

INTRODUCTION TO 2025-2026 EDITION

Shuford North Carolina Civil Practice and Procedure (with Appellate Advocacy) is designed to provide civil litigators and appellate advocates a unique and powerful resource as they navigate the procedural rules governing trial and appellate litigation in North Carolina. It makes all of the North Carolina Rules of Civil and Appellate Procedure, as well as relevant statutes and case law, quickly accessible.

The book continues with the same general organization that it has had for many years. The first part of the book contains chapters focusing on the North Carolina Rules of Civil Procedure. Each chapter begins with the text of a rule and then continues with a discussion of the provisions of the rule and relevant case law discussing the rule's application. The second part of the book focuses on the North Carolina Rules of Appellate Procedure. In addition to describing the contents of each rule, the part also provides discussion of, and citation to, relevant case law. At the end of each part, several useful forms are provided.

This edition of the book covers rules, legislation, and case law through approximately August 2025. In order to keep the book as current as possible, it is revised annually.

Noteworthy new features and recent developments in the 2025-2026 Edition include:

- A recent decision of the North Carolina Court of Appeals holding that service of process by certified mail was valid where the plaintiff had contracted with a UPS store to receive legal documents at an in-store personal mailbox, and the return receipt and affidavit of service were properly filed. [See § 4:12]
- A North Carolina Court of Appeals decision holding that a petition for judicial review was properly dismissed where the petitioner served the agency by email, rather than by certified mail or personal service as required by the statute. [See § 4:12]
- A decision from the Court of Appeals clarifying that, unless a statute specifically incorporates Rule 6(e), the three-day mail extension does not apply where a statute states a jurisdictional deadline for initiating a proceeding. [See § 6:6]
- A Court of Appeals decision clarifying that the standard of review for a Rule 41(b) dismissal depends on which clause of the rule the trial court relied on, a failure to comply with a court order or rules or a failure to show a right to relief after presenting evidence at a bench trial. [See § 41:1]
- A North Carolina Supreme Court decision affirming the Court of Appeals' decision that *res judicata* barred plaintiffs' new

lawsuits because the SAFE Child Act, like any other act of the legislative branch, cannot set aside a final judgment of the judicial branch. [See § 41:6]

- A decision from the North Carolina Supreme Court concluding, as a matter of first impression, that the parties were unable to exercise any remaining peremptory strikes in a civil case after the jury had been impaneled. [See § 47:6]
- A Supreme Court decision holding, as a matter of first impression, that to preserve an issue for use in a motion for JNOV under Rule 50(b), the movant first must have timely moved for a direct verdict based on that same issue. [See § 50:2]
- A decision from the Court of Appeals holding that a clerk's entry of default judgment without requiring proof of service and personal jurisdiction rendered the judgment void. [See § 55:4]
- A decision from the Supreme Court rejecting plaintiff's collateral attack under Rule 60(b)(4) to set aside a divorce judgment and explaining that the claim should have been brought by a motion in the cause within the original divorce action. [See § 60:14]
- A Court of Appeals decision sanctioning a party who used an appendix to evade the word-count limits of Rule 28 by refusing to consider arguments presented only in the appendix. [See § 94:1]
- A Supreme Court decision explaining that, when contemplating whether to issue a writ of certiorari, the appellate courts must consider a two-factor test: (1) the likelihood that the case has merit or that error was committed below; and (2) whether there are extraordinary circumstances that justify issuing the writ. [See § 95:2]

Thank you for subscribing to North Carolina Civil Practice and Procedure (with Appellate Advocacy). Please contact me if I can be of assistance, or if you have any suggestions for the book. Over the years, I have incorporated several suggestions from readers, and the book is better for it. I hope the book is a useful resource for you.

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