** The Administrative Office of the Courts shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on the activities of each North Carolina Business Court site, including the number of new, closed, and pending cases; average age of pending cases, and annual expenditures for the prior fiscal year.

**EFFECTIVE DATE**

**SECTION 32.6.** Except as otherwise provided, this act becomes effective July 1, 2007. In the General Assembly read three times and ratified this the 30<sup>th</sup> day of July, 2007.

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

**Calendar Year 2009**

**I. Overview of the Business Court Program**

**II. Caseload Data**

**A. Pending and Closed Cases**

**B. Distribution of Pending Cases**

**III. Case Assignment and Expenditures by Site**

**A. Greensboro**

**B. Charlotte**

**C. Raleigh**

**IV. Opinions Issued**

**V. Evaluation**

## **I. OVERVIEW OF THE BUSINESS COURT PROGRAM**

The North Carolina Business Court is a specialized forum of the trial court division. The first Business Court was established in 1996 in Greensboro; additional Business Courts were established in Charlotte and Raleigh in 2005. Pursuant to Rule 2.1 of the General Rules of Practice for the Superior and District Courts, certain cases are 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, as well as certain cases involving technology. These cases are assigned to a special superior court judge who oversees resolution of all matters in the case through trial. There are no dollar limitations, and no waiver of jury trial is required.

Legislation expanded the jurisdiction of the Business Court to include those cases that have been removed to Business Court through a Notice of Designation pursuant to N.C.G.S. § 7A-45.4 (House Bill 650, S.L. 2005-425), and judicial review of certain tax cases originating in the Office of Administrative Hearings (Senate Bill 242, S.L. 2007-491). In addition, Senate Bill 357, S.L. 2009-278, authorizes the North Carolina Business Court to consider and resolve disputes concerning the rates, terms, and conditions associated with the use of poles, ducts, and conduits of communication service providers.

Effective September 1, 2009, the Legislature increased the fee for removing mandatory complex business cases to the Business Court by Notice of Designation from \$200 to \$1,000. A comparison of the number of cases assigned during the fourth quarters of 2008 and 2009 indicates a 28.6% decrease in the number of cases assigned between September 1 and December 31, 2009.

Both the Greensboro Business Court and the Raleigh Business Court are now located in law schools. The Greensboro Court has been at Elon School of Law since July 2006, and the Raleigh Court moved to a new location at Campbell Law School in October 2009.

The Business Court utilizes electronic filing and case management systems to facilitate efficient document processing and case management for civil litigation. The continued expansion of these systems enables the Court to provide benefits such as free public access to files, dockets and calendars, and instant access to opinions without the expense or delay of publication.

## **II. CASELOAD DATA**

### **A. Pending and Closed Cases**

Since its inception in 1996, the Business Court has been assigned 738 cases from 64 North Carolina counties; 505 of those 738 cases have been closed.

The Business Court currently has a total of 233 pending cases, 13 of which are on appeal and 31 either stayed or inactive but kept open awaiting settlement or to enforce court-ordered administrations of settlement. Of the 233 pending cases, 175 are designated mandatory complex business, 27 are discretionary complex business cases, and 31 are exceptional cases. One hundred nineteen cases were closed in calendar year 2009.

## B. Distribution of Pending Cases

The Business Court currently has 233 pending cases originating from 44 counties, with 96 cases originating in the eastern (geographical) district, 50 from the middle district, and 87 from the western district.

COUNTY OF ORIGIN	NUMBER OF CASES	DISTRIBUTION		
		<u>Greensboro</u>	<u>Charlotte</u>	<u>Raleigh</u>
Alamance	5	5		
Alexander	1	1		
Alleghany	1		1	
Brunswick	21			21
Buncombe	4	1	3	
Burke	1	1		
Cabarrus	2	2		
Carteret	1			1
Catawba	3	3		
Chatham	1			1
Columbus	1			1
Cumberland	2			2
Dare	5	3	1	1
Davidson	3	2	1	
Durham	7		1	6
Forsyth	4		3	1
Franklin	1			1
Gaston	11	6	5	
Graham	1		1	
Guilford	21	20	1	
Halifax	1	1		
Haywood	1		1	
Henderson	5		5	
Johnston	2	1		1
Lee	1			1
McDowell	2	1	1	
Mecklenburg	49	10	34	5
Moore	1	1		
Nash	1	1		
New Hanover	14	2		12
Onslow	2			2
Perquimans	1			1
Pitt	1			1
Randolph	2	1	1	
Robeson	1		1	
Rockingham	1		1	
Rowan	1	1		
Rutherford	2	1	1	
Sampson	1			1
Union	3	1	2	
Vance	2			2
Wake	41	14	1	26
Watauga	1			1
Yadkin	1	1		
<b>Total Pending Cases</b>	<b>233</b>			
	<b>Caseload per judge</b>	<b>80</b>	<b>65</b>	<b>88</b>

### III. CASE ASSIGNMENT AND EXPENDITURES BY SITE

#### A. GREENSBORO as of 12/31/2009

The Business Court-Greensboro has 80 open cases, 6 of which are on appeal and 14 are inactive, stayed or are in the process of settling. The average case age of the active cases is 416 days.

Thirty-nine cases were closed in calendar year 2009.

FY 2008-09 expenditures for the Business Court-Greensboro were \$345,469.56.

The 80 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 (age in days)</u>
1. Alexander Hosp. Investors v. Frye Reg'l Med. Center	Alexander	11/17/09	09 CVS 757 <i>Mandatory</i>	Active 44
2. Allen v. Land Resources Grp. Of NC	Rutherford	10/15/08	08 CVS 1283 <i>Mandatory</i>	Active 442
3. Am Cmty Bank v Royal Am Co.	Union	10/10/06	06 CVS 1609 <i>Mandatory</i>	Stayed
4. Ammons v. Fire & Wire, Inc.	Guilford	4/13/09	09 CVS 4766 <i>Mandatory</i>	Active 262
5. Apex Homes, Inc. v. Management Solutions, Inc	Mecklenburg	11/19/08	08 CVS 24838 <i>Mandatory</i>	Active 407
6. Armacell LLC v. Bostic	Alamance	5/28/08	08 CVS 224 <i>Mandatory</i>	On Appeal
7. Azalea Garden Board v. Vanhoy	Davidson	5/31/07	06 CVS 0948 2.1	Stayed
8. Bollinger v. Biltmore Fin. Grp., Inc.	Catawba	12/15/08	08 CVS 4340 <i>Mandatory</i>	Stayed
9. Boone v. American Benefit Concepts, Inc.	Guilford	5/17/09	09 CVS 6282 <i>Mandatory</i>	Active 228
10. Bradley v. Bradley Farms, Inc.	Halifax	5/11/09	09 CVS 598 <i>Mandatory</i>	Inactive Settling
11. Brooks Industries, Inc. v. Springs Industries, Inc.	Mecklenburg	10/29/08	08 CVS 15534 <i>Mandatory</i>	Active 448
12. CDKP Dev., Inc. v. Burton Farm Dev. Co., LLC	Nash	3/30/09	09 CVS 669 <i>Mandatory</i>	Inactive Settling

13. CIT Grp/Comm. Svcs, Inc. v. Royal Am. Corp.	Guilford	4/11/07	06 CVS 8891 2.1 & 2.2.	Stayed
14. CIT Grp/Comm. Svcs, Inc. v. Royal Cordage Corp.	Guilford	11/29/06	06 CVS 10660 <i>Mandatory</i>	Stayed
15. Cartridge, Ltd. v. JRi Dev. Grp., LLC	Alamance	5/21/09	09 CVS 1513 <i>Mandatory</i>	Active 224
16. Charlotte-Mecklenburg Hospital Authority v. Wachovia Bank, N.A.	Mecklenburg	12/23/08	08 CVS 27739 <i>Mandatory</i>	Active 373
17. CitiCapital Tech. Fin., Inc. v. Royal Am. Co., LLC	Gaston	1/04/07	06 CVS 5547 <i>Mandatory</i>	Active 734
18. Comor Corp. v. Comor Comm'ns, LLC	Guilford	9/14/09	09 CVS 11449 <i>Mandatory</i>	Active 108
19. Crockett Capital Corp. v. Inland American Winston Hotels, Inc.	Wake	1/17/08	08 CVS 00691 <i>Mandatory</i>	Active 714
20. Delhaize America, Inc. v. Secretary of Revenue	Wake	1/08/08	07 CVS 020801 <i>Mandatory</i>	Active 723
21. Deutsche Bank Trust Co. Americas v. Tradewinds Airlines, Inc.	Guilford	1/15/04	03 CVS 12215 2.1 & 2.2	Active Reopened 8/27/08 678
22. Fail-Safe Group, Inc. v. Thousand	Guilford	10/28/08	08 CVS 11725 <i>Mandatory</i>	Active 429
23. Faruque v. Bishopric	Catawba	7/9/08	08-CVS-2242 <i>Mandatory</i>	Active 540
24. Ferguson Fibers, Inc. v. Foster	Davidson	6/11/09	09 CVS 1400 <i>Mandatory</i>	Active 203
25. First Bank v. Royal Am. Co., LLC	Gaston	1/4/07	06 CVS5531 <i>Mandatory</i>	Active 1091
26. Fitte v. Rutter	Guilford	5/19/09	09 CVS 7165 <i>Mandatory</i>	Active 226
27. Franklin Co. Bd. Of Edu. v. NC Dept. of Revenue	Wake	10/15/09	09 CVS 20861 <i>Mandatory</i>	Active 77
28. Fratelli of NC v. Scarfone	Guilford	7/21/09	09 CVS 891 <i>Mandatory</i>	Active 163

29. Gen. Elec. Capital Corp. v. Royal Am. Co., LLC	Gaston	1/19/07	06 CVS 2385 <i>Mandatory</i>	Active 1076
30. Governor's Court Condominium Ass'n. v. John S. Clark Co	Guilford	2/02/09	09 CVS 2479 <i>Mandatory</i>	Active 332
31. Harco Nat'l Ins. Co. v. Grant Thornton LLP	Wake	3/14/06	05 CVS 2500 2.1 & 2.2	On Appeal
32. Henderson v. Manuel	Guilford	5/19/09	09 CVS 7254 <i>Mandatory</i>	Active 226
33. High Point Bank and Trust Co. v. Sapona Mfg. Co.	Randolph	4/28/08	08 CVS 1065 <i>Mandatory</i>	Active 612
34. Hill v. StubHub, Inc.	Guilford	11/15/07	07 CVS 11310 <i>Mandatory</i>	Active 412
35. Holden v. Morlando	Guilford	9/29/09	09 CVS 12414 <i>Mandatory</i>	Active 93
36. Inland American Winston Hotels, Inc. v. Winston	Wake	12/22/08	08 CVS 021786 <i>Mandatory</i>	Active 404
37. Isenhour v. Biltmore Fin. Grp., LLC	Catawba	12/22/08	08 CVS 4341 <i>Mandatory</i>	Stayed
38. KLATMW, Inc. v. Electric Systems Protection, Inc.	Wake	10/15/09	09 CVS 16393 <i>Mandatory</i>	Active 77
39. Kern v. Kern	Guilford	10/06/08	08 CVS 5200 2.1 & 2.2	Active 451
40. Koopman v. Koopman Dairies, Inc.	Wake	10/15/09	09 CVS 16393 <i>Mandatory</i>	Active 77
41. Land v. Land	Guilford	1/25/06	06 CVS 11688 2.1 & 2.2	On Appeal
42. Leiber v. Arboretum Joint Venture	Mecklenburg	7/17/06	05 CVS 18751 2.1	On Appeal
43. Little v. Biltmore Fin. Grp., LLC	Burke	12/18/08	08 CVS 2045 <i>Mandatory</i>	Stayed
44. Loftin v. KPMG LLP	Wake	7/25/06	03 CVS 16882 2.1	Stayed
45. Mark v. Wachovia Bank, N.A.	McDowell	12/18/09	09 CVS 1062 <i>Mandatory</i>	Active 13

46. Mason v. Raich	Guilford	9/18/09	09CVS11745 <i>Mandatory</i>	Active 104
47. McKinnon v. CV Industries	Guilford(HP)	9/08/09	09 CVS 1556 <i>Mandatory</i>	Active 114
48. Middleton v. Smith	Cabarrus	7/22/09	09 CVS 2888 <i>Mandatory</i>	Active 162
49. Moltzon v. King	Wake	8/28/09	09 CVS 17075 <i>Mandatory</i>	Active 125
50. O'Donnell v. SYMB, LLC	Moore	7/09/08	08 CVS 01100 <i>Mandatory</i>	Active 540
51. Oak-Bark Corp. v. French	New Hanover	8/18/09	09 CVS 3164 <i>Mandatory</i>	Active 135
52. Palles v. Hatteras Inv. Partners LLC	Wake	9/17/08	08 CVS 14393 <i>Mandatory</i>	Active 470
53. Pineway Partners, LLC v. Holt Asia, LLC	New Hanover	8/18/09	09 CVS 3164 <i>Mandatory</i>	Active 135
54. Press Comm'ns., LLC v. Wachovia Bank, N.A.	Mecklenburg	11/20/09	09CVS21335 <i>Rule 2.1</i>	Active 41
55. Regions Bank v. Royal Am Co., LLC	Mecklenburg	10/23/06	06 CVS 13184 <i>Mandatory</i>	Stayed
56. Revolutionary Concepts , Inc. v. Clements Walker, PLLC	Mecklenburg	3/03/08	08 CVS 4333 <i>Mandatory</i>	Active
57. SCR-Tech LLC v. Evonik Energy Svcs. , LLC	Mecklenburg	10/10/08	08 CVS 16632 2.1 & 2.2	Active 447
58. Sea Ranch II, Inc. v. Sea Ranch II Homeowners Ass'n Inc.	Dare	6/12/06	06 CVS 280 <i>Mandatory</i>	Inactive
59. Sea Ranch II, Inc. v. Gusler	Dare	9/04/09	09 CVS 721 <i>Mandatory</i>	Active 118
60. Settle as McDermott Executor v. Bankers Life & Casualty Co.	Guilford(HP)	9/08/09	09 CVS 1556 <i>Mandatory</i>	Active 114
61. Siemens Fin. Svcs, Inc. v. V.H. Ind., Inc.	Gaston	7/09/07	07 CVS 1757 <i>Mandatory</i>	Active 906
62. Southern Pines Fitness, LLC v. Irvin	New Hanover	11/12/08	08 CVS 4525 <i>Mandatory</i>	Inactive Settling

63. Springs Leasing Corp. v. Royal Cordage Corp.	Mecklenburg	2/06/07	06 CVS 22029 <i>Mandatory</i>	Active 1059
64. State v. Custard	Wake	5/03/06	06 CVS 4622 <i>Mandatory</i>	Active 1338
65. State v. iMergent	Wake	5/21/07	07 CVS 7381 <i>Mandatory</i>	On Appeal
66. State v. Philip Morris Inc.	Wake	11/05/03	99 CVS 14377 2.1	Inactive COA07-1572 12/2008
67. Superior Performers, Inc. v. Shenandoah Life Ins. Co.	Alamance	8/05/08	08 CVS 1190 <i>Mandatory</i>	Active 513
68. Superior Performers, Inc. v. Simpson	Alamance	1/23/09	09 CVS 3764 <i>Mandatory</i>	Active 342
69. Teague v. Bayer AG	Buncombe	3/15/05	05 CVS 90 2.1 & 2.2	On Appeal
70. Tedder v. Tedder	Dare	5/12/09	08 CVS 259 <i>Mandatory</i>	Active 233
71. Thompson v. Manuel	Rowan	8/04/09	09 CVS 2074 <i>Mandatory</i>	Active 149
72. Thousand v. Fail-Safe	Guilford	10/27/08	08 CVS 11053 <i>Mandatory</i>	Active 429
73. Triad Grp., Inc. v. Wachovia	Yadkin	5/21/09	09 CVS 355 <i>Mandatory</i>	Active 224
74. UPS Capital Bus. Credit v. Royal Am. Co. LLC	Gaston	10/ 23/06	06 CVS 3512 <i>Mandatory</i>	Active 1165
75. Vernon v. Cuomo	Wake	6/12/06	06 CVS 8416 <i>Mandatory</i>	Active 1298
76. Walters & Zimmerman, PLLC v. Zimmerman	Wake	3/13/08	08 CVS 4182 <i>Mandatory</i>	Active 658
77. Webb v. Royal Am. Co., LLC	Gaston	10/06/06	06 CVS 4626 <i>Mandatory</i>	Active 1182
78. Wefald v. Wake Heart and Vascular Assocs., P.A.	Johnston	5/29/09	09 CVS 1664 <i>Mandatory</i>	Active 216
79. Wells Fargo Bank, NA v. Royal America Co., LLC	Wake	1/30/08	07 CVS 24448 <i>Mandatory</i>	Active 701

80. Zairy v. VKO, Inc.	Guilford	7/09/09	09 CVS 8023 <i>Mandatory</i>	Active 175
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**B. CHARLOTTE – As of 12/31/2009**

The Business Court-Charlotte currently has 64 open cases, 4 of which are on appeal and 10 stayed or inactive. The average case age of the active cases is 406 days.

Forty cases were closed in calendar year 2009.

FY 2008-09 expenditures for the Business Court-Charlotte were \$293,137.91.

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 (age in days)</u>
1. 1 <sup>st</sup> Americard v. Kitchens	Mecklenburg	4/1/09	09 CVS 4799 <i>Mandatory</i> Cons Union 09 CVS 773	Active 274
2. Allen Smith Inv. Prop. V. Barberry Prop.	Mecklenburg	12/28/09	09 CVS 28709 <i>Mandatory</i>	Active 3
3. American Acquisition v. Goldman	Mecklenburg	5/20/09	09 CVS 11610 <i>Mandatory</i>	Active 225
4. American Mechanical, Inc. v. Bostic	Randolph	11/30/09	09 CVS 3197 <i>Mandatory</i>	Active 31
5. Anderson v. Certified Estate Planners, Inc.	Gaston	11/16/07	06 CVS 5363 2.1 & 2.2	Stayed
6. Auten v. Certified Estate Planners, Inc.	Gaston	11/16/07	06 CVS 5364 2.1 & 2.2	Stayed
7. BB&T BOLI Plan Trust v. Mass. Mutual Life Ins. Co.	Forsyth	6/22/09	09 CVS 4007 <i>Mandatory</i>	Active 192
8. Bankers Life & Casualty v. Barnes	Mecklenburg	9/1/09	09 CVS 19951 <i>Mandatory</i>	On Appeal
9. Blitz v. Agean, Inc.	Durham	1/20/06	05 CVS 441 2.1	On Appeal
10. Bowden v. Noel	Henderson	5/14/07	07 CVS 603 <i>Mandatory</i>	Stayed
11. Broad v. Certified Estate Planners, Inc.	Henderson	1/25/08	06 CVS 1941 2.1 & 2.2	Stayed

12. Brown Bros. Harriman Tr. Co. v. Benson	Mecklenburg	8/28/08	08 CVS 13456 2.1	On Appeal
13. Bueche v. Noel	Henderson	5/14/07	07 CVS 597 <i>Mandatory</i>	Stayed
14. Builders Union Invs. v. Bromont Invs.	Mecklenburg	10/8/09	09 CVS 21528 <i>Mandatory</i>	Active 84
15. Buncombe Co. v. Hotels.com, LP	Buncombe	2/05/07	07 CVS 00585 <i>Mandatory</i> Cons Wake 06 CVS 16256	Active 1060
16. Cabrera v. Ridges at Morgan Creek	McDowell	7/29/09	09 CVS 544 <i>Mandatory</i>	Active 155
17. Carpenter v. Lancaster	Mecklenburg	1/13/09	08 CVS 22823 <i>Mandatory</i> Cons Meck 08 CVS 22640	Active 352
18. Coleman v. Beazer Homes Corp.	Mecklenburg	8/4/08	07 CVS 13085 2.1	Active 514
19. Confecciones Intl. v. Liberty de Honduras	Guilford	1/2/09	08 CVS 10084 2.1	Active 363
20. Cunniff v. Lewis	Mecklenburg	4/20/09	09 CVS 3978 <i>Mandatory</i>	Stayed
21. Danius v. India Abroad Publications, Inc.	Mecklenburg	10/21/09	09 CVS 17908 <i>Mandatory</i>	Active 71
22. Dare Co. v. Hotels.com, LP	Dare	2/27/07	07 CVS 56 <i>Mandatory</i> Cons Wake 06 CVS 16256	Active 1038
23. Donovan v. Huffman	Mecklenburg	2/5/09	09 CVS 2227 <i>Mandatory</i>	Active 329
24. Ehrenhaus v. Baker	Mecklenburg	10/17/08	08 CVS 22632 <i>Mandatory</i>	Active 440
25. Esquire Trade & Finance, Inc. v. Diversified Sr. Svcs., Inc.	Forsyth	8/13/08	08 CVS 6227 <i>Mandatory</i>	Active 505
26. Estwanik v. Gudeman	Mecklenburg	5/29/08	08 CVS 11485 <i>Mandatory</i>	Active 581
27. Fisher v. Comm'n Workers of America	Gaston	6/12/08	08 CVS 3154 <i>Mandatory</i>	Active 567
28. Grainger v. Kitchens	Union	4/1/09	09 CVS 773 <i>Mandatory</i> Cons Meck 09 CVS 4799	Active 274

29. Green v. Condra	Buncombe	1/21/09	08 CVS 6575 <i>Mandatory</i>	Active 344
30. Grimes v. Miller	Mecklenburg	12/16/08	08 CVS 27217 <i>Mandatory</i>	Active 380
31. Harvey v. Schwartz	Mecklenburg	3/16/09	09 CVS 5160 <i>Mandatory</i>	Active 290
32. Hilb Rogal & Hobbs Co. v. Sellers	Mecklenburg	10/01/07	07 CVS 19339 <i>Mandatory</i>	Active 822
33. Howard v. Dunaways, Inc.	Mecklenburg	9/17/09	09 CVS 20415 <i>Mandatory</i>	Active 105
34. J. Freeman Floor v. Freeman	Henderson	9/8/08	08 CVS 1120 <i>Mandatory</i>	Active 479
35. Kornegay v. Aspen Asset Group, LLC	Mecklenburg	1/19/06	04CVS 22242 2.1	On Appeal
36. Laney v. Corn	Buncombe	9/17/09	09 CVS 6849 <i>Mandatory</i>	Active 105
37. LendingTree v. Beddingfield	Mecklenburg	4/22/08	08 CVS 9108 <i>Mandatory</i>	Stayed
38. Llaneza v. Walsh	Mecklenburg	3/30/09	08 CVS 7021 <i>Mandatory</i>	Active 276
39. McArthur v. Thompson	Rutherford	3/30/09	09 CVS 452 <i>Mandatory</i>	Active 276
40. McKee v. James	Robeson	10/26/09	09 CVS 3031 <i>Mandatory</i>	Active 66
41. Mecklenburg County v. Hotels.com, LP	Mecklenburg	1/22/08	08 CVS 741 <i>Mandatory</i> Cons Wake 06 CVS 16256	Active 709
42. Medicus Healthcare v. Nazemetz	Mecklenburg	7/1/08	07 CVS 22703 <i>Mandatory</i>	Active 548
43. Napco, Inc. v. PBM Graphics	Alleghany	5/11/09	09 CVS 157 <i>Mandatory</i>	Active 234
44. Northfield Invs., Inc. v. Regions Bank	Mecklenburg	10/01/07	07 CVS 12568 <i>Mandatory</i>	Active 822
45. Oracle Flexible Packaging v. Industrial Air Quality	Forsyth	6/17/09	08 CVS 9361 <i>Mandatory</i>	Active 197

46. Parker v. Certified Estate Planners	Mecklenburg	11/05/07	06 CVS 22773 2.1 & 2.2	Stayed
47. Pharma Services v. Associated Medical	Mecklenburg	4/8/09	09 CVS 8026 <i>Mandatory</i>	Active 267
48. Phelan v. Harbor Capital Mgmt.	Haywood	11/17/09	09 CVS 1486 <i>Mandatory</i>	Active 44
49. Phillips & Jordan v. Bostic	Graham	2/17/09	08 CVS 7 <i>Mandatory</i>	Active 317
50. Ray v. Deloitte & Touche	Mecklenburg	7/5/06	06 CVS 10418 <i>Mandatory</i>	Active (Receivership) 1275
51. Red Ventures v. Modern Consumer	Mecklenburg	6/19/09	09 CVS 11333 <i>Mandatory</i>	Active 195
52. Regional Property v. Carpenter	Mecklenburg	12/1/08	08 CVS 22640 <i>Mandatory</i> Cons with Regions cases	Active 395
53. Regions Bank v. Regional Prop. Dev. Corp.	Mecklenburg	7/13/ 07	07 CVS 12469 <i>Mandatory</i> Cons Meck 08 CVS 22640	Active 902
54. Robertshaw Controls Co. v. Moll Indus., Inc.	Davidson	2/07/08	07 CVS 01362 2.1 & 2.2	Active 693
55. Smith v. Noel	Henderson	1/25/08	06 CVS 1959 2.1 & 2.2	Stayed
56. Smith v. Transon	Mecklenburg	9/8/08	08 CVS 14906 <i>Mandatory</i>	Active 479
57. Speedway Motorsports Int'l v. Bronwen Energy Trading Ltd.	Mecklenburg	6/9/08	08 CVS 9450 <i>Mandatory</i>	Active 570
58. TAI Sports, Inc. v. Hall	Gaston	5/7/09	09 CVS 2201 <i>Mandatory</i>	Active 238
59. Wachovia Bank, N.A. v. Harbinger Cap. Partners Master Fund I, Ltd.	Mecklenburg	5/09/07	07 CVS 5097 2.1	Active 967
60. Wake Co. v. Hotels.com, LP	Wake	2/27/07	06 CVS 16256 2.1 & 2.2 Cons with Hotels.com	Active 673
61. West v. Certified Estate Planners, Inc.	Gaston	11/16/07	06 CVS 5362 2.1 & 2.2	Stayed
62. Williams v. McAlpine	Union	8/4/09	09 CVS 1852	Active

				<i>Mandatory</i>	149
63. Windsor Jewelers, Inc. v. Windsor Fine Jewelers, LLC	Mecklenburg	11/12/08	08 CVS 24643	Mandatory	Active 414
64. Yates Construction Company v. Bostic	Rockingham	11/30/09	09 CVS 2480	<i>Mandatory</i>	Active 31
65. Yodle, Inc. v. Webvisible, Inc.	Mecklenburg	12/14/09	09 CVS 28437	<i>Mandatory</i>	Active 17

### C. RALEIGH

The Business Court-Raleigh currently has 88 open cases, 3 of which are on appeal and 7 inactive or stayed. The average case age of the active cases is 529 days.

Forty cases were closed in calendar year 2009.

FY 2008-2009 expenditures for the Raleigh Business Court were \$365,685.04.

The 88 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 (age in days)</u>
1. A.C. Hall Hardware v. Superior	Brunswick	08/21/08	08 CVS 1169 <i>Mandatory</i>	Active 497
2. Abraham v. Jauregui	Onslow	10/15/09	09 CVS 3608 <i>Mandatory</i>	Active 77
3. Aerial Solutions, Inc. v. Lail	Columbus	12/21/09	09 CVS 1953 <i>Mandatory</i>	Active 10
4. American Drywall v. Intracoastal Living	Brunswick	04/29/08	07 CVS 2805 2.1	Active 611
5. Anderson Roofing v. Intracoastal Living	Brunswick	08/21/08	08 CVS 1395 <i>Mandatory</i>	Active 497
6. Arcadius Dev. LLC v. Patton	Mecklenburg	12/04/06	06 CVS 13738 2.1 & 2.2	Stayed
7. Arky v. Variable Annuity Life Insurance Company	Durham	12/14/09	09 CVS 5283 <i>Mandatory</i>	Active 17
8. Barker-Guidry Architects v. Intracoastal Living	Brunswick	04/29/08	08 CVS 437 2.1	Active 611
9. Barnhill Contracting v. Intracoastal Living	Brunswick	09/10/08	08 CVS 6 <i>Mandatory</i>	Active 477
10. Berton v. Jacobson	Wake	06/17/09	09 CVS 10870 <i>Mandatory</i>	Active 197
11. Blackburn v. L.E. Wooten & Company	Wake	12/22/09	09 CVS 19409 <i>Mandatory</i>	Active 9
12. Bodie Island Beach Club Ass'n v. Wray	Dare	7/21/09	09 CVS 586 <i>Mandatory</i>	Active 163

13. Browne v. Thompson	Forsyth	10/15/09	09 CVS 8588 <i>Mandatory</i>	Active 77
14. Builders Firstsource Southeast Grp. v. Super. Constr. Corp.	Brunswick	2/15/08	07 CVS 2427 2.1	Active 685
15. Cabaniss v. Johnson	Wake	11/28/07	06 CVS 05183 2.1 & 2.2	Stayed
16. Cape Fear Electric v. Intracoastal Living	New Hanover	02/28/08	07 CVS 1744 2.1 & 2.2	Active 672
17. Cape Fear Realty, LLC v. Cape Fear Trading Grp.	Brunswick	6/21/07	07 CVS 1310 <i>Mandatory</i>	Active 924
18. Capps v. Blondeau	Wake	11/07/07	07 CVS 16486 <i>Mandatory</i>	Active 785
19. Castle Branch, Inc. v. Carolina Investigative Research, Inc.	Wake	1/16/08	08 CVS 690 <i>Mandatory</i>	Active 715
20. Cherry v. Fawole	Wake	05/28/08	08 CVS 9143 <i>Mandatory</i>	Active 582
21. Chirico v. Hyson	Chatham	5/21/07	07 CVS 289 <i>Mandatory</i>	Active 955
22. Clark v. Alan Vester Auto Grp., Inc.	Vance	5/09/06	06 CVS 141 2.1	Active 1332
23. Coast Mechanical Contractors, Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2401 2.1	Active 685
24. Coastal Sash & Door v. Super. Constr. Corp.	Brunswick	2/15/08	07 CVS 1464 2.1	Active 685
25. Contractor Yard v. Intracoastal Living	New Hanover	05/14/08	07 CVS 5435 2.1 & 2.2	Active 596
26. Cottages of Stonehenge Condominium HOA v. Dominion Mid-Atlantic Properties	Wake	12/19/08	08 CVS 18768 <i>Mandatory</i>	Active 377
27. Custom Colors v. Intracoastal Living	Brunswick	08/27/08	07 CVS 2561 2.1	Active 491
28. Diverse Networks v. Time Warner Entertainment	Wake	09/03/08	08 CVS 15395 <i>Mandatory</i>	Active 484

29. Edgewater Svcs., Inc. v. Epic Logistics, Inc.	Wake	4/17/06	05 CVS 1971 2.1 & 2.2	Active 1354
30. EHP Land v. Boshier	Perquimans	4/10/07	07 CVS 59 <i>Mandatory</i>	Active 996
31. Gary Wayne Hardee, PA v. Gene A. Riddle, PA	Pitt	03/31/08	08 CVS 968 <i>Mandatory</i>	Active 640
32. Global Promotions Group, Inc. v. Danas, Inc.	Wake	9/04/09	09 CVS 14961 <i>Mandatory</i>	Active 118
33. Griffin Mgt. Corp v. Carolina Power & Light Co.	Wake	6/12/06	05 CVS 14428 2.1 & 2.2	Active 1298
34. Hamm v. BCBS of NC	Durham	7/6/06	05 CVS 5606 2.1	Active 1274
35. Hargrove v. Alan Vester Auto Grp.	Vance	8/01/07	06 CVS 1309 2.1	Inactive
36. Harris v. Wachovia	Mecklenburg	10/15/09	09 CVS 25270 <i>Mandatory</i>	Active 77
37. Health Mgmt Assocs, Inc. v. Yerby	Franklin	7/24/07	06 CVS 839 2.1 & 2.2	On appeal
38. Intracoastal Living LLC v. Hyson	Brunswick	8/21/08	07 CVS 2836 2.1	Active 497
39. Johnson v. Johnson	Wake	7/26/07	07 CVS 09631 <i>Mandatory</i>	Stayed
40. Kwong v. L.E. Wooten & Company	Wake	10/22/09	09 CVS 19408 <i>Mandatory</i>	Active 70
41. L'Heureux Enters., Inc. v. Port City Java, Inc.	New Hanover	10/5/06	06 CVS 3367 <i>Mandatory</i>	On Appeal
42. Lancaster v. Harold K. Jordan & Co.	New Hanover	04/01/08	08 CVS 883 <i>Mandatory</i>	Active 639
43. Lee v. Coastal Agro Business, Inc.	Sampson	11/24/09	09 CVS 1719 <i>Mandatory</i>	Active 37
44. Mancinelli v. Momentum Research	Durham	02/11/09	09 CVS 1383 <i>Mandatory</i>	Active 323
45. Mancini v. Willis	Onslow	03/09/09	09 CVS 919 <i>Mandatory</i>	Active 297

46. Marlabs, Inc.v. Consert, Inc.	Wake	07/21/09	09 CVS 14198 <i>Mandatory</i>	Active 163
47. Marosi v. M.F. Harris Research	New Hanover	12/12/08	08 CVS 4546 <i>Mandatory</i>	Active 384
48. Mattress Now v. KS Bank	Johnston	08/12/08	08 CVS 2631 <i>Mandatory</i>	Active 506
49. Merritt v. Brown Oil Co.	Durham	6/01/07	07 CVS 03611 <i>Mandatory</i>	Active 944
50. Mid-Carolina Cabinets v. Superior Construction	Mecklenburg	03/12/08	07 CVS 21933 2.1 & 2.2	Active 659
51. Miller & Long Co., v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 1760 2.1	Active 685
52. Mitchell, Brewer, et al. v. Brewer	Cumberland	7/14/06	06 CVS 6091 <i>Mandatory</i>	On Appeal
53. Mooring Capital Fund, LLC v. Comstock North Carolina, LLC	Wake	1/17/08	07 CVS 020852 <i>Mandatory</i>	Active 714
54. Murphy v. Arcadius Dev., LLC	New Hanover	10/13/06	06 CVS 2411 <i>Mandatory</i>	Stayed
55. NRC Golf Course, L.L.C. v. JMR Golf L.L.C.	Carteret	12/23/09	09 CVS 1835 <i>Mandatory</i>	Active 8
56. Oakeson v. TBM Consulting Group, Inc.	Durham	08/05/08	08 CVS 3884 <i>Mandatory</i>	Active 513
57. Palmer v. Downing	New Hanover	01/26/09	08 CVS 5582 <i>Mandatory</i>	Active 339
58. Patton v. Arcadius Invs., LLC	New Hanover	10/13/06	06 CVS 3785 <i>Mandatory</i>	Stayed
59. Pendergraph v. NC Dept of Rev.	Wake	09/29/09	09 CVS 19607 <i>Mandatory</i>	Active 93
60. Pfeiffer v. Frontier Spinning Mills	Lee	04/07/09	09 CVS 283 <i>Mandatory</i>	Active 268
61. RJM Plumbing v. Superior Construction	Brunswick	04/29/08	08 CVS 189 2.1	Active 611
62. Ruth Cook Blue Living Trust v. Blue	Watauga	5/31/07	07 CVS 222 <i>Mandatory</i>	Active 945

63. S&W Ready Mix Concrete Co. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2157 2.1	Active 685
64. Schindler Elevator v. Superior Construction	Brunswick	04/29/08	08 CVS 414 2.1	Active 611
65. Shallcross v. Shallcross	Wake	8/19/09	09 CVS 11909 <i>Mandatory</i>	Active 134
66. Shamoon v. Turkow	Wake	11/19/08	08 CVS 18850 <i>Mandatory</i>	Active 407
67. Shareff v. Lakebound Fixed Return Fund, LLC	Wake	06/08/09	09 CVS 9983 <i>Mandatory</i>	Active 206
68. Sherwin-Williams Company v. Intracoastal Living, LLC	Brunswick	02/15/08	07 CVS 2124 2.1	Active 685
69. Smith v. Lewis	Wake	4/09/07	05 CVS 17912 2.1 & 2.2	Active 997
70. Smith Bros. Truck Garage v. Covington Diesel, Inc.	Cumberland	1/19/06	05 CVS 9600 2.1 & 2.2	Active 1442
71. Sonic Automotive v. Mercedes-Benz USA	Mecklenburg	04/18/08	08 CVS 4259 <i>Mandatory</i>	Active 662
72. Sony Ericsson Mobile Comm. USA, Inc. v. Motorola, Inc.	Wake	2/20/08	06 CVS 11334 <i>Mandatory</i>	Active 680
73. Southern Mechanical, Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2099 2.1	Active 685
74. Spec 9, Inc. v. Division Nine of the Carolina's, Inc.	New Hanover	02/04/09	09 CVS 325 <i>Mandatory</i>	Active 330
75. St. George Technology v. Watkins	New Hanover	05/29/09	09 CVS 2037 <i>Mandatory</i>	Active 216
76. Stratton v. RBC Centura Banks	Wake	10/26/07	07 CVS 15079 <i>Mandatory</i>	Active 797
77. Stroock, Stroock & Lavan v. Dorf	Wake	09/18/08	08 CVS 14248 <i>Mandatory</i>	Active 469
78. Superior v. Intracoastal	Brunswick	12/11/08	07 CVS 2806 2.1 & 2.2	Active 385
79. Temic Automotive of North America v. Wavecom	Wake	12/08/08	08 CVS 21176 <i>Mandatory</i>	Active 388

80. Thompson v. Hendrickson	Wake	01/05/09	08 CVS 12734 <i>Mandatory</i>	Active 360
81. Torres v. Steel Network, Inc.	Wake	03/30/09	09 CVS 3654 <i>Mandatory</i>	Stayed
82. Truss Link, Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2569 2.1	Active 685
83. Turner Electrical of South Carolina v. Intracoastal	Brunswick	04/29/08	07 CVS 2825 2.1	Active 611
84. Tyson v. Tyson	Durham	11/10/09	09 CVS 6826 <i>Mandatory</i>	Active 51
85. Village Landing v. Withers & Ravenel	New Hanover	08/05/08	07 CVS 5554 2.1	Active 513
86. Wachovia Bank, N.A. v. Superior Construction Corp.	Mecklenburg	3/12/08	07 CVS 21256 2.1, 2.2	Active 659
87. Wallcraft Constr., Inc. v. Intracoastal Living, LLC	Brunswick	2/15/08	07 CVS 2479 2.1	Active 685
88. Waste Industries, LLC v. Waste Hauling Services, LLC	New Hanover	04/08/09	09 CVS 1142 <i>Mandatory</i>	Active 267

## IV. OPINIONS ISSUED

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 in cases involving matters of first impression.

The official opinions entered in the cases listed below in calendar year 2009 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](http://www.ncbusinesscourt.net).<sup>1</sup> Decisions which have been affirmed or reversed on appeal are noted.

2009 \_\_\_\_\_

FRANKLIN COUNTY BD. OF EDUC. v. N.C. DEP'T OF REVENUE  
2009 NCBC 28 (12/22/09)  
09-CVS-20861 (Wake - Tennille)

GRIFFIN MGMT. CORP. v. CAROLINA POWER & LIGHT CO.  
2009 NCBC 27 (11/13/09)  
05-CVS-14428 (Wake - Jolly)

MOORING CAPITAL FUND, LLC v. COMSTOCK N.C., LLC  
2009 NCBC 26 (11/13/09)  
07-CVS-20852 (Wake - Jolly)

GRIFFIN MGMT. CORP. v. CAROLINA POWER & LIGHT CO.  
2009 NCBC 25 (11/12/09)  
05-CVS-14428 (Wake - Jolly)

L'HEUREUX ENTERS., INC. v. PORT CITY JAVA, INC.  
2009 NCBC 24 (09/04/09)  
06-CVS-3367 (New Hanover - Jolly)

OAKESON v. TBM CONSULTING GROUP, INC.  
2009 NCBC 23 (08/21/09)  
08-CVS-3884 (Durham - Jolly)

LEXINGTON FURNITURE INDUS., INC. v. BOB TIMBERLAKE COLLECTION, INC.  
2009 NCBC 22 (09/09/09)  
08-CVS-02407 (Davidson - Tennille)

GREEN v. CONDRA  
2009 NCBC 21 (08/14/09)  
08-CVS-6575 (Buncombe - Diaz)

EDGEWATER SERVS., INC. v. EPIC LOGISTICS, INC.  
2009 NCBC 20 (08/11/09)  
05-CVS-1971 (Wake - Jolly)

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<sup>1</sup> Each Business Court Judge decides which orders will be posted on the Court's web site as Opinions.  
NC Business Court Activities, March 2009 report  
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TORRES v. THE STEEL NETWORK, INC.  
2009 NCBC 19 (07/27/09)  
09-CVS-3654 (Wake - Jolly)

CLARK v. ALAN VESTER AUTO GROUP, INC.  
2009 NCBC 18 (07/17/09)  
06-CVS-141 (Vance - Jolly)

CLARK v. ALAN VESTER AUTO GROUP, INC.  
2009 NCBC 17 (07/17/09)  
06-CVS-141 (Vance - Jolly)

LEIBER v. ARBORETUM JOINT VENTURE, LLC  
2009 NCBC 16 (07/08/09)  
05-CVS-1875 (Mecklenburg - Tennille)

A-1 PAVEMENT MARKING, LLC v. APMI CORP.  
2009 NCBC 15 (06/26/09)  
07-CVS-3186 (Union - Diaz)

HEALTH MGMT. ASSOCS., INC. v. YERBY  
2009 NCBC 14 (06/01/09)  
06-CVS-0839 (Franklin - Jolly)

PHILLIPS AND JORDAN, INC. v. BOSTIC  
2009 NCBC 13 (06/02/09)  
08-CVS-7 (Graham - Diaz)

DEUTSCHE BANK TRUST CO. AMS. v. TRADEWINDS AIRLINES, INC.  
2009 NCBC 12 (04/29/09)  
03-CVS-12215 (Guilford - Tennille)

HARCO NAT'L INS. CO. v. GRANT THORNTON, LLP  
2009 NCBC 11 (04/20/09)  
05-CVS-2500 (Wake - Tennille)

MITCHELL, BREWER, RICHARDSON, ADAMS, BURGE & BOUGHMAN, PLLC v. BREWER  
2009 NCBC 10 (03/31/09)  
06-CVS-6091 (Cumberland - Jolly)

AZALEA GARDEN BD. & CARE, INC. v. VANHOY  
2009 NCBC 9 (03/26/09)  
06-CVS-0948 (Davidson - Tennille)

AZALEA GARDEN BD. & CARE, INC. v. VANHOY  
2009 NCBC 8 (03/17/09)  
06-CVS-0948 (Davidson - Tennille)

AZALEA GARDEN BD. & CARE, INC. v. VANHOY  
2009 NCBC 7 (03/17/09)  
06-CVS-0948 (Davidson - Tennille)

VERNON v. CUOMO  
2009 NCBC 6 (03/17/09)  
06-CVS-8416 (Wake - Tennille)

CROCKETT CAPITAL CORP. v. INLAND AM. WINSTON HOTELS, INC.  
2009 NCBC 5 (03/13/09)  
08-CVS-000691 (Wake - Tennille)

JDH CAPITAL, LLC v. FLOWERS  
2009 NCBC 4 (03/13/09)  
07-CVS-5354 (Mecklenburg - Tennille)

SPEEDWAY MOTORSPORTS INT'L v. BRONWEN ENERGY TRADING, LTD.  
2009 NCBC 3 (02/18/09)  
08-CVS-9450 (Mecklenburg - Diaz)

WINDSOR JEWELERS, INC. v. WINDSOR FINE JEWELERS, LLC  
2009 NCBC 2 (02/16/2009)  
08-CVS-24643 (Mecklenburg - Diaz)

THE PANTRY, INC. v. CITGO PETROLEUM CORP.  
2009 NCBC 1 (01/22/09)  
08-CVS-00692 (Lee - Diaz)

## V. EVALUATION

For those interested in evaluating business courts, a recent law review article sets forth a framework for understanding and a model for evaluating business courts. See Anne Tucker Nees, *Making a Case for Business Courts: A Survey of and Proposed Framework to Evaluate Business Courts*, 24 Ga. St. U.L. Rev. 477 (2007). The article concludes: "Utilizing the proposed model, North Carolina is the current gold standard in established non-Delaware business courts. . . . Under the proposed framework, North Carolina sets the bar for non-Delaware business courts and has structured its program with attention to efficiency, quality, and due process, which this article argues, serve the underlying goals of civil administration (access, timely action, equality, judicial independence, and public trust)." *Id.* at 2, 18.