

# North Carolina Court of Appeals

Court of Appeals Building  
One West Morgan Street  
Raleigh, North Carolina 27601

This calendar is available at: <https://appellate.nccourts.org/calendar.php?court=2>

All oral arguments on this calendar will be heard via Webex, subject to change based on courtroom safety. Cases will be called on the days calendared in the order listed. The Court, however, may reorder the schedule in the event it grants a request for an oral argument to occur by Webex.

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## COURT CALENDAR BY PANEL

Monday, 6 April 2009

### PANEL NO. 1

HONORABLE JOHN C. MARTIN  
HONORABLE ANN MARIE CALABRIA  
HONORABLE SANFORD STEELMAN

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **MONDAY, 6TH OF APRIL 2009 AT 9:30 a.m.**

State v Gettys	08-927	Burke
State v Wallace & Benton	08-1429	Richmond
Whiteheart v Waller	08-1261	Forsyth

**NOTE:** Oral argument will be held at the following location:

**Charlotte School of Law**

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **MONDAY, 6TH OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Burgess	08-781	Wake
State v Lamond	08-940	Durham
State v Thacker	08-1090	Alamance
State v Marengo	08-1104	Onslow
Mooney v Mooney	08-998	Henderson
Overcash v NC Dept. of Environment	08-1205	Cabarrus
Laster, et al v Francis, et al	08-1230	Wake
Paul v Mechworks Mechanical Contractors	08-1245	N.C. Industrial Commission
Voller Realty & Const. v D.V. Holdings	08-1271	Chatham

**Sent Date: 6 March 2009**

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## COURT CALENDAR BY PANEL

Tuesday, 7 April 2009

### PANEL NO. 2

HONORABLE JAMES A. WYNN, JR.  
HONORABLE BARBARA JACKSON  
HONORABLE ROBERT N. HUNTER, JR.

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **TUESDAY, 7TH OF APRIL 2009 AT 9:30 a.m.**

State v Mello	08-1054	Forsyth
Boryla-Lett v Psychiatric Solutions	08-1357	Wake
Greene, ex rel v Barrick, et al	08-1358	Franklin

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **TUESDAY, 7TH OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Mello	08-1052	Forsyth
State v Laurel	08-1114	Forsyth
State v Bartlett	08-1123	Durham
State v Fulton	08-1210	Forsyth
State v Lawrence	08-1231	Durham
Rowell v Bowling	08-1352	New Hanover
Bryant v Jones	08-1404	Jackson
Carcano v JBSS, LLC	08-1423	Rutherford
Welch v Lumpkin	08-1424	Mecklenburg

Sent Date: 6 March 2009

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## COURT CALENDAR BY PANEL

Wednesday, 8 April 2009

### PANEL NO. 3

HONORABLE LINDA M. MCGEE  
HONORABLE ROBERT C. HUNTER  
HONORABLE CHERI BEASLEY

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 8TH OF APRIL 2009 AT 9:30 a.m.**

Streadwick v Warren	08-1193	Henderson
In Re: Cooper	08-1280	Wake
Pinewild Project v Village of Pinehurst	08-1288	Moore

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 8TH OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Spruiell	08-1244	Lee
State v Young	08-1264	Forsyth
State v Davis	08-1275	Mecklenburg
State v Vines	08-1292	Edgecombe
State v Payton	08-1315	Mecklenburg
State v Ray	08-1329	Hoke
City of Durham v Safety National	08-1149	Durham
Follum v NC State University	08-1291	Wake
In The Matter Of: J.L.	08-1306	Mecklenburg

Sent Date: 6 March 2009

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## COURT CALENDAR BY PANEL

Wednesday, 8 April 2009

### PANEL NO. 4

HONORABLE RICK ELMORE  
HONORABLE DONNA STROUD  
HONORABLE SAM J. ERVIN, IV

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 8TH OF APRIL 2009 AT 1:00 p.m.**

Carolina Digestive v NC Dept. of Health	08-952	N.C. Dept. of Health & Human Svcs
Gray v Allen	08-1092	Stanly

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 8TH OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Dunn	08-1331	Onslow
State v Williams	08-1334	Wake
State v Reese	08-1336	Wake
State v Brewton	08-1338	Bertie
State v Hill	08-1347	Pitt
State v Laliberte	08-1354	Camden
Clark v Tyco International, Inc.	08-1041	Harnett
In Re: Clark	08-1043	Harnett
Mitchell v Mitchell (now Norwich)	08-1069	Durham
Underwood v Underwood	08-1131	Catawba

Sent Date: 6 March 2009

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## COURT CALENDAR BY PANEL

Thursday, 9 April 2009

### PANEL NO. 5

HONORABLE WANDA G. BRYANT  
HONORABLE MARTHA A. GEER  
HONORABLE LINDA STEPHENS

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **THURSDAY, 9TH OF APRIL 2009 AT 9:30 a.m.**

Heflin, et al v G.R. Hammonds Roofing	08-1309	N.C. Industrial Commission
Housecalls Home Health v State of NC	08-1322	Wake

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **THURSDAY, 9TH OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Crocker	08-1363	Davidson
State v Cumbee	08-1366	Harnett
State v Giddens	08-1385	Macon
State v Potter	08-1398	Iredell
State v Stines	08-1418	Catawba
State v Stephens	08-1420	Robeson
Monaghan v Schilling	08-1308	Rutherford
Milks v Mills	08-1313	Forsyth
Lovick v Farris	08-1335	Lee
Rigsbee v Special Flowers, Inc.	08-1340	Durham

Sent Date: 6 March 2009

# North Carolina Court of Appeals

Court of Appeals Building  
One West Morgan Street  
Raleigh, North Carolina 27601

## Supplemental Calendar

Monday, 13 April 2009

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **13 APRIL 2009** BY PANEL TO BE DESIGNATED BY THE CHIEF JUDGE. COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

In The Matter Of: M.D. and J.D.	08-1384	Durham
In The Matter Of: C.A.G.	08-1489	Burke
In The Matter Of: J.D.	08-1491	Mecklenburg
In The Matter Of: C.N.C.B.	08-1510	Burke
In The Matter Of: T.K.D.O.	08-1599	Johnston
In The Matter Of: D.M. and K.M.	09-27	Forsyth

Sent Date: 23 March 2009

# North Carolina Court of Appeals

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## COURT CALENDAR BY PANEL

Monday, 20 April 2009

### PANEL NO. 1

HONORABLE JOHN C. MARTIN  
HONORABLE ANN MARIE CALABRIA  
HONORABLE SANFORD STEELMAN

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **MONDAY, 20TH OF APRIL 2009 AT 1:00 p.m.**

Yurek v Shaffer	08-1410	Granville
Libertarian Party, et al v State, et al	08-1413	Wake
Reese v Mecklenburg County	08-1417	Mecklenburg

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **MONDAY, 20TH OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Stanback	08-1000	Forsyth
State v Jackson	08-1058	Wayne
State v Randolph	08-1138	Beaufort
State v Biggs	08-1170	Chowan
State v Strickland	08-1186	Person
State v Brown	08-1214	Cumberland
State, Ex. Rel. v Eason	08-1432	Camden
Hawkins v General Electric Co.	08-1436	N.C. Industrial Commission
Keith v Wallerich	08-1444	New Hanover

Sent Date: 20 March 2009

# North Carolina Court of Appeals

Court of Appeals Building  
One West Morgan Street  
Raleigh, North Carolina 27601

## Supplemental Calendar

Monday, 20 April 2009

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **20 APRIL 2009** BY PANEL TO BE DESIGNATED BY THE CHIEF JUDGE. COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v McDonald	08-948	Mecklenburg
State v Chance	08-994	Forsyth
State v Parker	08-989	Rowan
State v Short	08-1022	Richmond
State v Hockaday	08-1047	Moore
State v Valentine	08-1153	Forsyth
State v Elliott	08-1203	Cumberland
State v Hartness	08-1227	Catawba

Sent Date: 18 March 2009



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## COURT CALENDAR BY PANEL

Tuesday, 21 April 2009

### PANEL NO. 2

HONORABLE JAMES A. WYNN, JR.  
HONORABLE BARBARA JACKSON  
HONORABLE ROBERT N. HUNTER, JR.

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **TUESDAY, 21ST OF APRIL 2009 AT 9:30 a.m.**

Moss Creek Homeowners v Bisette	08-1156	Guilford
Laotian Culture Center v Wat Lao	08-1255	Mecklenburg

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **TUESDAY, 21ST OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Whitley	08-1246	Martin
State v Parker	08-1260	Columbus
State v Owens	08-1279	Cherokee
State v Vlahakis	08-1299	Onslow
State v Cole & Cole	08-1304	Moore
State v Garcia	08-1312	Forsyth
Bennett v News and Observer	08-1212	Wake
Templeton Properties LP v Town of Boone	08-1237	Watauga
Self-Help Ventures Fund v Custom Finish	08-1482	Durham
First-Citizens Bank v Darwin Medical	08-1486	Cumberland

Sent Date: 20 March 2009

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## COURT CALENDAR BY PANEL

Wednesday, 22 April 2009

### PANEL NO. 3

HONORABLE LINDA M. MCGEE  
HONORABLE ROBERT C. HUNTER  
HONORABLE CHERI BEASLEY

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 22ND OF APRIL 2009 AT 9:30 a.m.**

Calabria v NC State Board of Elections	08-1269	Wake
NC Dept. of Revenue v Nicolai	08-1356	Wake

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 22ND OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Troy	08-1332	Columbus
State v Rogers	08-1344	Cabarrus
State v Arrington	08-1355	Halifax
State v Brown	08-1359	Jones
State v Hunt	08-1377	Durham
State v Bonds	08-1397	Catawba
In The Matter Of: A.B.	08-1349	Buncombe
Pigg v NC Department of Correction	08-1373	N.C. Industrial Commission
Downey v Martin	08-1380	Yancey
Twin Tower Erection v Beatty	08-1437	Forsyth

Sent Date: 20 March 2009

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## COURT CALENDAR BY PANEL

Wednesday, 22 April 2009

### PANEL NO. 4

HONORABLE RICK ELMORE  
HONORABLE DONNA STROUD  
HONORABLE SAM J. ERVIN, IV

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 22ND OF APRIL 2009 AT 1:00 p.m.**

NC Dept. of Revenue v Bill Davis Racing	08-1387	Wake
Harleysville Mutual v Buzz Off Insect	08-1393	Guilford
Fischer Investment v Catawba Dev.	08-1407	Buncombe

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 22ND OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Davis	08-1405	Halifax
State v Whitaker	08-1406	Moore
State v Sturdivant	08-1422	Davidson
State v Vogt	08-1441	Mecklenburg
State v Cannady	08-1459	Franklin
State v Smith	08-1463	Haywood
Barloworld Fleet v Palmetto Forest	08-1391	Mecklenburg
Dean v Bruno	08-1498	Cabarrus
In The Matter Of: Carter	08-1503	Catawba

Sent Date: 20 March 2009

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## COURT CALENDAR BY PANEL

Thursday, 23 April 2009

### PANEL NO. 5

HONORABLE WANDA G. BRYANT  
HONORABLE MARTHA A. GEER  
HONORABLE LINDA STEPHENS

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **THURSDAY, 23RD OF APRIL 2009 AT 9:30 a.m.**

Everhart v O'Charley's, Inc.	08-1454	Forsyth
Schwarz & Schwarz v Caldwell Co.	08-1458	Caldwell

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **THURSDAY, 23RD OF APRIL 2009.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Parker	08-1471	Alamance
State v Raynor	08-1490	Brunswick
State v Jackson	08-1517	Rutherford
State v Brewington	08-1521	Forsyth
State v Causby	08-1533	Rutherford
State v Bradshaw	08-1534	Orange
Petty v Petty	08-1447	Cabarrus
Augusta Homes, Inc. v Feuerstein	08-1456	Iredell
Southern Furniture Company v Anderson	08-1468	Catawba
Bryant v Newcon, Inc., et al	08-1477	N.C. Industrial Commission

Sent Date: 20 March 2009

# North Carolina Court of Appeals

Court of Appeals Building  
One West Morgan Street  
Raleigh, North Carolina 27601

## Supplemental Calendar

Monday, 27 April 2009

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **27 APRIL 2009** BY PANEL TO BE DESIGNATED BY THE CHIEF JUDGE. COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

State v Gayles	08-1151	Onslow
State v Smith	08-1164	Caswell
In The Matter Of: J.R.C.	08-1154	Mecklenburg
State v Marshburn	08-1157	Sampson
State v Dougherty	08-1200	Brunswick
State v Smith	08-1222	Forsyth
State v Elliott	08-1273	Craven
State v Gattison	08-1361	Wake