

1 Rule 11 NCAC 23B .0206 is amended with changes as published in 33:06 NCR 578 as follows:

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3 **11 NCAC 23B .0206 HEARINGS**

4 (a) The Commission may, on its own motion, order a hearing, rehearing, or pre-trial conference of any tort claim in
5 dispute. The Commission shall set the date, time, and location of the hearing, and provide notice of the hearing to the
6 parties. ~~Within the Commission's discretion, any~~ Any pre-trial conference, as well as hearings of claims in which
7 the plaintiff is incarcerated at the time of the hearing, may be conducted via videoconference or telephone
8 ~~conference.~~ conference in lieu of an in-person hearing. ~~The date and time of the hearing shall not be limited by the~~
9 ~~business hours of the Commission.~~ Where a party has not notified the Commission of the attorney representing the
10 party prior to the mailing of calendars for hearing, notice to that party constitutes notice to the party's attorney. Any
11 scheduled hearings shall proceed to completion unless recessed, continued, or removed by Order of the ~~Commission.~~
12 Commission, and shall not be limited by the business hours of the Commission as set forth in Rule .0101 of this
13 Subchapter.

14 (b) When an attorney is notified to appear for a pre-trial conference, motion hearing, hearing, or any other appearance
15 the attorney shall, consistent with ~~ethical requirements,~~ the North Carolina Rules of Professional Conduct, appear or
16 have a partner, associate, or other attorney appear. Counsel for each party or any party without legal representation
17 shall remain in the hearing room throughout the course of the hearing, unless ~~released~~ excused by the Commission.

18 (c) A motion for a continuance shall be allowed ~~only~~ by the Commissioner or Deputy Commissioner before whom
19 the case is set in the interests of justice or to promote judicial economy.

20 (d) In cases involving property damage of less than five hundred dollars (\$500.00), the Commission may, upon its
21 own motion or upon the motion of either party, order a videoconference or telephone conference hearing on the matter.

22 (e) Unless otherwise ordered by the Commission, in the event of inclement weather or natural disaster, hearings set
23 by the Commission shall be cancelled or delayed and rescheduled when the proceedings before the General Courts of
24 Justice in that county are cancelled or delayed.

25 (f) Unless otherwise ordered or waived by the Commission, applications for issuance of a writ of *habeas corpus ad*
26 *testificandum* requesting the appearance of witnesses incarcerated by the North Carolina Division of Adult
27 Corrections, shall be filed with the Commission ~~in accordance with Rule .0104 of this Subchapter,~~ with a copy to
28 the opposing party or counsel, for review by the Commission in accordance with G.S. 143-296.

29 ~~(b) The Commission shall set a contested case for hearing in a location deemed convenient to witnesses and the~~
30 ~~Commission, and conducive to an early and just resolution of disputed issues.~~

31 ~~(c) The Commission may issue writs of habeas corpus ad testificandum in cases arising under the Tort Claims Act.~~
32 ~~Requests for issuance of a writ of habeas corpus ad testificandum shall be sent to the Docket Section of the~~
33 ~~Commission if the case has not been set on a calendar for hearing. If the case has been set on a hearing calendar, the~~
34 ~~request shall be sent to the Commissioner or Deputy Commissioner before whom the case is set.~~

35 ~~(d) The Commission shall give notice of a hearing in every case. A motion for a continuance shall be allowed only~~
36 ~~by the Commissioner or Deputy Commissioner before whom the case is set in the interests of justice or to promote~~

1 ~~judicial economy. Where a party has not notified the Commission of the attorney representing the party prior to the~~
2 ~~mailing of calendars for hearing, notice to that party constitutes notice to the party's attorney.~~

3 ~~(e) In cases involving property damage of less than five hundred dollars (\$500.00), the Commission shall, upon its~~
4 ~~own motion or upon the motion of either party, order a telephonic hearing on the matter.~~

5 ~~(f) All subpoenas shall be issued in accordance with Rule 45 of the North Carolina Rules of Civil Procedure, with the~~
6 ~~exception that production of public records or hospital records as provided in Rule 45(e)(2), shall be served upon the~~
7 ~~Commissioner or Deputy Commissioner before whom the case is calendared, or upon the Docket Section of the~~
8 ~~Commission should the case not be calendared.~~

9 ~~(g) In the event of inclement weather or natural disaster, hearings set by the Commission shall be cancelled or delayed~~
10 ~~when the proceedings before the General Court of Justice in that county are cancelled or delayed.~~

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13 *History Note: Authority G.S. 143-296; 143-300;*
14 *Eff. January 1, 1989;*
15 *Recodified from 04 NCAC 10B .0202 Eff. April 17, 2000;*
16 *Amended Eff. July 1, 2014; January 1, 2011; May 1, 2000;*
17 *Recodified from 04 NCAC 10B .00206 Eff. June 1, 2018;*
18 *Amended Eff. January 1, 2019.*
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1 Rule 11 NCAC 23B .0207 is repealed as published in 33:06 NCR 578 as follows:

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3 **11 NCAC 23B .0207 HEARINGS OF CLAIMS BY PRISON INMATES**

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5 *History Note: Authority G.S. 97-101.1; 143-296; 143-300;*

6 *Eff. January 1, 1989;*

7 *Recodified from 04 NCAC 10B .0204 Eff. April 17, 2000;*

8 *Amended Eff. July 1, 2014; May 1, 2000;*

9 *Recodified from 04 NCAC 10B .0207 Eff. June 1, 2018;*

10 *Repealed Eff. January 1, 2019.*

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1 Rule 11 NCAC 23B .0503 is amended with changes as published in 33:06 NCR 578 as follows:

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3 **11 NCAC 23B .0503 SANCTIONS**

4 The Commission may, on its own initiative or motion of a party, impose a sanction against a party, attorney,
5 government entity, or any combination thereof,] or attorney or both, when the Commission determines that such party,
6 or attorney, [government entity, or any combination thereof,] or both failed to comply with the Rules in this
7 Subchapter. Subchapter, an Order of the Commission, the North Carolina Rules of Civil Procedure, and North Carolina
8 Rules of Professional Conduct, or other applicable law. [rules, laws, or regulations.] ~~The Commission may impose~~
9 ~~sanctions of the type and in the manner prescribed by Rule 37 of the North Carolina Rules of Civil Procedure.~~

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11 *History Note:* Authority G.S. 1A-1, Rule 11 and Rule 37; 143-291; 143-296; 143-300;

12 *Eff. January 1, 2011;*

13 *Amended Eff. July 1, 2014;*

14 *Recodified from 04 NCAC 10B .0503 Eff. June 1, 2018;*

15 *Amended Eff. January 1, 2019.*

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