

SERVICE OF SUMMONS DEADLINES

Ann M. Anderson, UNC School of Government (February 2010)

- 1) Personal or substituted personal service of a summons pursuant to Rule 4(j) must be made within **60 days** after the date of issuance of the summons. Rule 4(c).
 - a) After day 60, the summons is not immediately invalid. It is "dormant" until extended by an endorsement or issuance of an alias and pluries summons.
 - b) Service of an original summons, without extension, after 60 days from issuance, is untimely and may be challenged as improper.
- 2) The deadline to extend the summons is **90 days** after the issuance of the original summons or 90 days after the last extension. Rule 4(d).
 - a) Extension of the summons may be done by receiving an endorsement from the clerk or by issuance of an alias and pluries summons (most common).
 - b) Where the summons is not extended before the expiration of 90 days after issuance of the summons (or 90 days after the last extension), the action is "discontinued" as to any defendant not served. Rule 4(e).
 - c) A new alias and pluries summons may issue after the 90 days, but the action is deemed commenced on the date of issuance of the new summons. This resetting of the commencement date may cause a party to run afoul of the applicable statute of limitation.

- 3) Timeline illustration:

