

**FULTON COUNTY SUPERIOR COURT
FAMILY DIVISION**

REVISED LOCAL RULES

**SUBMITTED FOR APPROVAL
AUGUST 2007**

COURT MANAGEMENT

100-1 Mission

To provide a speedy, certain, comprehensive, non-adversarial approach to the judicial resolution of multiple family problems and disputes while more systematically and effectively addressing the interests of children and the family unit.

100-2 Jurisdiction

The Family Division shall have jurisdiction over divorce, separation, annulment, custody and visitation, child support, contempt, modification, paternity, adoption, termination of parental rights, and domestic violence.

100-3 Authority

The authority to manage and conduct the Family Division is vested in the Superior Court Family Division Judges and shall be exercised through regular monthly or special meetings of the Judges and the Director.

100-4 Duties and Responsibilities

The Judges of the Family Division shall elect an Advisory Council and attend Judges' meetings and committee meetings and participate in the management of the Family Division.

OBJECTIVES

200-1 One Family One Judge

A Family Court will be created in Fulton County to address and adjudicate all issues affecting the same family in a single court system with emphasis on the best interests of children affected by legal proceedings and others not having a direct voice in the legal proceedings affecting them.

200-2 Training

The Family Court will have trained and experienced judges, staff, professionals and volunteers who have a genuine interest in resolving family law conflicts. Judges and staff will have the highest level of expertise possible, including familiarity with related disciplines such as psychology and child development. Attorneys and other volunteers working with the Family Court will undergo special training.

200-3 Accessibility and Coordination of Cases

The Family Court will be user-friendly and accessible to the public and will establish a system that will allow all cases to be screened and coordinated at the time of filing to promote earlier, more effective resolution of family issues.

200-4 Reduction in Case Processing Time

The Family Court will enhance the speed and certainty with which family disputes are resolved by requiring monitoring and enforcement processes to ensure that families' needs identified and orders entered are being met in a timely, consistent and effective manner in order to reduce the number of hearings a family must attend and the overall case processing time.

200-5 Services

The Family Court will provide a variety of services including mediation, counseling, children services and parental education to evaluate the needs of each family and reduce the use of forced resolution through the litigation process. However, such techniques will not be used to compromise legal protections and confidentiality. The alternative dispute techniques are subject to the development of standards and guidelines.

200-6 Intervention

The Family Court will implement the use of early and appropriate intervention by maximizing the use of professional services, community services, and, trained, well-screened volunteers to supplement its judicial functions.

DOMESTIC RELATIONS INITIATION PACKET

300-1 Intake Worksheet

Parties are required to provide the Judicial Officer or the assigned Judge's staff an Intake Worksheet no later than the date of the 30-Day Status Conference.

300-2 Scheduling Order

The clerk shall provide Petitioner with a copy of the 30-Day Status Conference Scheduling Order stating the date, time, and place of the conference, the Judge assigned to the case, and the penalties for failing to appear.

300-3 Discovery Forms

Forms regarding Mandatory Discovery, as set forth in Rule 4000-6.3.2, shall be included in the Domestic Relations Initiation Packet.

300-4 Emergency Services Resource Form

A regularly updated list of information regarding local emergency services and resources available for litigants involved in domestic disputes shall be included in the Domestic Relations Initiation Packet.

ASSIGNMENT OF DOMESTIC RELATIONS CASES

400-1 Clerk's Office

When the initial pleading is filed in the Clerk's Office, the Clerk shall:

- (a) assign the case to the proper Family Division Judge, using the automated case assignment process, and perform a related case check.
- (b) provide Petitioner with a copy of a 30-Day Status Conference Order.
- (c) make available copies of the Domestic Relations Initiation Packet which includes the Automatic Domestic Standing Order, Domestic Intake Worksheet and information on the Families in Transition seminar, if applicable.

If the initial pleading is filed by mail, the Clerk shall follow step (a) above and place the petition and service copies in a designated place in the Clerk's Office to be retrieved and processed by the Family Division Intake Case Manager.

400-2 Intake Case Manager

For all pleadings that are filed by mail, the Intake Case Manager shall notify the parties, by written correspondence that the case has been assigned to the Family Division. The Intake Case Manager shall also mail to Petitioner the 30-Day Status Conference Order, and, where applicable, copies of the Domestic Relations Initiation Packet, Automatic Domestic Standing Order, Domestic Intake Worksheet and information on the Families in Transition Seminar. For cases in which the pleadings are designated by Petitioner to be served upon Respondent by the Sheriff, the Intake Case Manager shall arrange for the above to be forwarded to the Sheriff's Office.

400-3 Filing of Contempt Action or Family Violence Petition

When a Petition for citation of Contempt is filed, the Intake Case Manager shall direct the party to the proper Judge's Case Manager who shall assign a hearing date. When a Petition for protection from Family Violence is filed, the Clerk shall assign a hearing date from the schedule provided by the Domestic Violence Case Manager.

400-4 Exclusive Control

The Judge to whom any action is assigned shall have exclusive control of such action, except as provided in these rules. No person shall change any assignment except by order of the Judge affected and as provided in these rules. In this regard, an assigned Judge may transfer an assigned action to another Judge with the latter's consent, at which time the latter becomes the assigned Judge.

STANDING AND SPECIAL COMMITTEES

500-1 Standing Committees

There shall be a Civil Rules Committee to make recommendations concerning the rules and procedures for handling civil family law matters.

500-2 Special Committees

The Family Division Judges may appoint such special committees as they may deem advisable and for a term to be set by the Judges. Special committees have a duty to study and make recommendations to the Family Division in connection with any subject matter assigned to them.

600 Reserved--COORDINATION OF ANCILLARY CASES

700 Reserved

800 Reserved

900 Reserved

JUDICIAL OFFICERS

1000-1 Method of Selection

The nominating committee shall review applications and make recommendations for the selection of Judicial Officers for the Family Division. The committee shall consist of either the chairperson or his or her designee from each of the following Bar Associations:

- (a) Asian-Pacific Bar Association
- (b) Gate City Bar Association
- (c) Georgia Association of Women Lawyers
- (d) Hispanic Bar Association
- (e) North Fulton Bar Association
- (f) Sandy Springs Bar Association

(g) South Fulton Bar Association

The committee shall also consist of the chairperson and the immediate past-chairperson of the Atlanta Bar Association's Family Law Section and two community representatives who are involved with family related services.

1000-2 Qualifications

Applicants must be in good standing with the State Bar of Georgia; a resident of Fulton County; have considerable experience in the family law area consisting of either seven (7) or more years of a) a law practice 50% or more of which is devoted to family law cases, or b) judicial experience in a court with a docket consisting of 50% or more family law cases or c) a combination of a) and b); be of good moral character; and be willing to commit two (2) days per week to serving as a Judicial Officer; be well-suited temperamentally to handle domestic relations issues; and be readily accepted by the Bar based upon experience and knowledge. Each Judicial Officer shall be appointed as a magistrate Judge in the manner provided by law.

1000-3 Training

Each Judicial Officer shall receive twenty (20) hours of training, including four (4) hours of domestic violence training under the grant from the Governor's Office of Criminal Justice Coordinating Council with the Fulton County Solicitor's Office, Atlanta Volunteer Lawyers and the Family Division's Alternative Dispute Resolution Seminar. Each Judicial Officer shall complete the annual training requirements provided by law for magistrates.

1000-4 Duties

The Judicial Officer shall serve during the absence or upon the request of the Family Division Judge and shall perform such duties as designated by the Family Division Judges.

A Family Division Judge may designate a Judicial Officer to preside over a Status Conference and all other proceedings excepting a hearing, Motion for Contempt and final trial. A Judicial Officer may preside at a hearing, Motion for Contempt or other judicial proceeding only upon the consent of both parties. Consent of both parties is deemed given if neither party files a written request to have the Judge preside over the matter prior to the Judicial Officer commencing the proceeding.

DIRECTOR

2000-1 Appointment

The Director of the Family Division shall be interviewed and appointed by the Family Division Judges.

2000-2 Vacancy

The position level is titled Court Program Administrator D-61 under the Fulton County employee job descriptions.

LATE CASE EVALUATOR

3000-1 Method of Selection

A list of attorneys eligible to conduct late case evaluations shall be maintained by the Georgia Chapter of the American Academy of Matrimonial Lawyers. This list shall be on file and made available in the Family Division office. The evaluation may also be conducted by Senior Judges or a Judge of the Superior Court not assigned to the case.

3000-2 Qualifications

The late case evaluator shall be a qualified domestic relations attorney who has been trained in case evaluation and has a minimum of ten (10) years experience in the domestic relations area, a Senior Judge, or a Judge of the Superior Court not assigned to the case.

3000-3 Duties

The late case evaluator, in a non-binding setting, shall hear from both parties and then shall make recommendations for the parties to consider for purposes of settlement.

LOCAL RULES

4000-1 General Statement

The Civil Rules for the Family Division shall remain distinct and separate from the Juvenile Court rules and the criminal rules and procedures. Further, for the purposes of the Family Division, the Uniform Superior Court Rules shall be modified as stated herein.

4000-2 Filing and Service of Pleadings

At the time of filing of an action, Petitioner in contested cases shall retrieve an initiation packet from the Clerk of Superior Court's Office and a 30-Day Status Conference Order designating a time, date and location for the conference. This packet will include a Domestic Intake Worksheet, rules regarding mandatory discovery with mandatory discovery forms attached thereto, information on the Families in Transition Seminar, and a financial affidavit form. The service copy of the Complaint to be served upon Respondent shall have the 30-Day Status Conference Order and same initiation packet attached thereto.

In uncontested cases, at the time of filing of an action, Petitioner shall retrieve from the Clerk of Superior Court's Office a Domestic Intake Worksheet, information on the Families in Transition Seminar, and a 30-Day Status Conference Order designating a time, date and location for the conference. Uncontested final hearings shall be scheduled by the Intake Case Manager. With the permission of the Family Division Judge's case manager, uncontested matters may be brought before the presiding Senior Judge. However, in all instances, a copy of the filed Final Order in these matters shall be submitted to the Family Division Judge's Case Manager.

4000-2.1 Service of Process

The party filing the initial pleading in contested cases shall promptly provide a copy of the Complaint, the initiation packet and the 30-Day Status Conference Order to all other parties by serving a copy of them upon the other party(ies) by Sheriff's Entry of Service (the service copies may be given to the Family Division who will arrange to have a Sheriff's Deputy pick them up for service), by Acknowledgment of Service, by Process Server, or by Publication.

Upon a party joining an additional party in an action, the additional party shall be served with the current pleadings and Scheduling Order(s).

4000-2.2 File Copies to Be Originals; Paper Requirements

All original documents filed shall be clear, legible, permanent and printed or typewritten in black or dark blue ink on non-translucent bond paper or other paper suitable for microfilming. Tissue, thermal or onionskin paper shall not be used. All original pleadings and other papers shall be first impressions and not carbon copies. Printed, multi-lithed, mimeographed, photocopied and other comparable reproductions are acceptable. The Court may refuse to sign any order not complying with this rule.

Every order and other paper presented to a Judge for his/her signature shall be signed by the individual attorney presenting it on the lower left-hand corner of the page to be signed by the Judge.

A party appearing *pro se* shall state on his/her pleading, notice of appearance and other documents filed by him/her, his/her mailing address and street address where service of process and other papers may be made upon him/her.

4000-2.3 Change of Case Style

Case styles shall be changed to promote less adversarial posturing. Plaintiff shall be changed to Petitioner; Defendant shall be changed to Respondent; and versus shall be changed to and such that the case style will read Petitioner and Respondent rather than Plaintiff versus Defendant.

4000-3 Scheduling and Calendaring of Conferences, Hearings and Final Trial in Contested Cases

4000-3.1 Preparation of Calendars

The Family Division Intake Case Manager shall prepare the 30-Day Status Conference calendar for the Family Division Judges. Subsequent 60- and 120-Day Status Conferences, final hearing calendars and contempt hearing calendars shall be scheduled by the Judge's Case Manager.

4000-3.2 When Status Conferences are Scheduled

The date of the 30-Day Status Conference shall be determined at the time of filing the action. Upon the filing of the petition, the parties are notified¹ of the date and time of the 30-Day Status Conference. Notice of such date shall constitute formal court notice of the Status Conference. All conferences and other matters to be brought before the Court shall be scheduled only by the Judge's Case Manager or the Case Manager's designee.

4000-3.2.1 30-Day Status Conference

A Status Conference with the Judge, Judicial Officer or Staff Attorney shall be scheduled approximately thirty (30) days from the date of filing of an action. The individual presiding over a conference shall be knowledgeable of the child support guidelines and alternative dispute resolution.

The focus of the 30-day Status Conference is to determine which issues, if any, are in dispute and methods of resolving those issues. If by that time the parties are unable to agree on a temporary basis regarding the issues of financial responsibilities and support, possession of the marital home, child custody /visitation issues or possession and use of personal and real property, then at that time a temporary hearing will be convened immediately or set for hearing soon thereafter for the Court's determination of these matters.

Based upon the circumstances of the case, the parties also may discuss the following issues:

- (a) appointment of Guardian ad Litem
- (b) psychological evaluations
- (c) mediation
- (d) cooperative parenting education
- (e) discovery sequencing
- (f) any other matter

¹ Respondent is notified upon service of the petition.

Mediation is available and offered at the 30-Day Status Conference. Also, dates may be set for future mediation, late case evaluation and trial.

Unresolved issues may be deferred for resolution at the 60-Day Status Conference. At the conclusion of this Conference, the Case Manager shall notify the parties of the next hearing and/or conference date, and a Family Division Scheduling Order shall be filed with the Court. At the conclusion of a temporary hearing, the Judge or Judicial Officer shall determine whether to send the parties to mediation and whether the 60-Day Status Conference shall be regularly set or, based upon the circumstances of the case, deferred to a future date. A Family Division Scheduling Order shall be filed with the Court in accordance with the Judge or Judicial Officer's ruling.

4000-3.2.2 60-Day Status Conference

The focus of the 60-Day Status Conference is for the parties to discuss and agree upon the unresolved pertinent issues of the case. In the event the parties are unable to resolve any such issue, a temporary hearing will be convened or set for hearing soon thereafter for the Court's determination of these matters. Except for good cause shown, an issue which was determined by the Court at a prior hearing will not be revisited at the 60-Day Status Conference.

At the conclusion of the 60-Day Status Conference, a Family Division Scheduling Order shall be filed with the Court. Also, a determination shall be made as to whether a 120-Day Status Conference is necessary. In the event it is determined that the Conference is necessary, the Case Manager shall notify the parties of the Conference date, which date shall be included in the Family Division Scheduling Order. At the conclusion of a Temporary Hearing, the Judge or Judicial Officer shall determine whether to send the parties to mediation and whether the 120-Day Status Conference shall be regularly set or, based upon the circumstances of the case, deferred to a future date. A Family Division Scheduling Order shall be filed with the Court in accordance with the Judge or Judicial Officer's ruling.

4000-3.2.3 120-Day Status Conference

The focus of the 120-Day Status Conference is for the parties to show the Court completion of or progress made on matters (*i.e.*, discovery, Guardian ad Litem reports, mediation) not completed at the 60-Day Status Conference and to determine a schedule for completion of outstanding matters prior to trial.

4000-3.2.4 Failure to Appear at Conferences; Noncompliance with Scheduling Order

Failure to comply with the Scheduling Order may be grounds for imposition of sanctions, including dismissal, or final disposition of the case. The Court, on its own initiative or on motion of a party, may order an attorney or party to show cause why sanctions should not be imposed for failure to comply with the Scheduling Order established by these rules. If the Court finds that an attorney or party has failed to comply with the Scheduling Order and has no reasonable excuse, the Court may order the attorney or party to pay monetary sanctions to the

Court or any other party who has incurred expense as a result of the failure to comply, or both; in addition, the Court may impose such other sanctions as justice requires.

4000-3.2.5 Joint Compliance Certificate

The purpose of this Certificate is to ensure the Court that a Status Conference is unnecessary because the parties have resolved all pertinent issues at that stage of the case.

A Status Conference may be removed from the Court's calendar by full compliance with the following:

The 30-Day Status Conference shall be removed if no less than five (5) days before the scheduled date of Conference, or if otherwise approved by the Judge or Judicial Officer, the Court receives from both parties (through counsel, if applicable) a jointly signed Family Division 30-Day Joint Compliance Certificate stating that all temporary issues have been resolved **and** that the exchange of mandatory discovery responses, **including Child Support Worksheet and Schedules**, have been completed or will be completed by a date certain but no later than twenty (20) days following the scheduled date of the 30-Day Status Conference. Attached to the Certificate shall be: 1) a 30-Day Joint Compliance Worksheet; 2) a completed Domestic Intake Worksheet; and 3) a Family Division 60-Day Status Conference Order with blanks filled in appropriately and other blanks left to be completed by the Judge's Case Manager, to be returned to counsel in self-addressed, stamped envelopes with return address to each counsel (or party).

A 60-Day Status Conference shall be removed if no less than five (5) days before the scheduled date of Conference, or if otherwise approved by the Judge or Judicial Officer, the Court receives from both parties (through counsel, if applicable) a jointly signed Family Division 60-Day Joint Compliance Certificate. Attached to the Certificate shall be a Family Division Consolidated Scheduling Order signed by both parties setting out in detail dates and procedures for the completion of the following: 1) discovery; 2) reports from the Guardian ad Litem, psychologists, and other Court-appointed professionals; 3) completion of psychological, anger, substance abuse, and other counseling; and 4) mediation. Also, the Family Division Consolidated Scheduling Order shall include the major disputed issues and the parties' plans for attempting to resolve such issues. A statement shall also be included stating whether the parties believe a late case evaluation will be helpful in facilitating settlement of the case. Also, attached to the Certificate shall be a Family Division 120-Day Status Conference Order with blanks filled in appropriately and other blanks left to be completed by the Judge's Case Manager, to be returned to counsel with the Consolidated Scheduling Order signed by the Judge or Judicial Officer in self-addressed, stamped envelopes with return address to each counsel (or party).

4000-3.2.6 Additional/Supplementary Status Conferences

The Court shall have the right to order additional and supplementary Status Conferences at any time to streamline matters and keep cases on track, or for discovery motions (see Rule 4000-6.1.1). These conferences may also be held by telephone.

4000-3.3 Proposed Pretrial Orders

4000-3.3.1 Requirement

Consolidated Domestic Relations Pretrial Orders may be required in all contested cases.

4000-3.3.2 Time

Consolidated Pretrial Orders shall be filed with the Court no later than seven (7) calendar days prior to trial.

4000-3.4 Late Case Evaluation

The Late Case Evaluator, in a non-binding setting, may hear both parties' statements outside the presence of the other side and shall make recommendations to the parties to consider for the purpose of settlement.

4000-3.4.1 Scheduling Late Case Evaluation

A Late Case Evaluation may be scheduled anytime after completion of discovery, or prior thereto if by agreement of the parties, or at the Court's discretion. The parties shall attempt to agree on a Late Case Evaluator. In the event they cannot agree, the Court shall appoint an Evaluator.

4000-3.4.2 Payment to Evaluator

The Late Case Evaluator shall be paid at his/her regular hourly rate beginning the fourth (4th) hour of Late Case Evaluation unless otherwise ordered by the Judge or Judicial Officer.

4000-3.5n Final Trial

A final trial date shall be set at the 30-Day, 60-Day or 120 Day Status Conference, depending on what appears appropriate to the Court.

4000-4 Motions for Contempt and Emergency Motions

All contempt matters shall be heard within the time prescribed by law. Hearings on contempt matters may be heard by a Family Division Judicial Officer instead of a Judge only upon the

consent of both parties. Consent of both parties is deemed given if neither party files a written request to have the Judge hear the matter prior to the Judicial Officer commencing the hearing.

A hearing for an emergency motion shall be held as soon as practicable, preferably either within 48 hours after the date and time of filing of the motion or within the time limitations as determined by the nature of the emergency. This shall include any time requirements for notice to the other party as the Court deems appropriate under the circumstances. The Judge to whom the case is assigned shall preside at the hearing. If the assigned Judge is unavailable to preside at the hearing, the matter shall be heard by the Presiding Judge or the parties may consent to have the matter heard and determined by a Family Division Judicial Officer. Consent of both parties is deemed given if neither party files a written request to have the Judge hear the matter prior to the Judicial Officer commencing the hearing.

4000-5 Sanctions

Parties ordered to proceed in certain matters and within certain time frames under the Family Division shall abide by the Court's Order. Failure to follow a Court Order, unless substantially justified, may result in one or more sanctions, including: a finding of contempt by the Court; taxation of costs or attorney's fees; and/or the imposition of monetary or other sanctions.

4000-6 Modification of Specific Uniform Superior Court Rules

4000-6.1 Uniform Superior Court Rule 6.4

4000-6.1.1 Motions to Compel Discovery

Motions to Compel Discovery shall be submitted by letter brief and shall conform substantially with the requirements of Uniform Superior Court Rule 6.4(A) and (B).

Either party can petition the Court by letter for a Discovery Status Conference after complying with the requirements of Uniform Superior Court Rule 6.4, *et. seq.* which states that counsel must confer in a good faith effort to resolve any disputes without the Court's intervention. In the event of a discovery dispute, double spaced letters, no smaller than a twelve (12) point font size, filed with the Court, and titled collectively as a party's Notice of Discovery Dispute shall suffice. A copy shall be submitted to the Case Manager.

At the Status Conference, the Court may rule on discovery matters. If a party does not comply with the Order, then upon motion, sanctions may be awarded by the Court.

4000-6.1.2 Notice of Discovery Dispute

Upon the filing of a party's Notice of Discovery Dispute, the Court, or its designee, may hold a Status Conference with the attorneys by telephone within twenty (20) days to determine the complexity and nature of the issue(s) and to determine if the matters can be resolved by the telephone conference with the Court. If the matter cannot be resolved by a telephone conference,

the Court, in its discretion, may require the attorneys and the parties (and/or witness and attorney) to attend a conference with the Judge to resolve the dispute. In addition, the Court shall select any other available remedy including requiring the parties to file formal motions with supporting briefs prior to the Court's ruling or hearing on the matter.

4000-6.2 Uniform Superior Court Rule 7.4

An Amendment shall be made by adding a Domestic Relations Pretrial Order.

4000-6.3 Uniform Superior Court Rule 24

4000-6.3.1 Domestic Relations Financial Affidavits, Child Support Worksheet and Schedule

Domestic Relations Financial Affidavits, Child Support Worksheet and Schedules shall be **provided to the Judge assigned in the case** and served on the opposing party or counsel within thirty (30) days from the filing date of the Complaint in all cases where alimony, maintenance, and/or child support is at issue. The Financial Affidavit, Child Support Worksheet and Schedules may be admitted as evidence at hearing or trial but shall not be filed with the Clerk of Court. In the event a party provides a Financial Affidavit, Child Support Worksheet or Schedules to the court, on the same day, the party shall also serve the other party with the same document so that it is received on the same day the court receives it.

4000-6.3.2 Mandatory Discovery

Family Division Mandatory Discovery forms shall be served with the Complaint upon Respondent. The Answers to Interrogatories, the Required Documents to be Produced, and the Financial Affidavit, Child Support Worksheet and Schedules shall be served on the opposing party or counsel within thirty (30) days from the filing date of the Complaint or no later than 48 hours before the 30-Day Status Conference, whichever date is later. The parties shall file with the Court a certificate indicating the pleading which was served, the date of service and the persons served.

This rule shall apply to all proceedings within the scope of these rules except proceedings involving adoption, enforcement, contempt, declaratory actions and injunctions for domestic or repeat violence. This rule also shall not apply in the event the parties enter into an Uncontested Divorce by thirty (30) days after the date of the filing of the Complaint.

Each party must bring to the 30-Day Status Conference his or her Financial Affidavit, Child Support Worksheet and Schedules, Answers to Interrogatories, and documents in response to Required Documents To Be Produced.

In the event of a full settlement, then a signed settlement agreement shall be filed with the Court and a copy served upon the Case Manager.

These mandatory discovery requests are not intended to preclude counsel from serving additional interrogatory requests to the approving party. The discovery rule of the Civil Practice Act restricting the number of interrogatory requests to fifty or less without leave of court shall not include, in calculating the number of questions, those requests listed in these Family Division mandated discovery pleadings.

The parties have a continuing duty to supplement documents described in this rule, including the Financial Affidavit, Child Support Worksheet and Schedules whenever a material change in their financial status occurs.

Any documents to be produced under this rule that are served on the opposing party less than twenty-four (24) hours before a hearing or trial are in violation of the Court's Scheduling Order and shall not be admissible into evidence at that hearing or trial unless the Court finds good cause for the delay.

All parties subject to this automatic mandatory disclosure shall file with the Court a certificate of compliance identifying with particularity the documents which have been delivered and certifying the date of service of the Financial Affidavit and mandated discovery responses.

4000-6.4 Uniform Superior Court Rule 17.1--Legal Notice of Conflicts in Court Proceedings

Scheduling Conferences of the Fulton County Superior Court Family Division are considered as specially set. A Status Conference is by Order of this Court and is considered a scheduled non-jury trial proceeding for purposes of conflict letters. In the event of a legal conflict, the Status Conference shall be rescheduled promptly on the next available date.

4000-7 Family Violence Petitions

Family Violence Petitions shall be under the auspices of the Family Division and monitored at all stages by the team to which they are assigned. If a divorce is pending before or at the time of the filing of the Family Violence Petition, then the statutory thirty (30) day hearing may be heard by the Court in the Family Division to which the case is assigned.

4000-8 Reserved

4000-9 Guardians ad Litem

4000-9.1 Appointment

The Guardian ad Litem ("GAL") is appointed to assist in a domestic relations case by the Superior Court judge assigned to hear that particular case, or otherwise having the responsibility to hear such a case. The appointing judge has the discretion to appoint any person as a GAL so long as the person so selected has been trained as a GAL or is otherwise familiar with the role,

duties, and responsibilities as determined by the judge. The GAL may be selected through an intermediary.

4000-9.2 Qualifications

A GAL shall receive such training as provided by or approved by the Circuit in which the GAL serves. This training should include, but not be limited to, instruction in the following subjects: domestic relations law and procedure, including the appropriate standard to be applied in the case; domestic relations courtroom procedure; role, duties and responsibilities of a GAL; recognition and assessment of child's best interests; methods of performing a child custody/visitation investigation; methods of obtaining relevant information concerning a child's best interest; the ethical obligations of a GAL, including relationships between the GAL and counsel, the GAL and the child, and the GAL and the Court; recognition of cultural and economic diversity in families and communities; basic child development, needs, and abilities at different ages; interviewing techniques; communicating with children; family dynamics and dysfunction, domestic violence and substance abuse; recognition of issues of child abuse; and available services for child welfare, family preservation, medical, mental health, educational and special needs, including placement/evaluation/diagnostic treatment services.

4000-9.3 Role and Responsibilities

The GAL shall represent the best interests of the child. The GAL is an officer of the Court and shall assist the Court and the parties in reaching a decision regarding child custody, visitation, and child-related issues. Should the issue of child custody and/or visitation be tried, the GAL shall be available to offer testimony in accordance with Provisions 9.6 and 9.7 herein.

The GAL holds a position of trust with respect to the minor child at issue, and must exercise due diligence in the performance of his/her duties. A GAL should be respectful of, and should become educated concerning, cultural and economic diversity as may be relevant to assessing a child's best interests.

A GAL's appointment, unless ordered otherwise by the Court for a specific designated period, terminates upon final disposition of all matters pertaining to child custody, visitation, and child-related issues. The GAL shall have the authority to bring a contempt action, or other appropriate remedy, to recover court-ordered fees for the GAL's services.

4000-9.4 Duties

By virtue of the order appointing a GAL, a GAL shall have the right to inspect all records relating to the minor child maintained by the Clerk of the Court in this and any other jurisdiction, other social and human service agencies, the Department of Family and Children Services, and the Juvenile Court. Upon written release and/or waiver by a party or appropriate court order, the GAL shall have the right to examine all records maintained by any school, financial institution, hospital, doctor or other mental health provider, or any other social or human services agency or financial institution pertaining to the child which are deemed confidential by the service provider. The GAL shall have the right to examine any residence wherein any person seeking

custody or visitation rights proposes to house the minor child. The GAL may request the Court to order examination of the child, parents or anyone seeking custody of the child, by a medical or mental health professional, if appropriate. The GAL shall be entitled to notice of, and shall be entitled to participate in, all hearings, trials, investigations, depositions, settlement negotiations, or other proceedings concerning the child.

4000-9.5 Release to GAL of a Party's Confidential Information From Non-Parties

A GAL's right to request and receive documents and information from mental health professionals, counselors and others with knowledge of a confidential nature concerning a party is conditional upon the party agreeing to sign a release allowing the GAL access to such records and information.

Upon receipt of a party's signed waiver/release form, the GAL shall have the right to inspect all records, documents and information relating to the minor child(ren) and/or the parties maintained by any mental health professionals, counselors and others with knowledge of a confidential nature concerning a party or minor child.

4000-9.6 Written Report

Unless otherwise directed by the appointing judge, the GAL shall submit to the parties or counsel and to the Court a written report detailing the GAL's findings and recommendations at such time as may be directed by the assigned judge. At trial, the report shall be admitted into evidence for direct evidence and impeachment purposes, or for any other purposes allowed by the laws of this state. The Court will consider the report, including the recommendations, in making its decision. However, the recommendations of the GAL are not a substitute for the Court's independent discretion and judgment, nor is the report a substitute for the GAL's attendance and testimony at the final hearing, unless all parties otherwise agree.

4000-9.6.1 Contents of Report

The report shall summarize the GAL's investigation, including identifying all sources the GAL contacted or relied upon in preparing the report. The GAL shall offer recommendations concerning child custody, visitation, and child-related issues and the reasons supporting those recommendations.

4000-9.6.2 Release of Report to Counsel and Parties

The Report shall be released to counsel (including counsel's staff and experts) and parties only, and shall not be further disseminated unless otherwise ordered by the Court.

4000-9.6.3 Release of GAL's File to Counsel

If ordered by the Court, the parties and their counsel shall be allowed to review and/or copy (and shall pay the cost of same) the contents of the GAL's file.

4000-9.6.4 Unauthorized Dissemination of GAL's Report and Contents of File

Any unauthorized dissemination of the GAL's report, its contents or the contents of the GAL's file by a party or counsel to any person, shall be subject to sanctions, including a finding of contempt by the Court.

4000-9.6.5 Sealing of Written Report

If filed, the Report shall be filed under seal by the Clerk of Superior Court in order to preserve the security, privacy, and best interests of the child(ren) at issue.

4000-9.7 Role at Hearing and Trial

It is expected that the GAL shall be called as the Court's witness at trial unless otherwise directed by the Court. The GAL shall be subject to examination by the parties and the Court. The GAL is qualified as an expert witness on the best interest of the child(ren) in question. The GAL may testify as to the foundation provided by witnesses and sources, and the results of the GAL's investigation, including a recommendation as to what is in a child's best interest. The GAL shall not be allowed to question witnesses or present argument, absent exceptional circumstances and upon express approval of the Court.

4000-9.8 General and Miscellaneous Provisions

4000-9.8.1 Requesting Mental Fitness and Custody Evaluations

Based upon the facts and circumstances of the case, a GAL may request the Court to order the parties to undergo mental fitness and/or custody evaluations to be performed by a mental health expert approved by the Court. The Court shall provide for the parties' responsibility for payment of fees to the appointed experts.

4000-9.8.2 Filing Motions and Pleadings

If appropriate, the GAL may file motions and pleadings if the GAL determines that the filing of such motion or pleading is necessary to preserve, promote or protect the best interest of a child. This would include the GAL's right to file appropriate discovery requests and request the issuance of subpoenas. Upon the filing of any such motions or pleadings, the GAL shall promptly serve all parties with filed copies of such filings.

4000-9.8.3 Right to Receive Notice of Mediations, Hearings and Trials

Counsel shall notify the GAL of the date and time of all mediations, depositions, hearings and trials or other proceedings concerning the child(ren). Counsel shall serve the GAL with proper notice of all legal proceedings, and court proceedings wherein the child(ren)'s interests are involved and shall provide the GAL with proper and timely written notice of all non-court proceedings involving the child(ren)'s interests.

4000-9.8.4 Approval of Settlement Agreements

If the parties reach an Agreement concerning issues affecting the best interest of a child, the GAL shall be so informed and shall have the right and opportunity to make objections to the Court to any proposed settlement of issues relating to the children prior to the Court approving the Agreement.

4000-9.8.5 Communications Between GAL and Counsel

A GAL may communicate with a party's counsel without including the other counsel in the same conversation, meeting or, if by writing, notice of the communication. When communicating with the GAL, counsel is not required to notify opposing counsel of the communication or, if in writing, provide opposing counsel with a copy of the communication to the GAL.

4000-9.8.6 Ex Parte Communication Between GAL and the Court

The GAL shall not have *ex parte* communications with the Court except only in matters of emergency concerning the child's welfare or upon consent of the parties or counsel. Upon making emergency concerns known to the Court, the GAL may request immediate hearing to address the emergency. Notification shall be provided immediately to the parties and counsel of the nature of the emergency and time of hearing.

4000-9.8.7 Payment of GAL Fees and Expenses

It shall be within the Court's discretion to determine the amount of fees awarded to the GAL, and how payment of fees shall be apportioned between the parties. The GAL's requests for fees shall be considered, upon application properly served upon the parties and after an opportunity to be heard, unless waived. In the event the GAL determines that extensive travel outside the circuit in which the GAL is appointed or other extraordinary expenditures are necessary, the GAL may petition the Court in advance for payment of such expenses by the parties

4000-9.8.8 Removal of GAL From the Case

Upon motion of either party or upon the Court's own motion, the Court may consider removing the GAL from the case for good cause shown.