

UNIFORM RULES

STATE COURTS OF THE STATE OF GEORGIA



COUNCIL OF STATE COURT JUDGES

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UNIFORM STATE COURT RULES
Effective July 1, 1985
Including Amendments Received Through
December 10, 2015

The Uniform Rules for the Superior Courts shall be applicable in State Courts except as follows:

- A. Wherever the words "superior court" or "superior courts" appear in the Uniform Superior Court Rules, the word "state" shall apply in lieu of the word "superior."
- B. Wherever the words "district attorney" appear in the Uniform Superior Court Rules, the words "prosecuting attorney" shall apply in lieu of "district attorney."
- C. Wherever the word "felony" appears, the words "or misdemeanor" shall be added.
- D. Wherever the words "indictment" or "grand jury indictment" appear, the word "accusation" shall apply in lieu thereof.
- E. The following Uniform State Court Rules shall read as follows:

RULE 6. MOTIONS IN CIVIL ACTIONS

Rule 6.2 Reply

Unless otherwise ordered by the judge, each party opposing a motion shall serve and file a response, reply memorandum, affidavits, or other responsive material not later than 30 days after service of the motion, or on the date of the hearing (if one is held) whichever occurs sooner.

RULE 8. CIVIL JURY TRIAL CALENDAR

Rule 8.3 Trial Calendar

The calendar clerk shall prepare a trial calendar from the actions appearing on the ready list, in the order appearing on such list. The calendar shall state the place of trial and the date and time during which the actions shall be tried. The trial calendar shall be delivered to the clerk of the court and distributed or published a sufficient period of time, but not less than 20 days, prior to the session of court at which the actions listed thereon are to be tried, except that the trial calendar for dispossessories, foreclosures, mechanics liens, garnishments and distress warrants shall be published at least twenty-four hours in advance of the hearing and shall be available at the clerk's office.

RULE 15. DEFAULT JUDGMENTS [RESERVED]

NOTE: Effective September 17, 2015, Uniform State Court Rule 15, Default Judgments, has been superseded by Uniform Superior Court Rule 15, Default Judgments. Uniform State Court Rule 15 is hereby reserved.

RULE 17. CONFLICTS-STATE AND FEDERAL COURTS

Rule 17.2 Notice of Resolution

The judges or clerks of the courts in which such conflicts exist shall give prompt written notice to all counsel of the manner in which the conflicts have been resolved; provided, however, that if the conflict is resolved by the court seven days or less in advance of the conflict, oral notice shall suffice.

RULE 25. RECUSAL

Rule 25.4 Procedure Upon a Motion for Disqualification

The motion shall be assigned for hearing to another judge, who shall be selected in the following manner:

(A) If within a single-judge county, the district chairperson serving on the Executive Committee of the Council of State Court Judges shall select the judge;

(B) If within a two-judge county, the other judge, unless disqualified, shall hear the motion;

(C) If within a county composed of three (3) or more judges, selection shall be made by use of the county's existing random, impartial case assignment method. If the county does not have random, impartial case assignment rules, then assignment shall be made as follows:

(1) The chief judge of the county shall select a judge within the county to hear the motion, unless the chief judge is the one against whom the motion is filed; or

(2) In the event the chief judge is the one against whom the motion is filed, the assignment shall be made by the judge of the county who is most senior in terms of service other than the chief judge and who is not also a judge against whom the motion is filed; or

(3) When the motion pertains to all active judges in the county, the district chairperson serving on the Executive Committee of the Council of State Court Judges shall select a judge other than an active judge of the referring court to hear the motion.

(D) If the district chairperson serving on the Executive Committee of the Council of State Court Judges is the one against whom the motion is filed, or if said judge sua sponte recuses from the case, the President of the Council of State Court Judges shall serve in this selection process instead of the district chairperson.

(E) If all judges within a county are disqualified, as well as the district chairperson serving on the Executive Committee of the Council of State Court Judges and the President of the Council of State Court Judges, the matter shall be referred by the disqualified district chairperson to the district chairperson serving on the Executive Committee of the Council of State Court Judges of an adjacent district for the appointment of a judge other than an active judge of the referring court to hear the motion.

If the motion is sustained, the selection of another judge to hear the case shall follow the same procedure as outlined above.

RULE 26. PRE-INDICTMENT PROCEEDINGS

Rule 26.1 Bonds and First Appearance

(F) Inform the accused that he has the right to accusation in misdemeanor cases or to Uniform Traffic Citation in traffic cases, and the right to trial by jury;

RULE 29. APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS

Rule 29.2 Application and Appointment of Counsel

When an accused person, contending to be financially unable to employ an attorney to defend against pending criminal charges or to appeal a conviction, desires to have an attorney appointed, the accused shall make a request in writing to the court or its designee for an attorney to be appointed. The request shall be in the form of an application for appointment of counsel and certificate of financial resources, made under oath and signed by the accused which shall contain information as to the accused's assets, liabilities, employment, earnings, other income, number and ages of dependents, the charges against the accused and such other information as shall be required by the court. The purpose of the application and certificate is to provide the court or its designee with sufficient information from which to determine the financial ability of the accused to employ counsel. The court may appoint an attorney for an indigent defendant without a written request.

The determination of indigency or not shall be made by a judge or a state court or designee.

Upon a determination of indigency the court shall, in writing, authorize the appointment of counsel for the indigent accused. The original authorization of appointment shall be filed with the accusation or warrant in the case; a copy of the authorization shall be forwarded to the clerk, court administrator, public defender or such other person designated by the court to assign an attorney to an indigent defendant. Such person shall notify the accused, the appointed attorney, the sheriff and the prosecuting attorney of the appointment.

RULE 33. PLEADING BY DEFENDANT

Rule 33.1 Alternatives

(A) A defendant may plead guilty, not guilty, or in the discretion of the judge, nolo contendere. A plea of guilty or nolo contendere should be received only from the defendant personally in open court, except when the defendant is a corporation, in which case the plea may be entered by counsel or a corporate officer. In misdemeanor cases, upon the request of a defendant who has made, in writing, a knowing, intelligent and voluntary waiver of his right to be present, the court may accept a plea of guilty in absentia.

(B) A defendant may plead nolo contendere only with the consent of the judge. Such a plea should be accepted by the judge only after due consideration of the views of the parties and the

interest of the public in the effective administration of justice. Procedurally, a plea of nolo contendere should be handled under these rules in a manner similar to a plea of guilty.

Rule 33.11 Record of Proceedings

A record of the proceeding at which a defendant enters a plea of guilty or nolo contendere shall be made and preserved. The record should include:

- (A) the inquiry into the voluntariness of the plea (as required in section 33.7);
- (B) the advice to the defendant (as required in section 33.8);
- (C) the inquiry into the accuracy of the plea (as required in section 33.9), and, if applicable;
- (D) the notice to the defendant that the trial court intends to reject the plea agreement and the defendant's right to withdraw the guilty plea before sentence is pronounced.

RULE 36. FILING AND PROCESSING

Rule 36.1 Preparation of Documents

To the extent practical, all materials presented for filing in any state court shall be typed, legibly written or printed on one side only in blue or black ink suitable for reproduction, on opaque white paper measuring 8 1/2" x 11", of good quality, grade and weight. Manuscript covers and backings shall be omitted wherever practical.

Rule 36.6 Minutes and Final Record

There shall be one or more books or microfilm records (combined "Minutes Book", "Writ or Pleading Record" and "Final Record") called Minutes and Final Record in which each entire matter (except traffic and T.V.B. cases) shall be recorded after completion. After recording, the original may be destroyed according to the state retention schedule or stored off premises as provided by law.

Rule 36.8 File Categories

The categories of files to be established by the clerk shall be civil and criminal, and such sub-categories as the clerk may establish.

Rule 36.10 Filing Requirements—Civil

Complaints or petitions presented to the clerk for filing shall be filed only when accompanied by the proper filing fee, fee for sheriff service or a pauper's affidavit, and when applicable, any forms required by law or rule to be completed by the parties. The attorney or party filing the complaint shall furnish the necessary service copies, and shall fill out and attach the appropriate backing sheets.

Rule 36.15 Assessment of Costs–Criminal

When costs are assessed the minimum amount assessed as court costs in the disposition of any criminal offense shall be \$50.00. Any surcharge provided for by law shall be in addition.

RULE 39. DOCKETING AND INDEXING

Rule 39.5 General Execution Docket

The General Execution Docket shall contain all Fi. Fas. All state court judgments shall be forwarded to the superior court to be recorded in the General Execution Docket, with costs of recording being added to advanced costs. The information to be entered shall be:

- (A) Names of the parties and attorneys of record;
- (B) Names of county and court in which judgment was issued;
- (C) The date of judgment;
- (D) The date of issuance of the Fi. Fa.;
- (E) The date of the recording of the Fi. Fa. on the General Execution Docket;
- (F) The number of the case on which the judgment was rendered; and
- (G) The amount of principal, costs, attorney fees, interest, penalties, and total amount of the Fi. Fa. on the case.

Nulla Bona’s and satisfactions are to be noted on the original entry. Re-issued Fi. Fas. shall be recorded as a new Fi. Fa. in the General Execution Docket. A cross-reference to that new entry shall be made on the original entry of the Fi. Fa. or the last renewal of the Fi. Fa. which is less than seven years old.

Rule 39.7 Suggested Forms

The forms below are suggested for use in all state courts in this state.

Rule 39.9 Court Information

The chief judge of each State Court may require the clerk of that court to furnish to the chief judge within 10 days after the end of each month, a general civil and a criminal (including traffic violation bureau offenses, OCGA § 40-13-50 et seq.) caseload management report. The Chief Justice of the Supreme Court of Georgia may request copies of the information that is furnished to the Chief Judges of the State Courts pursuant to this rule.

The case types, events types and disposition methods used in these reports will conform to Judicial Council guidelines for reporting caseload. Each such report shall include the following:

- (A) the number of cases filed by case type in the prior month and year-to-date;

(B) the number of cases disposed by case type and disposition method in the prior month and year-to-date;

(C) the number and type of pending cases;

(D) a list of cases more than 120 days old (criminal) and 180 days old (civil) to include the following data:

(1) case number,

(2) style,

(3) case type,

(4) filing date,

(5) next event scheduled,

(6) date of that event; and

(E) any other information the chief judge requests that is contained within the court's standardized computer programs.

Rule 39.9 adopted October 9, 1997.

RULE 43. MANDATORY CONTINUING JUDICIAL EDUCATION (MCJE)

Rule 43.1 Program Requirements

(A) Every state court judge, including senior state court judges, shall attend approved creditable judicial education programs or activities, totaling a minimum of 12 hours per year. At least one hour of the mandated 12 hours per year shall be devoted to the topic of legal or judicial ethics and/or legal or judicial professionalism. If a judge completes more than 12 hours for credit in any calendar year, the excess credit shall be carried over and credited to the education requirements for the next succeeding year only. The Institute of Continuing Judicial Education (ICJE) shall keep a record of the creditable hours for each judge and shall publish those hours on its website (under the judge's bar number or other agreed upon number, rather than his name), so that each judge can track the hours he has received credit for each calendar year.

(B) Each new judge must attend the pertinent ICJE in-state program of instruction for new judges. The new judge is required to attend the new judge program at the next available opportunity after the judge's election or appointment, preferably within one year after assuming office. Credit for the new judges' studies shall also apply to the requirement in paragraph (A) above.

(C) If a judge is appointed to the bench in the last five months of a calendar year, that judge shall not be required to attend approved creditable judicial education programs or activities for that calendar year, unless the required new judge program is offered during that time period.

(D) Additionally, every judge is encouraged to attend national or regional specialty, graduate or advanced programs of judicial and legal education.

(E) Qualifying creditable judicial education programs and activities shall include, but are not limited to:

(1) Programs sponsored by the ICJE.

(2) Programs of continuing legal education accredited by the State Bar of Georgia's Commission on Continuing Lawyer Competency, such as programs sponsored by the Institute of Continuing Legal Education (ICLE), however, such programs must be related to matters under state court jurisdiction.

(3) Additional programs approved on behalf of the Council of State Court Judges by the Mandatory Continuing Judicial Education (MCJE) Committee.

(4) Courses at a Georgia-based law school, whether for credit or not, that qualify an individual for a degree.

(5) Service on the Judicial Qualifications Commission or the State Bar Disciplinary Board for legal or judicial ethics or professionalism hours only.

(6) Service as a panelist or mock trial judge (three hours per year may be earned).

Rule 43.2 Administration

Administration of this program of mandatory continuing judicial education shall be conducted by the Council of State Court Judges, with the assistance of the ICJE.

Rule 43.3 Sanctioning Procedures

Sanctioning procedures for failure to comply with Rule 43.1 are as follows:

(A) In December of each year, the chair of the MCJE Committee shall request a report from ICJE detailing the creditable participation of judges in MCJE activities for that calendar year.

(B) A judge who fails to attain the required 12 hours in any year will be notified by the chair of the MCJE Committee, or his designee, that he has not met the MCJE requirement for that year, and a copy of this notice will be furnished to the Chief Judge for the State Court in which the judge presides.

(C) A judge who fails to earn a minimum of 12 hours per year may receive a private administrative admonition issued from the MCJE Committee, detailing the potential consequences of failure to fulfill the training requirements. Any required make-up of a prior calendar year's deficiency in accruing MCJE hours is expected to occur within three months, or by March 31 of the next year, unless due to extraordinary circumstances a longer period for curing the deficiency is granted by the MCJE Committee.

(D) Upon a judge's failure to fulfill the training requirements at the end of a two-year period, the President of the Council of State Court Judges shall issue a public reprimand, with a copy spread upon the minutes of the county where the judge serves, except as otherwise provided herein. The public reprimand for a senior judge shall be spread upon the minutes of the county where the judge last served prior to retirement. However, one month prior to the public reprimand being issued, the MCJE Committee shall give to said judge notice of the impending public reprimand, and the judge shall have 10 days to respond with an explanation and a request that the public reprimand not be issued. The MCJE Committee shall then decide whether or not to ask the President of the Council to issue the public reprimand.

Rule 43.4 Exemptions

(A) The MCJE Committee shall receive and act upon requests for exemptions to the MCJE requirements of these rules. Exemptions may be granted, in the discretion of the Committee, for judges who, due to illness, were not able to attend continuing education in a calendar year; senior judges who are not actively sitting more than 30 days per year; judges who have obtained required CLE that might not otherwise qualify for continuing judicial education, and other matters to be determined each year upon request of the judge seeking exemption.

(B) It shall be the responsibility of the judge seeking exemption to make such a request in writing to the chair of the MCJE Committee no later than February 1 of the year following the year for which an exemption is sought (for example, by Feb. 1, 2017 if exemption is sought for 2016). The chair shall forward the request to the Committee within 10 days of receipt, and the Committee shall notify the judge seeking exemption if the exemption has been allowed, or if the judge must make up the missed hours. If the exemption is not allowed, the judge shall have until June 1 of that year to make up the missed hours.

Adopted December 14, 1987; amended effective December 10, 2015.

F. The following Uniform Superior Court Rules shall not be applicable in state courts:

Rules 24.1 through 24.7-Domestic Relations.

Rules 34.1 through 34.5-Unified Appeal.