

## **11 NCAC 23B .0204      MOTIONS**

- (a) All motions regarding tort claims shall be filed pursuant to Rule .0104 of this Subchapter.
- (b) A motion shall state the grounds on which it is based with particularity, the relief sought, and the opposing party's position, or that the opposing party's position could not be ascertained after a good faith effort.
- (c) At the same time a motion is filed, the party filing the motion shall provide a copy of the motion to all opposing attorneys of record or on all opposing parties if not represented.
- (d) All motions and responses thereto filed electronically shall include a proposed Order in Microsoft Word format.
- (e) By motion of the parties or on its own motion, the Commission may enlarge the time for an act required or allowed to be done under the Rules in this Subchapter in the interests of justice or to promote judicial economy. An enlargement of time may be granted either before or after the relevant time requirement has elapsed.
- (f) Motions to continue or remove a case from the hearing docket shall be made as much in advance of the scheduled hearing as possible and shall be made in writing. The moving party shall state that the other parties have been advised of the motion and shall state the position of the other parties regarding the motion. Oral motions shall be permitted in emergency situations.
- (g) The responding party to a motion, with the exception of motions to continue or to remove a case from a hearing docket, has 10 days after a motion is served during which to file and serve copies of a response in opposition to the motion.
- (h) Notwithstanding Paragraph (g) of this Rule, a motion may be acted upon at any time by the Commission, despite the absence of notice to all parties and without awaiting a response. Motions shall be determined without oral argument, unless the Commission orders otherwise in the interests of justice.
- (i) Motions to dismiss or for summary judgment filed by the defendant on the ground that plaintiff has failed to name the individual officer, agent, employee, or involuntary servant whose alleged negligence gave rise to the claim, or has failed to properly name the department or agency of the State with whom such person was employed, shall be ruled upon following the completion of discovery.
- (j) Motions to reconsider or amend an Order or Decision and Order, made prior to giving notice of appeal to the Full Commission, shall be addressed to the Deputy Commissioner who authored the Order or Decision and Order.

*History Note:*      *Authority G.S. 143-296; 143-300;*  
*Eff. January 1, 1989;*  
*Recodified from 04 NCAC 10B .0203 Eff. April 17, 2000;*  
*Amended Eff. July 1, 2014; May 1, 2000;*  
*Recodified from 04 NCAC 10B .0204 Eff. June 1, 2018;*  
*Amended Eff. March 1, 2019.*