

Rule 16. Pre-trial procedure; formulating issues.

(a) In any action, the court may in its discretion direct the attorneys for the parties to appear before the court for a conference to consider

- (1) The simplification and formulation of the issues;
- (2) The necessity or desirability of amendments to the pleadings;
- (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- (4) The limitation of the number of expert witnesses;
- (5) The advisability or necessity of a reference of the case, either in whole or in part;
- (6) Matters of which the court is to be asked to take judicial notice;
- (7) Such other matters as may aid in the disposition of the action.

If a conference is held, the judge shall make an order which recites the action taken at the conference, any amendments allowed to the pleadings, and any agreements made by the parties as to any of the matters considered, and which may limit the issues for trial to those not disposed of by admissions or agreements of counsel; and such order when entered controls the subsequent course of the action, unless modified at the trial to prevent manifest injustice. If any issue for trial as stated in the order is not raised by the pleadings in accordance with the provisions of Rule 8, upon motion of any party, the order shall require amendment of the pleadings.

(b) In a medical malpractice action as defined in G.S. 90-21.11, at the close of the discovery period scheduled pursuant to Rule 26(g), the judge shall schedule a final conference. After the conference, the judge shall refer any consent order calendaring the case for trial to the senior resident superior court judge or the chief district court judge, who shall approve the consent order unless the judge finds that:

- (1) The date specified in the order is unavailable,
- (2) The terms of the order unreasonably delay the trial, or
- (3) The ends of justice would not be served by approving the order.

If the senior resident superior court judge or the chief district court judge does not approve the consent order, the judge shall calendar the case for trial.

In calendaring the case, the court shall take into consideration the nature and complexity of the case, the proximity and convenience of witnesses, the needs of counsel for both parties concerning their respective calendars, the benefits of an early disposition and such other matters as the court may deem proper. (1967, c. 954, s. 1; 1987, c. 859, s. 4; 2011-199, s. 1.)