

AMENDMENTS TO UNIFORM SUPERIOR COURT RULES

It is ordered that Uniform Superior Court Rules 17.1 (relating to method of resolution of attorney conflicts); 24.2 (relating to financial data); and 39.7 (relating to mandatory forms) be revised, effective October 23, 2008, as follows:

Rule 17.1. Method of Resolution.

(A) An attorney shall not be deemed to have a conflict unless:

(1) the attorney is lead counsel in two or more of the actions affected; and,

(2) the attorney certifies that the matters cannot be adequately handled, and the client's interest adequately protected, by other counsel for the party in the action or by other attorneys in lead counsel's firm; certifies that in spite of compliance with this rule, the attorney has been unable to resolve these conflicts; and certifies in the notice a proposed resolution by list of such cases in the order of priority specified by this rule.

(B) When an attorney is scheduled for a day certain by trial calendar, special setting or court order to appear in two or more courts (trial or appellate; state or federal), the attorney shall give prompt written notice as specified in (A) above of the conflict to opposing counsel, to the clerk of each court and to the judge before whom each action is set for hearing (or, to an appropriate judge if there has been no designation of a presiding judge). The written notice shall contain the attorney's proposed resolution of the appearance conflicts in accordance with the priorities established by this rule and shall set forth the order of cases to be tried with a listing of the date and data required by (B) (1)-(4) as to each case arranged in the order in which the cases should prevail under this rule. In the absence of objection from opposing counsel or the courts affected, the proposed order of conflict resolution shall stand as offered. Should a judge wish to change the order of cases to be tried, such notice shall be given promptly after agreement is reached between the affected judges. Attorneys confronted by such conflicts are expected to give written notice such that it will be received at least seven (7) days prior to the date of conflict. Absent agreement, conflicts shall be promptly resolved by the judge or the clerk of each affected court in accordance with the following order of priorities:

(1) Criminal (felony) actions shall prevail over civil actions. Criminal actions in which a demand for speedy trial has been timely filed pursuant to OCGA §§ 17-7-170 and/or 17-7-171 shall automatically take precedence over all other actions unless otherwise directed by the Court in which the speedy trial demand is pending;

(2) Jury trials shall prevail over non-jury matters, including trials and administrative proceedings;

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(3) Within the category of non-jury matters, the following will have priority: (a) parental terminations, (b) trials, (c) all other non-jury matters including appellate arguments, hearings and conferences;

(4) Within each of the above categories only, the action which was first filed shall take precedence.

(C) Conflict resolution shall not require the continuance of the other matter or matters not having priority. In the event any matter listed in the letter notice is disposed of prior to the scheduled time set for any other matter listed or subsequent to the scheduled time set but prior to the end of the calendar, the attorney shall immediately notify all affected parties, including the court affected, of the disposal and shall, absent good cause shown to the court, proceed with the remaining case or cases in which the conflict was resolved by the disposal in the order of priorities as set forth heretofore.

Rule 24.2. Financial Data Required; Scheduling and Notice of Temporary Hearing.

Except as noted below, at the time of filing any action for temporary or permanent child support, alimony, equitable division of property, modification of child support or alimony or attorneys fees, the filing party shall file with the Clerk of Court the affidavit specifying his or her financial circumstances in the form set forth herein. In cases involving child support, the worksheet and schedules required by OCGA § 19-6-15 and only as promulgated by the Georgia Child Support Commission, shall be completed insofar as possible and filed with the Clerk and shall be served upon the opposing party. Online submission of the worksheet and schedules shall not suffice as filing with the Clerk of Court.

In other emergency actions, the affidavit, worksheet and schedules may be filed and served on or before the date of the hearing or at such other time as the Court orders, and shall not be required at the time of filing of the action.

In cases filed with complete separation agreements or consent orders resolving all issues but the issue of divorce, the parties are not required to file financial affidavits, unless otherwise ordered by the Court. In cases involving child support the parties must attach to the proposed final judgment a completed worksheet and Schedule E, whether Schedule E applies or not. In addition, the separation agreement must include the parties' gross and adjusted incomes. The remaining applicable schedules shall be filed with the Clerk at the time of filing the uncontested action.

The Office of Child Support Services is exempt from filing financial affidavits.

Notice of the date of any temporary hearing shall be served upon

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the adverse party at least 15 days before the date of the hearing, unless otherwise ordered by the Court.

The opposing party shall file with the Clerk and serve upon the other party the affidavit specifying his or her financial circumstances in the form set forth herein and the worksheet and schedules, completed insofar as possible:

- at least five days prior to any temporary hearing;
- at least five days prior to any court ordered mediation;
or
- thirty days after service of the complaint, whichever first occurs.

Any amendments to the affidavits, worksheets or schedules shall be served upon the opposing party at least 10 days prior to final hearing or trial and shall be filed with the Clerk of Court at or before trial.

On the request of either party, and upon good cause shown to the Court, the affidavits, worksheets, schedules, and any other financial information may be sealed, upon order of the Court.

No social security numbers or account numbers shall be included in any document filed with the Court pursuant to this rule. Each account shall be specified by financial institution and a partial account number. No party shall be required to include full account numbers.

Failure of any party to furnish the above financial information, in the discretion of the Court, may subject the offending party to the penalties of contempt and may result in continuance of the hearing until such time as the required financial information is furnished or such other sanctions or remedies deemed appropriate in the Court's discretion.

The affidavit shall be under oath and in substantially the following form:

[FORM FOLLOWS]

(Please note that the Financial Affidavit has been omitted from this publication, though it is part of Rule 24.2, as no changes are proposed to the Financial Affidavit at this time.)

Rule 39.7. Required Forms.

The forms listed below, except SC-6 and SC-6.1, shall be required for use in all superior courts in this state. SC-6 and SC-6.1 may be used in all superior courts in this state:

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SC-1 Summons

SC-2 Sheriff's Entry of Service

SC-3 Service by Publication

SC-4 Notice of Publication

SC-5 Writ of Fieri Facias

SC-6 Final Disposition Form (Criminal) (to include "If you are convicted of a crime involving violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm including a rifle, pistol, or revolver, or ammunition, pursuant to federal law under 18 U.S.C. § 922 (g) (9) [and/or state law]."

SC-6.1 First Offender Sentence Form

SC-7 Exemplification

SC-8 Witness Subpoena

SC-9 Subpoena for the Production of Evidence

SC-9.1 Subpoena for the Production of Evidence at a Deposition

SC-13 Civil Case Initiation Form

SC-14 Civil Case Disposition Form

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It is ordered that SC-16, Family Violence Twelve Month Protective Order of the Uniform Superior Court Rules be revised, effective October 23, 2008, to change the language in Paragraph 11 from "100 yards" to "___ yards" and to reverse the order of Paragraphs 25 and 26. Paragraph 25 now sets forth the options concerning required attendance at a certified family violence intervention program and Paragraph 26 specifies that a respondent is subject to 18 USC § 922 (g) (limitations on transportation or possession of a firearm) as follows:

ORI Number _____

THE SUPERIOR COURT FOR THE COUNTY OF _____

STATE OF GEORGIA

_____,
Petitioner, : Civil Action File
vs. :
_____, : No. _____
Respondent. :

FAMILY VIOLENCE TWELVE MONTH PROTECTIVE ORDER

A hearing was held on this matter on _____, 20____ for which the Respondent had notice as required by law and at which the Respondent appeared and/or had the opportunity to be heard and the Petitioner requested that the Protective Order entered in this case be continued. Having heard the evidence presented, reviewed the petition and the entire record concerning this case and for good cause shown, IT IS HEREBY ORDERED AND ADJUDGED:

1. That these proceedings be filed in the office of the Clerk of this Court.
2. That this Order applies in every county throughout the state and it shall be the duty of every court and every law enforcement official to enforce and carry out the provisions of this Order pursuant to O.C.G.A. § 19-13-4(d). Law Enforcement officers may use their arrest powers pursuant to O.C.G.A. §§ 19-13-6 and 17-4-20 to enforce the terms of this Order.
3. This Order shall be in effect for up to twelve (12) months from _____, 20____ until _____, 20____.
4. That the Respondent has violated the Family Violence Act, at O.C.G.A. § 19-13-1 *et seq.*, by committing family violence, has placed the Petitioner in reasonable fear for Petitioner's safety, and represents a credible threat to the physical safety of Petitioner and/or Petitioner's child/ren. Respondent is hereby enjoined and restrained from doing, or attempting to do, or threatening to do, any act of injury, maltreating, molesting, following, harassing, harming, or abusing the Petitioner and/or the minor child/ren in any manner. Respondent is not to interfere with Petitioner's travel, transportation, or communication. Respondent shall not follow, place under surveillance, or contact the Petitioner at any place of the Petitioner for the purpose of harassing and intimidating the Petitioner.
5. That the Respondent is enjoined and restrained from doing or attempting to do, or threatening to do, any act of injury, maltreating, molesting, harassing, harming, or abusing the Petitioner's family or household.

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6. That this Court determined that it had jurisdiction over the parties and the subject matter under the laws of the State of Georgia and Respondent received reasonable notice and had the opportunity to be heard before this Order was issued sufficient to protect the Respondent's due process rights and this Order shall be presumed valid and pursuant to 18 U.S.C. § 2265(a) shall be accorded **full faith and credit** by any other state or local jurisdiction and shall be enforced as if an Order of the enforcing state or jurisdiction.

ONLY THE FOLLOWING THAT ARE INITIALED BY THE JUDGE SHALL APPLY

- ____ 7. Petitioner is awarded sole and exclusive possession of the residence at _____

- ____ 8. Respondent is ordered to leave the family residence immediately and law enforcement at _____ (sheriff or police department) is ordered to assist Petitioner in returning to the family residence and the removal of the Respondent. Respondent shall immediately surrender to law enforcement _____ (sheriff or police department) all and any keys, garage door openers and other security devices to the family residence and law enforcement shall insure that these are given to the Petitioner.
- ____ 9. Respondent is ordered to stay away from Petitioner's and Petitioner's child/ren's residence and workplace and/or school and any subsequent residence or workplace or school of Petitioner and/or Petitioner's minor child/ren.
- ____ 10. Respondent is ordered to provide suitable alternate housing for Petitioner and/or Petitioner's children by _____.
- ____ 11. That Respondent is restrained and enjoined from approaching within _____ yards of Petitioner and/or Petitioner's minor children.
- ____ 12. Respondent is ordered not to have any contact, direct, indirect or through another person with Petitioner, by telephone, pager, fax, e-mail or any other means of communication except as specified in this Order.
- ____ 13. That Petitioner is awarded temporary custody of the minor child/ren, namely:

DOB _____ sex _____
Respondent is ordered not to interfere with the physical custody of the minor child/ren.

Initial here **only if Respondent** is awarded temporary custody of the child/ren.
- ____ 14. The _____ shall pay to the _____, for the support of the minor child/ren, the sum of _____ Dollars (\$ _____) per _____, beginning _____, 20____.
All payments are to be made by or to: _____ income deduction order
_____ child support receiver
_____ by mail directly to the Petitioner
or _____
- ____ 15. Respondent is ordered to pay temporary support for the Petitioner in the amount of \$ _____ every _____ beginning _____.

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All payments are to be made by or to: ___ income deduction order
___ child support receiver
___ by mail directly to the Petitioner
or ___

- ___ 16. Respondent shall have visitation with the minor child/ren according to the following schedule, beginning _____:
- ___ no visitation
 - ___ no visitation until _____
 - ___ supervised visitation, supervised by a third party as follows:

 - ___ visitation every other weekend from Friday at 6 p.m. until Sunday at 6 p.m beginning _____, _____
 - ___ other visitation _____
 - ___ circumstances concerning how Respondent shall pick up and return the minor child/ren shall be _____

Strict compliance with this visitation provision shall not be a violation of the restraining provisions of this Order.

- ___ 17. Respondent, **only when accompanied by local law enforcement**, shall be able to remove his/her clothing and personal items from the residence as follows:

On _____, 20__ at _____ m.

- ___ 18. (Respondent)(Petitioner)(both Respondent and Petitioner) [strike through appropriate] is/are ordered not to sell, encumber, trade, damage, contract to sell, or otherwise dispose of or remove from the jurisdiction of this Court any of the property or pets of the Petitioner or joint property or pets of the parties except in the ordinary course of business.

- ___ 19. (Respondent)(Petitioner)(both Respondent and Petitioner) [strike through appropriate] is/are ordered not to disconnect or have disconnected home utilities, change or have changed and/or cancel or have canceled auto, health or life insurance for Respondent, Petitioner, and/or Petitioner's child/ren or interfere with Respondent, Petitioner's and/or Petitioner's child/ren's mail.

- ___ 20. Petitioner shall have sole, exclusive temporary possession of the vehicle:
Make _____ Model _____ Year _____ Color _____.
Respondent shall immediately surrender all keys, proof of insurance, and registration to this vehicle to law enforcement and law enforcement shall immediately turn over said items to Petitioner.

- ___ 21. Petitioner shall be allowed to remove the following property from the family residence for Petitioner and/or Petitioner's child/ren's use _____

On _____, 20__ at _____ and law enforcement _____
(sheriff or police department) is hereby ordered to assist the Petitioner during this removal.

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____ 22. Respondent is ordered to undergo alcohol/drug abuse evaluation and follow the recommended treatment.

____ 23. That Respondent shall be required to return the following property for Petitioner and/or Petitioner's child/ren's use _____

On _____, 20____ at _____ and law enforcement _____ (sheriff or police department) is hereby ordered to assist the Petitioner during this return.

____ 24. Petitioner is awarded costs and attorney fees in the amount of _____.

____ 25. **FAMILY VIOLENCE INTERVENTION PROGRAM**

It is further Ordered that the Respondent shall make arrangements to begin a certified family violence intervention program (FVIP) within fourteen (14) days of the signing of this Order, or if appropriate within fourteen (14) days upon release from incarceration. A list of local certified agencies will be given to the Respondent with this Order. Furthermore, Respondent shall appear before this court _____, 20____ at _____m. for a hearing on the status of his/her application, attendance and/or completion of the FVIP. At that hearing, Respondent is ordered to present to this court a written status report from the agency providing the certified FVIP. The status report shall detail Respondent's application, attendance and/or completion of or failure to apply, attend and/or complete the FVIP and shall be signed by an officer of the agency.

OR

____ Respondent is ordered to undergo a certified family violence intervention program and comply with the attached compliance form.

OR

____ Respondent is ordered to undergo a certified family violence intervention program.

OR

____ Respondent is not ordered to undergo a certified family violence intervention program and the following reasons exist:

____ 26. Petitioner/protected party is either a spouse, former spouse, parent of a common child, Petitioner's child, child of Respondent, cohabitates or has cohabited with Respondent and qualifies for 18 U.S.C. 922(g). It is further ordered that the Respondent shall not possess or purchase a firearm or ammunition as restricted by federal law under 18 U.S.C. 922(g)(8).

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____ 27. It is further Ordered:

SO ORDERED this _____ day of _____, 20____.

JUDGE, SUPERIOR COURT
_____ County

Print or stamp Judge's name

Violation of the above Order may be punishable by arrest.

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NOTICE TO RESPONDENT

1. Violation of this Order may result in immediate arrest and criminal prosecution that may result in jail time and/or fines and/or may subject you to prosecution and penalties for contempt of court.
2. This Order shall remain in effect unless specifically superceded by a subsequent Order signed and filed, by operation of law, or by Order of dismissal, whichever occurs first. Only this Court can void, modify or dismiss this Order. Either party may ask this Court to change or dismiss this Order.
3. If after a hearing, of which the Respondent received notice and opportunity to participate, a protective order is issued which restrains Respondent from harassing, stalking or threatening an intimate partner, Respondent is prohibited from possessing, receiving, or transporting a firearm or ammunition which has been shipped or transported in interstate or foreign commerce for the duration of the Order. 18 U.S.C. § 922(g).
4. A person commits the offense of Aggravated Stalking when such person, in violation of a temporary or permanent protective Order prohibiting this behavior follows, places under surveillance, or contacts another person on public or private property for the purpose of harassing and intimidating the other person. This activity can subject the Respondent to arrest and prosecution for felony aggravated stalking, which carries penalties of imprisonment for not less than 1 year nor more than 10 years and a fine of up to \$10,000.00.

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|--|
| <p align="center">RESPONDENT'S IDENTIFYING FACT SHEET (please complete as much as possible; one of these must be provided to have the order placed in the National Crime Information Center registry: Respondent's date of birth OR social security number)</p> <p>Respondent's social security number is _____, date of birth is _____, sex _____, color of hair _____, color of eyes _____, height _____, weight _____. Respondent's race is _____, ethnic background _____. Respondent has distinguishing marks (tattoos, scars, etc.) _____. Respondent drives a _____, license tag no: _____ (Expires: _____) and has a _____ (state) driver's license no: _____ (Expires: _____). Respondent's home address _____ and is employed by _____ at _____ and works from _____ to _____ on (days) _____. Respondent has the following known aliases: _____.</p> |
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| |
|---|
| PROTECTED PARTIES' IDENTIFYING INFORMATION |
| Petitioner: _____ DOB _____ sex _____ race _____ |
| Other: _____ DOB _____ sex _____ race _____ |
| Other: _____ DOB _____ sex _____ race _____ |
| Other: _____ DOB _____ sex _____ race _____ |

Transmitted to Georgia Protective Order Registry Date _____ Clerk _____

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Pursuant to O.C.G.A. § 19-13-3,
Petitioner assisted by

Name: _____

Address: _____

Phone: _____

Note to Judges: This form is promulgated as a Uniform Superior Court Rule under the auspices of O.C.G.A. § 19-13-53. To order a specific provision, please initial in the space provided. The court should delete or otherwise make inoperative any provision in the standardized form which is not supported by the evidence in the case and in order to comply with the court's application of the law and facts to an individual case.