

# SUPREME COURT OF GEORGIA

Atlanta June 6, 2007

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

It is ordered that the attached revisions to Atlanta Judicial Circuit Rule 1004 governing the Fulton County Superior Court Business Case Division, are hereby approved:

## **RULE 1004-AMENDED**

### **BUSINESS CASE DIVISION**

#### **1.**

The Judges of the Fulton Superior Court hereby create a “Business Case Division” (hereinafter referred to as the “Division”).

#### **2.**

The purpose of the Division is to provide judicial attention and expertise to certain complex Business Cases.

#### **3.**

(a) For purpose of this rule, Business Cases include actions in which the amount in controversy (or, in a case of injunction relief the value of the relief sought or the cost of not getting the relief) exceeds \$1,000,000 and which are brought pursuant to the following:

(i) Georgia Securities Act of 1973, as amended, O.C.G.A. § 10-5-1, et seq.;

(ii) Uniform Commercial Code, O.C.G.A. § 11-1-101, et seq.;

- (iii) Georgia Business Corporation Code, O.C.G.A. § 14-2-101, et seq.;
- (iv) Uniform Partnership Act, O.C.G.A. § 14-8-1, et seq.;
- (v) Uniform Limited Partnership Act, O.C.G.A. § 14-9A-1, et seq.;
- (vi) Georgia Revised Uniform Limited Partnership Act, O.C.G.A. § 14-9-100, et seq.;
- (vii) Georgia Limited Liability Company Act, O.C.G.A. § 14-11-100, et seq.; and
- (viii) any other action that the parties to the action and the Court believes warrants the attention of the Division, including large contractual and business tort cases as well as other complex commercial litigation.

(b) Notwithstanding anything contained herein to the contrary, cases that include the following claims shall not be classified as a Business Case without the consent of all parties:

- (i) Personal injury;
- (ii) Wrongful death;
- (iii) Employment discrimination; and
- (iv) Consumer claims in which each individual plaintiff's claims are in the aggregate less than \$1,000,000.

#### 4.

The Division is to be comprised of up to three Senior Judges who manage, administer, and try the cases assigned to this Division, or such other number of Senior Judges as the Chief Judge shall designate.

#### 5.

A Business Case filed in the Fulton County Superior Court shall be eligible for assignment to the Division based upon: (1) the parties' joint request; (2) the motion of a party; or (3) a request submitted by the Superior Court Judge currently assigned that case, with notice to the parties. The motion or request shall be directed to the Chief Judge of the Fulton County Superior Court and the Business Case Division Committee to determine, after allowing the parties twenty (20) days for briefing of the issue, whether the case is a Business Case Division case and whether it should be accepted for assignment into the Business Case Division. If so accepted, the Court Administrator shall reassign the case to a Senior Judge within the Business Case Division.

**6.**

Upon a motion or request, if the Chief Judge, a member of the Business Court Committee and a Senior Judge to whom the case may be assigned deem the case appropriate for assignment to the Division, the Court Administrator shall assign the case to the Division. Within the Division, the Court Administrator shall assign the Division's cases in rotation, taking into account, reasonably estimated discovery, dispositive motions, availability of the Senior Judge, the Senior Judge's current case load, and trial time, as far as practicable. The Court Administrator shall make every effort to fairly assign the case load within the Division.

**7.**

When an active Judge's case has been reassigned to a Division Judge as a Business Case, the Court Administrator shall make such additional assignments to the active Judge as are necessary to comply with these rules.

**8.**

The Chief Judge/District Administrative Judge shall select or re-select all Division Judges from those Senior Judges, considering their experience, training, and other relevant factors, who volunteer for such assignment for a period of two years. At the end of each two year term, the Chief Judge/District Administrative Judge shall decide the continuation of such assignment if the Division Judge volunteers for continued service. The Chief Judge/District Administrative Judge may reassign such Division Judge at any time in the best interests of the Court and the Division.

**9.**

The Business Cases assigned to the Division shall be governed by applicable law, including the Georgia Civil Practice Act, O.C.G.A. § 9-11-1, et seq., and the Uniform Superior Court Rules.

**10.**

The Division Judges, in consultation with all parties and pursuant to applicable law, shall have the ability to modify the schedule for the administration of Business Cases, including the schedule for conducting discovery, filing dispositive motions, conducting pre-trial procedures, and conducting jury and non-jury trials.

**11.**

In particular, the Division Judges, pursuant to O.C.G.A § 9-11-5(e) may modify the procedure for filing

papers with the Court, including allowing such filings to be made by facsimile or by e-mail with the Court.

Upon the written consent of all parties and upon any necessary waivers as may be required by law, the Division Judges may allow for service of papers filed with the Court by electronic means, including by facsimile or by e-mail. In the event that any procedures are modified pursuant to this paragraph, an electronic signature shall be deemed an original signature.

**12.**

The Division Judges, in consultation with all parties, shall have the ability to order nonbinding mediation, arbitration, or other means of alternative dispute resolution as dictated by the needs of a particular Business Case. The Division Judges themselves, with the consent of all parties, may conduct such non-binding mediation, arbitration, or other means of alternative dispute resolution.

**13.**

The calendar for the Division shall be prepared under the supervision of the Division Judges and shall be made available to all parties with Business Cases pending in the Division. Pursuant to agreement of the parties and the Court, the Court may notify parties of such calendar by electronic means, including by facsimile or by e-mail.

**14.**

Subject to the rules of evidence, the Division encourages the parties to use electronic presentations and technologically generated demonstrative evidence to enhance the trier-of-fact's understanding of the issues before it and to further the convenience and efficiency of the litigation process.

**15.**

Within thirty (30) days of a Business Case being assigned to the Division, or such shorter or longer time as the Division Judges shall order, the parties shall meet with the Division Judge to whom the Business Case is assigned to discuss the entrance of a case management order, including the following issues: (i) the length of the discovery period, the number of fact and expert depositions, and the length of such depositions; (ii) a preliminary deposition schedule; (iii) the identity and number of any motions to dismiss or other preliminary or

pre-discovery motions which shall be filed and the time period in which they shall be filed, briefed, and, if appropriate, argued; (iv) the time period after the close of discovery within which post-discovery dispositive motions shall be filed, briefed, and, if appropriate, argued; (v) the need for any alternative form of dispute resolution; (vi) an estimate of the volume of documents and electronic information likely to be the subject of discovery from the parties and non-parties, and whether there are means by which to render document discovery more manageable and less expensive; (vii) and modifications to the rules under the Civil Practice Act or the Uniform Superior Court Rules as may be applicable to a particular case; (viii) such other matters as the Division Judge may assign to the parties for their consideration. Within ten (10) days of such a meeting, the parties shall submit a proposed case management order to the Division Judge for consideration.

**16.**

In an effort to reduce the length of discovery and quickly resolve any discovery disputes, the Division Judges shall be available to the parties to resolve disputes that arise during the course of discovery.

**17.**

In addition to telephone conferencing pursuant to Rule 9 of the Uniform Superior Court Rules, by mutual agreement between the parties and the Division Judges, counsel may arrange for any hearing or other conference to be conducted by video conference, subject to the same rules of procedure and decorum as if the hearing or conference were held in open court. In addition to charging the parties for other costs associated with Business Cases pending in the Division, the Clerk may charge the parties a fee for such video conferencing or may include the costs of such video conferencing in any standard fee charged to parties participating in Business Cases pending in the Division.