

Court of Appeals of North Carolina

Text Result

Question	Value
Form Completed By: (Name, Phone Number, Position)	Francis E. Dail, Esq. [REDACTED] Administrative Counsel to the North Carolina Court of Appeals
1. How many notices of appeal were filed in 2005?	In North Carolina, notices of appeal are filed with the trial tribunal, rather than the appellate court. The Court of Appeals is not aware of the appeal until a properly settled record on appeal is filed with the Court. If a notice of appeal is filed in the trial court, but the appeal is not perfected by filing the record in the appellate court, the appeal is either dismissed or withdrawn in the trial court.
2. How many appeals were dismissed before briefing?	The Court does not compile statistics in this category.
3. How much time is allowed by rule or statute for preparing the transcript? Please cite applicable rule or statute.	Sixty (60) days after written documentation of the transcript arrangement. See N.C.R. App. P. 7(b).
a. How much time is allowed by rule or statute for correcting the transcript?	Within 35 days after the transcript is delivered, appellant is required to serve a proposed record on appeal upon all other parties. An appellee may serve objections to the proposed record within 30 days after the proposed record is served. See N.C.R. App. P. 11.
4. How long on average does it take from the filing of notice of appeal to settling the record?	From 65 to 150 days depending upon whether a transcript is designated.
a. Are all notices of appeal taken into consideration when developing this average? If not, which cases are excluded?	No. Those cases in which notice of appeal was given, but no record was filed in the appellate court, have been excluded.
5. What is the total average time from the settlement of the record to completion of briefing, including extensions?	The briefing schedule begins when the settled record on appeal is printed and mailed to the parties or their counsel. Generally, all briefs are filed within 90 days of the date the record is mailed.
6. What is the time mandated by statute or court rule to complete civil briefing? Please cite applicable rule or statute.	Appellant's brief is due 30 days after the printed record is mailed. N.C.R. App. P. 13(a). Appellee's brief is due 30 days after service of appellant's brief. Accelerated briefing is required for certain juvenile matters. N.C.R. App. P. 3A.
7. Are criminal cases subject to different deadlines? Please explain and cite any pertinent rule or statute.	No - same as civil.
8. How many cases were decided after briefs were submitted without oral argument in 2005?	1,346
9. How many total cases were heard in oral argument in 2005?	205
10. What are the limitations, if any, on which cases may be heard in oral argument? Please cite applicable rule or statute.	If the Court concludes that oral argument will not assist the Court, the Court may dispose of the case upon the record and briefs. N.C.R. App. P. 30(f).
11. On average, how many days each month does each judge spend in oral argument?	Two
12. What types of cases do expedited procedures for oral arguments apply to? Please cite applicable rule or statute.	Certain juvenile and termination of parental rights cases. N.C.R. App. P. 3A. Any other case in which a party, upon motion, convinces the Court that a case should have an expedited setting.

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N.C.R. App. P. 29(a).

13. Please explain any special procedures for hearing criminal cases in oral argument. None
14. What is the average total length of time after briefing is completed for a case to proceed to oral argument? 120 days
15. How many total opinions were issued in 2005? 1636
- a. How many were signed, authored opinions? 1636
- b. How many were unsigned, per curiam opinions? 0
- c. How many were unpublished opinions? 991
16. Does the court dispose of cases by means other than authored or per curiam opinions, such as: affirmances without opinion, unpublished order, or unpublished opinion? Yes. The Court can dismiss an appeal or permit an appeal to be withdrawn by an unpublished order.
17. What is the average time between oral argument and issuing a decision? This statistic is not available. The Court has an internal policy requiring openings to be filed within 90 days of the date the case is calendared for argument or decision without argument.
- a. What is the average time in civil cases to issue a decision? See above.
- b. What is the average time in criminal cases to issue a decision? See above.
18. If no oral argument occurs, what is the average time after briefing to issue a decision? See answer to question 17.
19. What is the average time from issuance of decision to issuance of the appellate judgment? Twenty (20) days. N.C.R. App. P. 32(b).
20. Are petitions for reconsideration permitted? Yes. N.C.R. App. P. 31
21. How many motions were filed in 2005? 5009
22. Of total motions in 2005, how many motions were for time extensions? This statistic is not available, but estimate 60%.
- a. What is the process of deciding motions for time extensions? Motions are reviewed by a member of the Court's legal staff and are either referred to the panel to which the case is assigned (if assignment has occurred) or decided by the Chief Judge or his designee.
23. How many motions were for relief other than an extension of time? Not available. See answer to question 22.
- a. Who decides these motions? See answer to question 22a.
- b. Who has the primary duties in motion practice outside of time extensions? Either the Chief Judge or the panel to which the case is assigned.
24. What court resources are devoted to motion practice? One member of the Court's central legal staff, as well as the Chief Judge.
25. What is the average time for a motion to be decided for time extensions versus other types 1-2 days

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of motions?

26. What are the panels' primary duties? To review, research, and decide appeals perfected to the Court of Appeals and to decide motions and petitions filed with the Court.
27. Are there internal rules of procedure that govern whether members of a panel must be prepared to vote on each opinion when it is first considered? No.
28. When and how are assignments made to individual judges? The panels are assigned by the Chief Judge, who also assigns cases to the panels. The presiding judge of the panel assigns cases to the individual judges on the panel.
29. Who decides what type of opinion will be issued? The panel to which the case is assigned. N.C.R. App. P. 30(e).
30. Is there an en banc option? No.
- a. If so, when is it used? n/a
- b. How often is it used? n/a
- c. Who decides whether a case will be taken en banc? n/a
31. What was the average time from case filing to issuing appellate judgment? 301 days
- a. For all cases 301 days
- b. Civil 315 days
- c. Criminal 293 days
- d. Expedited N.C.R. App. P. 3A has been in effect for less than nine (9) months and there is insufficient data to answer at this time.
32. What is the number of law clerks? 31
- a. Per Judge 3 for the Chief Judge, 2 for each Associate Judge
- b. Primary Duties Assist judges in researching and drafting opinions
33. What is the number of staff attorneys? 8
- a. Per Judge Not assigned to specific judge
- b. Primary Duties Screen motions and petitions. Draft orders. Screen cases to determine those with no possible merit and draft opinions disposing of those cases. Assist in researching expedited appeals.
34. What is the number of judicial clerks? None
- b. Per Judge n/a
- c. Primary Duties n/a
35. What is the number of judicial assistants? 15
- a. Per Judge 1
- b. Primary Duties Administrative and clerical assistance within chambers.
36. What is the number of retired or senior judges used? 3
- a. Per Judge n/a
- c. Primary Duties Subject to recall by Chief Judge in event of extended absence of current judge, unfilled vacancy, etc.

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37. What is the number of trial court judges or other temporary judges used? None
- a. Per Judge n/a
- b. Primary Duties n/a
38. What internal training does the court offer to legal staff? Central legal staff is required to meet State Bar CLE requirement. All law clerks undergo intensive one-week training session with respect to Court policy and procedure, substantive law and procedure each September. The training is provided by judges, faculty of UNC School of Government, and legal staff attorneys.
39. What was the total court operating budget for the most recently completed year or biennium? Please specify which year(s) the budget was in place. The Court's operating budget is integrated into the overall operating budget of the North Carolina Administrative Office of the Courts, which does not maintain a separate budget or line item for the Court of Appeals.
40. How was the data used to complete this survey collected? The information was compiled by interviews with judges and staff, as well as from data maintained by the Court's case management system.
- a. Please briefly explain procedure used. Where the information is available in the computer system or in the form of statistical reports, the responses are lifted from those reports. Otherwise, the information was obtained by manually extracting the information from hard copies of documents.
41. In your opinion, what factors contribute most to court delay at different stages of case processing and what could be done to make the process more efficient? Preparation and delivery of the trial transcript(s). To make the process more efficient, the appellate rules provide reasonable time periods for the appellant to arrange for the production of the transcript and for the court reporter to produce and deliver the transcript. The Supreme Court and Court of Appeals are working with the Administrative Office of the Courts to research and review methods and equipment to speed the process of transcript preparation and delivery. Both Courts and the Administrative Office of the Courts are addressing the problem of shortage of court reporters. Preparation and settlement of the settled record on appeal. This process could not be made more efficient because the time requirements in the appellate rules are reasonable, and, if additional time is needed, the Court for good cause can extend that time.
42. What innovations or reforms has your court adopted to promote efficient case processing? Examples might include: computerized transcription, appellate mediation program, and affirmances without opinion. A. Mediation program. B. Fast track calendar treatment of obviously meritless cases. C. Use of staff counsel to research and draft opinions for cases on the fast-track calendar. C. Expedited treatment of juvenile abuse, neglect and termination cases. N.C.R. App. P. 3A.