

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 977  
Committee Substitute Favorable 5/7/93  
Senate Judiciary II Committee Substitute Adopted 6/14/94  
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Short Title: Entry of Judgment Rule.

(Public)

Sponsors:

Referred to:

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ENTRY OF JUDGMENT RULE, RULE 58 OF THE  
RULES OF CIVIL PROCEDURE, AS REQUESTED BY THE NORTH  
CAROLINA BAR ASSOCIATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 58, reads as rewritten:

"Rule 58. Entry of judgment.

Subject to the provisions of Rule 54(b): ~~Upon a jury verdict that a party shall recover only a sum certain or costs or that all relief shall be denied or upon a decision by the judge in open court to like effect, the clerk, in the absence of any contract direction by the judge, shall make a notation in his minutes of such verdict or decision and such notation shall constitute the entry of judgment for the purposes of these rules. The clerk shall forthwith prepare, sign, and file the judgment without awaiting any direction by the judge.~~

~~In other cases where judgment is rendered in open court, the clerk shall make a notation in his minutes as the judge may direct and such notation shall constitute the entry of judgment for the purposes of these rules. The judge shall approve the form of the judgment and direct its prompt preparation and filing.~~

~~In cases where judgment is not rendered in open court, entry of judgment for the purposes of these rules shall be deemed complete when an order for the entry of~~

1 judgment is received by the clerk from the judge, the judgment is filed and the clerk  
2 mails notice of its filing to all parties. The Clerk's notation on the judgment of the time  
3 of mailing shall be prime facie evidence of mailing and the time thereof. Rule 54(b), a  
4 judgment is entered when it is reduced to writing, signed by the judge, and filed with the  
5 clerk of court. The party designated by the judge or, if the judge does not otherwise  
6 designate, the party who prepares the judgment, shall serve a copy of the judgment upon  
7 all other parties within three days after the judgment is entered. Service and proof of  
8 service shall be in accordance with Rule 5. If service is by mail, three days shall be  
9 added to the time periods prescribed by Rule 50(b), Rule 52(b), and Rule 59. All time  
10 periods within which a party may further act pursuant to Rule 50(b), Rule 52(b), or Rule  
11 59 shall be tolled for the duration of any period of noncompliance with this service  
12 requirement, provided however that no time period under Rule 50(b), Rule 52(b), or  
13 Rule 59 shall be tolled longer than 90 days from the date the judgment is entered.  
14 Consent for the signing and entry of a judgment out of term, session, county, and district  
15 shall be deemed to have been given unless an express objection to such action was made  
16 on the record prior to the end of the term or session at which the matter was heard.

17 Notwithstanding any other law to the contrary, any judgment entered by a magistrate  
18 in a small claims action pursuant to Article 19 of Chapter 7A shall be entered in  
19 accordance with this Rule except judgments announced and signed in open court at the  
20 conclusion of a trial are considered to be served on the parties, and copies of any  
21 judgment not announced and signed in open court at the conclusion of a trial shall be  
22 served by the magistrate on all parties in accordance with this Rule, within three days  
23 after the judgment is entered. If service is by mail, three days shall be added to the time  
24 periods prescribed by G.S. 7A-228. All time periods within which a party may further  
25 act pursuant to G.S. 7A-228 shall be tolled for the duration of any period of  
26 noncompliance of this service requirement, provided that no time period shall be tolled  
27 longer than 90 days from the date judgment is entered."

28 Sec. 2. This act becomes effective October 1, 1994, and applies to all  
29 judgments subject to entry on or after that date.