

# North Carolina Court of Appeals

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

## 3.1 Calendar

Monday, 1 August 2011

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **1 AUGUST 2011** 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: J.H-S.                    | 11-112 | Buncombe    |
| In The Matter Of: D.D.D., D.D.D., K.A.D.... | 11-114 | Cherokee    |
| In The Matter Of: C.T., C.R., D.B., D.B.    | 11-236 | Durham      |
| In The Matter Of: H.M.                      | 11-286 | Mecklenburg |
| In Re: L.D.G.                               | 11-338 | Gaston      |
| In Re: P.C.H.                               | 11-419 | Rutherford  |

# North Carolina Court of Appeals

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

## 3.1 Calendar

Monday, 15 August 2011

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **15 AUGUST 2011** 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: B.E., C.C., L.C. | 11-140 | New Hanover |
| In Re: N.S.                        | 11-232 | Columbus    |
| In The Matter Of: T.O. and A.H.    | 11-377 | Mecklenburg |
| In The Matter Of: J.E.             | 11-378 | Wake        |
| In The Matter Of: A.M.W.           | 11-452 | Mecklenburg |
| In The Matter Of: M.S.H., Jr.      | 11-458 | Greene      |

# North Carolina Court of Appeals

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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

Tuesday, 16 August 2011

### PANEL NO. 2

HONORABLE LINDA M. MCGEE  
HONORABLE SAM J. ERVIN, IV  
HONORABLE DOUGLAS MCCULLOUGH

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **TUESDAY, 16TH OF AUGUST 2011.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

|   |         |                            |
|---|---------|----------------------------|
| State v Cortez, et al                       | 10-1211 | Johnston                   |
| State v Bouknight                           | 10-1528 | Durham                     |
| State v Dumas                               | 10-1614 | Guilford                   |
| State v Poole                               | 11-21   | Carteret                   |
| State v Carter                              | 11-36   | Iredell                    |
| State v Williams                            | 11-84   | Washington                 |
| DLD Engineering, Inc., et al v Tidewater... | 10-1486 | New Hanover                |
| Campos-Brizuela v Rocha Masonry, L.L.C.,... | 10-1571 | N.C. Industrial Commission |
| Sellers v FMC Corporation, et al            | 11-12   | N.C. Industrial Commission |
| Citibank, South Dakota, N.A. v Graudin      | 11-77   | Nash                       |
| In The Matter Of: J.M.                      | 11-138  | Johnston                   |
| Bertucci v Bertucci                         | 11-156  | Mecklenburg                |

Sent Date: 15 July 2011

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## COURT CALENDAR BY PANEL

Wednesday, 17 August 2011

### PANEL NO. 3

HONORABLE ROBERT C. HUNTER  
HONORABLE DONNA STROUD  
HONORABLE ROBERT N. HUNTER, JR.

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 17TH OF AUGUST 2011**  
**AT 9:30 a.m.**

|   |         |                            |
|---|---------|----------------------------|
| IN RE RELEASE OF THE SILK PLANT FOREST C... | 10-1516 | Forsyth                    |
| Ray, et al v N.C. DOT                       | 11-17   | N.C. Industrial Commission |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 17TH OF AUGUST 2011**. COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

|   |         |                         |
|---|---------|-------------------------|
| State v Griffin                             | 10-1357 | Forsyth                 |
| State v Martinez                            | 10-1530 | Buncombe                |
| State v Toler                               | 11-5    | Lenoir                  |
| State v Jones                               | 11-22   | Onslow                  |
| State v Teague                              | 11-39   | Randolph                |
| State v Crawley                             | 11-93   | Durham                  |
| In The Matter Of: Brooks                    | 10-1609 | Property Tax Commission |
| The City of Charlotte v Combs, et al        | 11-107  | Mecklenburg             |
| Ross v Ross                                 | 11-141  | Carteret                |
| Cinoman, et al v The University of NC, e... | 11-160  | Wake                    |

Sent Date: 15 July 2011

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## COURT CALENDAR BY PANEL

Wednesday, 17 August 2011

PANEL NO. 4

HONORABLE WANDA G. BRYANT  
HONORABLE MARTHA A. GEER  
HONORABLE CHERI BEASLEY

Chief John C. Martin will sit for Judge Wanda G. Bryant for the orally argued case.

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 17TH OF AUGUST 2011** **AT 1:00 p.m.**

|                                  |         |      |
|----------------------------------|---------|------|
| 42 East, LLC v D.R. Horton, Inc. | 10-1570 | Wake |
|----------------------------------|---------|------|

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 17TH OF AUGUST 2011**. COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

|   |         |             |
|---|---------|-------------|
| State v Kidwell                             | 10-1407 | Durham      |
| State v Patel                               | 10-1564 | Wake        |
| State v Harris                              | 11-14   | Mecklenburg |
| State v McDowell                            | 11-28   | Cleveland   |
| State v Stroud                              | 11-72   | Mecklenburg |
| State v Marcus                              | 11-95   | Mecklenburg |
| Wetherby v B6USA, Inc., et al               | 10-1613 | Wake        |
| Bald Head Association v Curnin              | 11-23   | Brunswick   |
| Birtha, et al v Stonemor, et al             | 11-79   | Mecklenburg |
| Hardin, et al v York Memorial Park, et a... | 11-80   | Mecklenburg |
| Russo v Russo                               | 11-162  | Craven      |

Sent Date: 15 July 2011

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## COURT CALENDAR BY PANEL

Thursday, 18 August 2011

### PANEL NO. 5

HONORABLE ANN MARIE CALABRIA  
HONORABLE RICK ELMORE  
HONORABLE SANFORD STEELMAN

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **THURSDAY, 18TH OF AUGUST 2011 AT 9:30 a.m.**

|   |        |        |
|---|--------|--------|
| Tillet, et al v Onslow Memorial Hospital... | 11-116 | Onslow |
|---|--------|--------|

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **THURSDAY, 18TH OF AUGUST 2011.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

|   |         |           |
|---|---------|-----------|
| State v McConico                            | 10-1424 | Guilford  |
| State v Scriven                             | 10-1565 | Scotland  |
| State v Peterson                            | 11-20   | Wake      |
| State v Little                              | 11-32   | Anson     |
| State v Clark                               | 11-75   | Cleveland |
| State v Dunn                                | 11-99   | Cleveland |
| Collier, et al v Bryant, et al              | 10-1579 | Guilford  |
| GMAC Mortgage, LLC v Miller, et al          | 11-55   | Surry     |
| In The Matter Of: M.C.                      | 11-153  | Durham    |
| Sartori v NC Department of Corrections, ... | 11-167  | Mitchell  |

Sent Date: 15 July 2011

# North Carolina Court of Appeals

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

## Supplemental Calendar

Monday, 22 August 2011

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **22 AUGUST 2011** 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 Hayes            | 10-1437 | Guilford   |
| State v Jacobs           | 11-47   | Durham     |
| State v Smalls           | 11-130  | Hoke       |
| State v Harding          | 11-161  | Cumberland |
| State v Williams         | 11-183  | Johnston   |
| In The Matter Of: D.T.F. | 11-257  | Columbus   |
| State v Autry            | 11-274  | Sampson    |
| State v McKoy            | 11-280  | Johnston   |
| State v Chaney           | 11-366  | Brunswick  |
| State v Messer           | 11-387  | Buncombe   |

Sent Date: 22 July 2011

# North Carolina Court of Appeals

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## COURT CALENDAR BY PANEL

Monday, 29 August 2011

### PANEL NO. 1

HONORABLE JOHN C. MARTIN  
HONORABLE WANDA G. BRYANT  
HONORABLE ANN MARIE CALABRIA

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **MONDAY, 29TH OF AUGUST 2011 AT 1:00 p.m.**

|   |        |        |
|---|--------|--------|
| J.T. Russell And Sons, Inc. v Silver Bir... | 11-159 | Stanly |
|---|--------|--------|

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **MONDAY, 29TH OF AUGUST 2011.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

|   |        |                            |
|---|--------|----------------------------|
| State v Byrd                                | 11-101 | Sampson                    |
| State v Green                               | 11-109 | Columbus                   |
| State v Hurst                               | 11-145 | Buncombe                   |
| State v Dunn                                | 11-155 | Moore                      |
| State v Hodge                               | 11-179 | Wake                       |
| State v Burgess                             | 11-193 | Yadkin                     |
| Variety Wholesalers, Inc. v Prime Appare... | 11-191 | Vance                      |
| Marso v United Parcel Service, Inc.         | 11-201 | Wayne                      |
| Mussa v Palmer-Mussa                        | 11-209 | Wake                       |
| Martin v OSI Restaurant Partners, LLC, e... | 11-226 | Forsyth                    |
| Clark v Chavis, et al                       | 11-234 | N.C. Industrial Commission |

Sent Date: 29 July 2011



# North Carolina Court of Appeals

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## 3.1 Calendar

Monday, 29 August 2011

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **29 AUGUST 2011** 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 Re: B.K.B.P.                             | 11-197 | Cumberland  |
| In The Matter Of: D.L., Jr., D.M., A.D....  | 11-256 | Buncombe    |
| In The Matter of: D.K.                      | 11-329 | New Hanover |
| In The Matter Of: F.E.P., Jr.               | 11-348 | Brunswick   |
| In Re: D.A.H-C., B.H-C., and E.H-C.         | 11-379 | Catawba     |
| In The Matter Of: D.F.M., Jr. and D.F.M.... | 11-380 | New Hanover |

# North Carolina Court of Appeals

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

## Supplemental Calendar

Monday, 29 August 2011

PANEL NO. 0

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENT DURING THE WEEK OF **29 AUGUST 2011** 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 Hefner       | 11-269 | Catawba     |
| State v Weathers     | 11-261 | Mecklenburg |
| State v Jacobs       | 11-214 | Sampson     |
| State v Floyd        | 11-175 | Wake        |
| State v Miller       | 11-121 | Guilford    |
| State v Parker       | 11-123 | Guilford    |
| State v McFadden     | 11-131 | Catawba     |
| State v Sampson      | 11-62  | Wilson      |
| State v Wilson-Lopez | 11-69  | Randolph    |

Sent Date: 28 July 2011

# North Carolina Court of Appeals

Court of Appeals Building  
One West Morgan Street  
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## COURT CALENDAR BY PANEL

Tuesday, 30 August 2011

### PANEL NO. 2

HONORABLE LINDA M. MCGEE  
HONORABLE RICK ELMORE  
HONORABLE ROBERT N. HUNTER, JR.

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **TUESDAY, 30TH OF AUGUST 2011 AT 9:30 a.m.**

|   |        |             |
|---|--------|-------------|
| State v Neal                                | 11-110 | Wayne       |
| Bojangles Restaurants, Inc. v The Town o... | 11-202 | Mecklenburg |
| Allison v Davidson                          | 11-217 | McDowell    |

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **TUESDAY, 30TH OF AUGUST 2011.** COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

|   |        |                            |
|---|--------|----------------------------|
| State v McNeil                              | 11-103 | Mecklenburg                |
| State v Gillespie                           | 11-146 | Wake                       |
| State v Hargraves                           | 11-157 | Guilford                   |
| State v Twitty                              | 11-182 | Moore                      |
| State v Locklear                            | 11-194 | Robeson                    |
| In The Matter Of: C.C.                      | 11-173 | Wayne                      |
| White, ex rel v Maxim Healthcare Service... | 11-192 | Mecklenburg                |
| NC Farm Bureau Mutual Insurance Co. v       | 11-227 | Gaston                     |
| Bailey v Roberts Protection And Investig... | 11-235 | N.C. Industrial Commission |

Sent Date: 29 July 2011

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## COURT CALENDAR BY PANEL

Wednesday, 31 August 2011

### PANEL NO. 3

HONORABLE ROBERT C. HUNTER  
HONORABLE SANFORD STEELMAN  
HONORABLE DOUGLAS MCCULLOUGH

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 31ST OF AUGUST 2011 AT 9:30 a.m.**

|   |        |      |
|---|--------|------|
| Portfolio Recovery Associates, LLC v Fre... | 11-220 | Wake |
|---|--------|------|

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 31ST OF AUGUST 2011**. 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                            | 11-104 | Cabarrus    |
| State v Hayes                               | 11-122 | Richmond    |
| State v Jones                               | 11-149 | Martin      |
| State v Seamster                            | 11-170 | Forsyth     |
| State v Sims                                | 11-187 | Buncombe    |
| State v Collins                             | 11-207 | Craven      |
| Preis v Yoas                                | 11-177 | New Hanover |
| Harmon v Eastern Dermatology and Patholo... | 11-195 | Bertie      |
| Lovallo v Sabato                            | 11-203 | Mecklenburg |
| Greene v Uptown Day Shelter, Inc., et al    | 11-230 | Mecklenburg |
| In The Matter Of: Kenneth E. Allison        | 11-245 | Buncombe    |

Sent Date: 29 July 2011

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## COURT CALENDAR BY PANEL

Wednesday, 31 August 2011

### PANEL NO. 4

HONORABLE LINDA STEPHENS  
HONORABLE SAM J. ERVIN, IV  
HONORABLE CHERI BEASLEY

THE FOLLOWING CASE(S) ARE SCHEDULED FOR ORAL ARGUMENTS ON **WEDNESDAY, 31ST OF AUGUST 2011 AT 1:00 p.m.**

|                            |        |      |
|----------------------------|--------|------|
| State v Privette and Smith | 11-139 | Wake |
|----------------------------|--------|------|

THE FOLLOWING CASE(S) WILL BE HEARD WITHOUT ORAL ARGUMENTS ON **WEDNESDAY, 31ST OF AUGUST 2011**. COUNSEL ARE HEREBY NOTIFIED NOT TO APPEAR FOR ORAL ARGUMENTS PURSUANT TO 30(f) OF THE NORTH CAROLINA RULES OF APPELLATE PROCEDURE.

|   |        |                            |
|---|--------|----------------------------|
| State v Wright                              | 11-105 | Buncombe                   |
| State v Leftdwrige                          | 11-152 | Wayne                      |
| State v Moore                               | 11-172 | Columbus                   |
| State v Otto                                | 11-189 | Pitt                       |
| State v McMickle                            | 11-215 | Gaston                     |
| Mooney v Mooney                             | 11-178 | Henderson                  |
| Gupton v Son-Lan Development Co., Inc., ... | 11-198 | Harnett                    |
| International Son-Rys Enterprises, Inc.,... | 11-204 | Mecklenburg                |
| Church v Church                             | 11-222 | Caldwell                   |
| Davenport v D.M. Rental Properties, Inc.    | 11-231 | Gaston                     |
| Alawar v Courtyard Marriott North, et al    | 11-248 | N.C. Industrial Commission |

Sent Date: 29 July 2011