

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 627  
Judiciary I Committee Substitute Adopted 5/1/91

Short Title: Rulings On No Contest Motions.

(Public)

Sponsors:

Referred to:

April 15, 1991

A BILL TO BE ENTITLED

AN ACT THAT, IN ORDER TO ACHIEVE GREATER JUDICIAL EFFICIENCY,  
ALLOWS THE COURT TO RULE ON MOST TYPES OF MOTIONS WITHOUT  
A HEARING WHEN THE OPPOSING PARTY FAILS TO RESPOND TO THE  
MOTION WITHIN THIRTY DAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 7(b) reads as rewritten:

"(b) Motions and other papers. –

- (1) An application to the court for an order shall be by motion which, unless made during a hearing or trial or at a session at which a cause is on the calendar for that session, shall be made in writing, shall state the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.
- (2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.
- (3) A motion to transfer under G.S. 7A-258 shall comply with the directives therein specified but the relief thereby obtainable may also be sought in a responsive pleading pursuant to Rule 12(b).
- (4) Unless otherwise ordered by the court, each party opposing a motion shall serve and file a response, reply memorandum, affidavits, or other responsive material within 30 days after service of the motion.

1           (5) Unless:

2           a. Otherwise ordered by the court; or

3           b. Oral argument is requested in writing.

4           all motions in civil actions, including motions for summary judgment  
5           and motions for default judgment, may be decided by the court without  
6           oral hearing, except motions for new trial and motions for judgment  
7           notwithstanding the verdict."

8           Sec. 2. G.S. 1A-1, Rule 56(c) reads as rewritten:

9           "(c) Motion and proceedings thereon. —~~The motion shall be served at least 10~~  
10 ~~days before the time fixed for the hearing. The adverse party prior to the day of hearing~~  
11 ~~may serve opposing affidavits.~~—The judgment sought shall be rendered forthwith if the  
12 pleadings, depositions, answers to interrogatories, and admissions on file, together with  
13 the affidavits, if any, show that there is no genuine issue as to any material fact and that  
14 any party is entitled to a judgment as a matter of law. A summary judgment,  
15 interlocutory in character, may be rendered on the issue of liability alone although there  
16 is genuine issue as to the amount of damages. Summary judgment, when appropriate,  
17 may be rendered against the moving party."

18           Sec. 3. This act becomes effective October 1, 1991, and applies to all actions  
19 commenced on or after that date.