

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 627
Judiciary I Committee Substitute Adopted 5/1/91
Third Edition Engrossed 5/15/91

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:
 - a. Otherwise ordered by the court; or

1 b. Oral argument is requested in writing,
2 motions in civil actions for default judgment, summary judgment,
3 judgment on the pleadings, and to withdraw as counsel of record, may
4 be decided by the court without oral hearing."

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

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

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