

# 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, 12 January 2009

### PANEL NO. 1

HONORABLE JOHN C. MARTIN  
HONORABLE WANDA G. BRYANT  
HONORABLE CHERI BEASLEY

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **MONDAY, 12TH OF JANUARY 2009 AT 1:00 p.m.**

|                                      |        |        |
|--------------------------------------|--------|--------|
| Batts v Batts v NC DOT               | 08-522 | Wilson |
| Sony Ericsson Mobile v Agere Systems | 08-525 | Wake   |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **MONDAY, 12TH OF JANUARY 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 Cortes-Serrano                  | 08-591 | Brunswick                  |
| State v Winchester                      | 08-595 | Rockingham                 |
| State v Thomas                          | 08-599 | Union                      |
| State v Moore                           | 08-616 | Lenoir                     |
| State v Bryson                          | 08-625 | Buncombe                   |
| State v Cook                            | 08-628 | Haywood                    |
| In the Matter of: J.D.B.                | 08-499 | Orange                     |
| Pulley v City of Wilson                 | 08-716 | N.C. Industrial Commission |
| Wiles v City of Concord Zoning Board    | 08-717 | Cabarrus                   |
| Vestal v Capital Marble Creations, Inc. | 08-739 | Wake                       |

# North Carolina Court of Appeals

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## Supplemental Calendar

Monday, 12 January 2009

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **12 JANUARY 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 Bell     | 08-281 | Brunswick  |
| State v Justice  | 08-328 | Wake       |
| State v Braddy   | 08-333 | Robeson    |
| State v Hilliker | 08-348 | Pitt       |
| State v Gary     | 08-361 | Polk       |
| State v Cross    | 08-379 | Iredell    |
| State v Corbett  | 08-410 | Alamance   |
| State v Pruitt   | 08-412 | Rutherford |
| State v Graham   | 08-462 | Scotland   |
| State v Franklin | 08-467 | Forsyth    |

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## COURT CALENDAR BY PANEL

Tuesday, 13 January 2009

### PANEL NO. 2

HONORABLE JAMES A. WYNN, JR.  
HONORABLE ROBERT C. HUNTER  
HONORABLE SAM J. ERVIN, IV

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **TUESDAY, 13TH OF JANUARY 2009 AT 9:30 a.m.**

|   |        |             |
|---|--------|-------------|
| Wachovia Bank, et al v Harbinger, et al | 08-629 | Mecklenburg |
|---|--------|-------------|

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **TUESDAY, 13TH OF JANUARY 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 Land                         | 08-407 | Wake        |
| State v Miller                       | 08-427 | Bladen      |
| State v McSwain                      | 08-507 | Cleveland   |
| State v Ward                         | 08-524 | New Hanover |
| State v Bailey                       | 08-544 | Harnett     |
| State v Battle                       | 08-580 | Edgecombe   |
| Guyton v FM Lending Services, Inc.   | 08-614 | Wake        |
| In The Matter Of: Estate of McIntosh | 08-638 | Carteret    |
| Azalea Garden Board & Care v Vanhoy  | 08-640 | Davidson    |
| Sharyn's Jewelers v IPayment, et al  | 08-651 | Carteret    |

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## COURT CALENDAR BY PANEL

Wednesday, 14 January 2009

### PANEL NO. 3

HONORABLE LINDA M. MCGEE  
HONORABLE BARBARA JACKSON  
HONORABLE ROBERT N. HUNTER, JR.

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 14TH OF JANUARY 2009**  
**AT 9:30 a.m.**

|                                       |        |          |
|---------------------------------------|--------|----------|
| Meherrin Indian, et al v Lewis, et al | 08-928 | Hertford |
|---------------------------------------|--------|----------|

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 14TH OF JANUARY 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 Beavers                        | 08-550 | Buncombe                   |
| State v Madures                        | 08-602 | Rowan                      |
| State v Fields                         | 08-627 | Columbus                   |
| State v Neal                           | 08-690 | Johnston                   |
| State v Wesley                         | 08-695 | Rutherford                 |
| State v Rowland                        | 08-753 | Harnett                    |
| Broyhill v Broyhill                    | 08-512 | Wilkes                     |
| City of Greensboro v Morse             | 08-547 | Guilford                   |
| Shepherd v Lowe's Home Centers, Inc.   | 08-757 | N.C. Industrial Commission |
| Fields v Pitt County Memorial Hospital | 08-761 | N.C. Industrial Commission |
| Lawyer v City of Elizabeth City NC     | 08-765 | Pasquotank                 |

Sent Date: 11 December 2008

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## COURT CALENDAR BY PANEL

Wednesday, 14 January 2009

### PANEL NO. 4

HONORABLE ANN MARIE CALABRIA  
HONORABLE RICK ELMORE  
HONORABLE DONNA STROUD

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 14TH OF JANUARY 2009**  
**AT 1:00 p.m.**

|                                   |        |        |
|-----------------------------------|--------|--------|
| Bullard v Tall House Building Co. | 08-839 | Wake   |
| Pressler v Duke University        | 08-859 | Durham |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 14TH OF JANUARY 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 Allen                           | 08-773 | Person                     |
| State v Richardson                      | 08-788 | Orange                     |
| State v Webb                            | 08-806 | Macon                      |
| State v Wilkerson                       | 08-819 | Johnston                   |
| State v Valdez                          | 08-820 | McDowell                   |
| State v Murray                          | 08-826 | Buncombe                   |
| Bare v Catawissa Lumber & Specialty Co. | 08-842 | N.C. Industrial Commission |
| Drake v Hance                           | 08-849 | Union                      |
| La Costa Dev. v Town of North Topsail   | 08-855 | Onslow                     |
| Harmon v Frangis                        | 08-858 | Wake                       |

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## COURT CALENDAR BY PANEL

Thursday, 15 January 2009

### PANEL NO. 5

HONORABLE SANFORD STEELMAN  
HONORABLE MARTHA A. GEER  
HONORABLE LINDA STEPHENS

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **THURSDAY, 15TH OF JANUARY 2009 AT 9:30 a.m.**

|  |        |      |
|--|--------|------|
| State v Maynard                        | 08-847 | Nash |
| Transportation Services v Wake Co. Bd. | 08-664 | Wake |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **THURSDAY, 15TH OF JANUARY 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 Dalton             | 08-873 | Forsyth                 |
| State v Stacey             | 08-883 | Forsyth                 |
| State v Brown              | 08-916 | Mecklenburg             |
| State v LaFountain         | 08-924 | Clay                    |
| State v Ford               | 08-936 | Durham                  |
| In the Matter of: C.G.     | 08-552 | Mecklenburg             |
| Wiggins v Bright           | 08-557 | Lenoir                  |
| In The Matter Of: Sullivan | 08-635 | Property Tax Commission |
| Burress v Burress          | 08-660 | Caldwell                |
| Garner v Garner            | 08-670 | Pitt                    |

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## COURT CALENDAR BY PANEL

Monday, 26 January 2009

### PANEL NO. 1

HONORABLE JOHN C. MARTIN  
HONORABLE WANDA G. BRYANT  
HONORABLE CHERI BEASLEY

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **MONDAY, 26TH OF JANUARY 2009 AT 1:00 p.m.**

|                   |        |             |
|-------------------|--------|-------------|
| State v Palmer    | 08-633 | Davidson    |
| State v Fowler    | 08-652 | Mecklenburg |
| Boseman v Jarrell | 08-957 | New Hanover |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **MONDAY, 26TH OF JANUARY 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 Baker                         | 08-743 | Wayne     |
| Gentry v Big Creek Underground        | 08-922 | Surry     |
| In The Matter Of: N.W.                | 08-935 | Guilford  |
| Norton v Goods                        | 08-963 | Caswell   |
| Schwartz v Banbury Woods Homeowners   | 08-964 | Wake      |
| Johnson v Nash Community College      | 08-969 | Nash      |
| Proctor v Local Government Employees' | 08-976 | Wake      |
| Robinson v Trantham                   | 08-979 | Henderson |
| Stanton Barrett v Innovative Tech.    | 08-983 | Cabarrus  |

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## Supplemental Calendar

Monday, 26 January 2009

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **26 JANUARY 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: A.N., A.W. and I.N. | 08-901  | Wake        |
| In Re: N.L.O.                         | 08-1014 | Guilford    |
| In The Matter Of: C.T.                | 08-1025 | Craven      |
| In The Matter Of: H.M. and N.M.       | 08-1073 | Pasquotank  |
| In The Matter Of: R.M.H. and C.N.P.   | 08-1089 | New Hanover |
| In The Matter Of: A.S., J.B., B.L.S.  | 08-1225 | Brunswick   |

Sent Date: 6 January 2009



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## COURT CALENDAR BY PANEL

Tuesday, 27 January 2009

### PANEL NO. 2

HONORABLE JAMES A. WYNN, JR.  
HONORABLE ROBERT C. HUNTER  
HONORABLE SAM J. ERVIN, IV

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **TUESDAY, 27TH OF JANUARY 2009 AT 9:30 a.m.**

|                                |        |            |
|--------------------------------|--------|------------|
| Williams v Williams            | 08-692 | Iredell    |
| Cochran v Cochran              | 08-697 | Rutherford |
| Vigus v Milton A. Latta & Sons | 08-700 | Durham     |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **TUESDAY, 27TH OF JANUARY 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 Gayton-Barbossa             | 08-863 | Wake                       |
| State v Washington                  | 08-868 | Forsyth                    |
| State v Burroughs                   | 08-891 | Mecklenburg                |
| Johann v Johann                     | 08-671 | Orange                     |
| Machinery Transport, Inc., v Beatty | 08-699 | Wake                       |
| Simms v Simms                       | 08-719 | Wake                       |
| Parker v Hyatt                      | 08-907 | Macon                      |
| Seagle v Cross                      | 08-911 | Buncombe                   |
| Atkins v Black & Decker             | 08-912 | N.C. Industrial Commission |

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## COURT CALENDAR BY PANEL

Wednesday, 28 January 2009

### PANEL NO. 3

HONORABLE LINDA M. MCGEE  
HONORABLE BARBARA JACKSON  
HONORABLE ROBERT N. HUNTER, JR.

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 28TH OF JANUARY 2009**  
**AT 9:30 a.m.**

|                                       |        |            |
|---------------------------------------|--------|------------|
| Ray v Forgy                           | 08-721 | Burke      |
| Goldston v State                      | 08-754 | Wake       |
| Five C's, Inc. v County of Pasquotank | 08-771 | Pasquotank |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 28TH OF JANUARY 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 McKoy                           | 08-923 | Wake         |
| State v Carter                          | 08-960 | Beaufort     |
| State v Streater                        | 08-961 | Davidson     |
| Trophy Tracks, Inc. v Massachusetts Bay | 08-733 | Pitt         |
| In the Matter of: M.S.                  | 08-774 | Mecklenburg  |
| Davis v Barr                            | 08-775 | Union        |
| APAC-Atlantic v 7 Star Construction Co. | 08-913 | Mecklenburg  |
| Insulation Systems, Inc. v Fisher       | 08-915 | Guilford     |
| McNeely v McNeely                       | 08-917 | Transylvania |

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## COURT CALENDAR BY PANEL

Wednesday, 28 January 2009

### PANEL NO. 4

HONORABLE ANN MARIE CALABRIA  
HONORABLE RICK ELMORE  
HONORABLE DONNA STROUD

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 28TH OF JANUARY 2009**  
**AT 1:00 p.m.**

|                                   |        |                            |
|-----------------------------------|--------|----------------------------|
| Newcomb v Greensboro Pipe Company | 08-783 | N.C. Industrial Commission |
| Schaeffer v Town of Hillsborough  | 08-796 | Orange                     |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 28TH OF JANUARY 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 Wagoner                       | 08-982  | Wilkes         |
| State v Popp                          | 08-985  | Craven         |
| State v Kittrell                      | 08-988  | Wake           |
| Bennett v Merchandise Mart Properties | 08-784  | Guilford       |
| Tucker v Tucker                       | 08-789  | Moore          |
| Town of Leland, NC v HWW, LLC         | 08-987  | Brunswick      |
| Liptrap v Coyne                       | 08-991  | Carteret       |
| The North Carolina State Bar v McGee  | 08-995  | N.C. State Bar |
| Gibson v Ussery                       | 08-1002 | Richmond       |

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## COURT CALENDAR BY PANEL

Thursday, 29 January 2009

### PANEL NO. 5

HONORABLE SANFORD STEELMAN  
HONORABLE MARTHA A. GEER  
HONORABLE LINDA STEPHENS

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **THURSDAY, 29TH OF JANUARY 2009 AT 9:30 a.m.**

|                          |        |             |
|--------------------------|--------|-------------|
| Murdock v Chatham County | 08-809 | Chatham     |
| Jeffers v D'Alessandro   | 08-813 | Mecklenburg |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **THURSDAY, 29TH OF JANUARY 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 Bryant                    | 08-962 | Forsyth     |
| State v Keller                    | 08-967 | Nash        |
| State v Gaddy                     | 08-971 | Durham      |
| Jackson v Daniels                 | 08-822 | Craven      |
| In The Matter Of: J.C.            | 08-851 | Mecklenburg |
| In The Matter Of: Hayes           | 08-894 | Forsyth     |
| Town of Oriental v Henry          | 08-896 | Pamlico     |
| NC Farm Bureau v Simpson          | 08-898 | Wake        |
| Lupo v Share of NC, Inc.          | 08-899 | Guilford    |
| Shew v Wal-Mart Stores East, L.P. | 08-902 | Rowan       |