

STATE OF NORTH CAROLINA
DURHAM COUNTY

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
FILE NO.

STATE OF NORTH CAROLINA

vs.

**MOTION FOR
APPROPRIATE RELIEF**

_____,
Defendant

NOW COMES the Defendant, by and through attorney, Marcus E. Hill, of Durham County, North Carolina, and moves the Court for The defendant moves the Court under North Carolina General Statutes and shows unto the Court the following:

1. N.C.G.S. §28.3(m) provides as follows: "Trial Priority. - District court trials of impaired driving offenses involving forfeitures of motor vehicles pursuant to N.C.G.S. §20-28.2 shall be scheduled on the arresting officer's next court date or within 30 days of the offense, whichever comes first.

Once scheduled, the case shall not be continued unless all of the following conditions are met.

- (1) A written motion for continuance is filed with notice given to the opposing party prior to the motion being heard.
- (2) The judge makes a finding of a "compelling reason" for the continuance.
- (3) The motion and finding are attached to the court case record.

Upon a determination of guilt, the issue of vehicle forfeiture shall be heard by the judge immediately, or as soon thereafter as feasible, and the judge shall issue the appropriate orders pursuant to N.C.G.S. §20-28.2(d).

2. In the present case, Defendant was detained on _____. Defendant's first appearance did not occur until _____. The first court date was not scheduled within 30 days of _____. In fact, the first court appearance was scheduled more than 69 days after the car in which Defendant was found was seized.
 3. On _____, the case was continued until _____, (case number) form, entitled Motion For Continuance And Order (DWI Or Commercial DWI Involving Motor Vehicle Forfeiture) (Rev. 4/00), was not filled out and was not attached to the court case record. (Case number) form is attached as Exhibit A and incorporated by reference as though fully set forth herein.
 4. N.C.G.S. §28.3(m) was not complied with. In other words, no written motion for continuance was filed with notice given to the opposing party prior to the motion being heard, the judge did not make a finding of a "compelling reason" for the continuance, nor was the motion and finding attached to the court case record.
 5. Since N.C.G.S. §28.3(m) was not complied with, the Court should dismiss the underlying case and rescind the vehicle forfeiture.
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This the _____ day of _____, 20_____.

Marcus E. Hill
Attorney for Defendant
311 East Main Street
Durham, NC 27701
