

The Supreme Court of South Carolina

RE: Multi-Week Trial Docket for the Ninth, Fourteenth and Fifteenth
Judicial Circuits

AMENDED ORDER ESTABLISHING DOCKET

The Order of June 29, 2008, is amended to read as follows:

Whereas coastal counties in the Ninth, Fourteenth, and Fifteenth Judicial Circuits of the State of South Carolina are experiencing a heavy concentration of complex litigation cases, many of which involve resort construction projects with numerous parties and attorneys; and,

These cases require lengthy trials and there can be difficulty in securing a circuit judge for multiple consecutive weeks, resulting in a large number of cases in certain counties within these circuits pending for years due to the inability to set a trial date; and,

The judges of the Ninth, Fourteenth, and Fifteenth Judicial Circuits being a part of the uniform statewide judicial system and pursuant to the provisions of Article V, Section 4, South Carolina Constitution,

IT IS ORDERED that beginning January 1, 2009, for a trial period of one year, there is hereby established the Multi-Week Trial Docket for the Ninth, Fourteenth, and Fifteenth Judicial Circuits, and terms of this court shall be scheduled for Beaufort, Charleston, and Horry counties. The Presiding Judge of the Multi-Week Trial Docket will schedule these terms of court on a rotating basis among the three affected counties, commencing with the Horry County Multi-Week Trial Docket on January 5, 2009 for the month of January, followed by the Beaufort County Multi-Week Trial Docket for the month of February, and the Charleston Multi-Week Trial Docket for the month of March. The month of April shall be dedicated to non-jury issues, status conferences, discovery hearings, administrative matters, and chambers weeks to be scheduled among the circuits as needed by the presiding judge. Thereafter, the terms of court will rotate on a monthly basis in like fashion; however, the Presiding Judge will be authorized to alter the duration and/or the scheduling of the terms of court as caseloads require, and to schedule trials in other counties within the circuits if needed. The Honorable Clifton Newman is designated as the Presiding Judge of the Multi-Week Trial Docket for the trial year of 2009.

IT IS FURTHER ORDERED that cases assigned to the Multi-Week Trial Docket will be declared complex as of January 1, 2009, and assigned to Presiding Judge Newman. Should the concept of the Multi-Week Trial Docket be extended beyond the trial period ending December 31, 2009, upon the expiration of the term of Presiding Judge Newman, jurisdiction shall automatically transfer to the new presiding judge. The Presiding Judge shall have the authority to designate other judges to resolve motions and discovery disputes on an as needed basis, and

nothing herein shall prevent any circuit judge, with the consent of or at the request of the Presiding Judge, from presiding over any proceedings in such cases, including the trial thereof. Further, nothing herein shall prevent any Master or Special Referee, at the request of the Presiding Judge, from presiding over non-jury proceedings in such cases.

IT IS FURTHER ORDERED referral to this docket shall be mandatory for any case that is expected to require more than one week for trial. Conversely, any case taking less than one week shall not be eligible. Referral or removal may be made by the granting of a motion of a party or sua sponte by the Chief Administrative Judge of the affected circuits, or by the Presiding Judge of the Multi-Week Trial Docket. Referral to the Multi-Week Trial Docket shall be made early in the case, and last minute transfers from the general jury docket will not be allowed. To avoid confusion, cases on the Multi-Week Trial Docket will appear on the master roll of cases, but shall not appear on the general common pleas trial docket, but will instead appear on a separate multi-week trial docket. The Multi-Week Trial Docket shall be arranged in priority of age with the oldest case listed first.

IT IS FURTHER ORDERED that during the remainder of calendar year 2008, the Chief Administrative Judges in the Ninth, Fourteenth, and Fifteenth Circuits shall hold status conferences on each of the pending multi-week cases and issue a scheduling order therein to prepare for the commencement of trials in 2009. The scheduling order will require mediation between the parties prior to trial, regardless of whether a case has been previously mediated. The scheduling order will require that all attorneys, parties, and insurance representatives with full settlement authority be present at the mediation. Full settlement authority shall be defined as, in the case of the insurance carrier, "an individual who is empowered with the decision to offer a settlement sum up to the existing demand of the Plaintiff or the policy limits of coverage, whichever is less." Full settlement authority for any party means the party individually or a representative who has binding authority to make a final decision for that party.

IT IS FURTHER ORDERED that each pending case on the Multi-Week Trial Docket shall also have a case management order issued therein setting forth deadlines, rights and responsibilities of counsel and parties, and other guidelines necessary to the efficient disposition of the case. Due to the size and complexity of these cases, and the resulting employment of significant public resources in their adjudication, the Presiding Judge shall be given authority to limit or modify the application of the South Carolina Rules of Civil Procedure to ensure the timely progress and conclusion of the cases pending. Prior to January 1, 2009, this authority shall be given to the Chief Administrative Judge. All modifications to the Rules not authorized herein shall be specifically set forth in the case management order. These modifications may include, but shall not be limited to, limitations in the availability of continuances, postponements, time protection for counsel, additions of new parties, removal from the docket pursuant to Rule 40, SCRCP, and other procedural applications that may delay the trial of the case. The scheduling order and case management order may be contained within the same document.

IT IS FURTHER ORDERED that where the parties are unable to reach a settlement agreement and a case proceeds to trial, the settlement positions shall not be admissible in evidence to the trier of fact; however, nothing herein is intended to limit any party's right under the rules of evidence to present evidence or argument to the trier of fact as to that party's position on the

amount of a reasonable and fair verdict as to that party. Particularized verdicts shall not be required but may be employed by the Presiding Judge. Nothing in this order shall prevent the Presiding Judge from reducing the verdict or permitting the additional recovery of costs in accordance with S.C. Code Ann § 15-35-400 (Supp. 2007) (governing the non-acceptance of offers of judgment).

IT IS FURTHER ORDERED that due to the document-intensive nature of these cases, this Court authorizes the use of computer technology to ease the burden and costs of paper document production. This may include electronic service of discovery between parties, digital display of documents and other evidence during trial, the potential establishment of a central electronic posting site for all case-related documentation, and such other technological innovations that will facilitate the administration of the Multi-Week Trial Docket.

IT IS FURTHER ORDERED that beginning January 5, 2009, the Presiding Judge of the Multi-Week Trial Docket will choose jurors from the regular weekly jury panel within the affected counties. Parties will be encouraged to waive alternate jurors and to accept reduced jury panels pursuant to Rule 48, SCRPC, or proceed without a jury pursuant to Rule 39, SCRPC. Jury notices may be amended to advise jurors that service may extend beyond one week.

IT IS FURTHER ORDERED that upon the settlement or other disposition of any case called for trial, the Presiding Judge will be authorized to draw another jury and immediately proceed to the next case for trial. Multiple trials will be scheduled for each term of court. Attorneys are hereby advised that a case may be called on twenty-four (24) hours' notice due to the settlement of prior cases. Due to the number of cases pending and the need for flexibility within the docket, day certain trials cannot be guaranteed. A trial may extend beyond the end of the monthly term.

IT IS FURTHER ORDERED that the Presiding Judge may call upon and designate eligible retired judges or other available judges to hear cases assigned to the Multi-Week Trial Docket. Additionally, depending upon judge and courtroom availability, more than one term of multi-week trial court may proceed simultaneously.

IT IS FURTHER ORDERED that because there may be similar problems in other counties of which this Court is not presently aware, if the multi-week docket concept is successful during the trial year 2009, these efforts may be used to develop a model format for the operation of similar dockets in other counties, as needed.

IT IS FURTHER ORDERED that the authority conferred on The Honorable Clifton Newman as Presiding Judge of the Multi-Week Trial Docket by this Order shall become effective immediately and continue through December 31, 2009, unless amended or revoked by Order of the Chief Justice.

_____ C. J.

Columbia, South Carolina
July 23, 2008